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By email: [consultations@financial-ombudsman.org.uk](mailto:consultations@financial-ombudsman.org.uk)

Dear Sir / Madam,

**Financial Services Consumer Panel response to Financial Ombudsman Service annual plan and budget consultation 2022/2023**

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

We welcome the opportunity to respond to the Financial Ombudsman Service's (the Ombudsman Service's) consultation on its annual plan and budget for 2022/2023. The Ombudsman Service 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. We believe consumers should get prompt and commensurate redress. We therefore expect firms to proactively resolve complaints before consumers need to seek recourse through the Ombudsman Service, and act promptly as required by the DISP complaint handling rules. But where complaints do reach the Ombudsman Service, these should be resolved promptly and fairly.

A sustainable and effective Ombudsman Service should be the main goal of its funding arrangements, which should be reviewed periodically to ensure this goal continues to be met. The Ombudsman Service should also regularly review its workforce to ensure it has the skill and expertise it needs to deal with more complex complaints. We remain concerned about wait times increasing, especially for vulnerable customers<sup>1</sup>. Adequate funding and an effective workforce are vital tools for addressing this.

With this in mind, we welcome the changes and improvements being made at the Ombudsman Service, as set out in the consultation. However, we think the Ombudsman Service should do more to publicise its work (to firms, consumer facing bodies and consumers). This will provide greater incentive to firms to change their behaviour to deliver better outcomes for consumers and prevent harm occurring in the first place. Prevention is key: it will reduce harm to consumers, reduce the overall cost of running the redress system and improve consumer trust in regulation and the financial services industry. We set out in our response some suggestions for how the Ombudsman Service can increase the incentive for firms to get things right before complaints need to be taken to the Ombudsman Service.

A significant part of our proposed development of prevention agenda is making best use of the rich data and insights the Ombudsman Service has. We stressed the importance of this in our response to the Ombudsman Service's proposed temporary changes to

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<sup>1</sup> Please see page 1 of this response for our initial concerns: [https://www.fs-cp.org.uk/sites/default/files/final\\_fscsp\\_response\\_to\\_fos\\_plan\\_and\\_budget\\_2021\\_20201223.pdf](https://www.fs-cp.org.uk/sites/default/files/final_fscsp_response_to_fos_plan_and_budget_2021_20201223.pdf)

outcomes reporting<sup>2</sup> and continue to call for a more public sharing of data and for greater joining up of data insights between members of the regulatory family. This will allow for the quicker identification of emerging issues and provide strong incentive for firms to do the right thing by creating reputational risk. Consumers should also be able to use Ombudsman Service data and insights to inform their judgements and drive decision making about firms, products and services. It is therefore important that the narrative around Ombudsman Service data is consistent across members of the regulatory family.

The focus on prevention we call for in this response is consistent with the aims and ambitions of the new Consumer Duty proposed by the FCA, which we believe to be the cornerstone of regulation. The new Duty will have a significant impact on the Ombudsman Service. We expect the new Duty (if implemented correctly) to reduce the number of complaints reaching the Ombudsman Service in the long term, but there will also be new complaints around firms' compliance with the Duty. It is important the Ombudsman Service work closely with the FCA to prepare for this change and ensure they resolve complaints in a way that is consistent and joined up with the FCA's regulatory approach.

On the wider point of consistency and collaboration across the regulatory family, we look forward to seeing the results of the [Wider Implications Framework](#), which provides a structure for deeper collaboration on matters of common interest to achieve better outcomes for consumers and SMEs. In our answers to the questions below we make several suggestions for initiatives and collaboration opportunities we believe the Ombudsman Service should drive forward under this framework.

Our responses to the specific questions are included at Annex A below.

Yours sincerely,

Wanda Goldwag  
Chair, Financial Services Consumer Panel

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<sup>2</sup> [https://www.fs-cp.org.uk/sites/default/files/final\\_fscp\\_response\\_to\\_fos\\_temp\\_changes\\_to\\_outcomes\\_reporting\\_20211018.pdf](https://www.fs-cp.org.uk/sites/default/files/final_fscp_response_to_fos_temp_changes_to_outcomes_reporting_20211018.pdf)

## **ANNEX A – Responses to questions**

### **Questions on trends in 2022/23**

**1. What are your views on trends we may see in our casework, and future complaint volumes we are expecting to receive for: a) Banking and credit, insurance, investments and pensions b) Fraud and scams c) PPI d) Complaints from SMEs and about CMCs e) Funeral plans;**

**and,**

**2. What is your perspective on complaint volumes from Covid-19, including the impact of the end of government support schemes?**

We agree with the Ombudsman Service's assessment of trends it may see in its casework and how future complaint volumes are likely to change, particularly in key areas such as where consumers seek to access their pensions as a way of sustaining their livelihoods during the pandemic. This has increased the level of consumers getting poor advice on their pensions. We also believe consumers are likely to experience a hardening of attitudes from some financial services providers towards consumers who find themselves in challenging financial circumstances and, for example, unable to meet payment deadlines but who may be seeking flexibility. This also applies to suppliers in other key consumer sectors such as water and energy. These trends are coupled with changes in official support, with consumers unable to benefit from the same level of government and other support (such as forbearance measures) that was available earlier in the pandemic. Further, the emerging economic climate (increasing inflation, substantial increases in utility bills, no furlough schemes etc) is likely to drive an increase in people seeking debt advice with the consequent risks of complaints arising in that arena.

**3. Are there any other issues or trends you think we should take into account as we plan for 2022/23?**

During the pandemic, the Panel collated and provided to FCA regular updates on the risks consumers faced and the poor conduct many experienced across the financial services sector. This has highlighted trends in a number of areas which we think the Ombudsman Service should take into account. For example, we expect more consumers will need to rely on debt advice and short-term credit as the pandemic continues which will mean more people experiencing poor quality service and resulting harm. In addition, a key area of harm we have identified is the failure of Insurance cover to be paid, and delays in payments which has only served to exacerbate a bad and in many cases still worsening financial position for many consumers who rely on quick and efficient claims payments.

As well as harm caused during the pandemic, the Ombudsman Service should also consider harm arising from the economic recovery when it comes. We have described the likely recovery as 'K shaped', where there is likely to be two groups of consumers who each face different risks

- those on low/variable income - who may borrow unaffordably, lose access to existing credit lines and struggle to access debt help
- those with more resources which they were prepared to put at increasing risk – who are at increased risk of falling victim to scams/fraud and may invest in products which are not suitable for them.

We agree with the Ombudsman Service's assessment of fraud and scams (especially APP scams) as a likely trend. Volumes of scams and fraud continue to rise, and the

increasing sophistication means that consumers are more likely to fall victim. Consumers face financial loss and there is a risk to overall trust in financial services. Current mitigations are not effective to prevent harm to consumers and so redress is likely to continue to be needed.

The consultation also identifies cryptoassets as an emerging trend, noting most related activities are not within the Ombudsman Service's jurisdiction. We too are concerned about the potential harms to consumers arising from cryptoassets as set out in our response to HM Treasury's consultation on cryptoassets and stablecoins<sup>3</sup>. We are aware this is an area where the regulatory perimeter is being kept under review and we encourage the Ombudsman Service to remain engaged with these debates and stand ready to respond to any changes in its jurisdiction.

The Panel strongly supported the proposal that consumers should be able to complain to the Ombudsman Service about buy-now pay-later (BNPL) products when they are brought within the regulatory perimeter<sup>4</sup>. This will likely have significant impact on the Ombudsman Service's complaint numbers and resourcing to address these complaints. However, BNPL is fast becoming a default credit option for many people and as such there must be a mechanism for consumers to receive compensation where necessary.

Another emerging area we recommend the Ombudsman Service monitor is equity release. We have undertaken some research that indicates the need for further work to understand the scope and nature of likely consumer concerns. We will be publishing the findings of our research in due course.

The Panel welcomes and supports the Ombudsman Service's response to the Domestic Abuse Act and economic and domestic abuse comments as outlined in your 28<sup>th</sup> June 2021 press release. Having met with the Surviving Economic Abuse charity, we remain concerned about the scope for economic abuse and coercive control in relation to joint life insurance arrangements where on relationship breakdown, the abusive partner refuses to grant permission for the contract to be split and as a result, we are of the view that two single policies as opposed to a joint policy provides better consumer outcomes. Additionally, we are concerned about insurers altering scope of cover of joint interest general insurance policies on the instruction of the premium paying policyholder and not consulting the other policyholder with an interest in the contract, particularly in the case of motor, contents, buildings and travel insurances. These issues may result in complaints reaching the Ombudsman Service.

In relation to SMEs, we agree with the trend analysis in the consultation which focuses on SME lending and forbearance (incl. the BBLs). However, we also have concerns about difficulties faced by SMEs accessing professional indemnity insurance and potential problems around the use and value of cybersecurity insurance, which might give rise to complaints. The [latest FCA Strategic Review of Retail Banking Business Models](#) report also shows ongoing issues in the Business Current Account market, including high and opaque charges and indications of poor quality service by traditional banks.

Looking further ahead, it is vital the Ombudsman Service is prepared for the implementation of the new Consumer Duty. We expect this to help align how the Ombudsman Service assesses complaints with the conduct standards the FCA sets for firms, avoiding the current difficulties around the differences between the fair and reasonable standard and treating customers fairly. We are pleased to see the

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<sup>3</sup> [https://www.fs-cp.org.uk/sites/default/files/fscp\\_response\\_hmt\\_cryptoassets\\_and\\_stablecoins\\_final.pdf](https://www.fs-cp.org.uk/sites/default/files/fscp_response_hmt_cryptoassets_and_stablecoins_final.pdf)

<sup>4</sup> [https://www.fs-cp.org.uk/sites/default/files/final\\_fscp\\_response\\_hmt\\_bnpl\\_consultation\\_20211215\\_002.pdf](https://www.fs-cp.org.uk/sites/default/files/final_fscp_response_hmt_bnpl_consultation_20211215_002.pdf) p12

Ombudsman Service is working closely with the FCA and other stakeholders to identify examples that could help firms understand the new duty. This clarity and consistency across the regulatory family will help embed the higher standard required under the new duty.

Lastly, we are aware of a desire to speed up redress processes across a number of sectoral ombudsman schemes. We would encourage the Ombudsman Service to show leadership on this – both in ensuring that financial services firms have to address complaints in a shorter period and also by the Ombudsman Service setting more stretching targets for its own timeliness.

### **Questions on plan to change and improve in 2022/23**

#### **4. Do you have any suggestions for how we can further improve our efficiency, and how you could work with us on this?**

We wholeheartedly welcome and support the plan that the Ombudsman Service aims to resolve more complaints than it estimates that it will receive during the year. We welcome the focus on a transformation programme that aims to improve productivity and support the initiatives designed to deliver the significantly improved targets set out in the report. These changes will lead to the quicker resolution of complaints for consumers and a better customer experience. In turn, this will drive consumer trust and confidence in the system of support available within the regulatory family.

There is rightly a focus on improving the Ombudsman Service's digital platforms. However, that focus must also go hand-in-hand with improvements in access across all channels and in the total customer journey. Some consumers may want to speak to someone directly and it is important that channels to do so are maintained. The Ombudsman Service must take care to avoid excluding (or delivering worse outcomes to) those consumers who cannot access digital channels. The Ombudsman Service must be available and accessible to everyone who has a problem, regardless of how they prefer, or are able to, access the Ombudsman Service, and regardless of how small or large their complaint is.

Overall, the transformation programme within the Ombudsman Service must have the consumer at its heart.

#### **5. How can we improve sharing insight to prevent complaints and unfairness arising?**

The faster resolution of complaints under the transformation programme discussed above will allow for more efficient sharing of insights and will drive the critically important 'prevention' aspect of the Ombudsman Service's work. The consultation references sharing insight as part of the prevention agenda and to '*encourage fairness and confidence in the different sectors*' the Ombudsman Service covers. The Panel very much supports this - if there are less cases going to Ombudsman Service in the first place then they can really focus on complex cases and those where firms are being particularly difficult. As outlined above, we believe the new Consumer Duty will also drive prevention as firms should get things right the first time more often.

However, we are concerned that the focus of the prevention agenda is too limited and the opportunities have not been fully recognised. We urge the Ombudsman Service to explore how improved insight can be given a more external focus, with the publication of Ombudsman Service data used to incentivise culture and behaviour change amongst firms. For example, the Ombudsman Service could create 'scorecards' for firms, naming and shaming those firms who are not delivering good outcomes to encourage them to

deal with complaints better. The Ombudsman Service should also share the learning from cases with the industry to drive wider improvement, and develop other reputational incentives on firms to handle complaints better in the first place. This will support the new Consumer Duty in ultimately reducing the volume of cases that come to the Ombudsman Service.

The Ombudsman Service should also use its own digital transformation to encourage firms to make improvements to their own digital complaints processes to ensure better outcomes for customers. If the Ombudsman Service's digital platform allows issues to be solved more quickly, then firms should do this too. Any learnings on how to better handle complaints should be shared with firms and industry on a timely basis.

The digital transformation programme should also help improve the sharing of insights within the regulatory family. Enhanced digital capabilities at the Ombudsman Service should allow for data to be shared more quickly and more efficiently with the FCA and others. This will allow for prompt action to be taken against firms not delivering good outcomes, as well as quicker identification of emerging issues and more timely communications to firms and consumers to drive up standards across the industry. Given these substantial benefits to be realised, regulators must work together to ensure that their data gateways can interact with each other and that there is a clear, consistent narrative communicated to consumers. The Ombudsman Service and FCA should publicly set out the work they are doing to deliver this and report on progress. They should also clearly set out how they use each other's data (for example, how Ombudsman Service data is used in FCA supervisory work).

### **Questions on draft budget for 2022/23**

#### **6. Do you think our draft budget for 2022/23 seems reasonable, given the changes required at the Financial Ombudsman Service?**

The Panel believes that the Ombudsman Service must be funded in such a way and to such a level that it is able to handle complaints efficiently, and deal with increasing complexity. This will ensure consumers get redress and good service in a timely manner. The cost of operating the Ombudsman Service is indicative of the harm occurring in financial services.

We understand that the Ombudsman Service wishes to avoid penalising smaller firms, and we recognise that this may currently present practical concerns where there is a risk that CMC's drive cases that may not be well-founded. However, we believe that the practice of offering 'free' cases, even if reduced in the way proposed, is not appropriate and reduces the incentive for firms to do the right thing in the first place. The report estimates that *'even after the reduction in free cases around 69% of firms will still not pay a case fee'*. As a result the Panel believes that the practice of offering 'free' cases needs more detailed consideration to assess what impact the practice has on the ability of the Ombudsman Service to incentivise behaviour change, and fund all the work it needs to do (not just in terms of case-handling but also increased work around prevention, sharing of insight, consumer communications and outreach, and working more closely and effectively with the rest of the regulatory family. An important part of this consideration will be the environment the Ombudsman Service is operating in, which is to a large extent unpredictable in terms of case volumes and 'new' issues that may generate additional work in all the FOS workstreams.

#### **7. Do you have any views on our plans to reduce our reserves from six to three months' operating cost?**

The Ombudsman Service provides a vital service to financial services consumers and must ensure it is adequately funded to continue to deliver this service. It is important the Ombudsman Service is prepared to handle any significant changes to complaints volumes and/or complexity which, as noted above, can be unpredictable. We note that the Ombudsman Service reserves the right to ask for an increase in funding from firms, however, we are concerned that such a request would damage the reputation of the Ombudsman Service and result in challenge from firms on the overall funding model. This could undermine the Ombudsman Service's ability to ensure consumers receive the redress they are entitled to.

#### **8. What would you like us to include in the 2023/24 funding consultation we are planning to publish in the first quarter of 2022/23?**

As referred to under question 5 above, we believe the Ombudsman Service should be doing more to incentivise good behaviour amongst firms. We are concerned that the proposals in this consultation around 'free cases' alongside the temporary changes to outcomes reporting seriously undermine this incentive. Below we suggest some actions the Ombudsman Service could take to address this.

We would like to see the Ombudsman Service use the insights it gathers from complaints volumes and uphold rates to publish key performance indicators (KPIs) on how firms are treating consumers. These KPIs should be simple, updated regularly and capable of being understood by consumers so that they can drive consumer decision making. We believe this goes hand-in-hand with the FCA's aim to be more outcomes-focused and publish progress metrics, which will help ensure a consistent message across the regulatory family.

The Ombudsman Service should seek to rely more heavily on reputational tools to drive good behaviour, increasing its focus on clear external communications. Focus should especially be given to incentivising firms which are causing unreasonable delays for consumers to resolve issues more quickly. A potential option for this would be to charge such firms additional fees/penalties for delays and make consumers aware of these additional costs and the reasons for them.

The Ombudsman Service may also consider differential fees based on the number of complaints received proportionate to the size of a firm's customer base. Firms with a higher proportion of complaints relative to the size of their customer base, and also where firms repeatedly cause delay or are late in their responses to consumers and the Ombudsman Service, should be charged higher fees. Again, this difference in fee level and the reasons for it should be clear to consumers so that they can make use of the information to inform their decision making about which products and firms to engage with. The cost sharing mechanism used in the water industry could be a good model to consider here.

We acknowledge that the Ombudsman Service does a great deal of important work other than case-handling and that this is not funded through case fees. As a result, there should be less emphasis on case fees and more on a levy on industry. This will deliver a more stable funding basis for the Ombudsman Service.

#### **Questions on voluntary jurisdiction**

#### **9. What are your views on our proposal to raise funds through the VJ levy and to leave the tariff rate for each industry block unchanged?**

No comment.

**10. Do you have any comments on our proposal above in relation to the VJ levy for funeral plan providers and intermediaries who apply to become VJ participants?**

No comment.

**Questions on funeral plan providers**

**11. Do you have any comments specifically about our proposal to apply the same case fee rules to funeral plan providers and intermediaries that will become subject to the compulsory jurisdiction (CJ) and/or VJ from July 2022?**

The Panel is supportive of is supportive of the same case fee rules being applied.