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Mr Evan Owen  
IFA Defence Union  
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Dyffryn Ardudwy  
Gwynedd  
LL44 3EH

31 January 2005  
Our Ref: FOI0002  
Your Ref:

Dear Mr Owen

## Freedom of Information: Right to know request

Thank you for your request under the Freedom of Information Act 2000 (the Act), for information about how many and which providers used 'inappropriate charges' to set premiums as described in the FOS 'Decision Trees' and whether the FSA carried out a review of some sort in 2001.

The Financial Ombudsman Service decision trees identify circumstances where firms applied the standard charges, as required by LAUTRO rules at the time, and where they did not take available measures in order to reflect the actual charges applied to the policy, with the result in some cases that there was pre-contractual misrepresentation, and in some a breach of contractual warranty. The FSA's review in 2001 identified 11 firms that had used standard Lautro charges for the period 1988 to December 1994 (after which the rules governing the disclosure of charges were changed) and where the FSA judged that there had been a breach of contractual warranty. By reason of the following exemptions in the Act, we are not able to name these firms:

- Section 31 (law enforcement)
- Section 43 (commercial interests)

These exemptions are qualified and we have balanced the public interests for and against disclosure as required by the Act. In this case, in our view the public interest lies against disclosure for the following reasons:

- It is in the public interest that the FSA has open and candid exchanges of information and views with its firms, regardless of the commercial sensitivity of the information, to the firm that has provided it or to other firms referred to in it. Further, the Financial Services and Markets Act 2000 ("FSMA") sets out the procedures which the FSA must follow, before it can publicise any sanctions against a firm. Disclosure of the names of firms would undermine these firms' willingness to engage in a dialogue with us. It would also make them less willing to take prompt, remedial action (which may

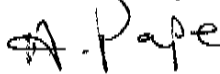
involve compensation to consumers), without formal action by the FSA, if their identity was nevertheless available to the public. The result would be a drying of information to and cooperation with the FSA, which would harm our effectiveness. The public interest is against disclosure in this case, unless there is a compelling argument to override this presumption, which we consider there is not in this case.

If you have any queries or are unhappy with the decisions made in relation to your request please call me. If I am not able to resolve your concerns I will advise you of the process for an internal review.

If you are not content with the outcome of the internal review, you also have a right of appeal to the Information Commissioner at:

*Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Telephone: 01625 545 700  
[www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)*

Yours sincerely



Alison Pape  
Information Access Team