



Financial Services Authority

# Review of complaint handling in banking groups

April 2010



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## **Important legal note**

This report does not constitute Handbook guidance. It updates you on the findings from our thematic review on the quality of complaint handling in banks assessed against our requirements in this area. Firms should regard this communication as supporting material, which is intended to assist them in complying with our rules and Principles. There may be several ways of complying with a regulatory requirement – following guidelines or other supporting materials we publish is only one approach. The results from the template do not preclude the Financial Ombudsman Service (FOS) from making a different determination in individual cases. The FOS will determine a complaint by reference to what is, in its opinion, fair and reasonable in all the circumstances of the case (see DISP 3.6.1R in our Handbook). For further information on the status of supporting material please refer to:

[http://www.fsa.gov.uk/pages/Library/Other\\_publications/Miscellaneous/2009/guidance.shtml](http://www.fsa.gov.uk/pages/Library/Other_publications/Miscellaneous/2009/guidance.shtml)

**A firm's senior management is responsible for ensuring it handles complaints fairly.**



# 1 Overview

- 1.1 Ensuring that firms treat customers fairly is at the heart of our consumer protection agenda. Central to this is the importance of firms embedding a culture that is committed to the fair treatment of their customers. The quality of a firm's complaint handling is an important aspect of this, revealing the extent to which cultural drivers such as senior management engagement, decision-making and staff reward structures are delivering fair outcomes for customers. Carried out well, complaint handling represents a valuable opportunity for firms to rebuild and enhance their relationships with their customers when something has gone wrong, and to use the information gathered to make changes that deliver fair outcomes for their wider customer base (for example, by changing their product design or sales processes).
- 1.2 This report contains the results of our review of complaint handling in banking groups. It sets out some of our existing complaint-handling requirements for all firms and includes examples of good and poor practice demonstrated by the banks we assessed. The findings are relevant to all firms that handle complaints. The review is an example of us delivering intensive supervision focusing on the outcomes delivered for complainants, and taking action where firms are not meeting our requirements.
- 1.3 We assessed several banking groups (responsible for over 70% of complaints reported to the FSA<sup>1</sup> and over 60% of complaints resolved by the Financial Ombudsman Service (FOS))<sup>2</sup> and undertook more detailed work in five. Our review excluded banks' handling of payment protection insurance (PPI) and unauthorised overdraft charges complaints as these two areas are subject to separate work.<sup>3</sup>

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1 Firms are required to collect data on the complaints they receive and report it to the FSA every six months (DISP 1.10 Complaints reporting rules).

2 Figures based on complaints reported to the FSA for 2008 H2 & 2009 H1 and complaints resolved by the FOS for 2008 H2 & 2009 H1.

3 CP10/6, *The assessment and redress of payment protection insurance complaints: feedback on CP09/23 and further consultation*, March 2010.

- 1.4 We found poor standards of complaint handling within most of the banks we assessed. This resulted mainly from weaknesses in banks' culture, particularly their governance arrangements, policies and controls. It was also reflected in our file review results.
- 1.5 Importantly, the fact that we found good and compliant practices in parts of some banking groups demonstrates that it is possible for banks to handle high volumes of complaints and deliver consistently fair outcomes for complainants.
- 1.6 Our results indicate that most banks need to take action to improve the standard of their complaint handling and ensure they treat complainants fairly. Five of the banks have agreed to make significant changes as a result of our work and have either put in place or extended the scope of change programmes to improve their complaint handling. Two of these banks have been referred to our Enforcement Division for further investigation of their complaint handling.<sup>4</sup>
- 1.7 We expect these changes to lead to improved outcomes for consumers. Notwithstanding this, it is important to recognise that the degree of change necessary in some banks requires sustained and rigorous effort from senior management to deliver improvement. This includes formally embedding fair complaint handling within firms' governance structures (through Executive Committees and up to Board level) so that complaint handling is at the heart of their decision-making and oversight arrangements. This should ensure that senior management are actively involved in improving complaint-handling standards and using the information gathered to identify any underlying issues and make changes to ensure the wider business treats customers fairly.
- 1.8 We will continue to focus on complaint handling as part of our more intensive and intrusive supervision of conduct risks and will be testing the initial effectiveness of the changes these banks have made later this year. **If we find banks continue to deliver poor outcomes for complainants, we will use the full range of our regulatory tools to drive an improvement in standards, including enforcement action.**
- 1.9 The remainder of this report sets out our findings in further detail and highlights the areas where banks need to improve. In the boxed text, we have summarised the areas that have the most significant impact on the quality of banks' complaint handling.

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4 The findings in this report are not formal determinations of breaches of FSA requirements. The purpose of this report is to give an illustration of the types of issues we have identified. Any formal determination against specific firms will follow the FSA's usual decision-making processes.

## **Culture**

Our work on treating customers fairly emphasises the importance of firms embedding a culture that supports the fair treatment of their customers. It is only through establishing the right culture that senior management can convert their good intentions into actual fair outcomes for consumers.<sup>5</sup> Complaint handling is a very visible indicator of whether a firm has achieved this.

Most of the banks assessed had not embedded a culture that focused on delivering fair outcomes for complainants. There was a direct correlation between banks that had a poor complaint handling culture and banks assessed as delivering poor outcomes for complainants. Where the culture was poor, the key drivers were a lack of senior management engagement with complaint handling, poorly conceived procedures and controls, inadequate training and competence arrangements, and poorly conceived remuneration policies for staff handling complaints.

One bank that performed strongly in this area was able to demonstrate a culture of fairness, led by its senior management, which focused on delivering the right outcomes for its complainants. This was embedded within its approach to complaint handling and reflected in its training and competence arrangements, complaints policies, controls and remuneration structures.

## **Root cause analysis**

The extent and quality of root cause analysis undertaken varied between banks and affected the extent to which they were able to identify recurrent or systemic problems and take appropriate action. Banks that undertook effective root cause analysis benefited from being able to proactively identify issues and act before they became more widespread. Action taken as a result of this analysis also contributed to improving organisational efficiency.

## **The quality of complaint handling by front-line staff**

In most of the banks assessed, the quality of complaint handling undertaken by front-line staff (where complaint handling was not the main function of their role) was poor, with inadequate investigation and poor decision-making on the outcome of the complaint and payment of redress (sometimes to the detriment of the complainant). The main driver of this was inadequate support to assist front-line staff in reaching the right decisions (for example, training and competence, policies and procedures, guidance and technical support). Where banks were using the two-stage process, poor front-line complaint handling often acted as a barrier to the fair treatment of

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5 *'Treating customers fairly – culture'*, July 2007. [http://www.fsa.gov.uk/pubs/other/tcf\\_culture.pdf](http://www.fsa.gov.uk/pubs/other/tcf_culture.pdf)

complainants.<sup>6</sup> In one bank, we were satisfied with the complaint handling undertaken by front-line staff, demonstrating that it is possible for these staff to handle complaints fairly.

### Quality assurance of complaints

Most of the quality assurance arrangements assessed, focused on checking adherence to process (such as meeting timeliness targets) rather than the quality of responses to customers and whether the outcome was fair. Where the focus of quality assurance is not on fair consumer outcomes, it is likely to give false comfort on the adequacy of the complaint-handling arrangements.

### Wider relevance of our findings

- 1.10 We strongly encourage **all firms** to take note of these findings and, where appropriate, act on them. To assist firms, we have published the complaint-handling file review template<sup>7</sup> we use to assess complaint files as part of our supervisory work. The template focuses on assessing the outcome of the complaint (as well as the procedural aspects of complaint handling) and properly used, can be an effective diagnostic tool in highlighting weaknesses in a firm's approach. Firms may wish to use the template to help them assess if their complaint handling achieves appropriate outcomes for their customers.
- 1.11 Following the introduction of our new rules on publishing complaints data,<sup>8</sup> we are aware that some firms have been considering how they might reduce reportable complaint volumes. All firms are reminded that if they consider making changes to their approach they must ensure that they comply with our complaint-handling (and any other relevant) rules and treat complainants fairly. We will continue to monitor the complaint-handling data submitted by firms and produced by the FOS to identify any potential areas of poor practice and take action where appropriate.
- 1.12 Given the findings from this review and other supervisory work on complaint handling, which found continuing failings in certain areas, we are carrying out work on possible changes to the complaint-handling rules. Subject to consultation and undertaking a cost-benefit analysis, we propose to make rule changes covering the following areas:
  - to strengthen senior management oversight and engagement in complaint handling;

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6 More detail regarding our findings on the two-stage process can be found in Chapter three.

7 [http://www.fsa.gov.uk/Pages/Library/Other\\_publications/complaint\\_handling/index.shtml](http://www.fsa.gov.uk/Pages/Library/Other_publications/complaint_handling/index.shtml)

8 PS10/1: *Publication of complaints data including feedback to CP09/21*, January 2010. Firms receiving 500 or more reportable complaints in any six-month period are required to publish details of the complaints received in the period as well as details of the complaints closed in the same period. In compliance with the Payment Services Directive, this does not apply to payment service providers if they are not authorised for any other regulated activities.



- to remove the two-stage process (our review indicates that the two-stage process can act as a barrier to fair complaint handling, with potential for detrimental effects on consumers);
- to strengthen root cause analysis requirements; and
- to strengthen the factors firms should take into account when investigating and assessing complaints, especially FOS decisions.

1.13 We will include these proposals in a consultation on our DISP sourcebook planned for Q3 2010.

# 2 Background and approach

## Summary of key points

- Complaint handling is a key indicator of how a firm treats its customers.
- We are committed to improving the quality of firms' complaint handling and the effectiveness of the regulatory framework in delivering fair complaint handling and appropriate redress for consumers.
- Our project has assessed complaint handling in several banking groups and undertaken detailed assessments in five.
- Assessments have focused on the quality of complaint handling and the key drivers affecting this (for example, the extent to which a bank's culture supports the delivery of the right outcomes).

## Background

- 2.1 Regulated firms currently report to us that they receive around four million complaints from customers each year.<sup>9</sup> Complaint handling represents a valuable opportunity for firms in two key areas:
- rebuilding and enhancing their relationships with customers; and
  - using the information gathered from handling complaints to identify any underlying issues and, if appropriate, make changes that will deliver fair outcomes for all relevant customers and also improve organisational efficiency.
- 2.2 Our work on treating customers fairly emphasises the importance of firms embedding a culture that is committed to the fair treatment of their customers. It is only through establishing the right culture that senior management can convert their good intentions into actual fair outcomes for

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<sup>9</sup> This number excludes complaints resolved by close of business the next business day (DISP 1.5.1R).

consumers.<sup>10</sup> Complaint handling is a very visible indicator of whether a firm has achieved this.

- 2.3 Our 2009 Financial Risk Outlook (FRO) highlighted our concern that firms might seek to reduce costs and under-resource key controls, such as complaint handling, as a result of revenue pressures. We reiterated this in the 2010 FRO, which identified complaint handling as a key conduct risk that all firms should focus on.<sup>11</sup>
- 2.4 The FOS has also raised concerns about the quality of complaint handling, specifically by banks, arising from the cases it handles. These concerns focus around the high percentage of complaints the FOS upholds in the customer's favour (on average over 50% for all the banks included within our review).<sup>12</sup>
- 2.5 We have therefore put in place a programme of work to drive improvement in the quality of firms' complaint handling. Firstly, we have increased transparency around complaint handling to encourage firms to improve standards. In September 2009 we published aggregate complaints data covering all firms for the first time (the FOS also started publishing firm-specific data at the same time). In addition, in April 2010 new rules came into place requiring firms to publish their own complaints data every six months, with firms having to publish their first complaints data summaries by the end of August 2010. We intend to publish consolidated firm-specific data, based on this material, by the end of September 2010, enabling the performance of firms to be compared across their peer group.<sup>13</sup>
- 2.6 Secondly, we are focusing on identifying and mitigating emerging risks to prevent mass claims more effectively. We published a joint Discussion Paper with the Office of Fair Trading (OFT) and the FOS on consumer complaints in March 2010.<sup>14</sup> The paper explores how we might change the way we work with the FOS and the OFT to take an increasingly forward-looking approach to emerging risks and to provide firms and consumers with greater certainty and transparency in the handling of widespread issues.
- 2.7 Finally, as part of our more intensive and intrusive approach to the supervision of conduct risks, we have undertaken a review of complaint handling in banks, which is the subject of this report. The objective of our review is to deliver major improvements in the quality of complaint handling within banks and to raise standards across the financial services industry. We are also undertaking separate work on the quality of complaint handling for PPI and unauthorised overdraft charges.

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10 'Treating customers fairly – culture', July 2007. [http://www.fsa.gov.uk/pubs/other/tcf\\_culture.pdf](http://www.fsa.gov.uk/pubs/other/tcf_culture.pdf)

11 *Financial Risk Outlook 2009*, FSA, February 2009 (page 39) and *Financial Risk Outlook 2010*, FSA, March 2010 (page 69).

12 Figure based on complaints resolved by the FOS for 2008 H2 & 2009 H1. This figure does not include complaints in respect of PPI.

13 PS10/1: *Publication of complaints data including Feedback to CP09/21*, January 2010

14 DP10/1: *Consumer complaints (emerging risks and mass claims)*, March 2010

## Approach

- 2.8 As mentioned previously, our review assessed the quality of complaint handling within several banking groups (responsible for over 70% of complaints reported to the FSA and over 60% of complaints resolved by the FOS) and included more detailed assessments in five. The decision on whether to undertake a detailed assessment was based on the level of risk and impact posed by each group. We focused on the business units responsible for the majority of each group's complaints – we did not examine all entities in the group or all business areas.
- 2.9 One of the banks included within our work had already commenced an internal review of their complaint handling following supervisory action. We monitored the conduct of this review and have included the key findings within this report where relevant. This bank is also included within the scope of our follow-up work.<sup>15</sup>
- 2.10 Our detailed assessments involved a comprehensive review of each bank's approach to complaint handling against the requirements in the Dispute Resolution section of the FSA Handbook (DISP) and the relevant Principles for Businesses (PRIN). Assessments were informed by intelligence gathered from supervisory activity; analysis of FSA and FOS complaints data (we worked closely with the FOS using the intelligence they provided); reviews of banks' documented policies, procedures and management information (MI); interviews with staff at all levels; and reviews of complaint files.
- 2.11 Our assessments focused on two key areas:
- **quality of complaint handling:** evidenced in the results from complaint file reviews; and
  - **key drivers affecting complaint handling:** reflected in each bank's approach and culture, including senior management engagement and oversight; policies and procedures; training and competence; remuneration of staff; and MI.
- 2.12 The detailed findings from our assessment of these two areas are covered in Chapters three and four respectively. Chapter five draws together the key elements of fair complaint handling and Chapter six outlines the action we have taken in response to our findings.

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15 As a result of this we make reference to a total population of either five or six banking groups in the chapters dealing with the results from our work.

# 3 Quality of complaint handling

## Summary of key points

- 18% of the complaint files we reviewed were assessed as resulting in an unfair outcome for the complainant.
- 36% of the complaint files we reviewed evidenced poor quality complaint handling, particularly in terms of the quality of investigation.
- Some banks' use of the two-stage process contributed to poor handling and unfair outcomes for complainants.
- We found poor quality complaint handling by front-line staff (particularly where complaint handling was not the main function of their role).

- 3.1 This chapter sets out the results of our assessment of the quality of complaint handling in the five banking groups we looked at in detail.

## Overview of results

- 3.2 We assessed the quality of complaint handling within each group by reviewing a sample of complaint files, reviewing banks' complaints policies and procedures, and interviewing a broad range of staff.
- 3.3 In total, we reviewed a sample of approximately 600 complaint files across all five banking groups. The file sample was focused on areas of potential risk (highlighted by FOS data and each bank's MI) and weighted towards rejected complaints and complaints handled using the two-stage process.<sup>17</sup> The sample was largely made up of retail banking complaints, although we also assessed some general insurance, investment and mortgage complaints within certain banks.

- 3.4 Overall, we assessed 18% of cases as resulting in an unfair outcome for the complainant.<sup>17</sup> These were where the assessor identified one of the following:
- the decision on the outcome of the complaint was in our view incorrect; and/or
  - any redress and/or remedial action offered (including for any distress and inconvenience suffered) was in our view inadequate or not paid when it should have been.
- 3.5 Overall, 36% of cases showed evidence of poor quality complaint handling in areas such as quality of investigation, quality of correspondence and use of the two-stage process.
- 3.6 Although our review focused on particular types of complaints (e.g. rejected complaints) there was a strong correlation between banks with poor file review results and banks where we identified more fundamental weaknesses in their general complaint-handling approach as part of our wider assessment. We therefore regard these results as indicative of wider problems in many of the banks we assessed.

## **Quality of investigation, decision-making and redress**

### *Our requirements*

- 3.7 Firms must investigate complaints competently, diligently and impartially, taking into account all relevant factors.<sup>18</sup> For example, relevant evidence might include firm policies and procedures, point of sale disclosure material, and both customer and staff recollections of events. Investigations should address all aspects of the complaint. Firms must assess the subject matter of the complaint, whether the complaint should be upheld and, if so, what remedial action and/or redress may be appropriate, in a fair, consistent and prompt manner.<sup>19</sup>
- 3.8 Where a firm decides that it is appropriate to offer redress and/or undertake remedial action (and the customer accepts their offer), this should be complied with promptly. Firms should also explain the rationale behind their decision in a way that is fair, clear and not misleading.<sup>20</sup>
- 3.9 Firms must keep a record of each complaint received and the measures taken for its resolution and retain that record for at least five years from the date the complaint was received for complaints relating to MiFID business,<sup>21</sup> and three years for all other complaints.<sup>22</sup>

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17 It should be noted that not all complaints which were assessed as resulting in an unfair outcome led to financial detriment.

18 DISP 1.4.1R

19 DISP 1.4.1R (2)

20 DISP 1.4.1R (3) – (5)

21 See Glossary definition of ‘MiFID business’. <http://fsahandbook.info/FSA/html/handbook/Glossary/M>

22 DISP 1.9.1R

## *Our findings*

3.10 There was evidence of poor quality complaint handling in four out of five banks assessed. This affected the extent to which fair outcomes were delivered for complainants. The key failings identified were:

- **Inadequate or poor quality investigations:** failure to obtain all relevant and reasonably available information relating to the complaint when undertaking an investigation. Standards were particularly poor when complaints were handled by staff where complaint handling was not the main function of their role (e.g. staff in branches or general call-handling units).
- **Poor decision-making on the outcome of the complaint:** failure to reach an appropriate decision based on the evidence gathered by the investigation. This included complaint-handlers not adopting a balanced and impartial approach when assessing customer recollections against internal policies and procedures.
- **Inadequate redress payments:** where redress was due, the failure to offer complainants an appropriate amount of redress (including payment for distress and inconvenience) and/or to offer to undertake appropriate remedial action.<sup>23</sup>
- **Poor quality correspondence:** failure to articulate the outcome of the investigation to the complainant in a way that was fair, clear and not misleading. This included failing to explain to the complainant why their complaint had been rejected or upheld and the use of standard paragraphs that were either completely irrelevant or not tailored to reflect the individual circumstances of the complaint.
- **Poor record keeping:** in 7% of files, we were unable to assess the quality of outcome due to insufficient records.

### **Good practice: supporting initial stage complaint handling**

Guidance to support front-line complaint handlers on resolving complaints fairly and calculating appropriate redress (including distress and inconvenience payments). This included support on how to resolve the most common complaints, which was updated on a regular basis to include new issues. A separate set of guidance was provided to support complaint handlers when considering appropriate levels of redress for distress and inconvenience. Both sets of guidance contributed to ensuring fair and consistent outcomes for consumers.<sup>24</sup>

23 Where cases resulted in financial detriment it was often a relatively low sum. For example, arising as a result of a failure to adequately compensate customers for distress and inconvenience. However, these relatively low amounts may have been due to our focus on retail banking complaints.

24 The FSA has not tested the effectiveness of this guidance in use.

## Poor practice: poor quality correspondence

Operating a system that provided complainants with an automated stream of standard letters that failed to take account of previous written or non-written correspondence. This was confusing to complainants (particularly regarding their ability to refer their complaint to the FOS) and did not contribute to the resolution of the complaint.

## Complaints handled under the two-stage process

### *Our requirements*

- 3.11 Under the complaint-handling rules firms can follow a process (the ‘two-stage process’) whereby after they have issued an ‘initial response’ to the complainant, the complainant can refer their complaint back to the firm for reconsideration if they remain dissatisfied (rather than referring their complaint straight to the FOS), before the firm issues its ‘final response’.<sup>25</sup> Where firms choose to follow this process, they are required to mention the ‘ultimate availability’ of the FOS in their initial response.
- 3.12 We previously found problems with banks’ use of the two-stage process for handling unauthorised overdraft charges complaints. In response to this we issued a Dear CEO letter in 2007<sup>26</sup> reminding banks of their obligations under this rule, namely:
- firms are required to investigate complaints competently, diligently and impartially and assess them fairly, consistently and promptly, at both the initial and final stages;
  - the two-stage process should mean just that: multiple stages are likely to be justifiable only in a minority of cases where they amount to a further genuine effort to resolve the complaint satisfactorily;
  - responses should disclose their status, (initial, final or otherwise) as well as other appropriate information required by DISP; and
  - initial responses under the two-stage process must refer the complainant to the ultimate availability of the FOS.

### *Our findings*

- 3.13 Three out of five banks used the two-stage process in a way that could result in the unfair treatment of complainants. We identified:
- a significant difference in the quality of complaint handling between front-line and specialist complaint-handling areas;

<sup>25</sup> DISP 1.6.5R

<sup>26</sup> Dear CEO letter, *Handling complaints about unauthorised overdraft charges*, 27/07/2007 <http://www.fsa.gov.uk/pubs/ceo/complaints.pdf>



- a high proportion of complaints within our file reviews where the outcome of the complaint changed between the initial and final stages without any new evidence or information coming to light to explain why the substance of the final response could not have been communicated in the initial response; and
  - the unjustified use of more than two stages of response to complainants.
- 3.14 Within these banks, the framework for initial stage complaint handling contained weaknesses that contributed to poor outcomes and potential detriment for complainants. This was particularly acute in business units where complaint handling formed only a part of staff responsibilities (e.g. branches or general call-handling units). Where we found poor front-line complaint handling, the main drivers included:
- an absence of, or poor, procedures for passing more complex complaints to more specialist areas for resolution;
  - poor training and staff competence;
  - performance criteria that led to or even encouraged poor behaviours; and
  - inadequate management oversight and quality assurance of the outcome of complaints.
- 3.15 In the banks where there were no significant issues around their use of the two-stage process, there were effective procedures in place to ensure more complex complaints were automatically passed on to more specialist complaint-handling areas and better guidance and support to assist front-line handlers in reaching the right decisions.

### **Poor practice: multiple stages without justification**

Complaints procedures allowed complaint handlers to issue multiple, repetitive responses to complainants. This forced complainants to restate their complaint a number of times over a protracted period in the face of ongoing negative responses from the bank.

## Timeliness

### *Our requirements*

- 3.16 Firms should aim to resolve complaints at the earliest opportunity and ensure complainants are kept informed of the progress of their complaint.<sup>27</sup> It is expected that almost all complaints should have been substantively addressed within eight weeks.<sup>28</sup>

### *Our findings*

- 3.17 In four out of the five banks assessed some complaints were not handled in a timely way.

## Disclosure of FOS referral rights

### *Our requirements*

- 3.18 Final responses should inform the complainant of their right to refer their complaint to the FOS. They should also enclose the FOS standard explanatory leaflet.<sup>29</sup> Where complaints are handled under the two-stage process, the initial response needs to refer to the ultimate availability of the FOS.<sup>30</sup> The information regarding the FOS should be set out prominently within the text of these responses.<sup>31</sup>

### *Our findings*

- 3.19 Three out of five banks did not provide FOS referral rights to complainants at the required time or properly explain the steps involved if the complainant remained dissatisfied with their response in all the cases we reviewed. This resulted in a risk that the complainant was not aware of their right to refer their complaint to the FOS.
- 3.20 Although these failings (and the failings in respect of timeliness above) did not necessarily lead to poor outcomes for complainants, their frequency did lead us to question the competence of staff and the robustness of banks' complaint-handling processes.

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27 DISP 1.4.3G and 1.6.1R

28 DISP 1.6.2R and 1.6.7G

29 See Glossary definition of *'final response'*:  
<http://fsahandbook.info/FSA/glossary-html/handbook/Glossary/F?definition=G411>

30 DISP 1.6.5R

31 DISP 1.6.6AG

## Definition of a complaint

### *Our requirements*

- 3.21 The Handbook definition of a complaint includes ‘any oral or written expression of dissatisfaction, whether justified or not ... about the provision of, or failure to provide, a financial service’ where the complainant ‘has suffered (or may suffer) financial loss, material distress or material inconvenience’.<sup>32</sup>
- 3.22 Firms’ complaint-handling procedures should allow complaints to be made by any reasonable means.<sup>33</sup> Firms should not attempt to limit the way customers can complain, for example, by requiring customers to make their complaint in writing (when other options are available).

### *Our findings*

- 3.23 We did not identify any significant issues with the definition of a complaint used by banks. Although one bank had considered revising and narrowing its complaint definition, it decided against this proposal following discussions with us.

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32 See Glossary definition of ‘complaint’  
<http://fsahandbook.info/FSA/glossary-html/handbook/Glossary/C?definition=G197>

33 DISP 1.3.2G

# 4 Drivers affecting the quality of complaint handling

## Summary of key points

- Various weaknesses in the culture of most banks leading to poor quality complaint handling (although we did find one example of good practice).
- Very low levels of senior management engagement on complaints handling in most of the banks assessed.
- Varying standards of complaints procedures, quality assurance and management information (most of which focused on process rather than delivering the right outcomes for complainants).
- Although all banks conducted some form of root cause analysis, its effectiveness was often hampered by poor quality MI.
- Lack of evidence of most banks using root cause analysis to consider undertaking remedial action for customers potentially affected by identified failings but who have not actually complained.
- Remuneration policies for complaint handlers that incentivised staff to focus on levels of redress paid, rather than handling complaints fairly.

- 4.1 This chapter sets out the results of our assessment of the drivers affecting the quality of complaint handling in the five banking groups we looked at in detail and the banking group where we monitored the conduct of its own review.

## Overview of results

- 4.2 We have published a variety of material highlighting the importance of firms establishing the right culture to support the delivery of fair outcomes for their customers.<sup>34</sup> We found that most of the banks assessed had failed to fully embed such a culture in their approach to handling complaints.

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34 *Treating Customers Fairly – culture*, July 2007 and TCF Cluster report.  
[http://www.fsa.gov.uk/pubs/other/tcf\\_culture.pdf](http://www.fsa.gov.uk/pubs/other/tcf_culture.pdf) <http://www.fsa.gov.uk/pages/Doing/Regulated/tcf/pdf/complaints.pdf>

4.3 Only one bank was able to demonstrate a strong culture that resulted in fair complaint handling in the parts of the group assessed. This was evident through the following:

- a member of the Executive had clear responsibility and accountability for complaint handling;
- complaint handling was a standing agenda item at the bank's Executive Committee;
- senior management were focused on quality of complaint handling as well as volumes of complaints, and were actively involved in driving up standards;
- complaint handling was supported by a robust, risk-based quality assurance function, which focused on the consumer outcomes delivered, as well as the process;
- root cause analysis was robust, with evidence of remedial action for a wider population of customers (where considered appropriate);
- a clear and thorough training programme was in place for all staff handling complaints (including front-line staff), which supported fair decision-making; and
- the remuneration structure for complaint-handling staff focused on quality and did not encourage negative behaviours.

### **Senior management oversight, quality assurance and complaints policies and procedures**

#### *Our requirements*

4.4 We expect firms to be able to demonstrate that senior management have instilled a culture that promotes the fair treatment of complainants. This should be reflected in the firm's complaints policies, quality assurance, training and competence, and remuneration arrangements.

4.5 Firms must have in place adequate, effective and transparent procedures and controls for complaint handling to ensure they are complying with their obligations under DISP and the Principles for Businesses.<sup>35</sup>

#### *Our findings*

4.6 We found very low levels of senior management engagement with complaint handling in four out of six banks. This included complaint handling not being discussed at a senior level and inadequate oversight arrangements to ensure fair outcomes were achieved for complainants. We were also particularly

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35 DISP 1.3.1R

concerned that in two of the banks assessed it was not clear who had overall responsibility for complaint handling.

- 4.7 We were concerned that in five out of six banks, the quality assurance arrangements in place for complaint handling were focused on assessing adherence to process, such as meeting timeliness targets, rather than the quality of the outcome. We also found examples where process-focused quality assurance was ineffective in even identifying process failings (for example, it did not pick up non-disclosure of FOS referral rights). Had banks applied more appropriate and robust quality assurance arrangements to their complaint monitoring, we would have expected them to have identified many of the issues highlighted by our review.
- 4.8 In two banks, their focus on process rather than outcomes was also evident in the procedures they used for handling complaints.

## **Remuneration of staff**

### *Our expectations*

- 4.9 Firms should consider what safeguards they can introduce to mitigate any risks posed by their reward structure to the fair treatment of consumers.<sup>36</sup>

### *Our findings*

- 4.10 The majority of banks had remuneration structures in place that did not negatively impact on how complaints were resolved. However, two banks' reward structures potentially encouraged poor complaint handling by focusing staff on meeting targets for the level of redress paid, rather than the quality of the outcome provided to the customer.

### **Good practice: remuneration of complaint-handling staff**

A remuneration strategy that rewarded staff based on a balanced mixture of volume and quality-related targets, focussing staff on delivering fair outcomes for consumers.

### **Poor practice: conflicts of interest**

The payment of redress for complaints where the bank was at fault directly impacted on branch performance and the branch manager's incentive scheme. Branch-based complaint handlers were also assessed based on the level of redress paid. This contributed to a poor culture, where branch staff and management were reluctant to make redress payments, even when the bank had made an error and the complaint was justified.

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36 "Treating customers fairly – culture", page 19 [http://www.fsa.gov.uk/pubs/other/tcf\\_culture.pdf](http://www.fsa.gov.uk/pubs/other/tcf_culture.pdf)

## Quality and application of MI, including its use for root cause analysis

### *Our requirements*

- 4.11 MI available to senior management should demonstrate the outcomes that are being achieved for complainants. Appropriate MI should be in place to allow senior management to monitor and review the quality of complaint handling, detect underlying problems and take action to address any issues that are identified.<sup>37</sup> This MI should include complaints that are resolved by the close of the next business day.
- 4.12 Where firms identify problems, root causes or compliance failures, they should have regard to Principle 6 and consider whether they ought to take action on their own initiative for customers who may have suffered detriment or been potentially disadvantaged but have not complained.<sup>38</sup>
- 4.13 We have emphasised firms' obligations on this in a number of our TCF-related publications over the last few years.<sup>39</sup> CP10/6 has recently reiterated our view (in the context of PPI sales and complaints), stating that if a firm is aware, from its complaint-handling experience or otherwise, that there have been deficiencies in its past selling practices (or other behaviours), we would see it as appropriate for the firm to further consider the position of non-complainant customers who may have suffered detriment from such failings. We would expect the firm to take fair and sensible decisions about whether, and what, action might be appropriate for this group of customers. And it may then be appropriate for such own-initiative action by the firm to include taking steps that potentially lead to the redress of non-complaining customers who have suffered detriment.<sup>40</sup>

### *Our findings*

- 4.14 The majority of banks collected MI on complaints. However, as with quality assurance, four out of six banks' MI was either poor or overly focused on process (e.g. speed of resolution and timeliness) rather than the quality of complaint handling. This meant senior management were unable to properly assess whether they were delivering fair outcomes for complainants.
- 4.15 All of the banks assessed conducted some form of root cause analysis to try to identify and address issues highlighted by complaints. However, the quality of

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37 DISP 1.3.3R (with DISP 1.3.4G making parallel provision in relation to complaints that relate to MiFID business).

38 DISP 1.3.5G

39 *Treating customers fairly: Progress Report publication*

[http://www.fsa.gov.uk/pubs/discussion/dp7\\_progress-report.pdf](http://www.fsa.gov.uk/pubs/discussion/dp7_progress-report.pdf),

*Examples of Key Risks, indicators and Questions publication*

<http://www.fsa.gov.uk/pages/Doing/Regulated/tcf/pdf/examples.pdf>,

*Treating customers fairly – culture 'publication* [http://www.fsa.gov.uk/pubs/other/tcf\\_culture.pdf](http://www.fsa.gov.uk/pubs/other/tcf_culture.pdf),

*Treating customers fairly: progress update' publication* [http://www.fsa.gov.uk/pubs/other/tcf\\_progress.pdf](http://www.fsa.gov.uk/pubs/other/tcf_progress.pdf)

40 See CP10/6, *The assessment and redress of Payment Protection Insurance complaints, Feedback on CP09/23 and further consultation*, March 2010 pages 26–28

this analysis and its potential to help identify problems effectively was limited by its focus on complaint volumes and the failure to contextualise this against relevant business measures (for example, setting the volume of complaints about a certain product against the number of products sold or the volume of current account complaints against the number of current account holders). This prevented banks from easily identifying important issues with a particular product because it had not resulted in a large absolute number of complaints.

- 4.16 Where changes were made as a result of root cause analysis, they tended to be in areas that resulted in operational efficiencies for the bank, rather than issues that might lead to fairer outcomes for their customers but would involve costs for the bank.
- 4.17 More generally, we were disappointed to find that although banks often undertook remedial action to make changes or improvements to their future approach, most failed to undertake or even consider remedial action for the wider population of customers potentially affected by the highlighted failings.

#### **Good practice: root cause analysis leading to wider action for non-complainants**

One bank used the output from its root cause analysis in deciding to take remedial action for a wider population of non-complainant customers.

#### **Poor practice: quality of MI**

MI collected did not drill down to individual product levels and therefore hampered the effectiveness of root cause analysis.

### **Training and competence**

#### *Our expectations*

- 4.18 Firms can influence the delivery of fair consumer outcomes by recruiting staff with appropriate skills, training staff effectively, and assessing and monitoring their competence. A robust performance management framework (with clear and appropriate objectives linked to the fair treatment of consumers), which is regularly reviewed and acted upon, will support the delivery of fair consumer outcomes.<sup>41</sup>

#### *Our findings*

- 4.19 The results from our file reviews led us to question the robustness of the training and competence arrangements in place for complaint handlers in four out of six banks. This was especially true for front-line staff, where complaint handling formed only part of their overall role.

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41 *Treating customers fairly – culture*, page 17 [http://www.fsa.gov.uk/pubs/other/tcf\\_culture.pdf](http://www.fsa.gov.uk/pubs/other/tcf_culture.pdf)



## Taking account of decisions and guidance issued by the FOS

### *Our requirements*

- 4.20 Complaint handlers must investigate and assess complaints, taking into account all relevant factors.<sup>42</sup> These factors include relevant guidance published by us and the FOS and appropriate analysis of decisions by the FOS concerning similar complaints received by the firm.<sup>43</sup> This applies to all types of complaint, including those resolved by close of the next business day and those resolved using the two-stage process.
- 4.21 We have previously made clear our expectation that firms undertake appropriate analysis of FOS decisions on similar complaints. For example, in a Dear CEO letter on mortgage endowment complaints handling in 2004, we said:
- ‘The FOS has also informed us that some firms have repeatedly turned down complaints on grounds which appear only very slightly different to those used in connection with earlier batches of complaints which the FOS has upheld. Our own work has also identified inconsistencies in some firms’ decision-making. Such behaviour is not in keeping with the spirit or letter of our requirements.’<sup>44</sup>
- 4.22 More recently we made reference to our expectations in this area in DP10/1 *Consumer Complaints (emerging risks and mass claims)* and in CP10/6 *The assessment and redress of payment protection insurance complaints*.<sup>45</sup>

### *Our findings*

- 4.23 Only two of the banks assessed had effective procedures in place to ensure the outcome of FOS decisions and relevant FOS guidance were captured and fed back into the relevant parts of the business. In these banks, a central area within the complaint-handling function considered the output from the FOS (in terms of both general guidance and decisions on individual cases) and then determined whether wider complaints policies, procedures and guidance needed to be revised in light of this new information. Feedback was also provided to individual complaint handlers whose decisions were changed by the FOS and action was taken to try and prevent decisions being changed on a similar basis in the future (where relevant).
- 4.24 The remaining banks either did not share relevant FOS guidance and decisions with complaint handlers or did not amend their complaint-handling approach to reflect key points from FOS decisions.

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42 DISP 1.4.1R.

43 DISP 1.4.2G

44 Dear CEO letter, *Mortgage Endowment Complaints Handling*, December 2004.  
[http://www.fsa.gov.uk/pubs/ceo/endowment\\_dec04.pdf](http://www.fsa.gov.uk/pubs/ceo/endowment_dec04.pdf)

45 DP10/1, paragraphs 3.29–3.30; CP10/6, page 18.

## **Approach to handling complaints resolved by the close of the next business day**

### *Our requirements*

- 4.25 Where complaints are resolved by the close of the next business day following receipt, some of the complaint-handling rules do not apply.<sup>46</sup> In many cases (particularly where a complaint is made orally), firms will be able to resolve a complaint on the spot – by means of a simple apology or explanation, or the immediate correction of a mistake. In such circumstances, it is unlikely to be necessary or appropriate to invoke the full complaints procedure.<sup>47</sup> However, firms must still investigate the complaint competently, diligently and impartially and assess it fairly, consistently and promptly.<sup>48</sup>
- 4.26 An important part of this rule is that, for it to apply, the complaint has to have actually been resolved. A complaint can only be classed as resolved by the close of the next business day ‘where the complainant has indicated acceptance of the firm’s response’.<sup>49</sup> Neither the response nor the acceptance has to be in writing but we would expect firms to have systems in place to record customer acceptance. Where firms do not get customer agreement to their response within this timescale, including getting agreement where the resolution is an apology or explanation, they must comply with the relevant complaint-handling rules in full.
- 4.27 It is also important to note that a firm’s obligation to take reasonable steps to ensure it identifies and remedies any recurring or systemic problems (e.g. through root cause analysis) applies to all complaints, including those resolved by the close of the next business day.<sup>50</sup>

### *Our findings*

- 4.28 The banks assessed resolved a significant proportion of the complaints they received (c.60 – 80% of all complaints) by the close of the next business day. In the main, these complaints related to simpler issues that could be investigated and resolved quickly.
- 4.29 Most banks had put in place procedures and controls to ensure that complaint handlers did not attempt to resolve complaints by the close of the next business day, when to do so would be to the potential detriment of a complainant. For example, some banks’ procedures ensured more complex complaints were handled by specialist areas, where the speed of resolution

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46 These are the complaints time limit rules (DISP 1.6), the complaints forwarding rules (DISP 1.7), the complaints reporting rules (DISP 1.10); the complaints record rule, if the complaint does not relate to MiFID business (DISP 1.9) and the complaints data publication rules. See DISP 1.10.1R

47 See CP49, *Complaints handling arrangements: Feedback statement on CP33 and draft rules*, FSA and FOS, May 2000

48 DISP 1.5.2G

49 DISP 1.5.3G (2)

50 DISP 1.3.3R and DISP 1.3.4G

was secondary to carrying out an appropriate investigation and reaching a fair and balanced decision on the outcome of the complaint.

- 4.30 The majority of banks assessed had targets for the percentage of complaints to be resolved by close of the next business day. Although we did not identify any poor practice directly linked to these targets, firms need to ensure that where they set such targets they put in place effective procedures and controls to mitigate any risk of poor complaint handling that could result.
- 4.31 We were concerned to find that one bank did not collect MI on the number or nature of complaints they resolved by close of the next business day, and were therefore not taking these complaints into account in any root cause analysis undertaken. This is a key source of information, which firms should be using to identify and, if appropriate, correct recurrent or systemic problems.

### **Good practice: good quality MI on 'close of the next business day' complaints**

Recording the same granular level of information on complaints resolved by close of the next business day as for other complaints. This was reviewed by senior management, ensuring they were sighted on quality and trends in this large population of complaints. This MI could also be drilled down to individual complaint handler level and was disseminated to team managers on a weekly basis.

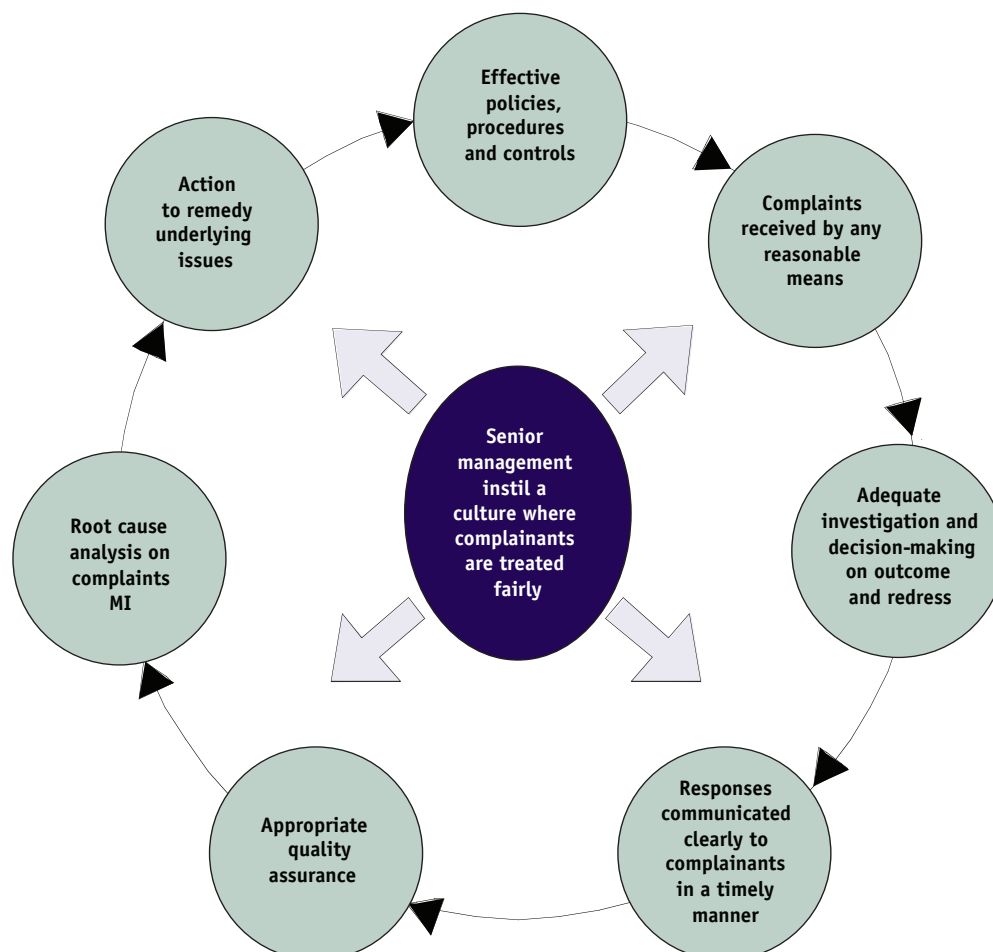
### **Poor practice: incorrect use of the 'close of the next business day' rule**

Complaints procedures classified complaints as resolved by close of the next business day (and therefore not reportable to us) even when the customer had not indicated they had accepted the firm's response or did not do so within the requisite timeframe. In these cases, a response issued to the complainant in writing (with no other communication with the complainant) could not confirm within the timescale that the complainant was satisfied with the proposed resolution. As confirmation of customer acceptance was not received, these complaints should therefore have been subject to the full complaint-handling rules.<sup>51</sup>

51 See DISP 1.5.1R

# 5 Key elements of fair complaint handling

5.1 This chapter draws together the findings from our review and summarises some of the key factors that contribute to fair complaint handling. We have also included examples of good practice where relevant.



5.2 The diagram above describes, in simple terms, some of the key elements of fair complaint handling and how they should link together. Further detail on each of these areas is included in this Chapter.

*Senior management instil a culture where complainants are treated fairly*

5.3 This involves:

- clear responsibility and accountability for complaint handling by member(s) of senior management. For example, ensuring complaint handling is discussed as a standing item at the Executive Committee with a member of the Executive accountable for its delivery;
- senior management focused on the quality of complaint handling as well as the volume of complaints;
- complaint handling embedded in the firm's governance structure with senior management actively monitoring standards through MI and driving action to improve standards throughout the business;
- a structured programme of training and development in place for all staff handling complaints (including those in front-line roles) supporting fair decision-making. For example, ensuring staff understand and are then monitored against both the regulatory requirements for handling complaints and a set of core values focused on delivering fair outcomes; and
- the remuneration for complaint-handling staff designed to encourage the delivery of fair outcomes and not encourage inappropriate behaviours. For example, linking reward to a balance of quality and non-quality (such as complaint volumes) performance objectives (designed to avoid potential conflicts of interest).

*Effective policies, procedures and controls for complaint handling*

5.4 This involves:

- policies, procedures and controls that are focused on outcomes (i.e. making a fair decision and offering the appropriate level of redress) as well as process (i.e. providing appropriate disclosure about FOS referral rights and adhering to the complaints time limit rules); and
- using the two-stage process so that it does not act as a barrier to fair complaint handling. For example, ensuring the complaints framework supports fair handling at both the initial and final stages, and putting in place procedures that avoid the unjustified use of more than two stages.

*Complaints received by any reasonable means*

5.5 This involves:

- the definition of what constitutes a complaint complying with DISP; and

- customers being able to make a complaint by any reasonable means. For example, allowing complaints to be made via all customer communication channels used by the firm (in branch, by letter, by email, by fax, by telephone etc).

*Adequate investigation and decision-making on outcome and redress*

5.6 This involves:

- procedures to ensure complaints are passed to the appropriate area for resolution. For example, passing more complex complaints automatically to more specialist complaint-handling areas;
- putting in place appropriate support to assist all staff handling complaints in resolving complaints fairly and calculating appropriate redress; and
- investigations taking into account all relevant factors, including guidance from the FSA and the FOS, and analysis of FOS decisions. For example, analysing relevant guidance and the outcome of FOS decisions and then using this to amend the approach to how complaints are handled.

*Responses communicated clearly to complainants in a timely manner*

5.7 This involves:

- aiming to resolve complaints at the earliest opportunity;
- complainants being given appropriate FOS rights;
- the outcome of complaints being articulated to complainants in a way that is fair, clear and not misleading; and
- maintaining good quality records of each complaint received, including how it was resolved.

*Appropriate quality assurance*

5.8 This involves:

- quality assurance focused on the quality of complaint handling as well as process; and
- the outcome of quality assurance captured in MI that is reviewed by senior management and fed into staff development where relevant.

*Root cause analysis carried out on MI*

5.9 This involves:

- complaint-handling MI that has an appropriate balance between qualitative and quantitative metrics to allow effective root cause analysis to be undertaken. For example, complaint volumes are contrasted against

relevant business measures, such as setting the volume of complaints about a certain product against the number of products sold. In addition, MI includes metrics to monitor the quality of complaint handling, such as the number of complaints that are reopened, the number of complaints referred to the FOS and the outcome of quality assurance;

- MI being reviewed by senior management in appropriate decision-making forums and used to decide whether action is required;
- MI that is fed back to business units with any relevant actions; and
- the output from root cause analysis used to consider whether it would be appropriate to take remedial action for a wider population of non-complainant customers.

*Action taken to remedy underlying issues*

5.10 This involves:

- policies, procedures and controls for complaint handling that are adapted to remedy any issues identified by MI and root cause analysis;
- taking action to remedy underlying issues within the wider business and/or for wider populations of affected customers where relevant; and
- the effectiveness of any changes monitored by appropriate analysis of further MI.

# 6 Action taken and next steps

## Summary of key points

- Two banks have been referred to our Enforcement Division for further investigation of their complaint handling.
- Five banks have either put in place or extended the scope of major change programmes on complaint handling in response to our work.
- We will conduct follow-up work later this year to test whether the changes being made in the banks we reviewed have been effective in raising standards. Where banks continue to deliver poor outcomes we will take tough action to drive an improvement in standards.
- All firms should take note of our findings and consider whether their approach should be amended to improve standards and deliver the right outcomes for complainants.
- Given the findings from this review and other supervisory work on complaint handling, we are considering changing certain elements of DISP. We will include any proposals in a consultation paper planned for Q3 2010.

## Action for banks included within our review

- 6.1 The overall results of our review show poor standards of complaint handling within the majority of the banks assessed. As a result, we are taking tough regulatory action to drive an improvement in standards.
- 6.2 All banks reviewed have agreed to undertake remedial action to improve standards where relevant. The action taken relates to our sample of six banking groups. The scale of this work falls into three broad categories:
  - one bank is undertaking minor actions;
  - five banks have put in place or extended the scope of existing change programmes to address significant failings; and



- two of these five banks have been referred to our Enforcement Division for investigation.
- 6.3 The scope of the change programmes currently being implemented by the banking groups includes:
- three banks are amending governance structures to enhance senior management oversight of complaint handling;
  - five banks are strengthening their quality assurance arrangements;
  - four banks are revising and improving the MI used to assess the quality of complaint handling;
  - three banks are improving the way they conduct root cause analysis and feed its output into the business;
  - three banks are improving the way they take account of relevant FOS decisions and guidance in their approach to handling complaints;
  - two banks are amending their policies and procedures to focus more on consumer outcomes; and
  - three banks are enhancing training and competence arrangements for staff who handle complaints.
- 6.4 We are currently in discussions with some banks on the format of further remedial work, so the scope of this work may increase.
- 6.5 We will continue to focus on complaint handling as part of our more intensive and intrusive supervision of conduct risks and will be undertaking follow-up assessments later in 2010 to assess whether the initial action taken by banks has been effective in raising standards and delivering fair consumer outcomes. If we find banks are continuing to deliver poor outcomes for complainants, we will use our full range of regulatory tools to drive an improvement in standards.
- 6.6 Notwithstanding this, it is important to recognise that the degree of change necessary in some banks requires sustained and rigorous effort from senior management to deliver improvements. This includes formally embedding fair complaint handling within firms' governance structures (through Executive Committees and up to Board level) so that complaint handling is at the heart of their decision-making and oversight arrangements. This should ensure that senior management are actively involved in improving complaint-handling standards, and using the information gathered to identify any underlying issues and make changes to ensure the wider business treats customers fairly.
- 6.7 This also means evidence of change may take time to filter through. It is important to note that, in the short term, actions taken by banks may not necessarily result in a decrease in complaint volumes or the numbers of complaints referred to the FOS.

## Action for all firms

- 6.8 We strongly encourage **all firms** to take note of these findings and consider whether they need to make changes to their existing approach to complaint handling to improve standards and deliver the right outcomes for complainants.
- 6.9 To assist firms we have published the complaint-handling file review template we use to assess complaint files as part of our supervisory work. The template focuses on assessing the outcome of the complaint (as well as the procedural aspects of complaint handling) and properly used can be an effective diagnostic tool in highlighting weaknesses in the approach taken by firms. Firms may wish to use the template to help them assess if their complaint handling delivers fair outcomes for their customers.
- 6.10 In the light of our new rules on publishing complaints data, we are aware that some firms have been considering how they might reduce reportable complaint volumes, such as by changing their definition of a complaint. All firms are reminded that if they consider making changes to their approach they must ensure that they comply with our complaint handling and any other relevant rules and treat complainants fairly. We will continue to monitor complaint-handling data submitted by firms and that produced by the FOS to identify any potential areas of poor practice.
- 6.11 As a result of this review and other supervisory work on complaint handling, which found continuing failings in certain areas, we are carrying out work on changing elements of the DISP complaint-handling rules. We are doing this with a view to amending or strengthening them, since continued supervisory pressure alone is not delivering significant improvement. Subject to consultation and undertaking a cost-benefit analysis, we propose to make rule changes covering the following areas:
- to strengthen senior management oversight and engagement in complaint handling;
  - to remove the two-stage process (our review indicates that the two-stage process can act as a barrier to fair complaint handling, with potential for detrimental effects on consumers);
  - to strengthen root cause analysis requirements; and
  - to strengthen the factors firms should take into account when investigating and assessing complaints, especially FOS decisions.
- 6.12 We will include these proposals in a consultation on DISP sourcebook planned for Q3 2010.



The Financial Services Authority  
25 The North Colonnade Canary Wharf London E14 5HS  
Telephone: +44 (0)20 7066 1000 Fax: +44 (0)20 7066 1099  
Website: <http://www.fsa.gov.uk>

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