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

Dear Sir / Madam,

Financial Services Consumer Panel response to Financial Ombudsman Service Consultation: Temporary changes to outcome reporting in business specific complaints data

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 policy and regulation of financial services in the UK. Our focus is predominately on the work of the FCA, however, we also look at the impact on consumers of other bodies' activities and policies where relevant to the FCA's remit. We are responding to this consultation because the Financial Ombudsman Service is a key member of the regulatory family that works closely with the FCA to ensure that consumers get adequate redress for harm caused by FCA-regulated firms. Part of our own vision for financial services regulation is that consumers should get prompt and commensurate redress and the Ombudsman Service plays a vital role in this.

The Panel welcome the opportunity to respond to the Financial Ombudsman Service's (the Ombudsman Service's) consultation and responded to the previous FOS consultation on temporary changes to reporting the outcome of proactively settled complaints. In that response¹, the Panel set out areas of concern around some of the proposals. These concerns remain.

As this current consultation is proposing to extend the use of some of those, the Panel would refer you to our earlier response, and request that the Ombudsman consider the following concerns:

- The risk to data integrity and transparency
A fundamental role of the Ombudsman is to prevent harm. The provision of valuable insights from complaints received by FOS is a fundamental role of the Ombudsman. This data then enables the FCA, firms and consumers to make informed decisions about the actions they take. In particular the Ombudsman and FCA should act on market intelligence, while firms should be incentivised to improve their behaviour and processes from the publication of complaints data and published decisions. The Panel is concerned about the loss of important insights into firm behaviour as a result of the extension of the temporary changes. These insights could also include information on new types of complaints being brought to the Ombudsman as a result of the cost of living crisis.
- Firms' duty to act in the best interests of their customers would require fair and efficient resolution of complaints
Consumers should get prompt and commensurate redress. We therefore expect firms to proactively resolve complaints before consumers need to seek recourse through the Ombudsman, and act promptly as required by the DISP complaint handling rules.

¹https://www.fs-cp.org.uk/sites/default/files/final_fscp_response_to_fos_temp_changes_to_outcomes_reporting_20211018.pdf

While we understand that firms may have had operational challenges in responding to complaints within eight weeks at the start of the pandemic, they have now had enough time to address those challenges. Post-Covid there should be no justifiable operational reasons why firms are unable to give serious consideration and respond to complaints within eight weeks.

- The Panel has previously raised concerns that firms have little incentive to improve their own complaints handling if the Ombudsman steps in to resolve complaints informally and does not include the outcomes in uphold rates.
- The Panel remain concerned about the loss of transparency around important data, including uphold rates, which provide an indication of how firms treat customers when handling complaints. We strongly disagreed with the proposal not to include complaints resolved proactively by businesses within the 'uphold rates' relevant to the firm and to separately record these. We proposed that any such changes to recording, if introduced should be temporary and time limited to reflect the FOS workload concerns at that time but minimise the loss of transparency around actual uphold rates.
- It is important that data is available where it relates to firms that consistently wait or delay making any offer or any fair and reasonable offers until the period post 'conversion' is reached. This may signal important issues around the adequacy of the firms' approach to complaints and its duties to consumers.
- Settlements by firms within the period of 14 days after 'conversion' still signify that only by the consumer having persisted to this stage was the firm forced to take a different approach by making a revised offer.
- The Panel would encourage FOS to view instances where firms make improved offers to settle only once the FOS has intervened, even if during the 14-day period after 'conversion', as a 'change in outcome'. In our view such offers should be seen as having been prompted only by the fact of FOS intervention or the perseverance of the complainant.
- In its original consultation the FOS proposed to communicate offers from businesses to customers without any prior assessment by the FOS. We expressed our concern that in those circumstances consumers may assume that the Ombudsman has endorsed these offers, regardless of whether the correspondence highlights that the decision to make the offer was the business's alone and that the Ombudsman cannot confirm that the offer is a fair one. We were pleased that in response to feedback the FOS amended its original proposal and introduced a process of reviewing offers to determine whether they are deemed to be fair and reasonable and communicate the proposed settlement to the complainant. Our concern remains however that consumers may not benefit from the same outcome had the complaint been resolved following detailed investigations by the Financial Ombudsman Service.

Again, The Panel note that the two-week consultation period for these temporary changes is extremely short and may affect the ability of some organisations – particularly consumer focused organisations which are often resource constrained - to respond.

Yours sincerely,

Helen Charlton

Chair, Financial Services Consumer Panel