

**JUSTICE DELAYED:**

**THE CASE FOR  
SHORTENING THE  
OMBUDSMAN  
8-WEEK RULE**

**A MoneySavingExpert report**

**November 2019**

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## **About MoneySavingExpert.com**

MoneySavingExpert.com is the UK's biggest consumer website dedicated to saving people money on anything and everything by finding the best deals, beating the system and campaigning for financial justice. Founded by Martin Lewis in 2003, it's based on detailed journalistic research and cutting edge tools, and has one of the UK's top 10 social networking communities.

In 2018, MoneySavingExpert.com had on average 16.8 million users a month, visiting the site 30.1 million times, and looking at over 74.5 million pages. Over 14 million people have opted to receive our free weekly email, more than 1.9 million users have registered on the Forum and over 4.1 million have joined our Cheap Energy Club.

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## Contents

Foreword: Martin Lewis.....	4
Background: ombudsmen are vital, but need reform .....	5
Summary: the 8-week rule must be shortened .....	7
Consumers said the current 8-week process is too long and amplifies frustration .....	9
Consumers said 28 days is long enough to wait before being able to go to an ombudsman .....	12
Conclusions: the 8-week process must be reformed with the consumer at its heart.....	13
Recommendations to break down the 8-week barrier.....	14
Annex: emails from MSE users who experienced harm due to the 8-week wait.....	15



**Foreword: Martin Lewis**  
**Founder of MoneySavingExpert.com**

***The 8-week rule is outdated, outmoded, and should be out of here.***

We live in a fast paced, digital world. Rapidity has become a key aim for many firms. We have payday loans with month-long shelf lives, near-instant lending decisions on mortgages, travel insurance bought off the internet in seconds, energy switched at a click (or even, with auto-switching, no click needed).

Yet ombudsmen aren't quick. They weren't designed to be, or at least not quick by modern standards. Ombudsmen evolved in a by-gone age – they first came to the UK around 50 years ago. And within their operations was a rule stating that consumers can only go to an ombudsman with a complaint after the firm has had at least eight weeks to try and deal with it.

This rule is no longer fit for purpose. Things happen so much quicker now. It allows bad situations in our rapid world to snowball out of control, having the potential to destroy people's finances and wellbeing before an ombudsman can even start looking at what's going on. This is bad news for consumers, but potentially for companies too.

If a firm is judged to be at fault – and as a result of the 8-week wait the problem has grown into a catastrophe – the cost of righting the wrong can be many times more than it would have been if there had been earlier intervention. While there are rules that enable companies to allow consumers to go to the ombudsman more quickly, many firms aren't reactive enough and don't prioritise this.

It's time for change. This paper explains in more detail why it is needed and how it should be enacted. MoneySavingExpert isn't alone on this, we've received robust support from the stakeholders that matter, including the ombudsmen themselves, politicians, policy makers, regulators, and other consumer organisations.

And more importantly, consumers don't like the 8-week rule either. We commissioned YouGov research for this report that showed 89% of 2069 people surveyed said the 8-week rule should at least be halved, with 50% saying firms should have no more than 14 days to deal with a complaint.

It's time for a change in the time to complain.

A handwritten signature in black ink, appearing to read 'Martin Lewis', with a long, sweeping underline.

Martin Lewis

## **Background: ombudsmen are vital, but need reform**

Ombudsman schemes are a vital part of the consumer protection landscape. They provide an essential, impartial decision for consumer complaints. Ombudsmen are there to step in when the consumer is not satisfied with how their complaint has been handled<sup>1</sup>.

However, the ombudsman system needs reform.

### ***Sharper teeth* – MSE’s recommendations for ombudsman reform**

In 2017, MSE published *Sharper teeth: the consumer need for ombudsman reform*<sup>2</sup>, a report which found widespread consumer dissatisfaction with ombudsmen. We found that current outcomes often leave consumers frustrated, disappointed and feeling like they have wasted their time. The report made recommendations to address this pervasive discontent:

1. All ombudsmen should have a statutory basis as foundation, to ensure firms cooperate with them, and their decisions have legal teeth.
2. Oversight of ombudsmen should be boosted to ensure it is easier and quicker for consumers to complain, and to improve the perception of fairness of ombudsmen.
3. The 8-week rule should be shortened and needs vital exceptions – the current process for a consumer to take their complaint to an ombudsman has multiple steps, and the wait (often 8 weeks) is out-of-date in this digital age and can leave consumers in crisis.

*Sharper teeth* also had one aspiration: for comprehensive membership in consumer sectors, either via a single ombudsman for all consumer complaints, with every business serving consumers being a member; or having one ombudsman per sector, combined with a single body acting as a portal for all ombudsmen. This was an aspiration, as opposed to a recommendation, due to the radical wholesale change of the system necessary for achieving it.

Of the three recommendations, reducing the 8-week rule should be the easiest to implement, as it would require a change in rules governing how ombudsmen operate, as opposed to a legislative change. Therefore, given the conclusive evidence contained in this report that the 8-week rule should be shortened, it is a sensible and practical initial reform for Government, ombudsmen and regulators to focus on in order to boost consumer protection.

### **Gathering evidence for 8-week rule reform**

Since the publication of *Sharper teeth*, MSE has spoken to many stakeholders in ombudsman, regulatory, government and consumer spheres. There is much agreement that it is no longer acceptable that consumers must give companies 8 weeks to handle their complaints as standard before they can take their complaints to the ombudsman. However, there was no consensus on what the 8-week period should be reduced to.

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<sup>1</sup> Ombudsman schemes exist within the complex landscape of Alternative Dispute Resolution providers. The terms overlap but are not interchangeable; ombudsman schemes are all ADR providers, but not all ADR providers are ombudsman schemes. A key distinction between ombudsmen and other ADR providers comes from the protection of the term ‘ombudsman’ by Companies House acting on behalf of the Secretary of State for Business, Energy and Industrial Strategy. This restricts which bodies can use this word in their title, or trade as an ombudsman.

<sup>2</sup> MoneySavingExpert.com, *Sharper teeth: the consumer need for ombudsman reform*, 2017, available: [https://images6.moneysavingexpert.com/images/documents/MSE-Sharper\\_teeth\\_interactive.pdf](https://images6.moneysavingexpert.com/images/documents/MSE-Sharper_teeth_interactive.pdf). Please see the full report for the full list of recommendations.

This prompted MSE to instruct YouGov to conduct primary online research, on a nationally representative basis, to find out how long consumers think they should have to wait before having the right to take their complaint to an ombudsman. By understanding consumers' experiences and expectations of waiting times, we would then be better placed to provide evidence to support reform of the 8-week rule.

YouGov asked a nationally representative sample of 2069 adults in Great Britain for their views on 31 July – 1 August 2019. The figures have been weighted and are representative of all GB adults (aged 18+).

## Summary: the 8-week rule must be shortened

The 8-week rule is a relic, created in an era far from our modern world of immediate payments and instant communications. MoneySavingExpert.com has long campaigned for it to be shortened, to make it better aligned with the other financial obligations of UK consumers.

A complaints process for consumers must have the consumer at the centre of it, so it was vital to find out how long consumers think they should wait to use an ombudsman – and how they experience current waiting times.

We carried out a nationally representative survey online via YouGov to find this information out. The results are stark: **89% of 2069 adults said that they should have the right to go to an ombudsman within 28 days or less. This suggests the 8-week period should be slashed to at 4 weeks or even shorter.** 50% said firms should have no more than 14 days to deal with their complaints before they have the right to take them to an ombudsman.

With the 8-week waiting period significantly longer than consumers expect, and longer than what they think is fair, we heard from respondents that waiting to take a complaint to the ombudsman can cause extreme frustration.

When asked about their experiences of waiting to use an ombudsman or similar Alternative Dispute Resolution scheme while a company investigates their complaint, and how this made them feel, consumers said:

*“Waiting for the time frame to pass was frustrating as the dispute partner would not move the dispute forward and no other action could be taken.”*

*“There is too much time between making the initial complaint to the company and being able to ask the assistance of the ombudsman. This is frustrating and you start to forget important details.”*

This exasperation should not be ignored. MSE’s findings from *Sharper teeth* show discontent with waiting times when complaining to an ombudsman to be a key issue which causes consumer dissatisfaction with ombudsmen, undermining faith in the sector.

## The process of getting to an ombudsman

*The consumer is not obliged to escalate their complaint to the ombudsman, but may wish to if:*

- *they do not agree with the decision made by the firm;*
- *no decision has been made in a reasonable amount of time; or*
- *the way the complaint is being handled has otherwise lost their confidence.*

### **1) The consumer must first complain to the provider.**

*This makes sense and is in everyone’s interest, so that the complaint can hopefully be resolved as quickly as possible and before too much trust has broken down between the consumer and the provider.*

### **2) The provider has at least 8 weeks to handle the complaint.**

*This is the case in most sectors, including financial services, energy and telecommunications. If a ‘deadlock’ letter is received within this time, then the consumer can take their complaint to the ombudsman at that point. However, without this, the consumer will need to wait at least 8 weeks before the ombudsman will consider their complaint. This is an unreasonable length of time in today’s digital world.*

*While most ombudsmen use this 8-week period, it seems to have evolved and been copied from one to another over time. There is no obvious or concrete reason as to why 8 weeks is the chosen timeframe and it is difficult to justify retrospectively.*

### **3) The consumer can ask the ombudsman to look at the complaint and make an impartial decision.**

*Once the ombudsman becomes involved, it can ask for information from both parties, and make a decision on the complaint if necessary. In some cases the ombudsman can make binding decisions by statute.*

MSE is now urging the Government, ombudsmen and regulators to act on these findings, and work together to create an ombudsman process which reflects this consumer expectation. We are hoping this would be quick to implement, as changing the 8-week rule is a relatively easy way to improve consumer faith in ombudsmen – requiring a change in ombudsmen rules rather than legislative vehicles being put through Parliament.

Reducing the 8-week rule would not necessarily be an insignificant undertaking for firms, but we do not suggest that every complaint will need to be resolved within this timeframe. We understand some complaints will take longer. If a firm is communicating well with the consumer, showing commitment to resolving the complaint and communicating clearly about timeframes and delays, then the consumer is unlikely to seek to take the complaint to the ombudsman as soon as they reach the 2-4 weeks mark. That is, until or unless the relationship with the provider breaks down to the point that it is necessary for the consumer to refer their complaint to an ombudsman.

It's worth noting that, before its implementation, UK payment providers were concerned at the revised Payments Services Directive's (PSD2) new stipulation they must respond to complaints within 15 business days. There was a fear that this would create an impossible burden on firms. However, since implementation of PSD2 in January 2018, we have not seen any disastrous consequences for firms.

**Given the compelling evidence of consumer sentiment and the relative ease of reform, it's now clear that wherever consumers need to use an ombudsman, they should not have to wait more than 14-28 days to do so.**

## Consumers said the current 8-week process is too long and amplifies frustration

We asked consumers a qualitative question via the online YouGov survey about their experiences of waiting to use an ombudsman or similar ADR scheme, and how this made them feel. This was not restricted to any specific consumer sectors. The responses were striking. Further qualitative comments from consumers, not provided via the YouGov survey, are contained within the Annex to this report.

### **What we asked survey respondents:**

*“Please tell us about your experiences of waiting to use an ombudsman or similar Alternative Dispute Resolution scheme while a company investigates your complaint, and how this made you feel.”*

#### **There were common themes in the opinions shared by survey respondents:**

- 1. 8 weeks is too long to wait before being able to take a complaint to an ombudsman;**
- 2. Experiencing the 8-week period causes frustration;**
- 3. Ombudsmen processes are also long, and waiting 8 weeks to begin them feels like a double-hit of waiting;**
- 4. When the consumer says they want to go to the ombudsman, the firm often seems more incentivised to resolve the complaint.**

Below is a selection of survey comments which illustrate the impact the 8-week process has on consumers, grouped by theme.

### ***The 8-week period causes frustration and doesn't incentivise action on the part of the firm***

*“There is too much time between making the initial complaint to the company and being able to ask the assistance of the ombudsman. This is frustrating and you start to forget important details.”*

*“Waiting for the time frame to pass was frustrating as the dispute partner would not move the dispute forward and no other action could be taken.”*

*“I can appreciate it takes time to investigate a complaint but over three weeks is extremely upsetting and frustrating.”*

*“I wanted to terminate a contract with a terrible provider and couldn't go to the ombudsman until I had waited for the provider's useless complaint process to be completed.”*

*“... it was a long time and I felt very unfairly treated.”*

*“[I was] frustrated.”*

*“Annoyed.”*

*“Frustrated.”*

*“Anxious, uncertain, angry, frustrated.”*

**The 8-week rule, and other processes, are too slow, and this can add to frustration**

*“I have found that it takes a long time to get the Ombudsman to investigate - they are reluctant to get involved and keep asking you to go back to the company, which often keeps giving you the same unsatisfactory answers, or you are told the Ombudsman can't get involved.”*

*“The ombudsman was very helpful but I did have to wait a very long time to get to that stage, and also for him to look at my complaint.”*

*“Used an ombudsman regarding a dispute with an energy company who still owed me money when I left to go to another supplier. Can't remember how long I had to wait for the ombudsman to take action but there was a delay as they would only act after a certain time.”*

*“I had a complaint about mis-selling on an insurance product from a company that refused to respond and after waiting over 2 months took my complaint to [the] ombudsman which then took over month to respond ....”*

*“The process is too long.”*

*“Slow, unhelpful, pointless.”*

*“Long wait, positive result from ADR, company ignores ADR, waste of time.”*

**Waiting 8 weeks can have financial implications for consumers**

*“Had to wait far too long before I could involve the Energy Ombudsman. By which time my energy company had taken two months of money from my account which was significantly over the amount they should have taken. The energy firm simply did not respond and took the money by direct debit and I could do nothing to stop them.”*

**The possibility of involving an ombudsman incentivises firms to resolve complaints quicker**

*“[My bank] panicked when they discovered a complaint had been made to the ombudsman, asked for it to be withdrawn then promptly resolved the matter after more than a year of refusing to deal with it.”*

*“We threatened a building society with the ombudsman and they instantly came up with a solution!”*

**Consumers don't want to have to go to the ombudsman if they don't need to**

*"Used an ombudsman and didn't want to escalate to that level so was happy to give company time to try to resolve."*

**Out of 148 comments submitted in the survey, here are some of the more positive ones**

*"I currently have a complaint being dealt with by Financial Ombudsman. I think I waited roughly 2 weeks for Bank to respond before passing it on."*

*"I waited 2 weeks and the complaint was dealt with to my satisfaction. This made me feel happy."*

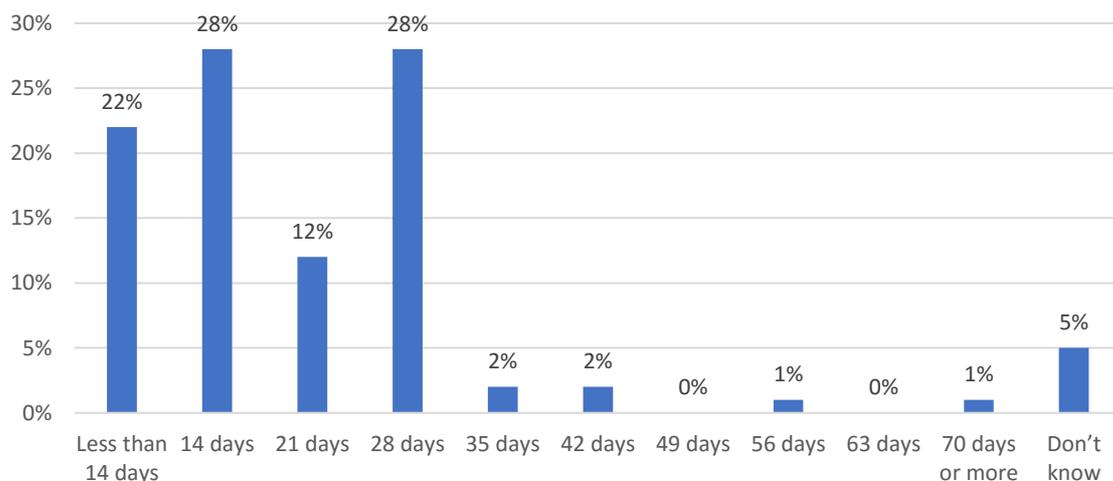
## Consumers said 28 days is long enough to wait before being able to go to an ombudsman

Of the 2069 adults in Great Britain YouGov surveyed, 89% said that a bank or energy company should have 28 days or even less to handle their complaint before they, as the consumer involved, are allowed to take it to the relevant ombudsman. The two most commonly chosen timeframes in the survey were 14 days and 28 days – each of which was selected by 28% of respondents.

### **What we asked survey respondents:**

*For the following question, please imagine that you were planning to make a complaint against your bank or energy company for ANY reason (e.g. your bank account or energy switch has gone wrong, you've had an incorrect payment on your account that hasn't been resolved after you reported it, etc.). In your opinion, how many days do you think the bank or energy company should be given to handle your complaint, before you are allowed take it to the relevant ombudsman? (Please select the option that best applies)*

### **How many days do you think the bank or energy company should be given to handle your complaint, before you are allowed take it to the relevant ombudsman?**



The question focused on two key consumer sectors: financial services and energy. The results are clear. Consumers do not think it is appropriate for firms to be able to take longer than one month to handle their complaint, without consumers having the right to involve the ombudsman if they wish to. Indeed, many think they should be able to go to the ombudsman much quicker.

It is worth noting that there was not a 'race to the bottom' in responses to this question, with consumers simply choosing the shortest timeframe possible. Some might argue that it is obvious consumers would want to shorten the time before they can take a complaint to an ombudsman, as they would be thinking purely about what's best for consumers, and unsympathetic to pressures on firms. However, that 73% of respondents chose a timeframe other than the shortest one provided suggests considered responses which weighed up realistic processing times of firms.

## **Conclusions: the 8-week process must be reformed with the consumer at its heart**

### ***An 8-week wait causes detriment to consumers***

The 8-week rule, created decades ago, does not fit in the modern world of instant communications and payments which we live in. It is far too long, and so causes detriment to consumers. Examples of harms caused by the 8-week rule include:

- added frustration and annoyance for the consumer – sometimes to a great extent;
- increased likelihood of trust breaking down between the consumer and the provider; and
- exacerbated problems which haven't been resolved as soon as possible, sometimes with knock-on effects for consumers' finances and lives.

### ***Consumers should not have to wait more than 28 days to go to an ombudsman***

In this digital age, with instant decisions from many firms when buying a product, the current 8-week process is far past its sell-by-date.

In the event that they want to escalate their complaints to an ombudsman, consumers clearly do not want to have to wait more than 28 days. In this digital age, that is simply unreasonable and no longer acceptable. In fact, many consumers think the wait to go to an ombudsman should be substantially less than this. The difference between consumer expectations and the reality of their experiences creates significant frustration and undermines faith in the ombudsman system.

Our research focused on financial services and energy, however we strongly believe that the results should apply to all consumer sectors. As almost all sectors currently use an 8-week rule process, it makes sense for all sectors to again employ a new, shorter standardised mechanism. This would have the dual benefit of making it easier to communicate to consumers how to refer a complaint to an ombudsman, and would mean that consumers have a more consistent experience of complaining across multiple sectors.

### ***The consumer is not at the centre of the 8-week process***

The 8-week process is out-of-date and should be redesigned with the consumer at its heart. We are aware there may be some resistance from some firms to reducing the 8-week process. After all, this will increase pressure on how they deal with complaints.

Industries' views should certainly be listened to, but ultimately firms need to make sure their complaints processes are up to scratch with Government and regulator expectations, as they must comply with other rules and regulations.

Industry concerns should not be an unsurmountable barrier. They do not outweigh the benefits of shortening the 8-week process. Doing so is common sense and clearly what consumers want; it will better protect consumers, modernise the ombudsman sector and could lead to greater public faith in ombudsmen.

## **Recommendations to break down the 8-week barrier**

***Key recommendation: the 8-week rule must be reduced to ideally 2 weeks, but no more than 4 weeks***

This should be a standard process across all consumer sectors, and firms must be compelled to comply with it. If complaints are not resolved in this timeframe, then consumers would have the right to take the complaint to the ombudsman if they wish.

If the consumer is satisfied that their complaint is being dealt with properly by the firm, of course, there is no obligation for them to go to the ombudsman. In fact, it might well be in the consumer's interest to allow the firm more time to resolve the complaint and avoid involving the ombudsman altogether.

Government, regulators, the ombudsman community and providers should all work together to achieve this reduction in process time.

### ***Consumers in crisis must be able to involve the ombudsman immediately***

Whatever the standard timeframe allowed for complaints, some consumers will need the involvement of an ombudsman quicker, if they are in a real crisis. Our evidence found that slow processes can have financial ramifications for consumers. For consumers in crisis this could be catastrophic; in these situations, an exception should be made so that the ombudsman can step in sooner, before things get worse.

For example, if an energy complaint over a bill is not being resolved and leaves a consumer out-of-pocket, and this has a knock-on effect of meaning a family cannot afford to eat, the ombudsman should be able to consider that situation a crisis and become involved immediately.

This should apply across all consumer sectors.

### ***The Department for Business, Energy and Industrial Strategy (BEIS) should include reform of the 8-week rule in its announced Consumer White Paper***

A Consumer White Paper has been announced to follow on from the 2018 Green Paper which included a section on ADR.

This would be the perfect opportunity to set the new standard for complaints handling, to create the new consumer right to involve an ombudsman after a period of no more than 28 days, and sooner if in crisis.

## Annex: emails from MSE users who experienced harm due to the 8-week wait

**As well as qualitative responses to the YouGov survey, MSE has also directly received multiple emails from users who experienced harm as a result of having to wait 8 weeks before they were able to take their complaint to an ombudsman. A selection are shown below.**

*"When you complain to a company that is ignoring your complaint, having to wait 8 weeks for the Ombudsman to step in is a nightmare, you're continually worried & stressed knowing no one is doing anything to help you & there is nothing you can do yourself." Anonymous.*

*"I tried to use the energy ombudsman when I had a problem with an energy supplier. The problem was that the supplier wouldn't respond to my complaint, no response to emails and they never answered their phone, I waited over 30 mins each time I rang but never had the phone answered. I contacted the ombudsman but they wouldn't do anything until the energy supplier had exhausted its complaint procedure even though I explained that they weren't doing anything re my complaint, I was then told I had to wait the obligatory 8 weeks. The Ombudsman did eventually sort out the complaint but the wait is agonising when you're being charged for energy that you're not using." Anonymous.*

*"I received no response from the bank to my Section 75 claim that was made in June 2018 or to my chaser letter in July and, after eight weeks, I referred the matter to the FOS on the advice of the FOS. However, the FOS (after a further two weeks delay) then told me that I now needed to give the bank a further eight weeks to respond to my complaint before I could refer the issue to the FOS. This long timescale (18 weeks) was only the start and it was eventually a painfully long seven months before a full refund was received." Anonymous.*

*"This unacceptable delay caused untold stress and worry to my family as the faulty goods were entrance doors to my elderly parents' house. The doors were not what they had ordered and the locks regularly jammed, which meant that my parents often couldn't answer their door to callers, they risked being trapped inside their home if there was a fire and were often stuck outside in the pouring rain. They are in their late 80s and, having to wait an endless amount of weeks for the claim to even be looked at was horrendous and caused endless stress and anxiety to them and, indeed, to our whole family. We were worried sick that they were going to be injured or suffer serious health issues as a result of the faulty doors and this impacted negatively on our mental health and daily lives. Both the bank and the FOS were aware of the age of my parents, and of the*

*urgency to remedy the situation, but there was no sense of urgency from either of them in dealing with it." Anonymous.*

*"In October I switched from my gas and electricity supplier Solarplicity to another supplier. At the time of leaving I was in credit to the amount of £178.84, and despite numerous requests to them Solarplicity did not repay the money.*

*"On the 15th November, I reported the matter to the energy ombudsman, but they informed me I had to wait a period of time before they could intervene.*

*"On the 8th February 2019 the ombudsman took up my case, and found in my favour on 2nd April 2019 and instructed Solarplicity to repay the outstanding credit within 14 days. The money was not refunded!!*

*"In May of this year I again contacted the ombudsman to say the outstanding amount owed had not been repaid. To my amazement they told me I would have to open a new case and provide the evidence to support my case!!! Exactly the same evidence they had held since February!!*

*"In June of this year I received from the ombudsman their decision in my favour again for Solarplicity to repay the £178.84 plus because of the delay a goodwill gesture of £75, and a written letter of apology.*

*"I received an e-mail from Solarplicity with the apology, but never received the now sum of £253.84, and complained again to the ombudsman, but all I got from them was that they could do nothing more as Solarplicity had ceased trading.*

*"In my opinion the service is not fit for purpose, they had 8 months to resolve and get my money back and put little pressure on the supplier to repay. Just an absolute waste of time reporting anything to them, and as a pensioner I've lost £178.84 I could ill afford to lose." Derek.*

*"To cut a long story short, I had some defaults on my credit file which were due off after 6 years, the default dates were incorrect therefore causing issue well after my wait. I got in touch with the relevant bank who stated that they would remove the defaults straight away. Which they did, but then kept appearing on my file each month. This was causing issues as I was applying for a position that required a clean credit file. After waiting the 8 weeks for a response to my complaint, I received a response, unhappy I took it further to the ombudsman. Who again made me wait almost 6 months for an answer. Disgusting behaviour from both the bank and the ombudsman. I did not continue with the application for the position I was after, as I felt once they saw my credit file with the defaults, I would not be employed and would ruin any chances of getting a job further down the line." Anonymous.*