

## Role of Ombudsman scheme in Resolving Problems of Policy holder in Insurance Sector in India

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### Abstract

The Government of India created the office of the Insurance Ombudsman in 1998. The aim was quick disposal of the grievances of the insured customers and to mitigate their problems involved in redressal of those grievances so as to protect the interests of policyholders and build their confidence in the insurance system. Insurance ombudsman has two types of functions to perform – conciliation and award making. The insurance ombudsman is empowered to receive and consider complaints in respect of personal lines of insurance from any person who has any grievance against an insurer. The complaint may relate to any grievance against the insurer like partial or total repudiation of claims by the insurance companies, dispute with regard to premium paid or payable in terms of the policy, dispute on the legal construction of the policy wordings in case such dispute relates to claims, delay in settlement of claims and non-issuance of any insurance document to customers after receipt of premium. This paper evaluates the performance of Insurance Ombudsman in terms of complaints received, complaints disposed, and complaints pending.

**Key Words:** Complaint, Customer, Insurance, Ombudsman, Redressal

## **Introduction**

The Insurance Ombudsman scheme was created by Government of India for individual policyholders to have their complaints settled out of the courts system in a cost-effective, efficient and impartial way. The position of Insurance Ombudsman was created by a Government of India Notification in November 1998. The main function of this Ombudsman is to quickly dispose the grievances of insured customers and lessen the problems involved in redressing complaints. This institution is vital and relevant to protect the interests of policyholders and also shape their belief in the system. The existence of an Insurance Ombudsman has helped generate and sustain faith and confidence amongst both consumers and insurers alike. Ombudsmen are chosen from various fields such as the Civil Services, Insurance Industry and Judicial Services. They are appointed for a term of three years or till they turn sixty-five years of age. Currently there are twelve Insurance Ombudsmen appointed in different parts of the country. They all have defined jurisdictions. The institution of Insurance Ombudsman has been established for quick, efficient and cost effective resolution of the complaints of the policy holders. The ombudsman can entertain complaints regarding partial or total repudiation of claims by an insurer, disputes on premium paid or payable, disputes on the legal construction of policies with regard to claims, delay in settlement of claims and non-issue of any insurance document to customers after receipt of premium.

## **Objectives of the Study**

- To know the conceptual framework of Ombudsman scheme
- To know the number of complaints received
- To know rate of disposal of complaints
- To know the pending period of complaints

## **Methodology of the study**

The present study is mainly based on the secondary data. The relevant data have been collected from the annual reports of the IRDA. A reference has also been made to various journals and magazines. Apart from this, different editions of daily newspapers such as Economic Times, Business Standard, Financial Express, Business Line etc., have been used for the purpose of collecting information.

The study is intended to examine the performance of Insurance Ombudsman Scheme in terms of number of complaints received, number of complaints handled, number of complaints outstanding and pending period the complaints. For the purpose of study the researcher has chosen five year i.e. 2007-8 to 2011-12. In order to analyse the data and to draw conclusions various statistical tools like percentage and charts have been used.

### **Appointment of Insurance Ombudsman**

The Redressal of Public Grievance Rules, 1998 (RPG Rules, for short) provide for selection and appointment, jurisdiction and power of Insurance Ombudsmen and the manner of settlement of disputes by the Ombudsman. As per the RPG Rules, the Insurance Ombudsmen are selected from among the personnel of the insurance industry, judiciary and administration, who have retired at senior levels in their respective areas. The selection is made by a high powered committee headed by the Chairman, IRDA. After the selection by the committee, the Governing Body of the Insurance Council, which is a collective body of all the insurance companies, appoints the Ombudsmen. In other words, the Ombudsmen are appointed by the insurers. So, in a sense, the Insurance Ombudsman is an extension of the in-house grievance redressal machinery of every insurance company. This is not to say that the Ombudsman is subordinate to any authority or insurance company. On the contrary, the Ombudsman is independent and is not accountable to any insurance company or authority insofar as the decisions are concerned. The Ombudsmen are appointed for a fixed tenure of 3 years.

### **Powers and Duties of Insurance Ombudsman**

At present, there are Insurance Ombudsmen in 12 stations —Delhi, Guwahati, Ahmedabad, Chandigarh, Luck now, Bhopal, Kolkata, Bhubaneswar, Mumbai, Hyderabad, Chennai and Cochi. Some Ombudsmen have jurisdiction over more than one State and or Union Territory. For instance, Insurance Ombudsman, Hyderabad has jurisdiction over the complaints of the policy holders in the States of Andhra Pradesh and Karnataka. The Ombudsmen have the power to decide the procedure for disposal of complaints subject, however, to the requirement that they act fairly and equitably. Usually, the Ombudsman hears both the parties to the dispute before arriving at a decision. This requirement is not specifically mandated under the Rules but the requirement under the Rules to act fairly and equitably enjoins the Ombudsman to adhere to the principles of natural justice, the most important of which is that the parties are allowed the opportunity of being heard. The ombudsman can redress grievances in different ways – make a recommendation if both

parties to the dispute agree for mediation, make an award or grant ex gratia. If the complaint has no merit, dismissal, of course, is the result. The Ombudsmen can mediate and record their recommendation on the dispute, if the insurer and the complainant agree for such mediation. The Ombudsman has to make the recommendation within a period of one month from the receipt of the complaint. Where mediation is not resorted to, the Ombudsman makes an award. The limitation is that the quantum of the award should not exceed the loss suffered by the complainant as a direct consequence of the insured peril or Rs.20 lakhs, whichever is lower. The Ombudsman has the power to award payment of ex gratia in suitable cases. The award or order allowing ex gratia has to be made in writing and it has to be a speaking order. The order has to be passed within a period of three months from the receipt of the complaint.

The Ombudsman's recommendation upon mediation or award or order granting ex gratia is binding on the insurer if the complainant accepts the same. If the complainant does not accept, the recommendation or award or order granting ex gratia has no effect and the insurer does not have to implement the same. The complainant's legal remedies are unaffected by non-acceptance of the Ombudsman's recommendation or award or order granting ex gratia.

The ombudsmen do not normally find fault with the insurer. Rather, their role is confined to adjudication of the complaint filed by a consumer, which they stick to. They are aware that insurance is a business like any other business and they do not expect the insurer to be charitable. The ombudsmen hear the parties to the dispute and decide the complaints in favour of the complainants if they are of the view that the insurer's decision is perverse or unreasonable or untenable. They, however, avoid the pitfall of rewriting the policy for the insured. If the ombudsmen direct the insurers to pay compensation where there exists no liability, they would be harming the business model of the insurer. After all, insurance provides indemnity against an event which may happen and not against an event which must happen. Nevertheless, a policy holder cannot be denied benefit under the policy by placing emphasis on an obtuse interpretation of a restrictive clause of the policy. The Insurance Ombudsmen, therefore, have to do a balancing act and while doing this they press their administrative and legal experience into service and blend it with common sense.

The Ombudsmen have the power to decide what complaints can be entertained and what cannot be. Their decision in this regard is final. Rule 12 of the RPG Rules lists the complaints that the Ombudsman may receive and consider. The complaints listed under the aforesaid Rule are repudiation, full or partial, of claims; disputes relating to the premium paid

or payable; disputes on the legal construction of the policies; delays in settlement of claims and non-issue of policy documents. Most of the complaints received by the Ombudsman relate to repudiation of claims.

Even where the complaints are otherwise entertainable as per Rule 12 of the RPG Rules, the Rules exclude some complaints from the ambit of the Ombudsman. A complainant cannot approach the Ombudsman straightway without exhausting the internal grievance redressal mechanism of the insurer. In other words, a complainant has to first make a written representation to the insurer. If the complainant is not satisfied with the reply of the insurer or if no reply has been received within one month from the insurer, only then can a person make a complaint to the Ombudsman. The second limitation is that the complaint has to be filed within one year after the insurer has rejected the representation or sent the final reply. The third limitation is that a complaint the subject matter of which is pending before or has been decided by a court, or Consumer Forum or arbitrator cannot be entertained by the Ombudsman. The rationale behind this is that the consumer has to opt for dispute resolution first by the Ombudsman, which is quick, cost effective and impartial. If, however, the consumer is not satisfied with the decision of the Ombudsman, the other legal remedies can be pursued. The limitation is that if the legal remedies are resorted to first in regard to a complaint, the consumer cannot knock at the door of the Ombudsman with the same complaint. There also is a limitation on the quantum of compensation that could be awarded by the Ombudsman. The monetary limit for an award or ex gratia under the Rules is Rs.20 lakhs. The Ombudsman also cannot award compensation for mental agony, suffering and so on. An inherent limitation is that the Ombudsman cannot rewrite a policy (contract) in order to suit the interest of either party. Instead, the policy is treated as sacrosanct, the terms of which bind the parties and this premise is not disturbed by the Ombudsman.

**Important Points: Before filing complaint in Ombudsman**

- The Insurance Ombudsman will not accept your complaint until you have first filed a complaint with IRDA. IRDA will not accept your complaint until you have first filed a complaint with your Insurance Company.
- Please note that all complaints have to be clearly marked as complaint and should not be mere requests.
- You must file the complaint with the ombudsman within a year of the rejection of your claim by the insurer.

- The ombudsman intervenes only if you've not moved any court or approached a consumer forum.
- Ombudsman's powers are restricted to insurance contracts of value not exceeding Rs. 20 lakhs.

### **Procedure for Filing a Complaint before the Ombudsman**

The procedure for filing a complaint before the Ombudsman is simple. Paper work is kept to the minimum. There is no fee. The complainant does not require the assistance of professionals while filing the complaint. The hearing is conducted in an informal manner where procedure is kept to the bare minimum. Here again, professional assistance is not required. The decision on the complaint is rendered quickly. After obtaining the decision of the Ombudsman, the consumers have the choice to accept the decision or reject it. If the complainant rejects the decision, other legal remedies are not affected. But once the complainant accepts the decision, the insurer has to implement the decision within 15 days of receipt of the complainant's acceptance of the decision. The decision of the Ombudsman is binding on the insurer and has to be implemented within 15 days if the complainant accepts the verdict.

### **Performance of Insurance Ombudsman Scheme**

The performance of insurance ombudsman scheme can be assessed in terms of number of complaints received and number of complaints disposed. Below tables explains the performance of Ombudsmen in redressal of customer grievances.

**Table 1: Number of Complaints Received**

<b>Year</b>	<b>Insurance</b>		<b>Total</b>
	<b>Life</b>	<b>Non-life</b>	
2007-08	6168	6644	12812
2008-09	6143	6669	12812
2009-10	9524	7935	17459
2010-11	11905	11429	23334
2011-12	14696	13665	28361

**Source: Annul Reports of IRDA**

The Table 1 shows the number of complaints received by insurance ombudsmen from the insurance policyholders. The number of complaints received by insurance ombudsmen almost doubled from 12,812 in 2007-08 to 28,361 in 2011-12. The numbers of complaints are more in non-life insurance up to 2008-09 as compared to life insurance.

**Table 2: Number of complaints Disposed**

Year	Insurance		Total
	Life	Non-life	
2007-08	5778	5615	11393
2008-09	5586	5831	11417
2009-10	8636	6554	15190
2010-11	9551	7688	17239
2011-12	11850	9335	21285

Source: Annul Reports of IRDA

The above table shows that the number complaints disposed increased from 11,393 in 2007-08 to 21,285 in 2011-12. It can be observed from the table that the rate of disposal declined from 88.92 per cent in 2007-08 to 75.05 per cent in 2011-12. The rate of disposal of complaints in life insurance sector is high as compared with non-life insurance. The period of disposal in majority of complaints is not more 3 months.

The number of complaints received by insurance ombudsmen almost doubled from 12,812 in 2007-08 to 28,361 in 2011-12. However, the same pace of growth was not seen in disposals. Ombudsmen disposed 21,285 cases in 2011-12, against 11,393 cases in 2007-08. The chart clearly shows that Ombudsmen are lagging in disposal of the complaints. A meeting of various stakeholders, including IRDA, the Life Insurance Council and insurance companies, was held recently to discuss the proposals to strengthen the 14-year-old system and provide an enabling mechanism for protecting the interests of policyholders.

**Table 3: Number Complaints Outstanding**

Year	Insurance		Total
	Life	Non-life	
2007-08	390	1029	1419
2008-09	557	838	1395
2009-10	888	1381	2269
2010-11	2354	3741	6095
2011-12	2846	4330	7176

Source: Annul Reports of IRDA

The table 3 shows number of complaints outstanding. Number complaints to be disposed off increased almost six times from 1419 in 2007-08 to 7176 in 2011-12. The majority of complaints outstanding are not more than 3 months.

### **Conclusion**

This paper evaluated the performance of Insurance Ombudsman Scheme in terms of complaints received, complaints disposed and complaints pending period. The study found that the total number of complaints received and handled under the Insurance Ombudsman Scheme have been growing steadily. The Offices of the Ombudsmen have been rendering excellent service over the years in redressing customer grievances in an impartial and efficient manner.

### **Reference**

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### **Websites**

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