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Submitted online: [consultations@financial-ombudsman.org.uk](mailto:consultations@financial-ombudsman.org.uk)

Dear Sir/Madam,

**Financial Ombudsman Service charging Claims Management Companies and other professional representatives consultation paper**

The Financial Services Consumer Panel (the Panel) is an independent statutory body. We represent the interests of individual and small business consumers in the development of financial services policy and regulation in the UK.

The Panel welcomes the opportunity to respond to the Financial Ombudsman Service's (FOS) consultation on Charging Claims Management Companies and other professional representatives (together CMCs).

The Panel is firmly of the view that consumers who want to bring a complaint to FOS should feel confident that they can do so directly, without charge, and keep 100% of any award made.

The Panel is supportive of the steps FOS is taking to improve its service, accessibility and public awareness and encourages it to continue to strive to improve. As part of this, we would encourage FOS to undertake independent consumer research to properly understand consumer views on using the service, any barriers that exist (perceived or real) and consumer awareness. We would also encourage FOS to 'mystery shop' itself to truly understand the consumer experience across all platforms such as phone, e-mail, written complaints, etc, and how easy it is to deal with, and

compare this to analysis of CMCs to ensure FOS is easier, simpler and quicker to deal with.

That said, the Panel recognises that in some cases consumers may feel unable to bring a complaint to FOS directly themselves or may simply prefer to seek the support of a third party, and that in either case, seeking such support may involve payment of a fee.

Where a consumer is paying for a third party to help bring a complaint, it is critical that FOS is confident the consumer has made an informed decision to do so. In particular, that the consumer was made aware that they could have brought the claim directly themselves for free. We recognise the steps FOS already takes in this regard and urge FOS to continue to be proactive in this space.

A fundamental tenet of FOS is that it is free for consumers to use. This principle should be closely guarded. The Panel appreciates the arguments set out in the consultation paper in favour of introducing a fee on some third parties who support consumer complaints with FOS.

The Panel is not opposed to an introduction of such a fee as a matter of principle, providing it does not lead to worse consumer outcomes, for example:

- Consumers paying upfront to use the third party;
- Consumers receiving a poorer service from the third party (e.g. because the third party is trying to reduce its cost per case);
- Consumers who feel they need or want to use a third party being prevented from doing so, or facing increased barriers; or
- By increasing the burden on FOS (e.g. if CMCs routinely escalate their complaints to an ombudsman on the basis it costs no more and may lead to a different outcome) leading to increases in complaint resolution timeframes.

The Panel welcomes the proposal to reflect the statutory exemption for charities, family members and advisory organisations so that 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.

The Panel is also reassured that the view of both FOS and the FCA is that any fee imposed by FOS on CMCs would be covered by the regulatory cap and accordingly there would be no increase in costs to consumers by the

introduction of a fee (on the basis that most CMCs are already charging the maximum amount).

However, the Panel notes that any new fee will increase the operating costs of CMCs. To the extent this could lead to CMCs being more circumspect about the cases they take on, the Panel would be concerned if this led to there being a contingent of consumers who (i) have a valid complaint; (ii) need or want the support of a CMC to bring that complaint but (iii) who CMCs are unwilling to represent because either collectively or individually, those consumers are not cost effective. This might be, for example, because the complaints are particularly complicated, or the consumers are particularly vulnerable and therefore need a higher level of support.

It is not clear whether FOS has already considered this risk. We would urge them to do so along with the consideration of any appropriate mitigating measures, and what more could be done to help ensure any consumers finding themselves in this position feel able to bring their complaint directly to FOS. At a minimum, we would expect FOS or the FCA to mandate that, if the CMC is unwilling to represent a consumer, the CMC must provide a referral to a not-for-profit advice service or charity, similar to that for debt advice.

In the event FOS introduces a fee on CMCs along the lines proposed, the Panel would also encourage FOS to actively monitor:

- for any material changes in the number of cases brought directly by particular consumer segments (e.g. particular groups of vulnerable consumers) as this may indicate a new inability (or unwillingness) to use a CMC;
- for any changes to the standard charging models used by CMCs (e.g. the introduction of new fees);
- complaints regarding consumer experience of CMCs (e.g. in relation to CMCs taking more out of the redress pot, or poor levels of service);
- the number of complaints brought by CMCs being escalated to the ombudsman.

The Panel looks forward to further engagement with FOS on both the implementation of this policy and other upcoming proposals to its service.

Yours sincerely,

Helen Charlton

Chair of the Financial Services Consumer Panel