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Dear Debbie,

Financial Ombudsman Service strategic plans and budget for 2019/2020

This is the response of the Financial Services Consumer Panel (the Panel) to the consultation on the Financial Ombudsman Service (FOS) strategic plans and budget for 2019/2020.

The Panel shares the FOS' concerns about harm in consumer credit, in particular, unaffordable lending, and also scams and poor advice on pension transfers. Overall, we agree with the FOS view that there will be a rise in complaints generated by claims management firms and hope that increased awareness of the FOS, including through the launch of a redesigned website in the summer, will encourage more direct complaints from consumers. Given the increased demand for the FOS service, it is right that investment should focus on increasing capacity to provide an effective service.

As in previous years, we would like to encourage the FOS to continue working with firms on improving their complaint handling processes and would support any initiatives that improve access to redress for consumers, including using technology to make the process less burdensome for consumers who have legitimate claims.

We believe that the current process which requires consumers to wait eight weeks for a firm to respond to a complaint is far too long, especially in the digital world in which we now live. The FCA has highlighted in its Approach to Consumers¹ document that "*complaint processes may not be consistently meeting the needs of all consumers*" and that "*the lack of clarity of relevant processes has discouraged them from complaining.*" Firms must also play their part in getting answers to consumers quickly.

The Panel believes that the FOS has an important role to play in preventing harm through the insights it shares via its newsletter and with other regulatory bodies (FCA, FSCS) and consumer organisations. We support the FOS' engagement with stakeholders to ensure increased awareness of the FOS, and to highlight poor firm practice which should help to drive positive change across the financial services sector.

Yours sincerely

Mark Chidley
Interim Chair, Financial Services Consumer Panel

¹ <https://www.fca.org.uk/publications/corporate-documents/approach-consumers>

Questions

Q1. What's your perspective on the trends we've highlighted?

The Panel notes the rising demand for the FOS' service and shares the FOS' concerns about poor practice in short-term lending and the rise in scams and poor advice in relation to pension transfers. Firms should be doing more to improve their own complaints handling processes, which would reduce the need for consumers to bring complaints to the FOS either directly or through CMCs.

Q2. Are there other trends you're seeing, or any insights you have, that you think we should take into account in our plans?

No comment.

Q3. What do you think about our projections for the volumes of complaints we'll see up to 31 March 2019?

No comment.

Q4. What do you think about our projections for the volumes of complaints we'll receive and resolve in 2019/2020?

No comment.

Q5. What are your views on the uncertainties we're facing in PPI and short-term lending?

No comment.

Q6. What are your views on our plans for our new small and medium-sized enterprise (SME) jurisdiction?

With 210,000 small businesses being eligible to complain to the FOS, careful consideration must be given to resource and expertise required to handle these complaints. We are supportive of the proposed approach to case handling for these complaints and the specialist teams envisaged.

As we said in our response to the FCA's consultation on increasing the FOS award limit,² a review two years after implementation (April 2021) into the volume, type and compensation value of SME complaints handled by the FOS should be published which should be more in depth than the FOS' regular complaints data publication for firms. Periodic reviews thereafter should be implemented to ensure SMEs are getting the intended level of protection and to support the FOS' future planning. The external expert panel which has been proposed to provide additional support to the specialist FOS SME team, should be independent and also provide feedback to the reviews of SME complaints we have suggested above.

² https://www.fs-cp.org.uk/sites/default/files/fscp_response_to_fos_award_limit_final_20181221.pdf

Q7. What are your views on our plans for our new claims management company (CMC) jurisdiction?

We agree with the plans proposed and urge the FOS to gather as much insight as possible from the Legal Ombudsman to inform planning and case handling in the near future. As the FOS will also take on unresolved complaints from the Legal Ombudsman, the FOS must ensure clear communication between the two bodies with designated contacts to help the smooth transition of cases. As suggested, continued engagement with all relevant stakeholders will be key to ensuring the accommodation of new CMC complaints is managed well.

Q8. What are your views on our plans to develop our service in 2019/2020?

No comment.

Q9. What are your views on our proposed funding arrangements for 2019/2020, including increasing our levy?

Whilst we agree that the FOS funding model needs to change to reflect increasing and changing demand, it is also important to recognise that cases that are resolved early with FOS intervention are not reflected in published upheld complaints data and these cases are not 'chargeable' meaning that the FOS will not get a fee for the early resolution these cases. This is something that should be considered as the debate about the funding of FOS progresses. The costs of the FOS services must be reviewed at all levels to ensure that firms who burden the service pay for the costs.

Q10. How far do you think our guiding principles remain relevant as we look ahead to 2025?

The guiding principles are still relevant. The Panel is keen for the service to remain free for consumers and for cases to continue to be decided based on what is fair and reasonable.

The service should be expedient in the interest of consumers. Speed also benefits firms because ongoing claims will continue to drain firm resources. Speed also allows firms to address any internal failings promptly.

Q11. What are your views on the questions we've set out?

No comment.

Q12. Are there any other questions you think we need to ask, or any other developments you think we should take into account?

As we have said above, the 8-week timeframe for businesses to respond to a complaint is far too long. We acknowledged in our response to the FCA's consultation on extending the FOS' jurisdiction to APP cases,³ that in crucial payment services the timeframe is much shorter (15 business days). We feel that 15 business days (with 35 business days for exceptional cases) should be applied to all financial services firms. This guidance would be in line with DISP which states "*the respondent should aim to resolve complaints at the earliest possible opportunity.*"⁴

³ https://www.fs-cp.org.uk/sites/default/files/fscp_response_cp_18-16_app_fraud_and_fos_extension_002.pdf

⁴ DISP 1.4.3 <https://www.handbook.fca.org.uk/handbook/DISP/1/4.html>

The Panel believes the FOS process should be as simple and stress free as possible which includes considering whether the criteria applied to claims are fair. More analysis should be done on the consumer experience data it has, to ensure this is the case.

Q13. What do you think about the next steps we've identified in developing our strategy?

No comment.

Q14. Do you have any other feedback about our strategic approach?

No comment.

Q15. What are your views on the principles that underpin our funding?

The principles seem sensible for any new funding model. The consultation rightly recognises that any model chosen cannot and will not please every stakeholder.

Q16. What do you think about the funding options we've presented?

The Panel agrees that how the FOS is funded is an important issue especially with the predicted increased demand on the service and the new CMC and SME complaints. We welcome the debate around risk-based levies and the options proposed. A preventative approach would always gain our support and the Panel looks forward to the Summer 2019 consultation to hear more about how this approach could be implemented.

Q17. When do you think we should change our funding model?

No comment.

Q18. Do you have any other views about our future funding?

No comment.