

Telephone: 020 7066 9346
Email: enquiries@fs-cp.org.uk

Stakeholder team – consultation responses
Financial Ombudsman Service
PO Box 69989
London
E14 1PR

31 January 2018

Dear Debbie,

Consultation on the Financial Ombudsman Service’s Business Plan and Budget 2018/2019

This is the response of the Financial Services Consumer Panel (the Panel) to the consultation on the Financial Ombudsman Service’s (FOS) plans and budget for 2018/2019.

Given the FCA’s PPI campaign, and the level of over-indebtedness and financial distress in the population, we support the FOS’s approach to prepare for a high volume of complaints.

The Panel has concerns that consumers are not being treated fairly in relation to a number of other financial products, and we detail below our views on short-term lending, insurance, pensions and investments. We also see new risks emerging, notably with the launch of Open Banking services.

We focus our response on the Panel’s views on trends in these areas. We would also like to encourage the FOS to continue working with firms on improving their complaint handling processes and would support any initiatives that improve access to redress for consumers.

Short-term lending

We note the significant jump in complaints about short-term lending and agree that this trend is likely to continue.

The FCA has found that 17% of people with outstanding consumer credit suffer moderate to severe financial distress (equivalent to 2.2m people)¹. It has also found that 7.7m adults find keeping up with their bills and credit commitments a ‘heavy burden’, or have missed payments for bills or credit commitments in three or more of the last six months². This is broadly consistent with Money Advice Service research, which estimated 8.3 million adults are over-indebted, using the same measure.

StepChange has found that 2.9 million people are struggling with severe debt problems and over 9 million more are showing signs of financial distress. It reports that demand for debt advice is growing, and the average unsecured debt of their clients has increased for the first time in eight years (up from £14,251 in 2016 to £14,367 in the first half of 2017).

Within this context, we believe consumers would see real benefits in the FOS working with the FCA to improve firms’ handling of complaints, particularly when consumers are suffering financial distress.

Pension transfers

The Panel expressed its concerns about pensions in response to the FOS’s 2017/2018 plan, while noting that consumers may not be aware of problems for some time. We highlighted, in particular, decisions about defined benefit (DB) transfers. Since then, the FCA found from a

¹ <https://www.fca.org.uk/publication/occasional-papers/occasional-paper-20.pdf>

² <https://www.fca.org.uk/publication/research/financial-lives-survey-2017.pdf>

sample of firms that only 47% of advice on DB transfers was suitable and only 35% of the products and funds recommended were deemed suitable³. These figures suggest that there may well be more complaints about pension transfers, particularly as awareness has increased through media coverage of cases like British Steel.

The FCA continues to monitor this market and we believe that information sharing between the FOS and the FCA on complaints received by the FOS would provide useful intelligence.

PRIIPs

Since 1st January, the Packaged Retail and Insurance-based Investment Products Regulation requires that a Key Information Document (KID) is provided to investors for each investment. These documents include performance projections under certain scenarios.

The Panel believes that the Regulatory Technical Standards (RTS) on key information documents provide product manufacturers with too much flexibility in the calculation of future performance scenarios, which could lead to consumer overconfidence and disappointment in outcomes. This could lead to a rise in complaints about investments from consumers, although we note that the FOS receives a relatively small number now.

Access to insurance/big data

The FCA's Call for Input on Access to Insurance⁴ set out a body of evidence demonstrating that consumers who fall outside of the standard risk profiles used by the majority of insurance providers are not being treated fairly. The Panel highlighted the problem of the use of big data in insurance markets in its response to the FCA's Call for Input on Big Data in retail general insurance⁵.

The FCA's research⁶ concludes that consumers whose circumstances or pre-existing medical conditions fall outside the parameters of automated algorithms are often not able to find insurance at all. At best, they are offered cover at an inflated price with incomprehensible terms and exclusions. The Treating Customers Fairly (TCF) principles do not appear to address the needs of these groups of consumers. It is possible that the increased focus on access to insurance among certain groups (e.g. those suffering from cancer) could lead to a rise in complaints from consumers who feel excluded or are caught out by opaque terms and conditions when they try to make a claim.

Open Banking and GDPR

The introduction of Open Banking during the first quarter of 2018 will mean that consumers can share their current account data with third parties, without disclosing passwords or other sensitive information. These third-party providers will offer new ways of paying and give people access to account aggregators or apps allowing them to track and manage their personal finances. Open banking technology will also allow providers to alert consumers to special offers, make recommendations for products tailored to their spending patterns and, with the consumer's permission, switch products.

However, Open Banking could result in people signing up for products and services they don't understand. Consumers may also find that their data have been shared or used in ways that they did not expect. With companies able to infer from an individual's data their lifestyle, preferences and interests, consumers may be more vulnerable to scams, mis-selling and unethical practices.

The new General Data Protection Regulation (GDPR), which comes into force in May 2018, will strengthen consumer data protection rights by only allowing organisations to access account data if they have the consumer's explicit consent and to only take the data they need to deliver the service the consumer has signed up for. However, it is possible that some people will still feel their information has been misused. They will not be clear about the respective

³ <https://www.fca.org.uk/news/news-stories/our-work-defined-benefit-pension-transfers>

⁴ <https://www.fca.org.uk/publication/call-for-input/calls-for-input-access-travel-insurance-cancer.pdf>

⁵ https://www.fs-cp.org.uk/sites/default/files/fscp_response_-_big_data_call_for_input.pdf

⁶ <https://www.fca.org.uk/publication/occasional-papers/occasional-paper-17.pdf>

roles of the Information Commissioner and the FOS, so may come to the FOS as the home of financial complaints. It will be essential for the FOS to work closely with the ICO to ensure consumers who wish to complain do not fall between the gaps.

Helping consumers get access to redress

As a general point, the Panel would like to encourage the FOS to help consumers get access to redress. We note that in its Approach to Consumers document⁷, the FCA says that complaints processes may not be consistently meeting the needs of all consumers and lack of clarity has discouraged consumers from complaining. Indeed, the Panel's own research on online investment and advice services⁸ found that consumers had a poor understanding of the complaints process and the role of the FOS.

In addition, the FOS has demonstrated the effectiveness of its proactive work in sharing its insights with firms, with an improvement seen in firms' handling of complaints related to packaged bank accounts. We would support this approach being employed more widely as part of the FOS' plans to develop its service.

Yours sincerely

Sue Lewis
Chair, Financial Services Consumer Panel

⁷ <https://www.fca.org.uk/publication/corporate/our-future-approach-consumers.pdf>

⁸ https://www.fs-cp.org.uk/sites/default/files/final_online_investment_and_advice_services_summary_report_bm_30_regulator_doc_05_12_2016.pdf