

Financial Ombudsman Service
Exchange Tower
London
E14 1JN

By email



26 January 2023

Dear Sir/ Madam,

2024/25 PLANS AND BUDGET AND CONSULTATION ON CHARGING PROFESSIONAL REPRESENTATIVES

The Panel broadly welcomes the proposals set out in the FOS' plans and budget focusing on delivering services more efficiently and reducing fees and levies on industry. Our comments focus on the proposal to apply case fees to CMCs and relevant legal professionals. We strongly support these proposals both for consistency and fairness and to achieve better outcomes for consumers.

Currently there is no real disincentive to CMCs and legal professionals submitting high volumes of template-based complaints and/ or spurious claims, as the cost of subsequent investigative activity is borne by fee-paying financial services firms. This practice has been placing increasing pressure on smaller businesses many of which have limited resources. Further, this divergence of resource means there is necessarily less attention focused on resolving genuine complaints. Applying the 'polluter pays' principle is the right approach to deter poor practices and should over time lead to lower volumes of complaints submitted to the FOS. It is to be expected that extending the application of case fees will also provide increased motivation for well-intentioned CMCs and legal representatives to ensure they undertake proper due diligence, leading to a higher proportion of complaints that have merit and substance.

It is appropriate that higher fees are applied where conduct is at the most egregious. CMCs and legal professionals may be discouraged from going directly to the Ombudsman Service (without having first given firms the opportunity to review) if they are subject to a case convergence fee. In our view it would be proportionate to apply a higher fee dependent on casework/ time involved and apply the full case fee to CMCs which engage in high volume, speculative activity, where the case is not upheld. Should this change be implemented continued close collaboration between the FOS, FCA and FSCS will be needed to monitor trends and address any unintended consequences such as higher fees being passed on to consumers.

We would be happy to discuss any of these points further.

Yours sincerely,

[signed]

Andy Mielczarek
Chair, FCA Smaller Business Practitioner Panel