

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

FAO: Debbie Enever
Financial Ombudsman Service
PO Box 69989
London
E14 9SR

28 January 2021

By email: consultations@financial-ombudsman.org.uk

Dear Debbie

The Financial Services Consumer Panel (The Panel's) response to the Financial Ombudsman Service's (FOS) Plan and Budget 2021/2022

The Panel welcomes the opportunity to respond to the FOS' strategic plans and budget consultation. The FOS is an essential body for consumers of financial services enabling them to seek redress for free when they have not been treated fairly, but also playing a vital role in helping to prevent consumer harm.

As such, the FOS must be adequately funded to be best prepared for the changing financial services landscape. Adapting its funding model to consider the impact of COVID on financial bodies was wise, however a sustainable and effective Ombudsman Service should be the main goal and its funding composition should therefore be reviewed periodically.

Within the context of the Covid-19 pandemic, which has affected the finances of so many consumers and small businesses, the Panel has significant concerns about potential harms across a range of financial services products, including unaffordable lending, insurance claims handling, the take-up of unsuitable products to ease short-term liquidity challenges, as well as lender approaches to the Bounce Back Loan Scheme (BBLs).

With the trend towards the FOS receiving fewer, but more complex and specialised complaints, the need for tailored expertise and skill within the FOS workforce is paramount. The Panel suggests a regular review of workforce needs to ensure it is flexible enough to handle complaint volume fluctuations.

We believe it is also essential that the FOS puts a significant resource into raising publicity about, and stakeholder engagement in, the changing nature of the cases that the organisation is handling considering the decline in PPI claims.

We are concerned about the wait times for consumer complaints increasing, especially given that many are likely to be in more vulnerable situations due to the pandemic. The Panel hopes that decisions around resourcing are given priority and special consideration so that complaints can be resolved as quickly as possible, and that systems are in place to identify vulnerable consumers early, so they are not left waiting longer than they need to. Waiting even 3 months for a complaint to be resolved will be too long for the most vulnerable, in light of the pandemic.

The Panel encourages the FOS to make greater use of sharing its messages publicly via its consumer-facing stakeholders such as MoneySavingExpert, Citizens Advice, StepChange and MaPS to name a few. It is also important that the insights the FOS shares with firms and the Financial Conduct Authority are acted on promptly, minimising the need for consumers to have to bring a complaint to the FOS, particularly as we know that consumers are generally reluctant to bring complaints¹ and may not be aware of protections.

The Panel would like to see how the collection of data on complaints can be used to monitor and improve complaints handling by firms and prevent complaints from arising in the first place.

It is also important that the FOS stays abreast of the potential changes in regulation post-Brexit and ensure its voice is heard as a vital consumer body within the financial services sector.

Yours sincerely

Wanda Goldwag

Chair, Financial Service Consumer Panel

Consultation Questions

1. What's your view on our forecasts for future complaint volumes for:

a) Our general casework?

We note that the FOS is forecasting a reduction in new complaints in 2021/22 across banking, insurance, investments and pensions, while complaints from SMEs are expected to be stable. Given the trend in H1 2020/21, where the FOS received nearly 40% more cases than forecast at the start of the year, and the potential for Covid-related complaints associated with short-term lending, business lending and insurance claims (travel and business), it is important that the FOS does not underestimate future complaints and is ready to respond should actual complaints begin to diverge from forecasts.

b) PPI?

The approach seems reasonable given the downward trend in PPI complaint numbers.

2. What's your perspective on complaint volumes and issues arising from Covid-19, including potential complaints about business lending?

As consumers and businesses have turned to short-term lending, the Panel has significant concerns about affordability checks, particularly as forbearance measures/ furlough come to an end, and BBLS payments start falling due. The FOS should be prepared for a potential increase in queries and complaints about how lenders have responded to the particular needs of SMEs.

¹[https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Understanding%20consumer%20experiences%20of%20complaint%20handling_DJS%20report%20final_June2016%20\(2\)%20\(1\).pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Understanding%20consumer%20experiences%20of%20complaint%20handling_DJS%20report%20final_June2016%20(2)%20(1).pdf)

3. Do you have any insight into potential areas of complaint in our SME casework in particular?

The Panel is concerned about the fair treatment of SMEs in the recovery of Government-guaranteed coronavirus loans. Strong collaboration with the FCA is required to ensure that any insights gained by the FOS into lender practices is shared promptly to enable the FCA to react swiftly if required. This is especially as the FCA has proactively published guidance on how Pay as You Grow Scheme options should be fairly conducted.²

ONS [figures](#) show that 71% of businesses say they are at low, or no, risk of insolvency. 17% of businesses in the accommodation and food industry are at severe risk of insolvency. This confirms that widescale failures can be expected and with that an increased number of enquiries and potential complaints. Consumer messaging must be joined up across the regulatory family and consumer organisations to ensure SMEs are informed accurately and quickly of next steps.

4. Do you have any insight into potential areas of complaint in our CMC casework in particular?

No comment.

5. Are there any other issues or trends you think we should take into account as we plan for 2021/22?

Those who were financially insecure before the pandemic have been hardest hit.³ We envisage the number of those in vulnerable circumstances to increase as the impact of COVID will have a long-term impact, especially if further lockdowns are announced. The FOS will need to ensure that any redress due to consumers, especially those in vulnerable circumstances, is paid as quickly as possible. As StepChange has found, the number of people who are in severe problem debt related to coronavirus has almost doubled since the beginning of the outbreak to 1.2 million people. 2.87 million are now at risk of long-term debt problems.⁴

The FOS and FCA should work closely so intelligence is shared early on any indications that business models may be changing in order to offset potential losses in other parts of the core business.

The FOS should be wary of increased insurance claims due to the potential mismatch between consumer expectation and insurer behaviour and communications.

It is also important that the FOS stays abreast of the potential changes in regulation now we are no longer part of the EU and ensure that consumers receive the right messages especially around redress, in a clear and timely manner, liaising with the FCA and MaPS wherever relevant.

² <https://www.fca.org.uk/publications/guidance-consultations/bounce-back-loan-scheme>

³ <https://socialmetricscommission.org.uk/wp-content/uploads/2020/08/SMC-Poverty-and-Covid-Report.pdf>

⁴ https://www.stepchange.org/about-us/campaigning-for-you/tackling-covid-debt.aspx?dm_i=VD3,74G6K,339XRY,ST9PS,1

6. What are your views on our plans to resource and develop our service?

With PPI complaints representing a smaller proportion of complaints (13% of total complaints forecast for 2021/22), and the complexity of cases rising, we recognise the FOS will need to adapt its resourcing and that costs per case will increase.

Based on the themes raised in the independent assessor's annual report⁵, in particular an increase in complaints about the timeliness of the service, it is important that the FOS is adequately resourced and has the processes in place to deliver swift redress. This is all the more important where consumers – sometimes in vulnerable circumstances and facing financial hardship – may have already waited eight weeks for firms to address their complaints before consumers then turn to the FOS.

The FOS has a fundamental role to play in preventing harm through the sharing of valuable insights with firms and the FCA. This should result in firms better handling complaints in the first instance and in more effective supervision and enforcement by the FCA, which would lead to less demand for redress and reduce pressures on the service. As part of this, the FOS should consider, together with the FCA, how data is used and monitored to prevent harm (see our response to Q8 below).

7. Do you have any feedback about our emerging plans under our strategy?

The Panel is a keen supporter of the FOS' role in preventing complaints and unfairness and building coordination with the wider regulatory family.

Specifically, in relation to securing redress without a complaints-led approach, we would like to see swift action from firms in response to FOS intelligence *as well as* appropriate, proactive regulatory action. This could include intervention by the FCA as seen for Business Interruption Insurance, where it was clear that a large number of firms would be affected by similar issues.

8. Are there areas where you'd like to work with us toward our ambition to prevent complaints and unfairness?

The Panel has long advocated that robust outcome measures should be embedded in financial services regulation and would welcome the opportunity to consider, together with the FOS and the FCA, how the complaints data the FCA collects from firms, and the intelligence collected from the FCA Supervision Hub, could be used to improve complaints handling by firms and prevent harm. This should include considering whether the data currently being collected could be used to form an appropriate baseline for measuring improvements in complaints handling, reflecting consumer views of how they would like to see their complaint handled by the firm, and ensuring that firms' performance can be compared in a simple and transparent way.

We would suggest that the data collected should:

- allow for the identification of areas for improvement
- capture the actions taken by firms to improve their own complaints handling, including proactively following up on issues raised by the FOS to resolve issues before complaints emerge

⁵ <https://www.financial-ombudsman.org.uk/files/288906/IA-annual-report-2020.pdf>

- capture how firms are identifying and prioritising customers in vulnerable circumstances
- track how often the FOS steps in early to help resolve an issue before a complaint is received by the service

We would want to see firms proactively identifying and contacting customers and offering redress where issues have been identified through complaints data or where the FOS/FCA first contact centres raise issues which affect a number of customers.

Equally, the Panel is concerned about consumer awareness of protections and would welcome the FOS' insights into consumer journeys to the FOS and how to ensure that consumers who are entitled to redress seek it and know that they can seek it directly. This should also include understanding the level of awareness among SMEs.

The Panel would like the FOS to consider its role in the Future of Regulation debate, as we feel consumers' access to redress should not be hindered in any way. The Panel will be responding to the [HMT's Future Regulatory Framework Review](#) consultation. Another area to consider is proactive compensation and how the FOS can use its data to support FCA investigation and analysis to reach fast and fair outcomes for consumers.

We would support any initiatives that improve access to redress for consumers, including using technology to simplify the customer journey.

9. Do you have any other comments on our draft plans for 2021/22?

With the Brexit transition period now over, consumers may be unclear what their protections are and how to enforce redress decisions if they are customers of an EEA-based firm which is passporting into the UK under the Temporary Permissions Regime. The Panel sees a role for the FOS in helping to provide clear communications and in the prompt sharing of insights as and when issues arise.

As a vital consumer body, it is also important that the FOS' insight is considered as the post-Brexit regulatory landscape is shaped.

10. What are your views on the illustrative funding scenarios we set out? For example, how far do you support our base case, other scenarios or features of them? How far do you agree that price stability is important in future years, and that we should look to reduce the likelihood of in-year requests for funding?

Firms should be incentivised to better handle complaints themselves, which would yield benefits, in terms of the overall costs of the service, while improve service to consumers through lower waiting times.

The Panel is therefore supportive of the polluter pays principle and would lean towards increasing the case fee where possible, but we are supportive of an overall greater balance between levy-based and case fee funding. This would recognise the importance of the FOS' preventative work and the promotion of consumer awareness of protections and the service itself, which does not generate any case fee.

As mentioned above, it is important that the FOS maintains the skill and knowledge of its expert staff who are handling increasingly complex cases and, that the FOS is addressing complaints in a timely manner as stated above. It must be effectively funded to do this.

We are therefore supportive of the base case scenario (Scenario 1) and cannot see how Scenario 4 would be feasible at all to meet any mid-long term objectives.

11. For voluntary jurisdiction participants, particularly those that are joining the FCA's Temporary Permissions Regime (TPR): what are your views on our proposal to raise funds through the voluntary jurisdiction levy and to leave the tariff rate for each industry block unchanged?

No comment.

12. Do you have any suggestions about further improving our efficiency, including suggestions for how you could work with us to do this?

The Panel believes the following would lead to a better redress landscape for consumers:

- the complaint response time reduced from the current 8 weeks
- widely available and easily accessible metrics on firm complaint response times
- improved consumer understanding of their regulatory protections and where to go for help

Where the FOS has issued guidance either publicly via its newsletter for instance, or other stakeholder engagement, a reduction of complaint numbers in that area would be an indication of the FOS preventing further complaints reaching it unnecessarily. Monitoring of this kind could be useful to measure success against intended objectives.

The FOS should continue to work with the regulatory family and other stakeholders to create a landscape in which complaints can be resolved as quickly and accurately as possible, making the consumer journey a smooth one overall.

13. Do you have any other views on our proposed 2021/22 budget?

No comment.