



The Financial Ombudsman Service Proactive Settlement Scheme - Here to Stay

24 June 2024

The Financial Ombudsman Service's (FOS) Proactive Settlement Scheme (the Scheme), designed to encourage businesses to settle customer complaints quickly, is here to stay following its trial introduction in April 2023. The Scheme was trialled as a way to encourage early settlement allowing businesses to make a settlement offer in response to complaints referred to the FOS within 21 days, provided they notified the FOS of their intention to do so within 14 days of being told that a complaint had moved to the investigation stage.

The FOS has now confirmed that the Scheme will become a permanent feature of their complaint resolution process.

Updated Criteria (Effective 24 June 24 2024):

The FOS has made some changes to the criteria for claims to be considered "proactively settled." Under the new guidelines, the following criteria must be met:

- **Timeliness:** The business must submit their settlement offer within 14 calendar days of receiving notification that the complaint has moved to investigation. (A single timescale is said to help to make it clearer to understand and simpler to administer).
- **New Offer:** The offer must be different from any previous offers made to the customer, including those in the final response letter.
- **Explanation:** The offer must provide an explanation of the offer together with relevant supporting information.
- **Full Resolution:** The customer must accept the offer, and it must fully resolve the complaint without the need for further investigation by the FOS.

If the offer does not meet the Scheme criteria the FOS will tell the business why, and that they will investigate the complaint in the normal way. When the offer is communicated to the customer, the FOS will offer them guidance to help them decide whether to accept it.

New Category of 'Proactively Settled' Complaints

At the time the FOS introduced the trial Scheme, it introduced a new category of 'proactively settled' complaints. Previously, these settlements might have been recorded as 'change in outcome'. This new

category of proactively settled complaints is set to continue under the permanent Scheme and it will apply if the early settlement complies with the updated criteria listed above. The adoption of this new category forms an incentive for firms to pro-actively settle complaints given how the data is reflected in FCA annual returns.

Benefits of the Scheme

- **Faster Resolutions:** Customers can get their complaints addressed quicker without waiting for a full investigation.
- **Improved Business-Customer Relations:** Businesses can demonstrate a commitment to customer satisfaction by proactively resolving issues.
- **Reduced Workload for FOS:** By resolving complaints earlier, the FOS can focus on more complex cases.

What This Means for Businesses

Businesses should take advantage of the Scheme by reviewing their position on complaints once notified of an investigation. By making fair and reasonable offers, within 14 calendar days of receiving notification from the FOS that the complaint has moved to the investigation phase, businesses can potentially resolve issues faster, improve customer satisfaction and avoid a potential negative ruling from the FOS (please see above details regarding the new FOS category of proactively settled complaints).

The ever-increasing FOS redress cap (now up to £430,000 for complaints referred to the FOS on or after 1 April 2024 about acts or omissions on or before 1 April 2019 and up to £195,000 for complaints referred to the FOS on or after 1 April 2024 about acts or omissions on or before 1 April 2019) might increase the appetite amongst businesses for early settlement.

In addition, the ongoing FOS consultation for case management companies and professional representatives to be charged a fee each time a complaint is made might encourage businesses to settle customer complaints quickly, to avoid reimbursing any fees paid (subject to the outcome of the consultation).

What This Means for Consumers

Consumers can benefit from a potentially faster resolution to their complaints. They should, however, be mindful that any settlement offers they receive should fully address their concerns before accepting the offer.

Possible Future Developments

The FOS will likely continue to analyse data and feedback to refine the effectiveness of the Scheme. What is clear is that the FOS is committed to the timely resolution of financial disputes. This update to the Scheme is a positive step towards achieving that goal.