



# Treasury Committee

## Oral evidence: The work of the Financial Ombudsman Service, HC 1096

Wednesday 9 February 2022

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Members present: Mel Stride (Chair); Rushanara Ali; Harriett Baldwin; Anthony Browne; Gareth Davies; Dame Angela Eagle; Kevin Hollinrake; Julie Marson; Siobhain McDonagh; Alison Thewliss.

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### Witnesses

I: Baroness Zahida Manzoor CBE, Chair, Financial Ombudsman Service; Nausicaa Delfas, Interim Chief Executive and Chief Ombudsman, Financial Ombudsman Service.

### Examination of witnesses

Witnesses: Baroness Zahida Manzoor and Nausicaa Delfas.

Q1 **Chair:** Good afternoon and welcome to the Treasury Select Committee and our hearing today into the work of the Financial Ombudsman Service. I am very pleased to be joined by two witnesses, who I am going to ask to introduce themselves to the Committee.

**Nausicaa Delfas:** Hello. I am Nausicaa Delfas. I am interim chief executive and chief ombudsman at the Financial Ombudsman Service.

**Baroness Manzoor:** Zahida Manzoor, chairman of the Financial Ombudsman Service.

Q2 **Chair:** Welcome to you both. Thank you for coming. Nausicaa, could I start with you? You have been in post for about nine months. It is fair to say that the FOS has had quite a lot of challenges over recent years, and many that it has to meet over the coming period too. What were your first impressions when you arrived at the FOS and what were your immediate thoughts as to what needed to be addressed in terms of challenges ahead?

**Nausicaa Delfas:** First of all, I would like to say it is a great opportunity to be before this Committee today. The ombudsman service is at a



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pivotal point. We are changing and improving. We have set out our action plan. We are already making changes. There is much more to do, and we do not underestimate the challenges, but I look forward to discussing all of that with the Committee today.

In terms of my first impressions when I arrived last May, first of all I found that the ombudsman service provides a vital public service, resolving hundreds of thousands of complaints between individuals and small businesses and financial services firms. It is free for complainants to use and a hugely important part of the financial services ecosystem.

I also found that the staff at the Financial Ombudsman Service were really committed and capable, and very open to discussing the changes that we needed to make. I have been really impressed with that, and their engagement is high.

As you said, there clearly were challenges. My first impressions on the challenges are these. First of all, too many people were having to wait too long for their complaints to be resolved, with large queues of cases. We are now receiving more diverse cases than before. Secondly, I felt that the operating structure and, similarly, the processes of the Financial Ombudsman Service were too complicated, not efficient enough and really needed to be clearer and simpler. Thirdly, it seemed to me that the organisation could be more proactive and assertive, in two senses—one, in case management and, secondly, in its engagement with stakeholders.

That is why, since I joined, I have been focused on two key priorities. One was getting through those queues of cases and speeding up resolution times as much as possible and, the second was, strategically resetting the organisation for the future. For that, I initiated the independent review that the board had commissioned and I published our action plan at the end of last year, which we are now implementing.

**Q3 Chair:** In terms of the processes that needed to be clearer and simpler, can you flesh those out a bit? Tell us a bit about what was going on that was inefficient and how you are addressing that.

**Nausicaa Delfas:** I could refer to the changes that we are now making to our organisational structure. First of all, we needed to make our casework operating model clearer and simpler in the sense of having more focus on industry specialisms, and clearer lines of accountability and empowerment. The way that the organisation was working was quite a generalist model, where people had a variety of responsibilities, which makes it difficult to really drive performance. That is one of the things that we are looking to change and, as you will be aware, we are in the process at the moment of designing our target operating model, which will be complete in about a month's time.

The other thing that I noticed was that we needed clearer business processes for triaging and routing our cases, to make sure that the cases arrived at the right person at the right time. We are also in the process of



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reshaping our management of casework performance to have really clear management information and data.

Those are the kinds of things that we are working on at the moment. I identified at the beginning that making those changes would make a huge difference to the productivity of the organisation.

**Q4 Chair:** One of the things you mentioned earlier was the shift to more complex cases, going from a lot of PPI historically into now more complicated cases. That sounds like a very significant challenge. How confident are you that, with increasing complexity, you are going to start getting greater productivity in dealing with those particular cases? What is the early evidence on that?

**Nausicaa Delfas:** You are absolutely right. It is a challenge, but it is one that we are tackling at the moment. If I just give a bit of context to the Committee, the work of the ombudsman service historically was 78% PPI cases. It is now 4%. In the last year, the more diverse cases have increased by 60%. The reason why this is important is that most of the PPI cases were resolved in a more standardised way and there were economies of scale that could be delivered through that method.

We now have a broader range of cases and, as you will have seen, as financial services innovate—it is a very dynamic market—we are likely to get other cases, so we need to make sure that we are agile and able to meet those challenges. That is why we have our action plan and why we are in the process of changing and improving the ombudsman service, so that we can maximise the benefit of the work that people at the ombudsman service do.

**Q5 Chair:** But you are confident that, if we have you back here in 12 months' time or whenever it may be, you will not be sitting there saying, "The greater complexity ended up being much more of a challenge than we expected and we are, therefore, falling short". Do you feel confident in that mission at the moment?

**Nausicaa Delfas:** I do. You asked what benefits we are seeing at the moment, and I can say that, through tackling the queues, we have already changed some of the way in which we operate—for example, allocating cases to specific teams with specific specialisms and releasing some of the time that investigators spend answering telephone calls. We are taking some of those phone calls off them, so that they can spend longer working on the cases.

We are also working with the industry, through our outcome code consultation, to settle cases proactively. We introduced that from November last year and have already resolved over 4,000 cases that way and delivered over £10 million of redress to consumers. We are already using various innovative means to improve productivity and get through our cases more quickly.



With the specialisms, we have some excellent people at the ombudsman service, and an excellent legal department as well. The changes that we will be making will ensure that we can maximise the benefit of our expertise and build on that.

**Q6 Chair:** When you launched your action plan, your press comment included, “We will be changing our operating model”—which you have referred to—“leveraging technology”—which we will come on to a bit later—“and ensuring we share our insights to prevent complaints from arising in the first place”. You probably touched on that there. Could you tell us a bit more about that? If you can encourage businesses to settle or complaints not to happen in the first place, that reduces your workload. What things are you doing in that space?

**Nausicaa Delfas:** Prevention is really important. It is really ancillary to us resolving cases effectively and quickly. In the ombudsman service, we have a tremendous insight into what is going on between financial services firms and their consumers and small businesses. We want to use that insight in as effective and timely a way to prevent further complaints or unfairness arising.

**Q7 Chair:** How are you doing that?

**Nausicaa Delfas:** There are two ways. One is that we have been trialling an approach whereby we try to give feedback in real time on certain cases. We can say that we are going to uphold a case, and go back to a firm and identify what the issues are, so that we do not receive so many of the same kind of complaints that could be resolved at the firm, or the unfairness need not arise in the first place.

A second one is through communication. We already put on our website some of the insights that we have, how we are resolving complaints, and the type of risks that are arising. For example, very recently, we raised something about e-scooters and insurance. Through that means, we can also bring things to the attention of the wider industry and consumer.

Lastly, fraud and scams is an area where we have seen a tremendous increase in complaints. Where we are able to, we would like to communicate to consumers in order to help them avoid falling victim to these scams.

There is a lot that we can do through our case resolution and feedback to firms, but also through our communication.

**Q8 Chair:** Do you quantify or measure in some way your effectiveness in that area? Is there some metric that you use in that respect?

**Nausicaa Delfas:** One of the things that we are doing as part of our action plan is to improve our metrics and strategies.

**Q9 Chair:** With what you are discussing at the moment—that feedback loop into these businesses to try to reduce the level of demand and things like



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that—do you have existing metrics that cover that area?

**Nausicaa Delfas:** Yes. We look at how our messages are received and so forth. I should mention that we have also reinvigorated our wider implications process between the ombudsman service and the rest of the regulatory family, so that we can more formally and transparently also share insight in that way. You strike on something that is an area that we are committed to improving, which is our measurement around prevention and seeing whether the—

Q10 **Chair:** What would be really helpful, Nausicaa, is if you could write to the Committee just to set out what it is you are doing at the moment in that respect—i.e. the metrics around prevention—and what your thinking is at this stage and how that may change going forward. That would be really helpful, but thank you for those answers. Zahida, did you have anything to add to any of the points that we have covered so far?

**Baroness Manzoor:** Nausicaa has covered them very well. The only thing that I would say is first to say thank you very much to you and the Committee members for inviting us to share some of the challenges that the ombudsman service is facing, and to share very clearly the action that we are taking to move forward.

We recognise that there is a significant amount of work to do. The board is absolutely committed to improving our turnaround times and service standards. This is the central theme. We also want to live within our budget and to be independent, cost-effective and efficient. This is what this is about.

In terms of the metrics that you mentioned, you are absolutely right. It is something that the board is very mindful of, and we are revisiting all of our metrics and performance targets, so that, as a board, we can measure performance against those, because this will make significant change not only to businesses but also to the consumers who use our services.

Q11 **Chair:** It is interesting that you touched there for the first time on the finances of the FOS. When I asked what the challenges were, I thought you might have raised that, because all is not well. As I understand it, you have been leaning quite heavily into the reserves. The burn time on the reserves at the moment is about 16 months before you get down to the level at which it is really a very significant concern. How confident are you that the plans that you are putting forward and developing will see the FOS in a good financial position over the coming years? I would value your comments on that.

**Nausicaa Delfas:** It is absolutely a challenge on the finance side, as you say. I would just like to give a bit of context to the Committee about the finances of the Financial Ombudsman Service. As you will be aware, we are funded by an industry levy and a case fee. Historically, because of PPI, the ombudsman service raised a supplementary fee almost 10 years ago, which has now become the ombudsman service's reserves. The



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reason for that supplementary fee was to build up the ombudsman service to cope with the 2 million complaints that came in, and then to contract back again.

What has happened with the supplementary fee and the reserves is that, in effect, PPI masked the true cost per case and income per case that the ombudsman service was previously receiving. We are now in a position where we need to reshape the organisation, and that is, as Baroness Manzoor said, exactly what we are doing through our action plan, so that we can balance the income per case and cost per case. Historically, there has always been a gap between our revenue per case and cost per case, and we need to close that gap.

**Q12 Chair:** I am looking at various bar charts here showing exactly that. What are the elements that allow you to close the gap? There is the level of the fee going forward, with the different types of fee. There is choking off demand by the things that we have just been discussing. There is productivity improvement and just getting through the work that much more quickly. Have I alighted on the three main things that you focus on, or is there something that I have missed there?

**Nausicaa Delfas:** You are absolutely right. We have already consulted on our fee and budget consultation for this coming financial year, and will consult again at the beginning of the next financial year for the following one, to look at the options between the proportion of the levy and the case fee, and also whether there are ways in which we can use changes to the funding model to incentivise good behaviour or resolution. I am looking forward to that in the future. At the moment, our levy is 45% and the case fee is 55%, and there is a question that I know the ombudsman service has raised before as to whether the levy and the case fee should be at least equal, because it needs a stable financial basis to move forward.

You asked how we will close the gap. You are absolutely right that we will close the gap through improving productivity, through the elements of the change programme that we have set out, and through prevention. Through our prevention work, we can stem the flow of cases coming to us.

**Q13 Chair:** I am looking at a chart here, which is an extract from the FOS 2022-23 plans and budget consultation, from December 2021. It shows that the draft budget for 2022-23 has the underlying cost per case as £1,296. Sorry, that is a comparison. What level do you have to get? If I am looking at 2022-23 and an underlying cost per case of £1,296, what was it the year before that? How much of a shift is it? What does the trajectory of that underlying cost per case have to be? Is it going to have to come down below £1,000 per case over the coming years? What is the trajectory?

**Nausicaa Delfas:** Let me give you some broad figures. At the moment, our cost per case is about £1,000-plus, as you have identified, but the



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revenue per case is around £900, so there is a gap of about £100 between the cost per case and the revenue per case, which is made up of the case fee and other income through the levy. What we need to do is to balance that out, and that is what we will be doing.

Q14 **Chair:** Broadly speaking, is it a 10% improvement in the cost per case that you have to get to in order to break even?

**Nausicaa Delfas:** As we explained in our action plan and in the independent review, we expect a 25% increase in productivity by April 2024, and we expect that that will drive down the cost per case. That is what we are aiming for.

Q15 **Chair:** At that point, you are well above water and things are looking okay.

**Nausicaa Delfas:** That is right, because our income per case will be higher than the cost per case.

Q16 **Anthony Browne:** What is your handling fee per case at the moment?

**Nausicaa Delfas:** The case fee is £750.

Q17 **Anthony Browne:** What income do you get from individual cases other than the case fee?

**Nausicaa Delfas:** We get the levy as well. That is what that is.

Q18 **Anthony Browne:** Some cases are very complex, as you said, and they take a lot of time. Some are a lot simpler and take a lot less time. Is there an argument for having a variable case fee, depending on the complexity of the case or, indeed, the amount awarded against the company? You can award £350,000. Financial services companies sometimes settle if it is a claim for less than the case fee, because it is cheaper for them just to pay out rather than to go to the FOS.

**Nausicaa Delfas:** These are exactly the types of issues that we would like to discuss in our next funding consultation—whether there is an argument for a differentiated case fee. Another idea that people have suggested is whether we have a lower case fee for earlier resolution and that kind of thing. It is exactly what we will be looking at, because you are right that £750 for quite a complex case that will take quite a long time is very little.

Q19 **Anthony Browne:** And where the award can be £350,000.

**Nausicaa Delfas:** It could be £350,000.

Q20 **Anthony Browne:** There are other complaints where people are seeking £500 and the case fee is higher than what would be awarded.

**Nausicaa Delfas:** Yes. We have a broad range of complaints. There could be ones that are very straightforward issues to resolve. There might be others that could take some time to resolve, with the need to get reports and so forth; for example, for an insurance claim on



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subsidence, you would need to get a report. There are very different kinds of cases, and that is an area that we will be looking at in our next consultation.

**Q21 Chair:** When will that consultation start? Presumably, you will go out with a set of proposals to consult on.

**Nausicaa Delfas:** Indeed. It is all subject to consultation. We are expecting it in the first quarter of the next financial year, so this spring/summer.

**Chair:** I would be very interested in following that. Thank you very much.

**Baroness Manzoor:** We have to have a viable organisation as well. Although we have to look at alternative ways of funding the organisation, we have to be viable in terms of staff numbers, because we still have to pay salaries. Therefore, part of the action plan is very much looking at the skills and any skill gaps that there are, so that we can make sure that we have an even more highly skilled workforce than we currently have, who can deal with a whole range of issues, while making sure that the fees that are expected from businesses are kept as low as possible. That is absolutely fundamental, but we must improve our own productivity as well.

It is the three things that you indicated, Chair. We recognise that we need to improve our productivity; the board is absolutely clear that that needs to happen, and Nausicaa has indicated that. Secondly, we need to look at where and how we are spending our money and what the outcomes are. Thirdly, we really need to be looking at our staff expertise, so that we are getting through these cases much more smartly and quickly. We are also looking at our IT systems, which I know we are coming to later, as to how we can make that process even smoother.

**Q22 Julie Marson:** Nausicaa, it is really interesting to hear about the action plan and what you are looking forward to as a baseline. I have some questions about staff. The investigators and ombudsmen at FOS already have a requirement to look at some complex financial issues and products. In your comments to the Chair, you mentioned having more assertive case management and potentially going to more industry specialisms. How will you balance those types of skills and experience in your staff, in terms of both recruiting and training them as they join the organisation and throughout their careers?

**Nausicaa Delfas:** As I mentioned and you picked up, we have some excellent investigators and ombudsmen who are already dealing with these issues, but my view is that, by improving and clarifying the structure within the organisation, we will have clear lines of accountability and leadership. For example, we would have a team that focuses solely on banking or credit. We already have some of those teams, and expertise has been built in those areas. It is clear that, by building that expertise, people are able to get through the cases more quickly, more



assertively and more expertly. That is what I want to introduce across the organisation.

When I mentioned assertive case management, it is also about our expectations at the ombudsman service. We would expect industry to provide information quickly. We know that there were issues during the pandemic that slowed things down considerably. It is much better now, but we also have powers that we could use but have not used. Ideally, we want to work informally and to make sure that we move cases along quickly, but if we need them we also have powers under our complaints rules and under statute that we can use to drive things forward.

In terms of recruitment and staff, we have a good base to build on. As I mentioned, we have an excellent legal department as well that provides advice across all the areas, but, as Baroness Manzoor also mentioned, we also need to look at building that specialism and potentially bringing people in at different levels. At the moment, we have investigators and ombudsmen, but we might need to bring in others at different levels to make sure that we have that expertise. I am very confident that the changes that we are making will make a significant difference.

**Q23 Julie Marson:** What would be more important to you if you are recruiting? Would it be to have a superb, experienced case-handler and to build the financial expertise or the other way round—someone who knows financial products but has no experience of casework?

**Nausicaa Delfas:** I would say that we need a bit of both. An important skill set that all our people need to have is the ability to get to the heart of an issue. A customer may come to us with a complaint. They may be vulnerable. We have a specialist team to help vulnerable consumers. All our case-handlers need to be able to get to the heart of the issue and to understand what the complaint is really about.

We also need people who have financial services expertise in certain areas. We have built up our expertise in small and medium-sized enterprises. We have experts in that area and in pensions. There are areas where some expertise is really beneficial as well, but, as a core skill, everybody has to be able to get to the heart of the issue and resolve problems quickly and easily.

**Q24 Julie Marson:** I know of someone who had very extensive case-handling skills and embarked on the training. It was during the lockdown period, so a lot of it was online. They got through that, but could not handle it and left, because that person was finding it very difficult and almost overwhelming to get to know the technological, financial elements of it. How much of an issue is that? How is your training designed to help? And even the other way round—someone with the opposite issue.

**Nausicaa Delfas:** This is something that we recognise. I could explain some changes that we have already made to our academy training. We have an academy in which all people who join the ombudsman service



are trained. Historically, people were trained in all areas of financial services and then started in a role. To streamline this, we have focused the training in a particular area—perhaps in one of the more straightforward areas—so that the case-handler can pass through the academy, start in the area in which they have been trained and build their confidence and expertise in that area. Should they wish to move to other areas and gain more expertise, we can provide more training at that point.

You make a very good point. It is something that we have already addressed. Going forward, through our action plan, we want to enhance our training capability, so that we can train more people at all levels as well.

**Q25 Julie Marson:** Currently, particularly in certain areas, you have very high staff attrition rates. Is that going to be an important marker for how you succeed in the areas that you are trying to address, such as training and support?

**Nausicaa Delfas:** Yes, absolutely. We will look at the way in which we attract and retain people, and we expect that the changes that we are making will make the roles more satisfying for people. Even now, we look very carefully at attrition. It is clear that the market has picked up for everybody, particularly after two years or so of the pandemic. We look very carefully at that and seek to address it in the way that we recruit and train. It is an important marker for us.

**Q26 Julie Marson:** One of the hangovers from the pandemic is still a lot of hybrid or online working. Some of your handlers are in quite stressful situations with very unhappy clients who themselves are very stressed in their situations. How are you supporting that kind of working environment for staff?

**Nausicaa Delfas:** It can be very stressful for our staff, which is why it is part of the training that we provide at the outset. All case-handlers are trained in dealing with customers who may be in distress or who may be particularly vulnerable. We also have a very specialist team that deals with those cases. If things are too difficult, they can be passed to that other team.

The point you raise about hybrid working and not being in the office is a good one, because we are moving to people coming back to the office for some of the week, which will be a significant benefit, for reasons like that and for building team spirit and training.

**Baroness Manzoor:** I was very sorry to hear that a member of our staff had left the service, because it is a resource that we have put money, effort, time and training into. We take those issues very seriously. You are absolutely right, as Nausicaa indicated, that our attrition rate is high. We have thrown new people into the deep end a little bit, wanting to



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learn about all products, and the organisation design that the team is looking at and developing will alleviate that problem a lot.

As chairman, I am very conscious that, when I took over, 45% of investigators had been within the service for less than two years. For some of our most experienced and highly trained ombudsmen, their time was taken up training these individuals, so it is very important that we get the new model right. This is what the independent review and the operating model are about.

What does success look like? When I look at benefits, we pay a very high level. We are in the top quartile for benefits, so it is not about some of the money issues, but we want to make sure that we are attracting skilled and experienced people, and not just from the finance sector. We are an alternative dispute resolution, and so a common-sense approach is just as valuable as the intellectual rigour and capability.

**Q27 Julie Marson:** Nausicaa, you said that you are encouraging staff to come back into the office. How many people are working in the office full-time? What is your plan in terms of getting people back into the office?

**Nausicaa Delfas:** Currently, as we move past the previous restrictions, people are coming in one day a week. We expect that to move to two days a week or a four-day fortnight. That is what we have agreed.

**Q28 Dame Angela Eagle:** How long have the oldest cases in the backlog had to wait?

**Nausicaa Delfas:** You are right to ask this question. As I mentioned at the outset, when I joined, one of my first impressions was that many people had had to wait far too long for their cases to be resolved. Some cases were up to four years old. I am pleased to say, though, that we made a commitment this year to have no cases older than 18 months by the end of this financial year, unless there was a reason beyond our control that prevented that—for example, judicial review.

**Q29 Dame Angela Eagle:** Are you on track to achieve that?

**Nausicaa Delfas:** Yes, we are. We are on track to achieve that. There was a significant number at the beginning of the year. We now expect that there may be only a handful at the end of this financial year that we would not be able to resolve. We have made significant inroads into that.

**Q30 Dame Angela Eagle:** How big is the backlog now? It was at 90,000 unallocated cases. Where is it now?

**Nausicaa Delfas:** When I joined in May 2021, you are absolutely right: there were 90,000 unallocated cases. I am pleased to say that we have more than halved that already and are now at 43,000. I mentioned some of the innovations and initiatives that we have taken to drive resolutions more quickly, which seem to be working. We are going to continue on that path. One of our top priorities is to get through that backlog, so that we can get into a steady state whilst we move to our new model.



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Q31 **Dame Angela Eagle:** Are you dealing with the oldest cases first or are you doing a mixture?

**Nausicaa Delfas:** We are dealing with the oldest cases first, because some people may have had to wait a long time.

Q32 **Dame Angela Eagle:** So those that are coming in now are, in essence, having to wait. You are not trying to deal with simple cases at the front end and deal with the backlog.

**Nausicaa Delfas:** We are doing some simple cases at the front end, but if someone came to us today, it would probably take, on average, seven months for their case to be resolved. With the changes that we are making, we expect that we will be able to have an average of four months. That is what we want to achieve.

Q33 **Dame Angela Eagle:** Is the target for achieving that the end of this financial year?

**Nausicaa Delfas:** We need to get through the backlog of cases. There are certainly some cases that we will be able to resolve quickly, but we expect to be able to get through the queue during this next financial year.

Q34 **Dame Angela Eagle:** There has been a huge increase in complaints about fraud and scams. You were talking about prevention and flagging up trends. Do you have anything to say about what you have learned about the increase in fraud and scam complaints?

**Nausicaa Delfas:** We have seen a 60% increase in fraud and scam complaints at the Financial Ombudsman Service between this year and last year. There are a lot around authorised push-payment fraud, for example. What we have seen, through the feedback that we have given to firms as we have been handling these complaints, is a marked improvement in the quality of the risk warnings given to customers. They are more focused and specific to the type of fraud that might be occurring. Whilst the uphold rate is still quite high in that area, it is slowly coming down.

In terms of the types of cases that we tend to see, a lot are fraud cases that are brought through online purchases, where people have bought something, particularly during the pandemic, and the goods never arrive. We have seen other cases around investment scams and a few in romance scams and things like that. There are a lot in fraud and scams, and so we are very supportive of the Treasury Select Committee's report on economic crime and we very much support your approach.

The ombudsman has its role to play, but everybody needs to play a role in this, including the technology providers, as you are proposing, to stop fraudulent advertisements online and so forth, as well as the banks, which are improving their warnings and their fraud detection systems, and consumers, who need to take care. I know that there is a lot of



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publicity around the types of fraud that occur. It is a real issue, and we are seeing quite a lot of cases.

**Q35 Rushanara Ali:** I have some follow-up questions on the subject of the backlog. We have already touched on resources, but according to your recent letter to the Committee, last year you received 60% more complaints than the FOS was resourced to handle. Could you just run through some of the background to why this happened? We are aware of the 22,000 Covid cases, but what were the other factors? Was it really difficult to anticipate that increase?

**Nausicaa Delfas:** I was not here before May, so I could not say whether it was possible to anticipate at the time. Looking back with hindsight at the issues that came in, you are right that about 20,000 are Covid-related. We got a lot of Covid-related cases, such as wedding insurance, travel insurance and health insurance. We also got a lot of high-cost credit cases on unaffordable lending and guarantor loans. They were a high proportion of the increase in cases that came in. As we look forward to the coming year, whenever there is a period of economic or financial hardship, it would not be surprising if we got more of those cases again.

**Q36 Rushanara Ali:** Were these Covid-related cases? Do they count among the 22,000 or were they separate?

**Nausicaa Delfas:** We have counted these ones separately, but you are right in the sense that the financial hardship could have been caused by Covid. The Covid-related ones were very specific, as I have mentioned.

**Q37 Rushanara Ali:** Leaving aside your role, given that you are relatively new, why was the organisation not able to anticipate the increase?

**Nausicaa Delfas:** Each year, the ombudsman service consults on the type and volume of cases it expects to come in the following year, and it had done so. In terms of the Covid cases, the pandemic and the high-cost credit cases were not foreseen at the time. The issue, though, is that, because of the way the ombudsman service was constructed, with a large proportion of people focused on the PPI cases, it was not able to be agile and move resources to deal with all these other cases, given there was such a high influx.

**Q38 Rushanara Ali:** In answers to me and others on this Committee over the years, your predecessor reassured us that the organisation had enough resources to deal with the amount of pressure that it was under and that it was in a position to take on the SME cases following the GRG scandals. It seems to me that this is an organisation that was finding it very difficult to say no. Are you prepared to say no to those higher up who chuck responsibility in your organisation's direction without providing the appropriate resources? Under the new leadership, with your chair and yourself, until you are prepared to manage expectations, our constituents are going to continue to have to wait a very long time, even though you have reduced the average, which is very welcome.



**Nausicaa Delfas:** I will take that in separate parts. I will just briefly mention the SME jurisdiction and the point about saying no. On the SME jurisdiction, I am pleased to say that the team at the Financial Ombudsman Service has taken its responsibility really seriously and has built up a team of about 55 people, including ombudsmen, working on small and medium-sized enterprise complaints. It has already resolved 4,000 complaints, 1,000 since the new jurisdiction was extended in 2019, which you were referring to. It expects that this year, now that it is resourced, it will resolve 4,500 complaints. I have every confidence that that team has built up the expertise and is able to tackle that jurisdiction.

Q39 **Rushanara Ali:** Another colleague is going to come in on this, but I just wanted to make a broader point, which is about whether the organisation can respond to our constituents. In my own experience, a bank told me that, if I took to the FOS something that was relatively straightforward, which was an error on the part of the bank, it would take two to three months to be resolved. It already knows that the organisation is not able to respond quickly enough and it puts customers in a position where they have to either settle for something suboptimal in terms of redress, or wait for months. That cannot be right in this day and age.

**Nausicaa Delfas:** Absolutely not, and we do not think it is right either.

Q40 **Rushanara Ali:** But that is what banks are doing.

**Nausicaa Delfas:** I will come back to you on that, and I think Baroness Manzoor wants to come in as well. As I have made clear, we do not think that it is acceptable that customers have to wait a long time, especially for straightforward complaints. That is exactly why we are changing and improving and why we want to change the organisational structure.

I wanted to touch on one other thing that you said about whether we are prepared to say no. This is one of the points that I was making about being assertive. We need to be clear on what is in the ombudsman service's jurisdiction. There have been cases in the past where, perhaps for good reason, people have tried to resolve something for customers when it is not within our power to do that.

I am very clear that we need to be very clear and upfront with customers and with your constituents, very quickly, in terms of whether a matter is within our jurisdiction and whether we can handle it. Last September, we put in place a complaints checker on our website, which has already diverted 23% of people who came to it to other organisations. Whilst we have a broad jurisdiction, we cannot solve everything. I am very clear that we do need to say no, where that is appropriate. In that sense, that helps us to be more efficient with the cases that we have.

**Baroness Manzoor:** Absolutely, the short answer is yes. We are very prepared to say no when we need to, so that is not an issue, and I hope that you can see, given that we are having an independent review, that



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we are very serious about tackling some of the issues. The board is absolutely focused on ensuring that we remove any delays in our system.

Do not forget that we are dealing with thousands of cases here. Quite rightly today, we are looking at 6% or so of our casework being over the time that I, the board and the executive would like. To look at some figures, 40% of all cases year to date are done within six months; 85% of cases year to date are done within 12 months; 94% of cases that we receive are dealt with within 12 months to 18 months. That is not to say that we are not very serious about tackling the long-term cases that we have that are outside our control to some degree.

To make it clear, in terms of our service, we are absolutely focused on it and want to get it right. It is unacceptable that some consumers are having to wait longer than they need to. There are three effects from that. One is that our staff want to ensure that delivery as quickly as possible, because it affects staff morale, and that goes back to your issue about training and being satisfied with the work process. It has an effect on businesses, because these are their consumers and they want their consumers back, using their services. It affects the users as well, because they are repeatedly writing in, wanting to know where their case is. We are all committed; I want to underline that.

Q41 **Rushanara Ali:** I am really pleased to see the sense of urgency and the focus on lessons learned from reviewing what has gone on, but 40%—that is nearly 50%—within six months is still very high.

**Baroness Manzoor:** Sorry; it is not 40% but 47%.

Q42 **Rushanara Ali:** So 47% of cases handled within six months. It would be good to get a breakdown of what that means. Is it in the first couple of months or in the latter part of the six months? That is a big qualitative difference. Perhaps you could write to us. We want to support you in the direction of travel, so that you continue to chip away at this, but it would be helpful to understand by comparison what dealing with the backlog looks like. In practice, months of waiting is really troubling for those who find themselves in this position. When it is to do with finance, it can be very detrimental, so that would be really helpful.

**Baroness Manzoor:** One of the things that we take absolutely seriously is cases of people who are in financial distress and have vulnerabilities. We have a specialist unit that flags those cases up as soon as possible, so that we can deal with them with the urgency that they require. I just want to put it on record that the concerns that you are outlining are those that we share absolutely passionately, and we are doing everything we can, hence this independent review to draw a line under what has gone previously and to have a proper matrix in place.

Q43 **Rushanara Ali:** With respect, you will be aware that a very lengthy review was done a few years back, and it does seem like this is an organisation that is having to go through review after review. It is many



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years now since that previous review, and we were assured that things would improve dramatically, but there is still a long way to go. I appreciate that the pandemic has not helped, but that is only 22,000 cases. The PPI part is now behind you, hopefully.

You mentioned some of the preventative work. You also mentioned, in the periodic review, points about increasing productivity in reducing the backlog. What else do you see yourselves doing to really bear down on the length of time people have to wait in order for their cases to be resolved? What should you be doing to the sectors that the complaints are coming from in order to make sure that they do not take the biscuit, frankly, by seeing that you take a very long period of time to deal with these cases and giving suboptimal responses to their customers? I and some of my constituents have experienced this. They know that it is going to be far too long and people do not want to wait around for months and months for the FOS to get a complaint resolved.

**Nausicaa Delfas:** I would go back to the changes that we are seeking to make through our action plan, which I would summarise in three key areas. One is the operational structure, which I talked about earlier, and making it clearer, more accountable and more empowered. The second is around technology. I do not know if we want to talk about that later, but it is about the use of our digital portal and processes. The third is through greater engagement with our stakeholders, which we are already doing.

For example, we meet quarterly with the leaders of the financial institutions in this country. We also work very closely with the regulatory family, and I have explained that we have relaunched our wider implications framework, which means that we can co-ordinate to tackle and deliver good outcomes for consumers in the most effective way. All of those things go towards resolving them.

Q44 **Rushanara Ali:** Are they sufficiently intimidated by you? Are there things that you can do to make sure that they take you seriously? It can sometimes help if they know that they are going to have to pay a lot more.

**Baroness Manzoor:** They do take us seriously.

**Nausicaa Delfas:** They do, but I would also go back to the point that I was making earlier on about being more assertive. For example, if we find that information is not coming in from a financial institution and it is beyond a reasonable time, we can make a decision without that information from the financial institution. My view is that we should be much more prepared to go ahead and do that.

We have a good relationship with our stakeholders overall. I have received positive feedback and support, internally and externally, for the action plan that we are putting place and for the wider implications framework.

Q45 **Rushanara Ali:** So the fact that the levy comes from them does not



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affect your ability to speak truth to your financiers.

**Nausicaa Delfas:** No, but that is why we are also going to be looking at the levy and the case fee, as I mentioned earlier.

**Baroness Manzoor:** It is in their interests to be listening to us very carefully, because it costs them money each time we get a case. They need to improve their services, and these are their customers. They want those customers back. They do not want them to be lost to another service provider. They want more information and insights.

As Nausicaa said previously, we are gearing up to ensure that we can give those lessons learnt, so that they can run very quickly and, if they have complaints, they can handle them and avoid them coming to us. Our vision would be that no ombudsman service should exist. That is never going to happen, but the reality is that that is what success could eventually look like. We need to be smaller, smarter and meaner. We are effective and they do take us very seriously, I can assure you.

Q46 **Harriett Baldwin:** I am very interested in the way that you approach the charges as a sort of “polluter pays” principle. That does seem to make a lot of sense. Can you talk me through why you then allow, under the current scheme, up to 25 “free” cases for those polluters? You are proposing to reduce that, so talk me through your thinking there as well.

**Nausicaa Delfas:** In the consultation that has just closed, we proposed reducing the number of free cases. My understanding is that a large number of free cases were introduced during PPI, when a large number of cases were coming from a lot of firms. With PPI now coming to an end, there is an opportunity to reset.

As you say, “polluter pays” works only for certain polluters in terms of the case fee. As currently set up, 90% of firms that use our service pay no case fee, which is why we wanted to reduce the number of free cases to more equitably distribute those that pay our fees. It will still be that 69% of firms will not pay a case fee, because they do not send many cases to us or are small firms.

Our view is that “polluter pays” is an important part of our funding structure. As Baroness Manzoor mentioned, it makes people think twice about coming to us, if something could be more easily resolved before coming to the ombudsman service. That is why we have proposed that we reduce the number.

Q47 **Harriett Baldwin:** Why have any free cases?

**Nausicaa Delfas:** That could be a question that we consider in our next consultation. Of course, we have to balance views from all sides. Some sectors of the industry will not be keen on us reducing our free cases, because it impacts their members.

Q48 **Harriett Baldwin:** Because it will be the smaller firms.



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**Nausicaa Delfas:** Yes. They regard it as an extra cost on smaller firms.

Q49 **Harriett Baldwin:** But they would pay it only if their customers are having to come to complain to you, would they not? So it would be quite a strong incentive for that not to happen.

**Nausicaa Delfas:** Exactly, yes.

Q50 **Harriett Baldwin:** Is the £10 million increase in your budget just to cover the transformation or do you see it as a permanent element of your budget?

**Nausicaa Delfas:** As we set out in the consultation for this coming financial year, this is a critical time for us. We need to invest to change, and we need to do it now. That is why it was important to propose the increase to the levy, so that we can invest in our transformation and move forward. As I mentioned previously, our aim over the next couple of years is, for this next year, to invest to make the changes and, in the following year, to see the benefits of the increased productivity. Then we can take stock and ensure that we balance our finances, so that our revenue per case is greater than our cost per case.

Q51 **Harriett Baldwin:** In terms of the firms that are regular culprits, would you consider higher fees for them? Similarly, would you consider incentives of lower fees for firms that settle cases more quickly or more effectively?

**Nausicaa Delfas:** These are the sorts of ideas that we want to consider in our next consultation. Those are certainly ones that we will be considering. Another one that many people suggest is around claims management companies and whether there can be some disincentive for any vexatious claims coming to us. We will look at that as well.

**Baroness Manzoor:** If the Committee has any ideas that we could consult on or consider, we would be delighted to hear them. We are a very open and transparent organisation, and that is how we want it to be. If you think, "Why is FOS not thinking about this particular issue?" throw it at us. Let us know.

**Chair:** That is a very good point. We will write to you on that, and thank you for suggesting it.

Q52 **Harriett Baldwin:** None of us enjoys getting those speculative calls from claims management companies. In terms of your costs, people are by far and away your highest cost. Is your building expensive? Are you going to be able to reduce any of the fixed costs of the building because you are having fewer people work from the office?

**Nausicaa Delfas:** Yes, absolutely. We have been releasing various floors in our London office. We have reduced our property expenditure by 24% this year, with a £2.8 million saving in property. Similarly, we are looking at our Coventry office and whether to retain both floors there. As we



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move to hybrid working, we want to make sure that we deliver the best value for money, so that is absolutely part of our consideration.

Q53 **Harriett Baldwin:** Despite all of that, you are still going to go for an extra £10 million in terms of the budget.

**Nausicaa Delfas:** As we explained in the consultation, there are changes that need to be made to our operating structure and to our technology and digital capability. We want to make sure that we are able to make them this coming year. It would not benefit anyone for us not to be able to make them.

**Baroness Manzoor:** In terms of location, I feel passionately, as a northerner, that we look at the spread of where our investigators in particular sit. We do not have to be London-based and sitting in an office. Going back to the question on skills, expertise and training, we can have very skilled and experienced people in other parts of the country, and we should look at that very seriously. The report looks at regional zones. I am talking not about offices but about touchpoints where staff can meet up to engage, to train and to develop, while working in a diverse range of settings. Rather than the old way of working, where you have one big central office, as we move forward into this new, exciting and vibrant ombudsman service, perhaps we can encompass these new ways of delivery. We are looking at those issues very seriously.

Q54 **Harriett Baldwin:** Going back to the “polluter pays” principle and the firms that are not causing any trouble and never have any cases, is the best way to approach their situation to use the levy in the way that you do?

**Nausicaa Delfas:** It is really important to see the ombudsman service in the bigger context of the regulatory infrastructure. It performs an important role as part of the overall regulatory infrastructure—the FCA, the FSCS, the Bank of England, the PRA and the ombudsman service. Even if very few complaints come to the ombudsman service from a firm, it nonetheless benefits the whole, because it gives consumers confidence in the financial services industry: that they can bring a complaint to the ombudsman service, free of charge, in lieu of going to court, and have those cases resolved. It is an important part of the overall structure. Through the wider implications work, we are also able to share our insights and, hopefully, improve conduct in the industry for the better.

Q55 **Chair:** We are driving towards greater productivity and talking here also about hybrid working. What is your assessment of how productive your staff will be when they work on a hybrid basis as opposed to being in offices?

**Nausicaa Delfas:** They will continue to be very productive. The pandemic has shown that working remotely has worked. On the other hand, it has not worked for everyone. Some people came into the office all the time through the pandemic. Now that we are going back to the office, people are equally keen to be back and, essentially, to have the



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best of both worlds—to be able to work sometimes with colleagues in the office and sometimes at home.

Q56 **Chair:** That is from their point of view. I am asking how productive the workforce is under those circumstances. Is it more productive, less productive or about the same? What metrics are you applying to assess that?

**Nausicaa Delfas:** Right now it is early days. We are just going back. We have not reached our four-day fortnight yet, because of the restrictions we introduced in December. We will track that. As I mentioned, our overall aim is to increase productivity by 25% by April 2024. That is what we will be aiming to do.

**Baroness Manzoor:** Just to add to that, in terms of business need, we will absolutely measure and track whether there are improvements in productivity.

Q57 **Chair:** I just wondered what the gut feeling was at this stage. Do you see people working from home as making more productive use of their time? Are they less productive? What is your feeling at the moment, albeit it is early days and you have not necessarily measured it?

**Baroness Manzoor:** We have measured it, have we not? We know per individual caseworker what individuals are doing. As a result of Covid, the board and I were very pleased that overnight we sent people home to undertake work. Unlike other organisations, we did not close our doors. Our IT functioned really very well. People continued to deal with those cases. There was not much of a drop-off between the performance before Covid and the performance during Covid. I am very pleased about that. In fact, last year we dealt with significantly more cases than we did the previous year. Am I right?

**Nausicaa Delfas:** Yes.

**Baroness Manzoor:** I am right. I am looking around just to make sure my figures are right.

Q58 **Chair:** We will write to you anyway with various questions, but it would be useful to give you an opportunity to go away and dig out some figures on that, if you have them. That would be interesting.

**Nausicaa Delfas:** Yes, we will do that. Whilst this has worked well during the pandemic, it is very important to have face-to-face time when we bring new people on, establish new relationships and so forth. I would expect that productivity will remain at least the same, if not increase, just from hybrid working alone. There will be a lot of changes that will increase productivity as well.

Q59 **Alison Thewliss:** I have some questions about your new operating model, picking up on some of the things that you started to outline to the Chair earlier on. Since introducing the investigator model in 2015, I



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understand that productivity for non-PPI casework has fallen every year. Could you tell us a bit more about the reasons for that fall in productivity?

**Nausicaa Delfas:** As I mentioned, I joined in May last year. We have had the benefit of the independent review, which has looked more carefully at this. I cannot speak from first-hand experience, but it seems that the model that was introduced was predicated on the number of complaints being received by the ombudsman service dropping and investigators being able to resolve complaints on the spot, which is why they were given the task of also answering the telephone. There used to be a call-handling centre, which was disbanded. That was given to investigators. What seems to have happened as a result is that the number of cases increased and investigators were not able to resolve all the complaints in real time. Therefore, queues started to accumulate.

It also became a more expensive model, because, rather than having a call-handling centre, investigators were doing some of the work of the call-handling centre. Other changes were made which meant that people who previously would have focused on making decisions were also given management responsibilities. There are benefits to that, because the teams are more aligned and you have investigators and ombudsmen working together, but all of these things seem to have contributed to a slowdown in productivity and an increase in cost.

What we are looking to do in the action plan is change that. For example, right now we are piloting the use of another area in the ombudsman service to do incoming call-handling, so that investigators can focus on their cases. This seems to be going well. We are going to introduce changes to increase efficiency and productivity and reduce the cost per case.

Q60 **Alison Thewliss:** That makes sense. It sounds as though that is overdue, given the way it has built up. In your letter to the Committee in December you talked about building on the benefits of your current investigator model. Can you tell us a bit more about what this new model looks like? Will you be refining that existing approach and keeping some of that, or will it be moving entirely to industry-specific casework teams? If so, what is the proportion at the moment and how will that move over from one to the other?

**Nausicaa Delfas:** We will be moving to more streamlined teams that are focused on particular sectors or areas of expertise. In fact, some of the teams have moved there gradually themselves in any event. The 2015 model was a generalist one, in which everybody did a variety of cases. Some have already moved towards gathering in specialist groups. At the moment we are going through the design and planning of the target operating model. We want to do that carefully. Where it involves any changes to people's roles, we need to do that carefully with consultation.



The key point that I would make is that we do not expect to fundamentally change the investigator role or the ombudsman manager role. It is simply a case of how to increase their capacity so that they can do more cases and take away some of the administrative work and the calls, which are quite a big distraction in their week. For the investigators, it essentially takes a day a week to do the call shift and then to write everything up etc. We are looking at how we can unlock capacity and make sure those people are able to get through their work and really enjoy their roles.

**Q61 Alison Thewliss:** You talked a bit about the changes in financial services and new things that might occur. How will you build in the flexibility to tackle these new emerging issues within this team's structure?

**Nausicaa Delfas:** As we have highlighted in the fee consultation, financial services are rapidly developing. We are already seeing different kinds of cases, such as fraud cases around crypto investments and so forth. We want to build in that flexibility and capability. I was speaking to one of your colleagues earlier about the types of skills that we want people to have. We want people who are versatile and able to get to the heart of issues as well as having substantive knowledge in particular areas. We want to have our verticals but also to have horizontal capability as well in specific areas. As I say, we want to build on the expertise we already have.

**Q62 Alison Thewliss:** In this model, do you expect the ombudsmen to continue line-managing the investigators? Baroness Manzoor talked about training responsibilities for ombudsmen. Is there a line management responsibility as well?

**Baroness Manzoor:** We have to be a little careful. We would have to go out to consultation. At the moment we have an operating plan that needs to be developed, but for any of the organisational design, quite rightly, we would have to go out to consultation with staff and then look at roles and responsibilities. For obvious reasons, it would be premature for us to sit here and discuss—

**Q63 Alison Thewliss:** That is fair enough. I would not want to have people second-guessing their jobs. That is absolutely reasonable. To add to what my colleagues have asked about the consultation on fees, in that consultation are you looking at fees by industry sector, if you are doing teams by different industry sectors?

**Nausicaa Delfas:** As mentioned earlier, we are very interested in any views or suggestions that you have. That could be something that we look at in our second consultation, the one we will be doing over this spring and summer.

**Baroness Manzoor:** Just for clarity, the consultation we have done this year is for 2022-23. The consultation we are talking about, in terms of alternative ways of funding, is for 2023-24. That is just to manage the



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Committee's expectations as well. We have time to look at alternative ways of working and funding.

**Q64 Alison Thewliss:** Lastly, you are developing this model with specialist teams that are going to look at different areas. Do you feel that will help attract people into the organisation who will look at these particular areas? Do you feel you might lose them to the areas that they are interested in?

**Nausicaa Delfas:** There is always a risk. If you are attracting good people and developing their specialism, there is a greater risk of those people being poached. Perhaps that is a good problem to have. People within the sectors will find that role more satisfying than having to do such a variety of things, particularly at an early stage. Of course, we are working through this at the moment. We are working through the model, the benefits and the costs. We will come to a view on it very soon. Having a focus on those specialisms is going to be an important part of the new operating model.

**Q65 Gareth Davies:** I just want to pick up on some specifics around casework and some of the remarks that you have made, not least to my colleague Alison just then. One of the comments you made was that PPI had accounted for about 78% of your casework and it is now about 4%. You have touched on Covid scams and other types of casework. Can you set out broadly for the Committee the different categories of casework that are non-PPI?

**Nausicaa Delfas:** The ombudsman service's range is very broad. We have a number of cases across banking, including fraud and scams; consumer credit, which I touched on; investments; pensions; small business complaints, which may cover insurance and other matters; and e-payments. There is a huge range of types of cases.

**Q66 Gareth Davies:** Presumably the specialisms that you were just talking about, which you are currently deciding on, will fall into those categories. You will use those categories to decide on the specialisms.

**Nausicaa Delfas:** Yes, exactly. We are looking at what the categories should be.

**Q67 Gareth Davies:** One of the other things you said was that financial services is innovating all the time. The Treasury and the FCA have recently announced that they will be regulating the financial promotion of crypto-assets. You talked about how you were already seeing some cases coming to you. Do you feel that falls within your jurisdiction? Given the discussion on jurisdiction before, do you feel that crypto-assets will fall very much in your area?

**Nausicaa Delfas:** There are a number of areas that are on the edge of the perimeter right now that are likely to come into our jurisdiction. We expect that buy now, pay later, funeral plans and certainly crypto-assets will come into our jurisdiction. That is why we are looking to build an



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ombudsman service that is agile for the future and has the right level of capability and expertise to tackle new and innovative areas.

**Q68 Gareth Davies:** Can you give us a sense of the volume that you have already had on cryptocurrencies and crypto-assets so far? Is it quite small? If it is, what do you project it being over the next couple of years?

**Nausicaa Delfas:** In fraud and scams, it is very small, but it is increasing rapidly. We could end up with more complaints in that area.

**Q69 Gareth Davies:** These are complaints about alleged fraud. What about those, for example, who have lost money and not understood, because of adverts on the Tube or whatever? Are you worried about that at all?

**Nausicaa Delfas:** If they come into regulation, those are areas in which the ombudsman service would also be able to assess complaints. They are not at the moment.

**Baroness Manzoor:** Just to be clear, we only deal with services that are regulated by the FCA. If it is an unregulated product, which is the question you are asking, we would not be dealing with that issue at the moment. Invariably, it would come under fraud and scam. We expect them to become regulated, particularly for issues like buy now, pay later. Personally, I think that should come under regulation.

The short answer is, no, not yet, but we are gearing up to ensure we have the skills and expertise within our organisation so that, should those come under the FCA's umbrella, we can take those and investigate them as appropriate.

**Q70 Gareth Davies:** That is really clear. Thank you very much for that. Following the line that you had around financial innovation and how things are changing all the time, in addition to crypto, is there anything else that you foresee will end up being regulated down the line, which you need to plan for now and that may affect your caseload quite substantially?

**Nausicaa Delfas:** It is the very nature of financial services that you may not know what is around the corner. That is the whole point of building an ombudsman service that is agile and able to cope with new areas.

We have talked about crypto. There are areas such as ESG investing, which is social and ethical investments or green and climate change investments etc. There are all sorts of things coming in and becoming more mainstream that we are likely to see more complaints about. We also need to look at the fact that, as I mentioned earlier, if there is an environment of financial hardship, we are also likely to see cases related to that and to lending.

**Q71 Gareth Davies:** On ESG, what would constitute grounds for a complaint to you about ESG within the regulations? Would it be mis-selling?



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**Nausicaa Delfas:** It could be mis-selling, if there is a breach of the FCA's rules. It could be greenwashing, where people are led to believe that an investment is green but it actually is not, etc. That is the kind of thing that we may see at the ombudsman service.

Q72 **Gareth Davies:** For you to be able to opine on that, you will require a pretty clear definition.

**Nausicaa Delfas:** There is a whole realm of regulation coming in around that, yes.

**Baroness Manzoor:** I was looking at the report the Select Committee did on economic crime, and I saw the five points that you had. I am not a regulator and I am not the FCA, but amending the Online Safety Bill is absolutely critical. I speak apolitically here. There are issues around that in terms of looking at platforms. We can address those issues. If that came under regulation, it would be fantastic. So much of the fraud is happening online. I feel passionately that we have to make accountable those who allow these issues to come before the public. This could be dealt with very speedily and very quickly before consumers lose vast sums of money, which of course some do.

Q73 **Gareth Davies:** I have one last question. The rise of fintech, data privacy and data sharing is a big issue. How are you thinking about that at the moment?

**Nausicaa Delfas:** We may get complaints around that issue, but we have a strong data protection team within the ombudsman service, which deals with data protection at the ombudsman service. We receive a lot of consumers' data. Yes, we will be preparing for fintechs and other innovations in the future.

Q74 **Kevin Hollinrake:** Good afternoon. I just want to ask you a couple of questions on technology and then move on to SME complaints. Just before I do that, in terms of case numbers, presumably the number of cases handled by your investigators and ombudsmen has dropped quite significantly on average. You are dealing with virtually no PPI now and in fact fewer other complaints. You were doing 207,000 in 2018-19 and you are now doing 175,000. Your people are handling a lot fewer cases. Is that right?

**Nausicaa Delfas:** The total number may be coming down, as you quoted, but the mix of the cases has changed. The 205,000 would have included a number of PPI cases, which were more easily resolved through a standard method. This year alone we have resolved 181,000 complaints.

Q75 **Kevin Hollinrake:** There were 208,000 non-PPI cases in 2018-19. Presumably there has been no reduction in headcount over that time. Is that right? The budget looks the same, anyway.



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**Nausicaa Delfas:** This is what we are seeking to do now: to reshape the organisation.

**Baroness Manzoor:** It would be fair to say that there has been some reduction in headcount, certainly in terms of PPI. It is around 200 people. Sadly, we have 200 fewer staff working within the organisation, mostly as a result of the fact that PPI, as you were quite rightly saying, has moved quite dramatically.

Q76 **Kevin Hollinrake:** What is your headcount now compared to what it was a year ago, let us say?

**Nausicaa Delfas:** Our headcount now is 3,100 people, including our contingent staff. It is approximately 2,800 without contingent staff.

Q77 **Kevin Hollinrake:** What was it a year ago?

**Nausicaa Delfas:** It would have been another 200 on top.

Q78 **Kevin Hollinrake:** It would have been 3,300.

**Nausicaa Delfas:** Yes.

Q79 **Kevin Hollinrake:** In terms of technology, it is like Solow's paradox: the computer age can be seen everywhere but in the productivity statistics. I know you introduced this new system, Phoenix, in 2019-20, which caused this huge backlog of 20,000 cases. Was that a mistake? Is it working now? Was it wrong at the time? Is it still pretty unpopular with some of your staff? Introducing a new system is always a nightmare—there is no doubt about that—but how is it going now and what was wrong then?

**Nausicaa Delfas:** As I say, I joined in May last year. I understand that there were some teething issues when Phoenix was introduced in 2019. However, these seem to have been addressed. Phoenix has been working effectively for the past two and a half years, dealing with all our casework. It has worked.

However, in conducting the independent review and in talking to staff, it is clear that they do have frustrations as to how Phoenix has been configured. For us, part of the change plan is to look at that and see whether there are ways we can simplify its operation. If I were to summarise it, it is almost as if it was implemented in a way that was very flexible so that there were many different ways in which you could use it. In fact, we probably needed a more straightforward approach in order to get the case flows through. As we move more towards industry sectors now, I am confident we will be able to look at and change the processes for the sectors.

Q80 **Kevin Hollinrake:** It is based on a Microsoft Dynamics platform.

**Nausicaa Delfas:** Yes.

Q81 **Kevin Hollinrake:** Is it managed internally or externally? Do you have a contract with somebody to run it or do you do it all internally?



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**Nausicaa Delfas:** We have managed services as well our internal stuff, yes.

Q82 **Kevin Hollinrake:** Presumably you are intending not to replace the system but just to evolve it.

**Nausicaa Delfas:** Yes, absolutely.

**Baroness Manzoor:** We do need our business processes, our case management systems, to work much better with the IT. The two integrations are not as good as they could be. That does cause an awful lot of inefficiencies within the system. We need someone who is clearly accountable. I am conscious that our IT director only started a few months before I did. There was no IT director before then. We have some work to do, but, as Nausicaa has said, we are moving on that front. We do want to introduce our digital portal, which I understand—it was before my time—should have been put in place as part of this Phoenix system. We are in the process of re-looking at and developing that.

Q83 **Kevin Hollinrake:** You have a plan for the IT development, your IT director has that in hand and you are confident that the plan can improve productivity. Is that right?

**Nausicaa Delfas:** Yes, absolutely. There are three elements to the work that is ongoing at the moment. First, we are in the process of a competitive tender for a partner to install the digital portal that Baroness Manzoor mentioned. It is really important that, on this occasion, the lessons are learned from 2018-19. We need to make sure it integrates effectively with our existing platforms.

Q84 **Kevin Hollinrake:** Was that the problem—it did not integrate?

**Nausicaa Delfas:** Yes. As I understand it, the issues were around security and integrating with our existing platform.

Q85 **Kevin Hollinrake:** You would think that would be the first box to be ticked, would you not?

**Nausicaa Delfas:** We are on to that. We are progressing with that. The other thing is improving Phoenix, which we have just talked about. The other part of this is around intelligence automation and automating as many of our simple processes as possible, which will also support the functioning of the digital portal.

Q86 **Kevin Hollinrake:** There is some information that we got from somewhere or other that said your staff described it as a capable but not a popular system.

**Baroness Manzoor:** That is a fair summary.

**Nausicaa Delfas:** That is fair. They are frustrated with it.

Q87 **Kevin Hollinrake:** That is interesting. It is going to be very frustrating if your staff do not feel it is that popular or if they have trouble navigating



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it. You still believe that those concerns can be dealt with.

**Nausicaa Delfas:** Staff have said to me that they are very pleased that we are looking at this, acknowledging that it is not popular and sorting it out. I am hopeful that we will be able to sort it out.

Q88 **Kevin Hollinrake:** Turning to the SME stuff, I have a question first of all that relates to something on SMEs, which is the Swift review of the FCA—I think you were there at the time—that looked at the swaps redress scheme. The FCA was criticised for not dedicating sufficient resource. Is that something you recognise? You were in charge of the programme at the time. Is that a fair criticism?

**Nausicaa Delfas:** First of all, I am here to—

**Baroness Manzoor:** As her chair, I can say that today she is here as the interim chief executive and chief ombudsman of the Financial Ombudsman Service. The two roles are very different. The FCA role was very much about the regulation of firms; we are about individual complaints. You went through due interview process. Looking at the issues that are connected with that particular issue does not, as far as I and the board of directors are aware, concern the Financial Ombudsman Service.

**Kevin Hollinrake:** I was not criticising your appointment.

**Baroness Manzoor:** Just in case.

Q89 **Kevin Hollinrake:** My point was that it does have a parallel, because the redress scheme was a complaints-led process. This is a complaints-led process. Proper resourcing of the SME resolution capability is pretty critical. I know you spoke about that a little bit earlier in your evidence.

**Nausicaa Delfas:** Can I just clarify something? The Swift review was an independent review conducted by the FCA. You mentioned that I was working there. I was not responsible for setting up the scheme. I was not involved in that and I am not mentioned in the report and so forth. The Swift report, which was an independent report, acknowledged that £2.2 billion of redress was paid to consumers in short order. It also acknowledged that those people may not have had a better outcome outside the scheme.

As it is a matter for the FCA, I do not feel I am able to comment any further. I am very happy to cover issues about SMEs at the ombudsman service. I am very happy to do that.

Q90 **Kevin Hollinrake:** Yes, it is really about resourcing. That is the key thing. It is good to hear you have dedicated teams involved in adjudicating SME complaints. You said you had 55 people on that team.

**Nausicaa Delfas:** That is right.

Q91 **Kevin Hollinrake:** When Richard Lloyd looked at this, there was some



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criticism levelled at the FOS about its capability on complex cases. How is that working now? You seem confident that that team is capable of resolving these disputes, which can be quite complex, can they not?

**Nausicaa Delfas:** Yes, absolutely. That team is very well led. It has attracted the right resources to it. Through the pandemic, it has had to deal with a number of cases, for example business interruption insurance and so forth, in a timely way. I am confident. You can see it from the numbers. This year the team is expecting to resolve 4,500 complaints. It is up and running; it has the expertise. It is doing a good job.

**Baroness Manzoor:** A number of businesses are represented on this expert panel. All the expertise and experience is drawn down. It is not done in isolation. It is done with businesses and industry.

Q92 **Kevin Hollinrake:** That is the SME advisory group.

**Baroness Manzoor:** Yes.

**Nausicaa Delfas:** There is an SME advisory group, but there is also an expert panel for technical expertise, as well as a dedicated internal legal resource and specialist ombudsmen. There are four areas of expertise.

Q93 **Kevin Hollinrake:** That is good to hear. In terms of the 4,500 complaints you have resolved this year, has the time taken to resolve them reduced for SMEs? Do you have that information specifically by cohort, in terms of data?

**Nausicaa Delfas:** They have definitely speeded up, because there are more people in the team and they are able to get through the cases more quickly. I should also say that there was a change in approach as well. As I mentioned earlier on this assertiveness point, whilst previously perhaps the ombudsman service would have been prepared to pause cases while it was waiting for other things to happen, the team is now taking quite a hard-edged decision to just get on with it. That is what it is doing.

Q94 **Kevin Hollinrake:** That is very welcome. It is good to hear they have been speeded up. Do you have some data on that in terms of how long those cohorts are taking now compared to how long they were taking before? Maybe you could write to us.

**Nausicaa Delfas:** I am afraid I do not have specific data for those.

Q95 **Kevin Hollinrake:** Would you be able to glean it if we asked for that?

**Nausicaa Delfas:** Yes.

Q96 **Kevin Hollinrake:** That is great. Thank you very much. You talked about being more assertive, which again is very welcome. There has been criticism of the FOS in the past for this asymmetry of information. The banks can put a "confidential" stamp on something and the complainant will never see that, so they do not feel they have had access to all the information. Is that still happening? Is that a rare occurrence?



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**Nausicaa Delfas:** I think you are referring to questions that complainants raise about whether they are able to see—

Q97 **Kevin Hollinrake:** Yes, there are certain documents that the banks are able to withhold from the complainant. The adjudicator or the investigator sees it, but the complainant does not because they are marked as “confidential”. This was raised in the “Dispatches” programme particularly, in terms of complaints about the FOS.

**Nausicaa Delfas:** I am not aware of current cases in which that issue has been raised. The ombudsman service has to operate within the law and within regulatory rules. Where it is the case that the ombudsman service cannot disclose something, it has to operate within that. I am not aware of cases with that issue right now.

Q98 **Kevin Hollinrake:** Could you report back to us on that and see whether that is happening, particularly in the SME context? That would be great.

**Nausicaa Delfas:** Yes.

**Baroness Manzoor:** If it did happen, it would be a very rare occurrence.

**Kevin Hollinrake:** It would be good to know.

**Baroness Manzoor:** I can only think about maybe a money laundering case where you might tip somebody off or something like that. That perhaps may be marked “confidential”. I would not think so generally. The whole point of any evidence-gathering is that there is impartiality and both sides can see the evidence and comment on it, so you can reach that independent impartial view.

Q99 **Kevin Hollinrake:** It is refreshing to hear, but I would certainly be interested in understanding whether it is still happening. You have extended jurisdiction now with larger cases, which are bound to be more complex. Is that causing a problem or are your case-handlers managing to deal with those irrespective of the size of the business?

**Nausicaa Delfas:** As I mentioned, my view is that the case-handlers are able to tackle these cases. In each case, a business or an individual has the choice as to whether to come to the ombudsman service or to go to court. Where we receive cases and are able to deal with them, we deal with them.

Q100 **Kevin Hollinrake:** In terms of customer service, you produce data in terms of people’s feedback when a case has gone through. Do you have that data specifically by cohorts, such as SME complaints, or not? Are SMEs giving you their seal of approval in terms of the work you do around resolving these complaints? Is that improving?

**Nausicaa Delfas:** You are talking about feedback from customers. I will have to check whether we have a separate category for SMEs, but we do have overall customer satisfaction scores.

**Kevin Hollinrake:** It would be good to know that.



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**Baroness Manzoor:** It is also businesses, I hasten to add.

Q101 **Kevin Hollinrake:** Do you mean the businesses that are regulated?

**Nausicaa Delfas:** Yes, the businesses that are regulated.

Q102 **Kevin Hollinrake:** We do not get access to that, do we? Do we get access to that? Do the public get access to that? Does it show that Lloyds Bank has X rating? Is that what you are talking about?

**Baroness Manzoor:** No.

**Nausicaa Delfas:** We publish the uphold rates of each of the large financial institutions. That is public, and we publish that regularly.

Q103 **Kevin Hollinrake:** The compensation limit is £350,000 for SMEs, but you are able to make a recommendation above that figure. Is £350,000 the right level? If you are making recommendations above that level, are the banks honouring that? Are they sometimes pushing back and saying, "No, we are not going to pay that"? They do not have to pay anything over £350,000.

**Nausicaa Delfas:** That is right. First of all, I should say that the majority of cases at the Financial Ombudsman Service are for awards under £25,000. There are some that are beyond that. There are currently about 20 that are over £200,000. Even in my time at the ombudsman service, I have seen that we have recommended redress of above £350,000. In that case, the banks have accepted it. That is voluntary. It has worked.

Q104 **Kevin Hollinrake:** Do you know of any cases in which they refused to pay? Caroline Wayman was before the Committee, and we had this same issue with the BBRS, the Business Banking Resolution Service. There definitely was an occasion when the banks had pushed back and said, "No, we are not going to pay over the threshold". I would be interested to know whether they are still doing that and the frequency of that. Again, you might not have the figures to hand, but if it is something you could provide for us that would be great.

**Nausicaa Delfas:** We can come back to you on that.

Q105 **Kevin Hollinrake:** You mentioned the SME advisory group. Who is on that? Are you allowed to say?

**Nausicaa Delfas:** There are representatives of small businesses, such as the FSB and the BCC. Some of them are themselves small business owners. It tends to be the trade body representatives that are on the SME advisory group.

Q106 **Kevin Hollinrake:** What exact role do they play? What do they do exactly? They are supposed to meet with you on a fairly regular basis, are they not?

**Nausicaa Delfas:** Exactly, yes. I have attended one myself since I have been in role. It is a really useful meeting. We can share insights on the



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types of cases we are seeing and the types of trends that they may be seeing in their constituents. We can discuss and resolve those issues. That is the role that it plays. It is advisory.

Q107 **Kevin Hollinrake:** When was the last time it met? You said you attended one of the meetings.

**Nausicaa Delfas:** Yes, it was in the autumn.

Q108 **Kevin Hollinrake:** How often do they meet?

**Nausicaa Delfas:** It is quarterly or six-monthly. I will have to check.<sup>1</sup>

Q109 **Kevin Hollinrake:** There have been some more since then. We were not quite clear on exactly how many meetings had happened recently. Again, it would be good to clarify that exactly.

**Nausicaa Delfas:** As I say, I have attended one myself, but I am very happy to come back.

Q110 **Kevin Hollinrake:** That is good to hear. The future of that group is supposed to be reviewed every two years. Has that taken place?

**Nausicaa Delfas:** That is taking place now. There may have been a delay in doing that during the pandemic, but it is to be done.<sup>2</sup>

Q111 **Kevin Hollinrake:** Again, perhaps you could just drop us a line about how that is happening. In terms of future cases, things are uncertain; the future is always uncertain. Gareth was asking about what you see in the future. Presumably you are expecting quite a lot of cases from the bounce-back loans, CBILS loans and stuff like that.

**Nausicaa Delfas:** The range of cases we get from small businesses is varied. Some of them are complaints that an individual might bring. There might be issues around bank accounts, loans or insurance. The more specific Covid-related ones were around business interruption insurance. There were some cases there that we paused while the FCA took a test case; there are others that we are moving forward with subsequent to that.

Looking forward, we expect that there could continue to be a range of cases from small businesses. We had some about CBILS and BILS, etc. If there are any recoveries cases, we are prepared to deal with those. We have not seen a big uptick at the moment.

Q112 **Kevin Hollinrake:** Bounce-back loans are not really featuring right now.

**Nausicaa Delfas:** It is not a huge area, no.

Q113 **Kevin Hollinrake:** Some of those loans were issued by unregulated

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<sup>1</sup> Note by the witness: 'The frequency of meetings is every six months. The last meeting of the SME Advisory Group occurred in October 2021, with the next meeting scheduled for April 2022.'

<sup>2</sup> Note by the witness: 'The effectiveness of the Group was reviewed in 2021, it was agreed that the Group should continue.'



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firms, which do not come under your jurisdiction. Is that a problem? Some of these loans were distributed by unregulated firms, which means they do not provide an opportunity for redress. Is that a problem?

**Nausicaa Delfas:** It is difficult for us to say from the Financial Ombudsman Service's perspective, if they are not complaints that we are receiving. As I mentioned earlier to your colleague, where there are cases that are on the edge of our perimeter, we are watching out in terms of whether they end up in our perimeter in due course.

Q114 **Kevin Hollinrake:** I have one final question. You publish the ombudsman-level decisions; is that right?

**Nausicaa Delfas:** Yes.

**Kevin Hollinrake:** You do not publish the ones handled by the case-handlers or the investigators. Is that right?

**Nausicaa Delfas:** That is right.

**Kevin Hollinrake:** Why is that? Would it not be preferable to publish all your decisions?

**Nausicaa Delfas:** There are two things there. First, an ombudsman decision is legally binding. It is a final decision. Those are the ones that we publish. In terms of the investigators, there is a two-stage process at the ombudsman service. An investigator might issue a view on a case, which the customer may or may not accept. If they do not accept it, it can go to an ombudsman. It is a more initial view.

Regardless of whether it is through the investigator work or the ombudsman work, we also seek—we intend to do more of this—to publish insight on our website about the types of cases that we are seeing and whether we are likely to uphold or dismiss a claim. That also helps customers, because they do not need to bring a case to the ombudsman service if they see that it is not a complaint we are going to uphold. We do transmit the findings or the know-how from the investigator views, which is what you are probably after. We do that through publication of our insight on our website.

Q115 **Kevin Hollinrake:** Do you do that already or are you going to start doing that?

**Nausicaa Delfas:** We are doing that already. We could do more of that. When I joined, one of the things I introduced was to try to increase our communications capability. That is one of the things they will be focusing on.

Q116 **Anthony Browne:** My questions are going to be about the claims management companies, which were touched on briefly earlier. They are commonly known as ambulance-chasers, as you know. They are the people who have been texting everyone and offering them a chance to get compensation on PPI, packaged bank accounts or whatever else.



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On the one hand, claims management companies help customers get redress at a price—a third of the redress. On the other hand, they do cause quite a lot of anguish and they try their luck on lots of different issues and make claims on an industrial scale. What are your primary concerns, if any, about claims management companies? You do get some complaints about them directly, but I was also wondering whether you have concerns about the way the industry operates.

**Nausicaa Delfas:** First of all, consumers do not need to use claims management companies to come to the ombudsman service. They can come to the ombudsman service for free without claims management companies. As you said, we also accept that they have an important role in raising awareness of claims and so forth and contributing in that way. Since PPI we have not really seen a huge number of complaints about CMCs. In fact, complaints about CMCs have declined by 29%. The majority of those complaints are still about CMCs and PPI, but we have seen a drop-off in complaints.

We see representation in different sectors by CMCs. One of the things that we say to industry members is that CMCs tend to go after areas where we have high uphold rates. It is really in firms' interests to understand why we have a difference of approach, why we are upholding cases and whether there is a way in which that could be changed. My observation has been that CMCs tend to latch on to areas that are easier to generate income from, where you are likely to get payouts. Those are the key observations that we have.

Where we see inappropriate or vexatious behaviour by CMCs, we report it immediately to the relevant regulator, be it the FCA or the Solicitors Regulation Authority. There have been some cases like that, and we do report them.

Q117 **Anthony Browne:** At the beginning of your answer there, you said that customers can come directly to FOS. That is a very important part of access to justice. Is the growth of the claims management industry a sign that people do not feel they can get direct access to you or that it is too difficult to get access to you?

**Nausicaa Delfas:** As we have talked about, we are absolutely there for everyone. One of the things that I wanted to emphasise is the fact that one of the important tenets of the ombudsman service is that we are accessible to all and we will continue to be so. Even if we introduce a digital portal, we are likely to also use other channels if people want to speak to us individually. My view is that we are accessible to all. People can come to us.

Q118 **Anthony Browne:** How do you explain this huge claims management industry, which is providing access to your services?

**Nausicaa Delfas:** We are not seeing a huge number of claims management-represented claims. There may be a claims management industry; it is not just on financial services matters.



**Anthony Browne:** No, that is true.

**Nausicaa Delfas:** On average we might get about 40 complaints a week that are represented by CMCs.<sup>3</sup> We have a whole lot of complaints that are not.

**Anthony Browne:** It is quite a small proportion.

**Nausicaa Delfas:** It is quite a small proportion, yes.

**Baroness Manzoor:** As Nausicaa has said, it is not just the finance industry. You have to look at the health service and the legal system.

Q119 **Anthony Browne:** It is the health service; it is local authorities; it is people tripping up on pavements.

**Baroness Manzoor:** It is wherever there is a weakness to be exploited, sadly.

**Anthony Browne:** Yes, or with accidents and whiplash.

**Baroness Manzoor:** Yes, absolutely. It is not a new phenomenon, certainly not for the Financial Ombudsman Service. To re-stress the point, we are a free, accessible, impartial and independent service. To anyone who is listening to this meeting today, if you are in need of help or support, please come to us directly. You do not need to go through a third party.

Q120 **Anthony Browne:** Do you have a concern about the scale of compensation fees that some of the claims management companies charge? It can be up to a third. Somebody coming to you could get the whole redress if they went straight to you. If they go through a claims management company, they are going to get a third less.

**Nausicaa Delfas:** Yes, absolutely. That is a concern. That is why we are keen to emphasise that people do not need to be represented by claims management companies. They can come to us direct and not have any redress deducted.

**Baroness Manzoor:** Could I add to that? Their case will not be dealt with any differently because they are going through a claims management company. It would be handled in exactly the same way if they came to us directly.

Q121 **Anthony Browne:** It might be worth telling customers that a bit more, but maybe it is not your role to tell financial services customers that they do not need to use CMCs. Do you do that? You are doing it here, but do you do that publicly? They will get more redress if they go to you directly than if they use a CMC.

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<sup>3</sup> Note by the witness: 'The 40 complaints a week from CMCs is the number of cases per week that we receive on average from CMCs in each of the areas of casework of principal interest to CMCs (e.g. pensions, PPI, packaged bank accounts and short-term lending). Across all areas of casework, in total the FOS receives around 370 cases per week from CMCs.'



**Nausicaa Delfas:** We seek to make that clear, but it is certainly something that we can do more of.

Q122 **Anthony Browne:** The periodic review highlights certain CMCs that submit large volumes of complaints with a low likelihood of success. You said a minute ago that CMCs tend to focus on the areas where there are high uphold rates, but clearly there are some that are not doing that. I am just wondering how much that is a concern. They are basically trying their luck on an industrial basis.

**Nausicaa Delfas:** We have had a good discussion about this internally. We have not seen a high number of complaints coming to us that are vexatious. That was the case in the heyday of PPI, but we have not seen that more recently. If that were to happen, we would push back hard.

This is one of the areas that we might look at in our funding consultation: whether there is a disincentive for CMCs to bring vexatious complaints to the ombudsman service. We are aware that the industry is worried about the weaponising of the case fee and claims management companies threatening to bring lots of complaints to the ombudsman service. We are aware of that. That is one of the things that we need to look at in more detail as we think about our funding model going forward. We have not seen a big issue with it right now.

Q123 **Anthony Browne:** Certainly, a lot of financial services companies do settle if the claim is less than the case fee. Claims management companies know that, as you say. I have one last question on claims management companies, and then I want to ask about fee structure. CMCs are subject to regulation, as you say, from the Solicitors Regulation Authority. The FCA does a bit of it. From what you witness, is there any case for reform of how they are regulated or the legislation around them? Various changes have been brought in over the last decade to tame their wilder behaviour, as it were, such as getting a letter of authority for one thing from a customer and then using it for absolutely everything else.

**Nausicaa Delfas:** There is one thing. There was an Achilles' heel in how the FCA's regulation of CMCs came in, because CMCs could go and fall under other regulators, if they preferred. It would be beneficial, at least in the financial services sphere, to have one common set of regulations across CMCs, however that is executed, whether it is through the FCA or the SRA. Our observation has been that some of the more egregious CMCs are regulated by the SRA.

Q124 **Anthony Browne:** In my last few minutes, I want to ask some questions about the fee structure, as you invited our views on it. Under the "polluter pays" principle, there would be an argument that, the bigger the redress, the higher the fee should be. Maybe 10% of the redress should be paid as a fee. There is a real risk under that and other structures, however. If you get higher fees because you find somebody guilty as opposed to innocent, you get justice for sale, as it were. You could be accused of having an incentive to have as high an uphold rate as



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possible, because that maximises your income.

Is that a legitimate concern or not? At the moment you have no financial incentive to have, as I understand it, one uphold rate versus another in a particular case. You could have a fee structure where a higher uphold rate led to you getting greater income.

**Baroness Manzoor:** While Nausicaa is thinking about that, let me say that this is a very pertinent question. That is why we have the levy as well as the case fee. It is very important that we look at the levy and the case fee together. That is the issue.

Q125 **Anthony Browne:** I appreciate that. The case fee is paid to you whether you uphold it or not. Your income is not different, depending on whether you uphold the case or not, as I understand it.

**Baroness Manzoor:** You are asking about perverse incentives.

Q126 **Anthony Browne:** I am asking about incentives. You might get proposals—we touched on it earlier—whereby the bigger the case, the higher the fee. You would clearly have to abide by the same principle that the fee is paid, even if it is a really big fee, whether the case is upheld or not. Otherwise, as an institution, you would have an incentive to have high uphold rates, would you not? I do not know whether that matters or not.

**Nausicaa Delfas:** We, the ombudsman service, do not have an incentive as to whether the uphold rate is high or not. We are an impartial service. We look at decisions impartially and come to an impartial view.

Q127 **Anthony Browne:** That is the case at the moment. I am just wondering how worried you would be about a fee structure that led to financial incentives.

**Nausicaa Delfas:** I see. Those proposals would be something that we would need to look at in a consultation. You are asking whether, if a firm has a very high uphold rate, we should increase the fee after a certain point. That would be a perverse incentive.

**Anthony Browne:** That is one way of doing it, yes.

**Nausicaa Delfas:** If we were to propose that, it is something we would have to look at very carefully.

Q128 **Anthony Browne:** It would also apply to cases where the fee is paid only if it were upheld. For example, you could have a system whereby 10% of the redress goes to you. If there is no redress, they do not pay that 10%. You would have an incentive to uphold the case rather than not uphold the case.

**Nausicaa Delfas:** You are touching on a really important point. The independence and impartiality of the ombudsman service is absolutely key. All the suggestions you are making would have to be considered extremely carefully. We do not want any incentive to decide one way or



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the other from the ombudsman's perspective. We are very clear about that. We are an impartial service. I really welcome views; please do send them to us in the context of the new consultation. That would be most welcome.

**Baroness Manzoor:** Could I just add to that? There is a really important principle in this. We cannot just uphold cases because we choose to do it.

**Anthony Browne:** Absolutely, yes.

**Baroness Manzoor:** Just for clarity, overall, we are open to judicial review. Businesses can challenge us very actively, and they do, and so can consumers. The checks and balances are in the system. We are set up by statute and we are breakeven. We are not there to make profit. We are there to provide an independent and impartial services within the resources we have. That is our remit. To prevent that perverse behaviour, we do have judicial review.

Q129 **Anthony Browne:** I realise that, but judicial reviews are quite expensive. The point I wanted to get to was about the importance of your impartiality, which you stated very clearly. I am grateful.

**Nausicaa Delfas:** Yes, it is really important.

**Anthony Browne:** It is important to avoid the situation with speed cameras, for example, where the police keep the money from the speed cameras. There are huge accusations that it is policing for profit and that they want to try to issue as many tickets as possible because they keep the money. You want to remain impartial, and you have said that clearly.

Q130 **Siobhain McDonagh:** I would like to look at the rise in cases that you are getting related to scams and fraud. What are the current trends in the scam and fraud cases that the Financial Ombudsman Service is receiving? It is motivated by all the casework that we get as MPs and all those sorts of concerns.

**Nausicaa Delfas:** We get a range of fraud and scam cases. As I mentioned earlier, they have gone up by 60%. A lot of the scam cases we get are authorised push-payment fraud, which is when a customer believes they are entering into a legitimate transaction and makes the payment, but it is actually to a fraudster. There is a significant number of those. Overall, we get about 18,000 fraud and scam cases like that at the ombudsman service.

The trends tend to be around online purchase fraud, investment fraud and so forth. All of those have the similar characteristic that the customer believes that they are entering into a legitimate transaction. A lot of the complaints that come to us are under the Lending Standards Board's contingent reimbursement model code, which means that the customer gets a refund unless they have acted unreasonably or have ignored an effective warning. That is a large proportion of the cases we get.



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We also get some cases that are unauthorised fraud, where money is stolen from accounts. That tends to be reimbursed very quickly. There are the ordinary other types of fraud, but the main one we see at the moment is APP fraud.

**Q131 Siobhain McDonagh:** In your budget consultation notes, you note that vulnerability is a factor in the increasing number of fraud and scam complaints that you receive. How do you ensure your service is accessible and user-friendly for vulnerable customers?

**Nausicaa Delfas:** As I mentioned, all our case-handlers are trained to spot vulnerability. It could occur at any time in somebody's life; it is not a particular thing. We also have a specific team that is expert in handling vulnerable customers. As Baroness Manzoor mentioned earlier, if we find that a customer is in significant distress or is particularly vulnerable, we can expedite their case and handle it more quickly.

**Q132 Siobhain McDonagh:** Where one party to a Financial Ombudsman Service complaint alleges that the other is acting dishonestly or fraudulently, what steps do you take to look behind each party's assertions? Are you equipped to handle the complexities and resource requirements of these types of cases?

**Nausicaa Delfas:** The cases in which it looks likely consumers are complicit in the fraud are in the minority of the cases we have seen. We have seen some, and we do pick up on it. For example, I saw an example the other day where a customer had complained that they had been defrauded, and then a couple of weeks later complained about an almost identical fraud again. It causes us to question whether this is really legitimate.

Customers mostly tend to be unwise rather than dishonest in the cases that we have seen. There is also an area of cases around account access. Customers might not be allowed to use their account by a financial institution, because they have suspicions of money laundering or money mules and so forth. The issue we have there around evidence-gathering is that the banks do not want to tip people off. They are very careful about the evidence that they give to us. We have to form our assessment on the basis of the evidence we can gather. We need to assess whether the customer was rightly closed out of their account or not.

There are areas where we are working with the banks to ensure we get as much information as we can within the law so we can resolve our cases fairly. Nobody wants to see fraudsters reimbursed wrongly. We are very aware of it, but it is a minority of the cases that we have.

**Q133 Siobhain McDonagh:** When you get cases where a number of consumers describe a similar pattern of dishonesty by the same firm, do you treat each complaint individually or do you draw them together and get the relevant information from the different cases?



**Nausicaa Delfas:** We consider every case individually upon its facts, but in cases where it looks like there is a similar trend or in representative cases or representative decisions, where we want to progress one case ahead of others we might do that. In the circumstance you are describing, we would look at each individual case. If we see there is a trend, we might want to look at that across the board.

Q134 **Siobhain McDonagh:** Would you refer cases like that to the FCA?

**Nausicaa Delfas:** Where we think there is an issue with a regulated firm or where we think there is an issue that has wider implications across the sector, yes, we refer cases to the FCA.

Q135 **Siobhain McDonagh:** In the second quarter of 2021-22, you upheld around three-quarters of authorised fraud cases in favour of consumers. This is double your overall uphold rate. Why is it so high in this particular area?

**Nausicaa Delfas:** Yes, it is high in that particular area, which is authorised push-payment fraud. The cases are assessed under the contingency reimbursement model that the Lending Standards Board has put in place. That is a case that has been agreed by the participating banks and by the regulators. It is a means by which customers can get reimbursed for authorised fraud. In cases that do not fall under the CRM—there are cases like that, for example international payments or other cases that are not within scope—the uphold rate is lower. It is about 50%. The Treasury Select Committee’s report on economic crime raises a really good point there. There is a disparity.

We have to be mindful of the fact that criminals are likely to get ahead of whatever regulatory provisions are put in place. Even with the contingent reimbursement model, for example, international payments or payments that have a two-stage process—they go into one account and then another—are technically not under that code. Whatever is done, we always have to be mindful that there may then be gaps that criminals, unfortunately, fit through.

**Chair:** That brings us to the end. Nausicaa and Zahida, thank you very much for appearing before us. It is fair to say that in the past the FOS has had many challenges and issues of performance, which this Committee has commented on in the past. It is good to hear that some progress is being made. It is good to hear that a plan is before us and is being developed and that there is real aspiration to tackle things like the backlog and the financial issues we have touched upon. We have heard a lot of energy and enthusiasm, and we have also heard quite a lot of confidence from you that you are going to meet these challenges. We are willing you to do so, but we will be keeping a very close eye on you at the same time. Thank you very much indeed for coming today.