

Charging Claims Management Companies and other professional representatives Consultation paper

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Respond by: 4 July 2024

Contents

The Financial Ombudsman Service	2
Chairman’s foreword	3
Introduction	5
Why we are consulting again	8
Summary of consultation questions	9
How to respond.....	9
Summary	10
Our proposals	14
Next steps.....	24
ANNEX 1 – Draft FEES Instrument.....	25

The Financial Ombudsman Service

About us

The Financial Ombudsman Service was set up by Parliament under the Financial Services and Markets Act 2000 (FSMA 2000) as an independent body to resolve individual cases between financial businesses and eligible complainants ‘quickly and with minimum formality’ on a fair and reasonable basis. We deal with around 200,000 disputes every year involving a wide range of financial services providers.

Cases are referred by customers, potential customers, consumers, small businesses, small charities and trusts, beneficiaries of trusts or insurance policies, people being chased for debt under a regulated credit agreement – and many more who fall within the eligibility requirements in DISP 2.7 of the Handbook of the Financial Conduct Authority (‘FCA’).

We share the insight we gain from resolving thousands of disputes a year to improve outcomes for everyone affected by financial services products. Information about the types of cases we can consider, who we can help, and the awards we can make, can be found on our [website](#). Our final decisions are legally binding if accepted by the complainant. If not accepted, a complainant remains free to pursue the dispute through court action.

Our independent and impartial service is free for complainants to use.

Chairman's foreword

Everyone should rightly expect regulated financial firms to act fairly and provide good services and outcomes for their customers. The vast majority do, but sometimes things will go wrong, and firms will need to put things right in line with their regulatory obligations. When that does not happen, and people think they have not been treated fairly, they can often find themselves out of pocket and suffering distress or inconvenience.

That is where the Financial Ombudsman Service comes in, providing a dispute resolution service to thousands of people to resolve these matters. We are an independent and easy-to-use service which resolves disputes fairly, impartially and with minimum formality. We are free to complainants at the point of use. These are the foundations on which the service was set up over 20 years ago; they are as true today as they were then.

We firmly believe that those who do not meet their obligations should contribute to the costs of putting things right. We also believe that we should act fairly and reasonably in everything we do; including how we meet our costs. At present, these costs fall solely on the respondent firm; they pay both a levy through the Financial Conduct Authority and a case fee per case referred. This was the arrangement established when we were first set up, reflecting that then it was mainly only complainants and respondent firms involved in the cases process.

Times have changed, however, and a significant commercial industry has been built up in bringing cases to us for profit by Claims Management Companies ('CMCs') and other professional representatives at no cost to them for our service. These companies can send in significant volumes of cases with little prospect of being upheld or which are poorly presented. This can have a significant impact on our ability to help others who have come directly to us and drives up our costs.

Over the last two years, 20% of cases referred to the Financial Ombudsman Service have been brought by commercial CMCs and other professional representatives who are taking a significant proportion of the awards otherwise due to their clients. Of these cases, fewer than 25% result in a different outcome for the complainant than they have already been offered by the respondent firm. In addition, despite profiting from it, the current funding model means CMCs and other professional representatives do not contribute to our costs.

Our case fee to respondent firms has just decreased to £650 from £750, which is payable irrespective of whether or not the case is upheld. This means CMCs and other professional representatives bear very limited financial risk – even though such representatives often increase our costs by, for example, disproportionate referrals of cases without merit, failure to provide full case details, or by making unnecessary escalations to an Ombudsman for a final decision when our approach to the issue is already well established.

Increasingly, respondent firms have highlighted the unfairness involved in them being liable to pay significant sums in fees in these circumstances, particularly those where the uphold rate for cases can be as low as in single figure percentages of the overall cases submitted. At its worst, this reduces confidence and brings the system into disrepute; and we are told could cause firms to go out of business due to the financial pressure of having to process so many cases all at once and pay our fees.


This is not good for consumers or their confidence in the UK's financial services industry overall, or indeed their confidence in our fair alternative dispute resolution service and the financial regulation framework. It is something that could easily be avoided. I passionately believe that anyone who wants to bring a case to the Financial Ombudsman Service should be able to do so directly to us – for free – and will keep 100% of any award that we may make if their case has merit, rather than losing a significant proportion to CMCs and other professional representatives. This present situation cannot be fair for either complainants or respondent firms – and the Financial Ombudsman Service has a role to play in addressing this unfairness.

The level of charging for CMCs and other professional representatives is important to ensure we cover the costs associated with the submission of widescale speculative cases from these professional representatives, as well as reflecting the additional costs on us of doing more to increase public awareness and be accessible. But in a free market, we do not want to discourage diligent CMCs and other professional representatives from supporting genuine cases where people have made an informed choice to employ them and are content to pay for this.

We are proposing, therefore, to offer three free cases per financial year and also reflect the statutory exemption for charities, family members and advisory organisations, which means these proposed fees will only apply to those commercial entities operating at scale.

This consultation therefore seeks your views and evidence on the level of charging CMCs and other professional representatives sending cases to us. We very much welcome your views on our proposals and please feel free to put forward any other options or considerations. Thank you very much.

With best wishes,



The Baroness Manzoor CBE
Chairman of the Board

Introduction

In changes introduced by the Financial Services and Markets Act 2023 ('FSMA 2023'), which amended Paragraph 15 of Schedule 17 of FSMA 2000, HM Government received a new power to make regulations regarding the fees charged by the Financial Ombudsman Service.

In making this provision, the Parliamentary discussions focused on addressing the significant number of case referrals we receive that lack reasonable prospects of success for the consumer and that incur little to no risk of costs for the CMC or professional representative bringing the case. The impact of this has been a concern raised with us, regulatory powers, and Government.

Government is now exercising this power to make regulations to allow us to update our current fee-charging framework, as set out in a [Statutory Instrument](#) which was laid before the Houses of Parliament on 20 May 2024. Subject to affirmative Parliamentary approval, this Statutory Instrument will enable us to extend our fees rules to include CMCs and certain legal professionals. Charities, free advice services and family and friends providing personal assistance would be exempt, and our direct service to complainants would remain free, in keeping with our fundamental purpose. All reference to 'CMCs and other professional representatives' in this document reflects this scope.

In anticipation of being empowered to charge CMCs and certain legal professionals by Government, as part of our 2024/25 Strategic Plans and Budget consultation, we consulted on whether and how we might best implement a charging regime for CMCs and other professional representatives. We held a seven-week consultation period from 13 December 2023 to 30 January 2024, to which we received 71 direct responses relating to this topic.

The feedback received to our consultation did show strong opposition from CMCs and other professional representatives – but most consultees overall supported the implementation of a fee regime. We have therefore advanced our work into assessing the fairness of introducing such a charging structure, whilst continuing to carefully consider the representations of all those that have engaged with our proposals so far.

The statutory intention behind this new power

HM Government's position is clear: all complainants – whether consumers, small businesses, charities or trusts – should be able to access our service free of charge and without the need of any CMC or professional representative support. We agree with this.

The [policy statement](#) which accompanied the draft Statutory Instrument sets out that Government has heard concerns that CMCs and other professional representatives are able to 'weaponise' case fees charged by us. It described that CMCs and other professional representatives can pressure respondent firms that are subject to our compulsory jurisdiction into settling cases regardless of their merits, on the basis that these cases attract a case fee (alongside internal case-handling costs for a firm) regardless of the outcome reached.

Government has said it views the outcomes described as being contrary to our statutory purpose, which is to provide for the fair, proportionate, prompt and informal resolution of disputes between consumers and financial services firms, as an alternative to the courts.

Our current funding model

Access to dispute resolution without charge is an integral part of consumer protection within the UK financial services sector. How we are paid for, and by whom, is therefore an important matter.

We are currently funded by a combination of a levy charged to all relevant firms, and a case fee of £650 charged to respondent firms per case closed during the 2024/25 financial year. The purpose of the levy system is to distribute our fixed costs fairly among financial services firms. It is important to note that this consultation does not seek feedback on our levy or the case fees we charge respondent firms. CMCs or other professional representatives currently do not contribute towards the cost of individual cases undertaken by the Financial Ombudsman Service.

The longstanding principle is that the cost of dispute resolution should be covered in a fair and proportionate manner. The more cases we receive, the higher the costs to respondent firms regardless of whether the case has merit or not under the 'polluter pays' principle. The cost and benefit analysis was therefore focused almost exclusively on financial services firms themselves.

Such principles were established at a time before the development of widespread CMCs and other professional representation in the financial services industry.

Our case fee proposal

Our Board approved the principle of charging CMCs and other professional representatives a fee in February 2024; and we have continued to liaise closely with the FCA, the Solicitors Regulation Authority (SRA) and Government about our proposals. As with all our FEES arrangements, it will be for the FCA Board to approve.

This paper sets out how and why we propose to introduce a £250 fee for CMCs and other professional representatives, reducing to £75 for cases we determine in favour of the complainant, with the objective of ensuring that our case fee arrangement allocates an element of the costs of resolving cases to CMCs and other professional representatives who can derive benefit from our service.

We propose that where the £250 has been paid we will reduce the fee for the respondent firm by £175. It is important for us not to have a vested interest in any outcome reached on a case, in keeping with our statutory purpose and our present obligations according to the Alternative Dispute Resolution Regulations 2015. Subject to the consultation process, Parliamentary affirmative resolution of the enabling legislation, necessary approvals and operational prerequisites being met, we propose to implement any arrangement to cases referred to our service from **1 October 2024**.

We want our fee arrangement to be in line with our purpose of resolving disputes quickly and informally, and, in the case of CMCs and other professional representatives, to better recognise behaviours focussed on resolution and co-operation with our case-handling approach. We believe that introducing a fee in this way will support behaviour that is in the best interests of all complainants and allow us to help more customers more quickly. That includes ensuring that the merits of cases are properly established in advance and presented with the appropriate documentation.

Our objectives therefore include to expend fewer resources on cases that are dismissed, withdrawn, and found to be out-of-jurisdiction, as we expect this will allow us to help those with meritorious cases more quickly – and we will also see a reduction in the overall cost of our service. We have thought carefully about the feedback received to our initial consultation regarding how we should be committed to raising awareness of our service, and we detail how we propose to achieve that using some of the income we may attain from a new charging structure.

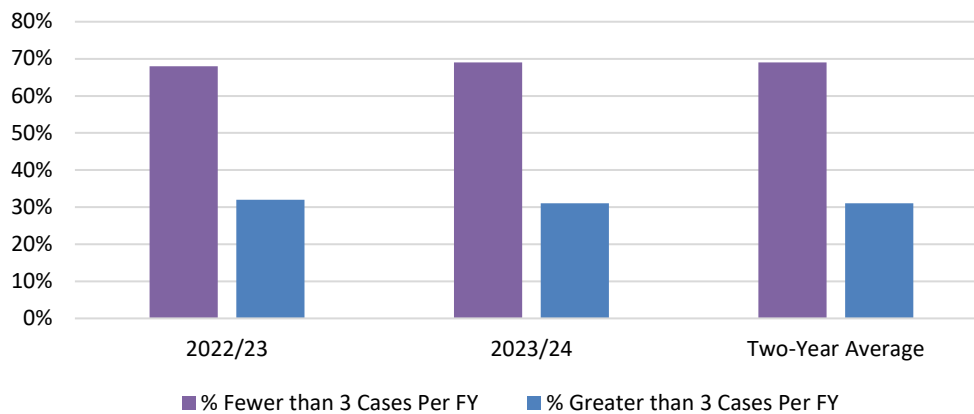
Our free case provision

In our view, it is fair for those CMCs and professional representatives that refer cases to our service at scale to contribute to our costs through a case fee regime.

We propose to offer three free cases per financial year for CMCs and other professional representatives in scope (the same amount as we do with respondent firms). Meaning that, no case fee would be charged below this level, which could be used to ‘test’ our approach on new or novel complaint issues. Having tested the issue and received our assessment, CMCs or other professional representatives could then use this insight to advise clients accordingly.

Our proposal is based on our current analysis, which shows that the vast majority of CMCs and professional representatives do not refer more than three cases across a financial year:

Case referral volumes of CMCs and other professional representatives relative to 3 cases per financial year (FY)



This means that, based on referral trends over the past two years, only commercial entities working at scale in the complaint’s ecosystem would incur fees according to our proposal.

For example:

- Almost 80% of legal professionals acting as professional representatives (that would be eligible for a fee under our proposed charging regime) referred fewer than three cases annually for both the 2022/23 and 2023/24 financial years. This suggests that only approximately 20% of legal professionals in scope would have to pay fees under this new approach.
- On average, 55% of CMCs referred fewer than three cases in both the 2022/23 and 2023/24 financial years. Our current analysis also demonstrates that out of the 213 CMCs in 2022/23 and 177 CMCs in 2023/24 that referred cases to our service, the majority of referrals came from fewer than ten of these CMCs. This suggests that under our proposed free case provision, most CMCs will not be charged a case fee.

Our consultation so far

We have received comments on this issue in prior years during our plan and budget consultations and discussion papers. Following the passage of FSMA 2023, our December 2023 Consultation Paper received the highest response rate we have had in recent years. We are grateful for the active engagement from our stakeholders and believe that the level of interest is a clear indication of the importance of our proposals.

A list of organisations that formally responded to our consultation proposals to introduce a charge can be found within this [feedback document](#), alongside an overview of the responses we received and a summary of feedback to each of the eight questions that we asked.

As well as consulting publicly, we have liaised closely with HM Treasury, the FCA, the SRA, Citizens Advice Bureau, Which? and other regulators and professional associations representing the legal profession and consumers within the market. We have also reached out directly to certain stakeholders who responded to our consultation to better understand their feedback, and we will continue to do so as part of this consultation in order to receive views and evidence from across the industry.

Why we are consulting again

The amendment to FSMA 2000 enables us to make rules to charge CMCs and other professional representatives a fee.

It is our responsibility to construct the detailed case fee rules, such as the level of any fee and the relevant mechanism for charging. Such rules will be set out in a FEES Instrument as is our usual practice; to be confirmed by us at the conclusion of this consultation.

We will also review the impact and operation of the fee arrangement each year as part of our usual strategic plans and budget process, which is overseen and approved by the FCA. The Statutory Instrument also provides for five yearly reviews of the arrangement by HM Treasury on the range of persons our service is able to charge fees to. Such reviews help ensure the charging regime is meeting its statutory objectives in a fair and efficient manner.

This Consultation Paper is therefore seeking views on the fee level and mechanism for charging. Our service is also interested in representations and evidence regarding the broader impact of our proposals on both consumers and professional representatives. We want to ensure we implement a fair arrangement, reflecting the best interests of our customers and stakeholders.

Summary of consultation questions

1. Do you consider a case fee level of £250 payable by CMCs and other professional representatives to be fair and appropriate? If not, please state what fee level you believe would be fair with clear evidence to support this.
2. What is your view on our proposed fee charging mechanism, where the £250 maximum fee level for CMCs and other professional representatives is reduced by £175 where the case outcome reached is in favour of the complainant?
3. What is your view on our service retaining £75 from CMCs and other professional representatives in any event? Do you think this should be higher or lower? Please give clear reasons and evidence.
4. What is your view on the case fee to CMCs and other professional representatives being chargeable when they refer the case to our service? Do you think there is another stage in our process where charging a fee would be appropriate? What is your evidence for this?
5. Do you agree with our proposed approach to group charging of respondent firms? If not, what alternative method would you suggest?
6. Do you support our proposed method for the late payment of case fees? If not, what alternative solution would you propose?
7. What further measures could we implement to improve our service, accessibility and public awareness for all our customers? Please provide any supporting evidence.
8. What implementation considerations should we take into account if we proceed with our proposals? Please support your answer with factual evidence where possible.

How to respond

We invite our stakeholders to provide feedback on our proposals before the consultation window closes on 4 July 2024.

Please email your response and any questions about this consultation to consultations@financial-ombudsman.org.uk

We will publish a list of respondents and a summary of responses. If there is a reason why your name should not be published, please let us know. We will not automatically accept a standard email disclaimer. Our legal responsibilities around freedom of information mean we cannot guarantee responses can be kept confidential.

Summary

Our purpose

Our purpose is clear: The Financial Ombudsman Service was set up by Parliament to provide a scheme that is independent, easy to use and there to help resolve complaints between eligible complainants and firms that provide regulated financial services in a timely and informal manner.

Since we started over twenty years ago, it has remained fundamental to our purpose that we are accessible, easy to use, timely and free for complainants. We believe that every customer who engages with us – whether a respondent firm or complainant – should have a better outcome and/or feel better informed following our involvement.

We want everyone with a valid case to access our service if the respondent firm has not resolved it fairly and reasonably – and we believe that keeping 100% of any redress awarded is a good outcome for consumers.

Our service aligns with the views of the FCA and SRA in recognising that CMCs and legal professionals acting as professional representatives can sometimes benefit both the individual consumer and wider society, by using their expertise to help resolve disputes. We are also in agreement with these regulators that, in the majority of cases, it is not necessary for complainants to use CMCs or other professional representatives when referring cases to us.

A growing challenge

Our statutory purpose is to independently resolve disputes, quickly and with minimum formality. Over the past two years, approximately 20% of the ~400,000 cases referred to us have been brought by commercial CMCs and other professional representatives. These representatives can derive economic benefit from these cases, with some receiving a 30-40% portion of any compensation we have awarded to complainants. For example, FCA regulated CMCs can currently obtain up to 30% of redress attained, with a maximum charge of £10,000.

In addition, the way some CMCs and other professional representatives work at volume, sending large numbers of cases that have no merit with limited or no due diligence evident, means we use our finite resources doing work on cases that do not then result in an outcome for the complainant that is favourable compared to the one they received when the respondent firm issued them a final response.

We presently charge the full cost of these cases to the respondent firm at a rate of £650. There is limited financial risk to the CMC or professional representative of sending such cases to us; and therefore, for some, little incentive to sift cases properly before referral. Many respondent firms have told us this is not fair, and several have now told us about the significant impact this is having on their economic viability, even though we are finding upon investigation that there is no case for these firms to answer. This behaviour is therefore bringing the complaints arrangement into disrepute.

Numerous members of the industry, spanning various product areas, have shared examples whereby CMCs and other professional representatives submit cases to them in large batches at levels they cannot possibly immediately flex their customer service resource to respond to before the 8-week time period under the DISP Rules expires for a final response letter to be issued. (Note that the period for responding to certain complaints about payment services or electronic money is even shorter: just 15 business days.)

We then see some of these cases are then escalated to us at significant volume, often without the necessary papers gathered or investigations having taken place by the respondent firm. We find we need to ramp up our resources to deal with these surges in casework, and these limited information cases then require significant additional effort on our part to work; requesting information from both parties to obtain satisfactory evidence and arguments for determining the fair and reasonable outcome for the case. All of which diverts our vital resource away from other complainants that require our help.

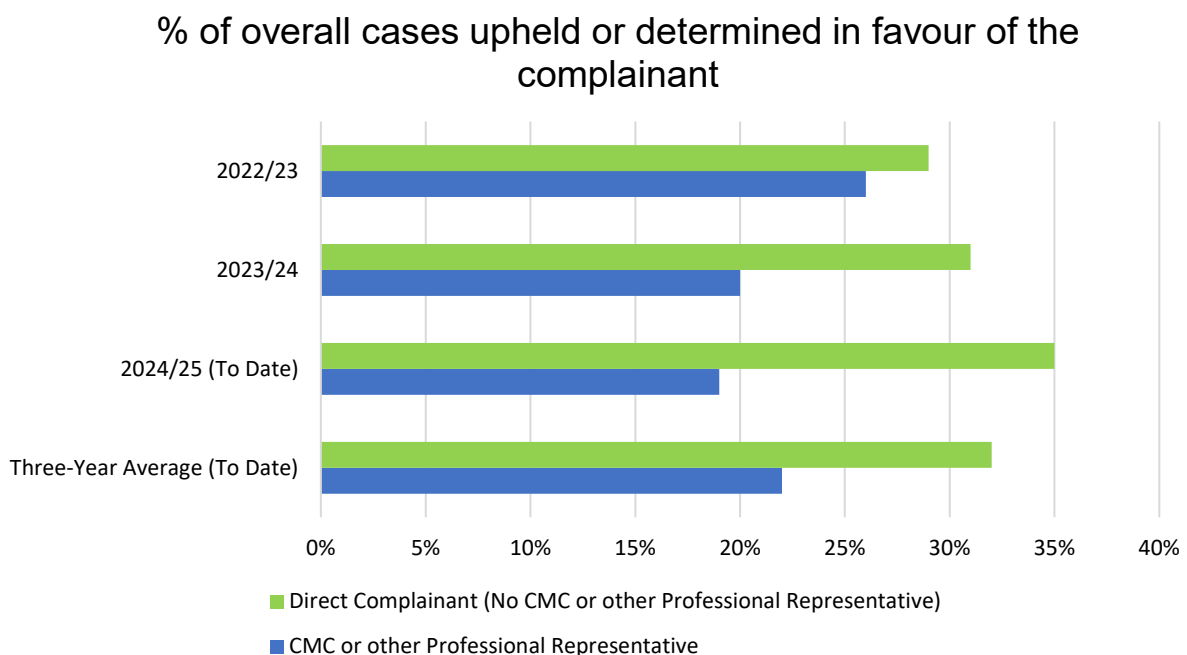
Cases determined in favour of the complainant: a three-year review

Many CMCs and other professional representatives explain in their marketing material that they are experts in claims management, and all have opportunity to be selective about what they refer to us in a way that unrepresented complainants usually cannot. They can do so by carrying out effective due diligence and paying due regard to our previously published decisions, the guidance derived from cases we have determined, or by contacting our support hub.

In line with the principle of acting in the best interests of their clients, if a CMC or other professional representative decides to bring a case about a respondent firm to us on behalf of a consumer, certain steps should be taken to substantiate the basis of that case, prepare it for consideration and draw on insight from how we may have previously assessed similar complaint issues.

Cases should be referred and evidenced accordingly. Not doing so, especially across a high volume of cases that are not determined in favour of the complainant or that we cannot consider, negatively impacts our service standards, our ability to help other customers and our operational efficiency. As with other improvements, we are providing more support to help CMCs and other professional representatives do this. Including, improved dedicated digital channels to allow them to lodge cases with us with the necessary detail we need to resolve the cases quickly and with minimal formality.

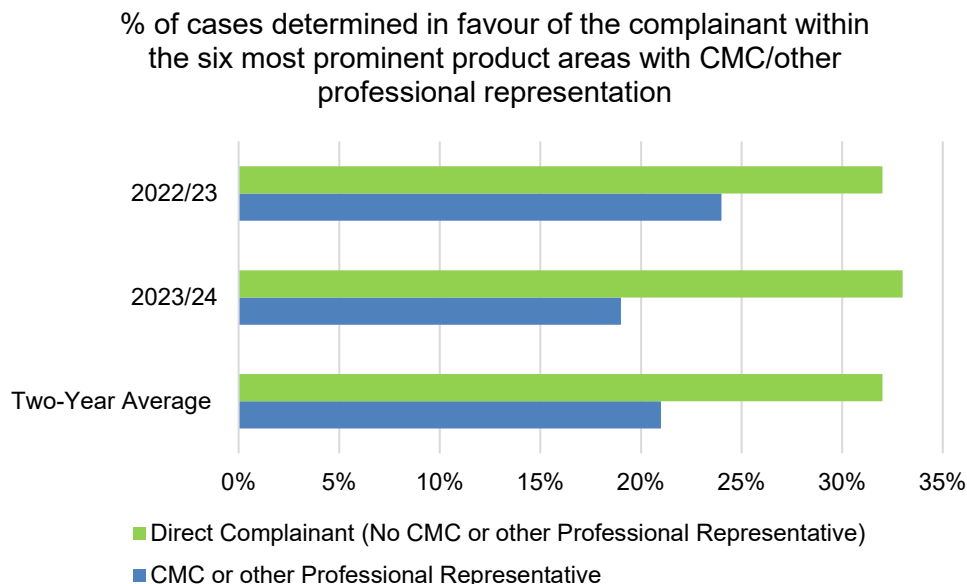
The graph below shows the success pattern of CMC/professionally represented cases, compared to those referred directly by complainants, that we have resolved over the past three financial years to date (data is reflective of April 2022 until the publication date of this paper). This highlights where we have either upheld the case in the complainant's favour, or changed the outcome reached by the respondent firm at the final response stage into one that favours the complainant.



We see the same picture when focusing only on the product areas that have the most active CMC/other professional representative presence. For example, in both the 2022/23 and 2023/24 financial years, these six product areas represented 80% of the CMC/professionally represented complaints our service received:

- Hire purchase (motor)
- Current accounts
- Short term lending (running account credit)
- Point of sale loans (non-motor)
- Personal loans
- Credit cards

Again, we have considered the success pattern of CMC/professionally represented cases in these most prominent product areas that our service has resolved since receiving the case either in 2022/23 or 2023/24. This highlights where we have either upheld the case in the complainant's favour, or changed the outcome reached by the respondent firm at the final response stage into one that favours the complainant:



Given the professional status of many CMCs and other representatives engaged by our proposal and recognising the value they can provide in bringing their understanding to complainant's cases, we would expect, given much of their marketing and given their professional status, that cases brought to us by them would have a considerably higher uphold rate compared to those who use our service without professional representation. However, this clearly is not the case.

Instead, it is evident that, over the past three financial years to date, there has been a consistent trend: the overwhelming majority of cases referred to us by CMCs or other professional representatives have not been upheld or resulted in an outcome in favour of the complainant compared to what the respondent firm had already said at the final response stage of their investigation.

Additionally, for the past two complete financial years, our data demonstrates that among the almost 400,000 cases that our service resolved, those that were CMC or professionally represented did not achieve outcomes favouring the complainant when compared to cases referred directly to us by complainants without CMC/other professional representation. It also shows that this position is deteriorating.

Improving our service

We have invested heavily to build a process and operational model that delivers fair outcomes faster, while keeping to high quality standards. We know how vital it is that we help parties resolve their disputes quickly and efficiently. Diverting resources from fulfilling that core function, especially over a substantial period as we have seen, takes away from the crucial work we are here to carry out.

We will do more to raise awareness of our service and make it even easier to access, so complainants can do so easily, with confidence, and without the need to employ a CMC or other professional representative – unless this is an informed choice by them, and they are made aware of the free service we provide.

We are also committed to doing more to engage directly with complainants, including those that are professionally represented, to ensure they are fully committed to the process, have given their permission, and are happy with the proposed resolution of their case. These initiatives should help provide better outcomes and/or better-informed complainants in line with the aims of our three-year strategic plan.

Our proposals

We are seeking feedback on our proposals to implement a fee level and a charging procedure as outlined in this paper. We invite feedback from across the industry to inform our next steps. To help facilitate this, we have framed eight sets of key questions for consideration, but these are not definitive. Please do include other representations you may have as appropriate and with relevant evidence.

Our proposal for a £250 maximum fee for professional representatives in scope

This proposal aims to share the costs incurred during the case resolution process to help ensure adequate resources continue to be available to meet our statutory purpose of resolving disputes quickly and with minimum formality. We aim to do so in a manner that is consistent with our status as the Ombudsman; being effective, independent, efficient and fair.

When constructing our proposals, we have focused on the following key cost considerations:

- Our current estimate for 2024/25 is that the ‘front-end’ costs such as taking initial calls and enquiries in our Customer Connect division are around **£75** per case.
- The additional cost of scaling up to deal with the high volatility in demand (which our data earlier in this document demonstrates does not, in the majority of cases, yield a favourable outcome for consumers) is approximately **£175** per case.
- Our marginal cost per case for 2023/24 was **£710**. Therefore, recovering a maximum of £250 (i.e. £75 + £175) represents a contribution towards this.

Based on these cost factors, we propose a case fee level of £250 for CMCs or other professional representatives who are in scope and refer cases to us. This fee level is designed to reflect a proportion of the costs incurred by us and ensure fairer apportionment of financial responsibility.

We believe distributing our casework costs in this way will establish a more equitable funding model that supports the timely and effective resolution of all cases. We will keep our costs under review and consult on any proposed changes as part of our annual plans and budget.

Q1. Do you consider a case fee level of £250 payable by CMCs and other professional representatives to be fair and appropriate? If not, please state what fee level you believe would be fair with clear evidence to support this.

Our proposed charging mechanism for professional representatives in scope

Our service is committed to striking a fair balance in the allocation of our case fees that is reflective of our demand. We want to ensure that our income stream accurately reflects our cost drivers, while at the same time encouraging the effective resolution of disputes. Including, that CMCs and other professional representatives be duly selective about the preparation and merits of the cases they refer to us.

We believe this would be in the best interests of consumers and also reflect the regulatory obligations of [CMCs](#) and [other professional representatives](#). We have carefully considered different charging arrangements and other options on this basis.

As outlined earlier in this document, currently the entire cost of our casework in an individual case is borne by the respondent firm. Considering our existing analysis, which demonstrates that the vast majority of CMC or other professionally represented cases do not achieve an outcome in favour of the complainant, and that these stakeholders presently make no contribution to our case fees, we are proposing an alternative charging mechanism.

To enhance fairness in the proportionality of our casework costs, we are proposing this differential case fee arrangement, whereby the amount charged to both the respondent firm and a CMC or other professional representative is contingent on the outcome of the case.

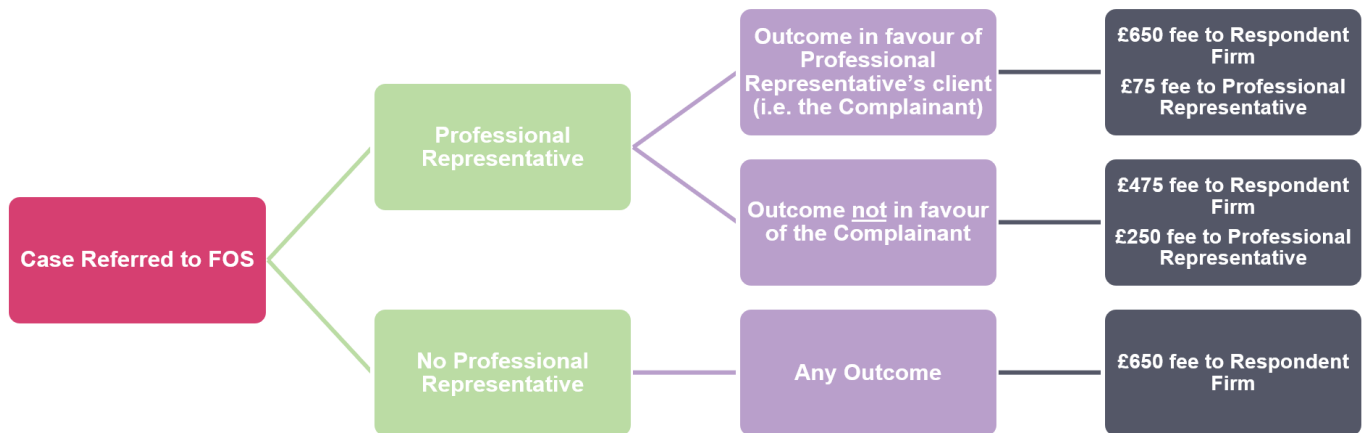
Our proposed case fee arrangement

Our proposed case fee arrangement would work as follows:

- Complaints submitted directly by consumers, not-for-profit advice services, charities and informal representatives (such as friends and family) would attract no case fee aside from the one chargeable to the respondent firm.
- A £250 maximum case fee would be charged to the CMC or other professional representative referring a case to us that exceeds the three free cases per financial year threshold.
- If we reach an outcome on the case that is in favour of the CMC or other professional representative's client compared to the one reached by the respondent firm at final response stage, we will provide reimbursement of £175 to the CMC/professional representative. As per our normal process regarding credits and/or refunds, no interest would be applied to this sum.
- Therefore, cases resulting in a favourable outcome for the CMC or professional representative will attract a £75 fee. In such cases, the £650 case fee is still payable by the respondent firm, in keeping with the polluter pays principle.
- If we do not reach an outcome on the case that is in favour of the CMC or professional representative compared to the one reached by the respondent firm at final response stage (and so the £250 fee is payable by the CMC or professional representative), the current £650 case fee payable by the respondent firm will be reduced by £175 to £475. This is to ensure no perverse incentive and is pursuant to our obligations not to have a vested interest in any outcome reached on a case, in keeping with the Alternative Dispute Resolution Regulations 2015.
- We will provide comparable billing and exceptionality provisions for fees from respondent firms and CMCs/other professional representatives in line with our established approach.

Therefore, in all cases that are brought by in scope CMCs or other professional representatives above the three free cases per financial year provision, we propose that a minimum fee of £75 will always be charged. This will be invested in the service we provide, contributing to outreach and awareness efforts, our front-end process to set up cases and the administrative costs of the proposed fee regime.

How our proposal would work in practice



‘Determined in favour of the complainant’

In deciding whether the outcome has been ‘determined in favour of the complainant’ (see Annex 1 for our draft FEES Instrument), we propose to adopt the interpretation we use when deciding if there has been a ‘change in outcome’ for data publication purposes – given it is an established approach that industry has been aware of for some time and we find the logic is coherent with our proposals contained in this paper.

When determining whether a change has occurred, we compare the final outcome for the consumer when the case was resolved against the outcome for the consumer according to the last response from the respondent firm before case ‘conversion’ (which is when we notify the parties that our service has begun its investigation into the complaint).

If the final outcome for the consumer was more favourable (whether by a large or small amount), we treat that as a ‘change’. That includes instances where the respondent firm made an improved offer or agreed an improved settlement after we inform the parties we have begun investigating, even if we have not yet delivered a provisional outcome.

There are cases that are not included in the outcome data we publish, and so the outcome isn’t currently recorded as either a ‘change’ or ‘no change’. Most of these instances do not involve a favourable outcome for the complainant. For example, where we have decided that the complaint is not within our jurisdiction, or we choose to dismiss the complaint without consideration of its merits.

So, our proposal is constructed on the intention to only reduce the £250 maximum fee for CMCs and other professional representatives when the outcome is in favour of the complainant. We appreciate that further consideration will be necessary in this area, for example under our present ‘Pro-active Settlement’ initiative. We therefore welcome feedback on this aspect to our proposals to inform our decision making.

Summary

This fee-charging mechanism aims to allocate our casework costs more proportionately based on the outcome achieved by the CMC or other professional representative compared to the position reached by the respondent firm at the final response stage. We invite stakeholders to provide feedback on our proposal, particularly regarding its potential impact, feasibility and any alternative suggestions that can be supported with evidence.

Q2. What is your view on our proposed fee charging mechanism, where the £250 maximum fee level for CMCs and other professional representatives is reduced by £175 where the case outcome reached is in favour of the complainant?

Our proposal to charge a £75 fee for all cases referred by a professional representative

Our [Strategic Plans and Budget 2024/25](#) set out our rationale for an overall £650 case fee for this financial year for respondent firms.

We have made recent improvements in timeliness and our quality standards for customers. This can be attributed to the significant investment we have made in improving our operating model. We are committed to further efficiencies in future years to further reduce costs overall.

We want every complainant to feel empowered to engage with us confidently and for those who need our help to be aware that they can rely on us free of charge. While complainants are entitled to choose to employ the services of a CMC or other professional representative to bring their case to us, in keeping with the relevant regulatory standards, this should be an informed choice and one that is made with the awareness that they can bring their case to us themselves without charge.

It is our mission to provide timely and fair answers for all those that are entitled to our free service – and we acknowledge the feedback received to our initial consultation paper, which called for us to do more to reach complainants (including small businesses) who might not know about us and the role we play. We have committed to do more on this and have reflected that in our workplans for the years ahead.

This is why, in all cases referred by CMCs or other professional representatives in scope, we propose to charge this additional £75, regardless of the case outcome. This amount broadly reflects a contribution to our costs in setting up a case, contributing to doing more awareness activity, and the costs of running the fee collection process accordant to our statutory objective to resolve disputes quickly and with minimal formality.

Q3. What is your view on our service retaining £75 from CMCs and other professional representatives in any event? Do you think this should be higher or lower? Please give clear reasons and evidence.

Our proposal to charge upon referral to our service

We are committed to improving our service for customers, becoming more efficient while maintaining high quality standards. Responding to additional demand – while bringing down our stock levels and improving our timeliness – is challenging.

Over the course of recent years, CMCs and other professional representatives have brought high volumes of cases to us, often without warning and in tranches of cases against respondent firms that run into tens of thousands. We want to help all complainants that need us in a timely manner – but ensuring we have sufficient resource to answer the varying demand on us becomes even more

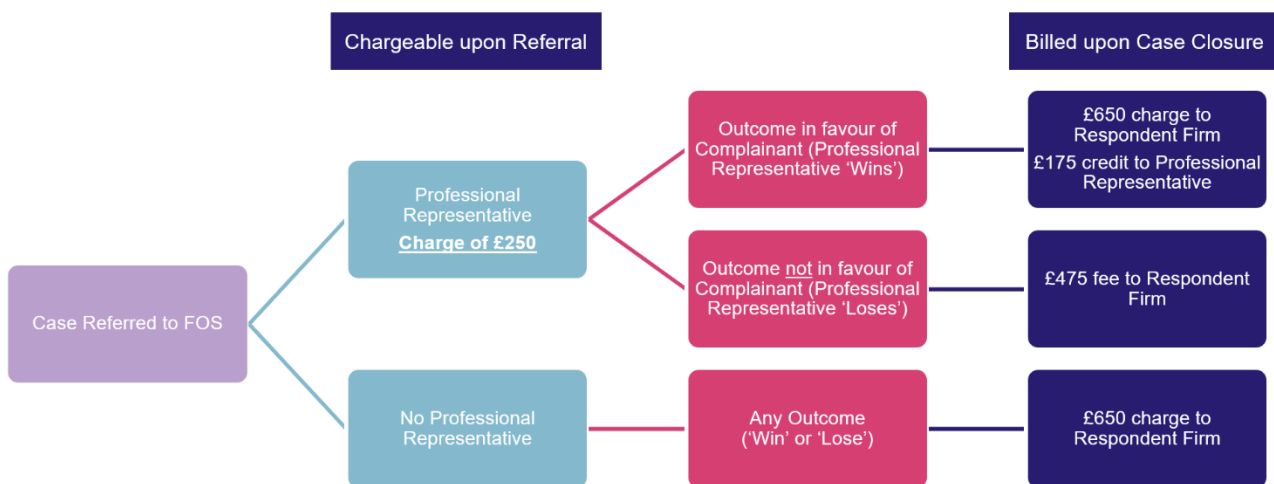
challenging when case referrals are brought unexpectedly, especially across different product areas or complaint issues simultaneously.

This means we must ramp up our resource without much warning. Ensuring accurate forecasting and that sufficient resources are in place to help customers is fundamental to our purpose and maintaining our service standards for all. Accordingly, this has been a key focus in our consideration of how a fee could be fairly charged to CMCs and other professional representatives.

Considering the increase in professionally represented cases that we have seen in the past three years, it is more important than ever to ensure that we can be best placed to react to unexpected and sudden increases in demand.

We therefore propose a charging process whereby the £250 fee for CMCs and other professional representatives becomes legally owed as soon as they refer a case to us. This is comparable with the arrangement for respondent firms who become liable for the fee at the start of our investigation process.

Below is a visual representation of the high-level principles behind our proposal:



The alternative would be to levy the professional representative fee at another stage of the case handling process. For example, at the conclusion of the case. This could have a lesser impact and could introduce challenges in apportioning the necessary resource to ensure we can react to unexpected increases in case volumes referred by CMCs or other professional representatives.

Q4. What is your view on the case fee to CMCs and other professional representatives being chargeable when they refer the case to our service? Do you think there is another stage in our process where charging a fee would be appropriate? What is your evidence for this?

Our proposal for group charging of respondent firms

The introduction of a charge to CMCs and other professional representatives in scope will impact some of the respondent firms that are part of our group fee arrangement ('group firms'), so we need to amend these group fee arrangements.

The current process requires us to forecast resolved cases for a group firm for the coming financial year using a methodology set out in our [FEES Rules](#), with an adjustment at the end of the financial year based on a tolerance of 5% between actual volume resolved and that forecasted.

We have considered adjusting the current methodology for determining the forecast for the year to reflect the differential case fee approach proposed in this paper. However, because this would entail adding more variables to the calculation (volume of cases represented, volume of those in favour of complainant), we believe it would be overly complex.

Our recommendation is therefore as follows:

- a) No change to current FEES methodology for the quarterly charge to a group firm.
- b) At the end of the year, we would calculate a notional charge that the group firm would have incurred based on the actual number of chargeable cases closed that would have been subject to the £650 fee and those subject to the £475 fee.
- c) The year-end true up would be based on a 5% tolerance between this notional charge and the quarterly charges to the group firm.

Based on this approach, the group firm gets the benefit of cases brought by the CMC or other professional representative where the case was found in the firm's favour, resulting in a lower charge than the current methodology.

This aspect of our proposals only presently impacts the eight group firms that have a group fee arrangement in place. We therefore will liaise closely with these specific firms to provide more detail and brief them accordingly, subject to the outcome of this consultation.

Q5. Do you agree with our proposed approach to group charging of respondent firms? If not, what alternative method would you suggest?

Our proposed approach to any late payment of case fees

Our present FEES Rules set out the additional charges that we would impose on respondent firms for late payment as an 'administrative fee' of £250, plus interest. With the introduction of charging CMCs and other professional representatives and differentiated case fees according to our proposals in this paper, an administrative fee of £250 could be considered excessive for low value debts.

We are therefore proposing amending the rules in this area by removing the administrative fee of £250 and replacing it with a charge of 'up to 25% of the outstanding debt'. The percentage applied would be dependent on the amount of cost/effort that we have undertaken in chasing the debt.

Example

For a debt of £75, the administrative fee might be 25% (so £18.75, which may equate to up to an hour of effort by a Credit Controller). But, if the debt is much higher, say £10,000, then we may charge only 2% (so £200, which may represent a number of hours of Credit Controller effort, plus costs of debt recovery firms if employed).

The draft FEES Rules (see Annex 1) reflect this proposal for both respondent firms and CMCs/other professional representatives. We look forward to your feedback on these proposals.

Q6. Do you support our proposed method for the late payment of case fees? If not, what alternative solution would you propose?

How we propose to mitigate or remedy any potential negative impact of our proposals

An integral part of consumer protection within the UK financial services market is being able to make a complaint for free and refer this to our alternative dispute resolution service if necessary. It is therefore important to highlight that our proposals mean that all complainants will continue to have the right to be able to use the Financial Ombudsman Service free of charge. We will do more to raise awareness of this amongst consumers of financial services products eligible for our scheme.

We also note that both the FCA, and recently the SRA, have clarified this expectation that regulated entities within their jurisdiction should make this clear to clients too.

Also, in line with the legislation introduced, we will not charge charities or friends and family (or pro bono advocates) who are providing personal assistance to someone bringing a case to us. In short, we do not believe the proposals being consulted on will have a negative impact on access to our service; on the contrary, they will improve the service for the benefit of most people and society generally.

Our service is dedicated to proactively addressing any equality gaps and implementing proposals that are fair and equitable for all consumers, regardless of their background or circumstances. In alignment with our Public Sector Equality Duty (PSED), we are conducting an Equality Impact Assessment.

This assessment, along with our ongoing collaboration with industry stakeholders, will enable us to monitor the impact of our proposals carefully. We welcome feedback on how our proposals might affect different consumer groups, including those with protected characteristics accordant to the PSED, to ensure our service remains inclusive and fair for everyone who seeks our help.

The relevant rules and guidance

Our service is an important part of a wider regulatory ecosystem that helps underpin confidence in financial services. We acknowledge the feedback received to our consultation that a fee introduced by our service might impact the entire complaints process.

We believe that our rationale for charging CMCs and other professional representatives, and the logic behind our proposed fee level, demonstrates that we wish to enable CMCs and other professional representatives to continue to offer value for all types of cases that complainants may wish to seek their help with if that is their choice – and to ensure we can continue to provide the best service to everyone who comes to us.

Throughout our consultation, we have been working closely with the FCA and the SRA who regulate most professional representatives who bring cases to us. Both these regulatory authorities have undertaken extensive consultations in recent years to ensure consumer protection in financial services claims that involve a regulated CMC or relevant legal professional.

Both bodies undertook thorough impact assessments and analysis that focused on delivering a fair level of charges that consumers should pay and putting in place measures to ensure consumers can make an informed choice about the services that can be provided.

As part of this consultation work, the FCA and the SRA emphasised the importance of consumers being able to bring claims directly to us free of charge and without the need for professional representation. Our data shows that there is a lack of persuasive evidence that having a CMC or other professional representative would lead to better outcomes for complainants compared to those who refer to us directly. In fact, despite focusing on areas which tend to have higher uphold rates, on average CMCs and other professional representatives only attain an outcome in favour of the complainant in 22% of their cases compared with the service-wide average of 32%.

We are aligned with the relevant regulatory objectives and principles of business, including consumer empowerment. This means that consumers should be able to employ the services of a CMC or other professional representative to handle a case on their behalf should they wish to do so.

Accordingly, we have designed our proposals to be in line with the regulation the FCA introduced for regulated CMCs, and the similar rules the SRA are considering bringing into effect later this year for legal professionals within their jurisdiction. As explained earlier in this document, these two regulators account for most professional representatives who refer cases to us.

The FCA has established rules on excessive charging which secure an appropriate degree of protection for consumers, otherwise referred to as the 'price cap'. We understand that the SRA has used the same methodology and benchmarking for its own price cap, and we will continue to engage with the SRA to ensure continued alignment, should it decide to enact its proposals.

By making our approach consistent with the relevant rules and principles of business, we believe that the key risks identified by our consultation so far are strongly mitigated for these reasons:

- The FCA agree that the rules regarding the maximum that can be charged by a regulated CMC for claims that yield monetary redress, will include a fee charged to CMCs by us. Therefore, the maximum amount a consumer can be charged by a regulated CMC would not change because of any introduction of a fee payable to our service.
- This also means that the price capping rules prevent an FCA regulated CMC from passing that fee on to the consumer, if the CMC already operates at the maximum fee level. Through our work with the FCA, we understand that most of the CMCs it regulates do presently charge the maximum amount to consumers under its regulations.
- If the fee we charge to CMCs means the maximum charge is exceeded, any amount in breach of the price cap will be unenforceable and/or have to be reimbursed to the consumer. Again, this means the maximum amount that consumers should have to pay for CMC representation when using our service remains the same.
- For legal professionals in scope, currently the vast majority of these are within the SRA's jurisdiction. We are working closely with the SRA on the impact a fee charged by us would have on the charging structure of its members, with it being under active consideration by the SRA that the maximum amount payable for a consumer will include a fee chargeable to relevant legal professionals by us, as confirmed by the FCA for the CMCs it regulates.
- There are enhanced requirements on regulated CMCs to disclose certain information to their customers at pre-contract stage.
- CMCs must seek confirmation from consumers that they do not wish to progress their claim directly themselves without using professional representation. The statement and information about the direct route to redress must be isolated in the pre-contractual disclosure, and the consumer must sign to confirm, by way of a separate declaration, that they would like to engage in professional representation despite knowing they have the option to make their claim themselves for free – including to our service.
- Similarly, there are extensive advertising rules in place (for FCA-regulated CMCs) which require CMCs to include a prominent statement in their advertisements that the consumer is not required to use the services of the CMC, and that it is possible for the consumer to represent themselves for free both to the person they wish to complain about and to our service.
- SRA regulated legal professionals are also obliged to provide certain information to consumers and uphold standards of conduct, taking into account their needs and circumstances. As mentioned, we will continue to liaise closely with the SRA regarding the impact of our proposals and how any changes to its conduct of business principles may align with our shared mission of legal professionals acting in the best interests of consumers.

We also recognise that, in some exceptional cases, we may need to consider the fairness of a case fee to CMCs and other professional representatives. So, as is the case with our present fee arrangement for respondent firms, we propose to include equivalent provision for exceptional circumstances where we might waive the fee in individual cases. Under our proposals, if it appears to our service that – in the exceptional circumstances of a particular case – the payment of any

representative case fee would be inequitable, we have the discretion to reduce or remit all of the representative case fee in question which would otherwise be payable (see 5.5C.15 of our draft FEES Instrument, contained in Annex 1).

We want consumers to feel assured that they will not be negatively impacted by our proposals. We believe the key concerns raised in response to our initial consultation paper are heavily mitigated or eliminated by the steps we have taken.

That said, our work does not stop there – we will actively monitor the impact of our proposals as part of our annual consultation on our strategic plans and budget and through our engagement with consumer groups. Our close liaison with Government, regulatory powers, charities and trade associations will ensure we stay well-informed about the potential impact of our fee and charging procedure on respondent firms, CMCs/professional representatives and complainants.

We also welcome feedback to this paper and will carefully consider all representations and supporting evidence we receive. In addition, the HM Treasury regulations provide for a regular review of the arrangement (independently of our service) so there is further opportunity for independent evaluation of any impacts.

Supporting all consumers

Our 2024/25 Plans and Budget outlined how we aim to improve the experience all complainants receive when they approach us to resolve their dispute. Our ambition is to become a world-leading Ombudsman service that offers a seamless customer experience and delivers fair and quality outcomes in a matter of weeks not months, as expected by respondent firms that are subject to the complaint. We have already made significant improvements to our service – going further to achieve our ambitions by investing in technology, people and skills to ensure we put all consumers and stakeholders at the heart of everything we do.

We pride ourselves on providing support and assistance to all those who need it. Interacting with financial services is an integral part of people's lives, and we understand the importance of providing an accessible, inclusive and timely service that leaves complainants better informed even if, on the facts and evidence, we are unable to give them the outcome for which they were hoping.

We recognise that each consumer has unique needs, and we strive to offer different channels of communication to accommodate their preferences. Whether it is through phone, email, post, or our online form, we aim to make it easy for consumers to reach us. Additionally, for consumers with disabilities or who require additional support, we tailor our service to meet their specific needs so far as we reasonably can, making practical adjustments to our communication and accessibility.

Our dedicated Accessibility team provides guidance and support to our staff in implementing these adjustments. Furthermore, we have a network of caseworkers, known as the Additional Support Network, who work together to assist some of our most vulnerable consumers. Agnostic to the merits of a case or legitimate judgments on case-management directions and outcomes, supporting vulnerable consumers in practical ways and promoting accessibility are at the core of our strategy and values.

As described in this paper, our service is doing more to ensure it is easy to use. As part of this, we continue to review and provide additional tools, guidance and advice pages on our website, as well as digital portals for complainants, respondent businesses, and, now too, CMCs and other professional representatives. With this support and guidance, we hope that all those engaging with our service can do so with more confidence, and better expectations of timely resolution.

So, while we acknowledge that some complainants believe they need professional representation, that is a personal choice. We are confident that our ongoing work, our people, our service and our core values demonstrate that anyone can come to the Financial Ombudsman Service and they will receive a fair and impartial service, free of charge, that is tailored to their needs so far as reasonably possible.

Q7. What further measures could we implement to improve our service, accessibility and public awareness for all our customers? Please provide any supporting evidence.

How we may implement our proposals

Our service recognises that our proposals may have an impact on CMCs and other professional representatives in the role they hold within the wider complaints and financial services ecosystem.

For the reasons set out in this paper, it is our current view that introducing a fee regime is the right thing to do. We do, however, wish to seek input on *how* such a charging structure should be implemented.

During our initial consultation paper, we posed a question regarding what preparations CMCs and other professional representatives will need to make, along with the requisite timescales needed for such preparations.

In response, we received a mixed set of views; numerous consultees told us that a minimal implementation time would be appropriate. Whereas most CMCs and other professional representatives cited that considerable time should be given to allow for this change. For example, to reflect the impact our proposals would likely have on their operating models and cashflow.

As explained, it is our intention to implement a charging regime effective on 1 October 2024, should the enabling legislation be finalised in Government. Subject to this Parliamentary approval, we would look to enact the proposals contained within this paper on this date (subject to consultation). This consultation will inform our decision making as to whether we should adopt a full implementation at that time.

We therefore invite stakeholders to again make representations about whether this is an appropriate timeframe and method for implementation, with the benefit of now having further detail about our objectives and the proposals to achieve those aims.

We encourage stakeholders to provide factual evidence to support their views, and for suggestions to be made on the basis of tangible information.

Q8. What implementation considerations should we take into account if we proceed with our proposals? Please support your answer with factual evidence where possible.

Next steps

Please share your feedback to our proposals before the consultation window closes on 4 July 2024 by emailing consultations@financial-ombudsman.org.uk.

All comments and responses will be taken into consideration to help shape our decision making, and we will continue to engage directly with certain stakeholders to facilitate discussions to help inform our considerations.

Upon conclusion of the consultation period, the following next steps will ensue:

- Our service will carefully consider all evidence and representations given in response to this consultation paper to reach our decision.
- We will present our findings and proposed recommendation to our Board for approval.
- We will seek the necessary approval from the Board of the FCA, as per the requisite legal process for any amendment to our FEES Instrument (subject to our decision making and approval from our Board).
- The affirmative procedure for the Statutory Instrument will be carried out, with our service anticipating that the provision will be made into law. This will provide the enabling power for our service to enact a charging regime, subject to the findings of this consultation process.
- We will communicate the decisions made on our proposals to our stakeholders in a feedback statement and implementation plan for any arrangements by the end of the second quarter of 2024/25.

ANNEX 1

FEES MANUAL (FINANCIAL OMBUDSMAN SERVICE REPRESENTATIVE CASE FEES) INSTRUMENT 2024

Powers exercised by the Financial Ombudsman Service Limited

A. The Financial Ombudsman Service Limited:

- (1) makes and amends the scheme rules and guidance relating to the payment of fees under the Compulsory Jurisdiction as set out in the Annexes to this instrument;
- (2) makes and amends the rules and guidance for the Voluntary Jurisdiction; and
- (3) fixes and varies the standard terms for Voluntary Jurisdiction participants, as set out in Annex B and Part 1 of Annex C to this instrument,

in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000:

- (a) section 227 (Voluntary jurisdiction);
- (b) paragraph 8 (Information, advice and guidance) of Schedule 17;
- (c) paragraph 14 (The scheme operator's rules) of Schedule 17;
- (d) paragraph 15 (Fees) of Schedule 17;
- (e) paragraph 17 (Terms of reference to the scheme) of Schedule 17; and
- (f) paragraph 20 (Voluntary jurisdiction rules: procedure) of Schedule 17.

- B. The making and amendment of the rules and guidance and the fixing and varying of the standard terms by the Financial Ombudsman Service Limited, as set out in paragraph A above, is subject to the consent and approval of the Financial Conduct Authority.

Consent and approval by the Financial Conduct Authority

- C. The Financial Conduct Authority consents to the making and amendment of the rules and approves the making and amendments to the standard terms, as set out in the Annexes to this instrument.

Commencement

- D. This instrument comes into force on [1 October 2024].

Amendments to the Handbook

- E. The Glossary of definitions is amended by the Board of the Financial Ombudsman Service Limited in accordance with Annex A to this instrument.
- F. The Dispute Resolution: Complaints sourcebook (DISP) is amended by the Board of the Financial Ombudsman Service Limited in accordance with Annex B to this instrument.
- G. The Fees manual (FEES) is amended by the Board of the Financial Ombudsman Service Limited in accordance with Annex C to this instrument.

Citation

- H. This instrument may be cited as the Fees Manual (Financial Ombudsman Service Representative Case Fees) Instrument 2024.

By order of the Board of the Financial Ombudsman Service Limited

[]

By order of the Board of the Financial Conduct Authority

[]

Annex A

Amendments to the Glossary of definitions

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>complainant representative</i>	A person specified under regulation 3 of <i>The Financial Services and Markets Act 2000 (Ombudsman Scheme) (Fees) Regulations 2024</i> (SI 2024/[])
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Annex B

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

4	Standard terms			
...				
4.2	Standard terms			
...				
	Determinations and awards			
...				
4.2.6	R	The following provisions and <i>rules</i> in <i>FEES</i> apply to <i>VJ participants</i> as part of the <i>standard terms</i> , but substituting ' <i>VJ participant</i> ' for ' <i>firm</i> ' and 'annual levy specified in <i>FEES</i> 5 Annex 2R' for ' <i>general levy</i> ':		
		...		
		(7)	<i>FEES</i> 5.5B (case fees); <u>except <i>FEES</i> 5.5B.12AR:</u>	
...				

Annex C

Amendments to the Fees manual (FEES)

Part 1: In Part 1 of this Annex, underlining indicates new text and striking through indicates deleted text.

5	Financial Ombudsman Service Funding	
...		
5.5B	Case fees	
...		
		Standard case fee
5.5B.12	R	A <u>Subject to FEES 5.5B.12AR</u> , a respondent must pay to the FOS Ltd the standard case fee specified in FEES 5 Annex 3 Part 1 in respect of each chargeable case relating to that respondent which is closed by the Financial Ombudsman Service during a financial year (regardless of when the chargeable case was referred to the Financial Ombudsman Service), unless the respondent is identified as part of a charging group as defined in FEES 5 Annex 3R Part 3.
<u>5.5B.12A</u>	<u>R</u>	<u>Where a chargeable case is closed by the Financial Ombudsman Service during a financial year in circumstances:</u>
		(1) <u>where the complaint was referred to the Financial Ombudsman Service on or after [1 October 2024];</u>
		(2) <u>where a complainant representative was representing the complainant in relation to that complaint; and</u>
		(3) <u>other than having been determined in favour of the complainant (whether in whole or in part),</u>
		<u>the respondent to which that chargeable case relates must instead pay to the FOS Ltd the reduced standard case fee specified in FEES 5 Annex 3R Part 1 in respect of each such chargeable case, unless the respondent is identified as part of a charging group as defined in FEES 5 Annex 3R Part 3.</u>
...		
		Late payment of case fees

5.5B.25	R	If a <i>respondent</i> does not pay a case fee payable under <i>FEES 5.5B</i> in full to the <i>FOS Ltd</i> before the end of the date on which it is due, that <i>respondent</i> must pay to the <i>FOS Ltd</i> in addition:
		(1) an administrative fee of £250; plus
		(2) (1) interest on any unpaid amount at the rate of 5% per annum above the Official Bank Rate from time to time, accruing on a daily basis from the date on which the amount concerned became due; and
		(2) <u>an administrative fee of up to 25% of the amount outstanding at that time, in the event the <i>FOS Ltd</i> needs to take steps to recover any amounts payable to it under <i>FEES 5.5B</i>.</u>
...		
<u>5.5B.30</u>	<u>R</u>	<u>If it appears to the <i>FOS Ltd</i> that in the exceptional circumstances of a particular case the payment of any case fee under <i>FEES 5.5B</i> would be inequitable, the <i>FOS Ltd</i> may reduce or remit all or part of the case fee in question which would otherwise be payable.</u>

5 Annex Case Fees Payable for 2024/25

3R

Part 1 – Standard case fees	
	Standard case fee
In the: Compulsory jurisdiction and Voluntary jurisdiction	£650 unless it is a <i>not-for-profit debt advice body</i> with <i>limited permission</i> in which case the amount payable is £0
	<u>Reduced standard case fee</u>
In the: <u>Compulsory jurisdiction (where <i>FEES 5.5B.12AR</i> applies)</u>	<u>£475</u> <u>unless it is a <i>not-for-profit debt advice body</i> with <i>limited permission</i> in which case the amount payable is £0</u>

...

--

Part 4 – Special case fees	
...	
3	The special case fee for each <i>charging group</i> is a total amount calculated as follows: {£650 x 225,000 x the 'Proportion Z'}
4	The <i>FOS Ltd</i> will invoice each <i>charging group</i> for the special case fee (calculated as above) in four equal instalments, payable in advance on the following dates during the <i>financial year</i> : (1) 1 April (or, if later, when <i>FOS Ltd</i> has sent the invoice); (2) 1 July; (3) 1 October; and (4) 1 January.
5	Year-end adjustment: (1) [deleted] (2) <u>If, had they been liable to standard case fees as provided under FEES 5.5B.12R and FEES 5.5B.12AR, the standard case fees that group respondents would have been charged in respect of actual number of chargeable cases closed by the Financial Ombudsman Service in respect of group respondents during the financial year is of an amount that is more than 105% of {£650 x 225,000 x the 'Proportion Z'}:</u> (a) the <i>FOS Ltd</i> will invoice the <i>relevant charging group</i> for; and (b) the <i>relevant charging group</i> will pay to <i>FOS Ltd</i> ; an additional £65,000 for each block of 100 (or part thereof) closed chargeable cases the amount that is over the 105%. (3) <u>If, had they been liable to standard case fees as provided under FEES 5.5B.12R and FEES 5.5B.12AR, the standard case fees that group respondents would have been charged in respect of actual number of chargeable cases closed by the Financial Ombudsman Service in respect of group respondents during the financial year is of an amount that is less than 95% of {£650 x 225,000 x the 'Proportion Z'}, the <i>FOS Ltd</i> will promptly repay to the <i>relevant charging group</i> £65,000 for each block of 100 (or part thereof) closed chargeable cases the actual charge the amount that is under the 95%.</u>

...

Part 2: In Part 2 of this Annex, FEES 5.5C (Representative case fees) is added immediately after FEES 5.5B (Case fees). The text is not underlined.

5	Financial Ombudsman Service Funding	
...		
5.5C	Representative case fees	
...		
		Application
5.5C.1	R	<i>FEES 5.5C applies to a complainant representative in relation to a complaint referred to the Financial Ombudsman Service.</i>
5.5C.2	G	<i>FEES 5.5C does not apply to the Voluntary Jurisdiction.</i>
		Purpose
5.5C.3	G	<i>FEES 5.5C sets out when a complainant representative that is representing a complainant must pay fees in respect of complaints referred to the Financial Ombudsman Service.</i>
5.5C.4	G	The amount of the representative case fee will be subject to consultation each year.
		Representative case fee
5.5C.5	R	(1) Subject to <i>FEES 5.5C.6R</i> , a <i>complainant representative</i> must pay to the <i>FOS Ltd</i> a representative case fee of £250 in respect of a <i>complaint</i> which is referred to the <i>Financial Ombudsman Service</i> on or after 1 October 2024.
		(2) A representative case fee payable pursuant to paragraph (1) must be paid:
		(a) at the time a <i>complaint</i> is referred to the <i>Financial Ombudsman Service</i> if the <i>complainant representative</i> is representing the complainant at the time the <i>complaint</i> is referred; or
		(b) (subject to paragraph (3) below), at the time a <i>complainant representative</i> begins to represent the complainant in respect of a <i>complaint</i> that has already been referred to the <i>Financial Ombudsman Service</i> .
		(3) A <i>complainant representative</i> will not be liable to the representative case fee under paragraph (1) above if:
		(a) the representative case fee in relation to the <i>complaint</i> has been paid by a <i>complainant representative</i> who was previously

			representing the complainant in respect of the same <i>complaint</i> ; or
		(b)	the <i>complainant representative</i> is acting entirely pro bono in relation to the <i>complaint</i> .
5.5C.6	R	A <i>complainant representative</i> will, in any <i>financial year</i> , only be liable for, and the <i>FOS Ltd</i> will only invoice for, the representative case fee under <i>FEES 5.5C.5R</i> in respect of the 4th and subsequent <i>complaints</i> that are referred to the <i>Financial Ombudsman Service</i> .	
5.5C.7	G	<i>FEES 5.5C.5R(3)(b)</i> applies where a <i>complainant representative</i> is representing the complainant without any fees or charges becoming payable by the complainant in any circumstance.	
5.5C.8	R	In relation to any <i>complaint</i> which is closed by the <i>Financial Ombudsman Service</i> having been determined in favour of the <i>complainant</i> (whether in whole or in part), the <i>FOS Ltd</i> will credit the amount of £175 to the <i>complainant representative</i> .	
5.5C.9	R	A <i>complainant representative</i> must pay to the <i>FOS Ltd</i> any representative case fee which it is liable to pay under <i>FEES 5.5C</i> and which is invoiced by the <i>FOS Ltd</i> within 30 calendar <i>days</i> of the date when the invoice is issued by the <i>FOS Ltd</i> .	
5.5C.10	R	If, at the end of the <i>financial year</i> , the amount standing in credit to the <i>complainant representative</i> under <i>FEES 5.5C.8R</i> exceeds the amounts invoiced under <i>FEES 5.5C.9R</i> which remain unpaid (including any in interest or administrative fee due under <i>FEES 5.5C.11R</i>), the <i>FOS Ltd</i> will repay the difference between the two amounts to the <i>complainant representative</i> by credit transfer within 30 calendar <i>days</i> of the <i>complainant representative</i> notifying the <i>FOS Ltd</i> of its account details.	
		Late payment of representative case fee	
5.5C.11	R	If a <i>complainant representative</i> does not pay a representative case fee payable under <i>FEES 5.5C</i> in full to the <i>FOS Ltd</i> before the end of the date on which it is due, that <i>complainant representative</i> must pay to the <i>FOS Ltd</i> in addition:	
		(1)	interest on any unpaid amount at the rate of 5% per annum above the Official Bank Rate from time to time, accruing on a daily basis from the date on which the amount concerned became due; and
		(2)	an administrative fee of up to 25% of the amount outstanding at that time, in the event the <i>FOS Ltd</i> needs to take steps to recover any amounts payable to it under <i>FEES 5.5C</i> .
5.5C.12	G	The <i>FOS Ltd</i> may take steps to recover any amount owed to it (including interest).	
		Time limit for making a claim for the remission or repayment of representative case fees	

5.5C.13	R	No claim for the remission or repayment of all or part of the representative case fee under <i>FEES 5.5C</i> (or any interest or administrative fee due under <i>FEES 5.5C.11R</i> in relation to it) may be made to <i>FOS Ltd</i> more than 1 year after the date on which the case fee was invoiced (irrespective of when or whether the amounts in question were paid to <i>FOS Ltd</i>).
5.5C.14	R	The <i>FOS Ltd</i> may allow a claim to be made outside the time limits prescribed in <i>FEES 5.5C.13R</i> if it is satisfied that the failure to make a claim within the time limits prescribed was as a result of exceptional circumstances.
5.5C.15	R	If it appears to the <i>FOS Ltd</i> that in the exceptional circumstances of a particular case the payment of any representative case fee under <i>FEES 5.5C</i> would be inequitable, the <i>FOS Ltd</i> may reduce or remit all or part of the representative case fee in question which would otherwise be payable.
...		

(END)



Financial Ombudsman Service
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