



from **Nausicaa Delfas**
Interim Chief Executive &
Chief Ombudsman

write to **Financial Ombudsman Service**
Exchange Tower
London
E14 9SR

phone 020 3487 2022
fax 020 3487 2023
dx 141280 Isle of Dogs 3

Rt Hon. Mel Stride MP
Chair of the Treasury Select Committee
House of Commons
Committee Office
London
SW1A 0AA
9 March 2022

Dear Mr Stride,

Treasury Select Committee – 9 February 2022

Thank you for the opportunity to appear before the Treasury Select Committee on 9 February 2022. Baroness Manzoor and I were pleased to give evidence on the Financial Ombudsman Service's Action Plan to change and improve.

We were delighted to set out the impact of some of the measures we have already taken, including the substantial reductions we have achieved in numbers waiting for our service, and to explain our plans for the future. We are confident our plans will deliver the excellent dispute resolution that users of UK financial services require – one which is efficient and financially sustainable.

I have set out our response to your letter of 22 February 2022 below.

Prevention strategy

1. *Please provide data for each of the following financial years 2019/20, 2020/21 and 2021/22 (to date) for the indicator(s) you use to measure the effectiveness of your strategy to reduce the volume of complaints the Financial Ombudsman Service receives. [Q8-10]*

- *What are the limitations of those indicators and how are you looking to improve them?*

Prevention will remain an important part of our strategy. We will continue to share our insights in a timely way to prevent unnecessary complaints coming to the Financial Ombudsman Service.

The Financial Ombudsman Service started gathering quantitative data to measure the effectiveness of its activities to prevent complaints arising in April 2021.

Since then, we have measured and reported the effectiveness of our prevention strategy in two areas:

- the proportion of firms that find our insights and online resources helpful (currently 87%); and
- how aware people are of our service (currently 89%).

These provide some indication of the extent to which our engagement with financial firms and potential complainants is effective.

However, we know we can do more, and through our action plan we are taking steps to improve on two fronts, to:

- share more insights more regularly with industry and consumers; and
- make the assessment of the effectiveness of our prevention strategy clearer.

We will have a clear prevention strategy in place during 2022/23, with a full set of measures by the end of 2022/23.

Casework timings

2. *Please provide data on the percentage of cases resolved within a given time period, by monthly increments. For example, the number of complaints resolved within one month, two months, etc. This should include data for the financial years 2019/20, 2020/21, and 2021/22 (to date). [Q42]*

Please see below the percentage of cases resolved in monthly increments between 1 to 6 months this financial year, and in the previous two financial years. The table also shows the cumulative proportion of cases resolved within certain time periods.

Time to resolve (months)	Financial Year					
	2019/20		2020/21		2021/22	
	Total	%	Total	%	Total	%
0-1	70,576	24.0%	37,569	15.2%	13,127	6.7%
1-2	56,370	19.2%	38,932	15.7%	16,255	8.3%
2-3	37,389	12.7%	33,252	13.5%	19,133	9.7%
3-4	25,063	8.5%	26,957	10.9%	18,592	9.4%
4-5	17,186	5.9%	20,047	8.1%	17,326	8.8%
5-6	12,829	4.4%	15,353	6.2%	19,381	9.8%
Cumulative (months)						
0-6	219,413	74.7%	172,110	69.6%	103,814	52.7%
0-12	264,311	90.0%	215,933	87.3%	169,434	86.0%
0-18	284,010	96.7%	231,200	93.6%	186,094	94.4%
>18	9,586	3.3%	16,082	6.4%	10,973	5.6%

At the hearing on 9 February 2022, we informed the Committee that 47% of our cases this financial year had been resolved within 6 months. Since the hearing, performance has improved to nearly 53% of cases resolved within 6 months. Performance in previous years benefited from being able to get cases onto the desk of an investigator much more quickly (i.e. shorter queues), and due to the much quicker resolution time for PPI complaints.

3. *Please can you confirm that you expect to reduce average time taken to resolve cases to four months once you have addressed the case backlog? [Q32&33]*
 - *When is your target for clearing the current case backlog?*
 - *When is your target for reducing average resolution times to four months?*

As stated at the hearing, on average we are currently resolving cases within 7 months. This includes, on average, a 4-month period before the case is allocated to an investigator – a result of the queues which accumulated over the last couple of years during the pandemic. By the end of 2022/23, we aim to have cleared our queues so that all cases move onto the desk of an investigator soon after the necessary information has been gathered – unless there are reasons beyond our control as to why the case cannot progress (e.g. ongoing litigation). By the end of 2022/23, we aim to resolve cases, on average, within 4 months.

4. *Do you have any evidence to suggest firms are using long delays at the Financial Ombudsman Service to force consumers to settle for suboptimal redress instead?*
[Q39]

All parties to a dispute are free to negotiate and settle between themselves. The scope for mediation is expressly anticipated in our case-handling rules.

We have no evidence that firms are using delays to force complainants to settle for suboptimal redress instead. If we were to observe such conduct, we would report it to the Financial Conduct Authority (FCA). Firms have a statutory duty to treat customers fairly and would risk regulatory action (including fines) by the FCA if they were found to have breached this.

Average case costs

5. *Please provide the average cost per case and revenue per case for each of the following financial years 2020/21, 2021/22 (to date), and your forecast for 2022/23.*
[Q13&14]

- To what extent will your forecast of a 25% increase in productivity by April 2024 reduce your average cost per case?*
- Does your forecast for the 2022/23 average cost per case figure include any productivity savings?*

The table below presents both the average cost per case and the average revenue per case for the previous financial year, the current financial year (based on a recent forecast) and estimates for the next financial year. The amounts shown are actuals rather than real amounts, i.e. without any adjustment for inflation.

Average per case	2020/21 Actual	2021/22 Forecast (consultation) ¹	2022/23 Forecast (consultation)
Cost ²	£1,041	£1,077	£1,296
Revenue	£984	£957	£1,157

Delivering our Action Plan will require investment. Therefore, although we have forecast a productivity improvement of 7% in 2022/23, our costs will increase. This will result in an increase in our cost per case for 2022/23, as shown above.

Looking forward, the savings from the Action Plan will not be fully realised until the end of

¹ In 2021/22, approximately 18,000 cases have closed without full investigation because of a firm entering a Scheme of Arrangement. In addition, we anticipate a further 16,000 cases closing without full investigation before the end of this financial year due to another firm entering a Scheme of Arrangement, but this remains subject to some uncertainty. Case fees are highly unlikely to be recoverable on these cases. If these 16,000 cases do not close this financial year, both our revenue per case and cost per case in 2021/22 will be higher.

² There are many factors which affect the average cost per case. Some of the factors which caused the average cost per case to increase between 2020/21 and 2021/22 are: (a) more diverse casework and fewer PPI complaints (cases which are quicker to work, e.g. due to well established approaches, reduce the average cost per case), (b) a higher proportion of older cases (the older the case, the more expensive, on average, it becomes), and (c) longer queues requiring more administration.

2023/24, by which time we would expect to see an improvement in productivity of at least 25%. This increase in productivity will make the Financial Ombudsman Service financially sustainable and more cost effective for the longer term.

Remote working

6. *Are Financial Ombudsman Service staff as productive working remotely compared with in office working? [Q55-58]*

- *Please provide data for each of the following financial years 2019/2020, 2020/21, and 2021/22 (to date) for the indicator(s) you use to measure the productivity of staff working in the office, remotely and in a hybrid environment.*
- *What are the limitations of these indicators and how are you looking to improve your measurement of productivity?*
- *What are the particular problems the Financial Ombudsman Service has faced in moving to greater home working?*

During the early stages of the pandemic and lockdown, the overall productivity of our staff reduced due to factors beyond our control, such as increased sickness leave, childcare and home-schooling demands, the rollout of necessary IT equipment, and delays from parties to our investigations in providing information.

In 2021/22, our productivity increased to exceed pre-pandemic levels as we became acclimatised to and fully equipped for remote working and hybrid working (part office/part home working).

The best indicator of the overall productivity of the organisation is the productivity of our casework staff, which is the average number of cases an investigator resolves per week.

The table below shows the average productivity per general case-handler (i.e. excluding mass claims such as PPI) from 2018/19 to date.

	2018/19 ³	2019/20	2020/21	2021/22 YTD
Resolutions	116,088	116,368	130,430	126,981
Investigators (FTE)⁴	1,097.2	1,145.3	1,333.9	1,402.1
Productivity	2.03pw	1.95pw	1.88pw	2.09pw

Although the productivity of our staff working at home has been good, we are conscious of its limitations - for example, remote working makes it more difficult to: onboard new joiners, build teams, support our staff, and provide training and oversight. Since September 2021, we have been returning to the office and moving towards complete hybrid working, with all our staff in the office at least 4 days per fortnight from 1 April onwards. We do not expect our productivity to be negatively impacted by this change.

Complainants' access to firm records

During the session, the Committee asked whether Investigators or Ombudsmen ever received material from firms which they do not make available to consumers. The full exchange can be found in the transcript [Q96-Q98].

³ We have included data for 2018/19 because Q4 of 2019/20 was partly affected by the pandemic and lockdown, so may not present a true reflection of pre-pandemic performance.

⁴ Investigators includes both employed staff and contractors. All cases are 'owned' by an investigator. If a case moves to the second phase of our process and requires a decision by an ombudsman, the investigator will still hold the case and close it once the decision is issued.

7. *During the session Baroness Manzoor told us that “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.” Does this statement describe the Financial Ombudsman Service’s current approach?*

Yes. The Financial Ombudsman Service has always adhered to principles of natural justice. Our case-handling is open and transparent, so both sides are normally entitled to see the evidence and submissions made to us by the other side if they wish before a case is determined.

8. *Is a complainant entitled to review and comment on all material provided by a financial firm to the Financial Ombudsman Service before (a) an Investigator reaches an initial view; and (b) an Ombudsman reaches a final decision?*

We operate a two-stage process where an investigator gives an initial assessment on which either side may comment and/or request an ombudsman’s decision; and our ombudsmen issue provisional decisions wherever their findings or reasoning differ substantially from the investigator’s view.

We operate our process with minimum formality. We rely on the presentation of our findings to express the key evidence on which we are relying, on which each side may comment. Where a party requests sight of evidence we have relied on, we will supply it wherever possible (see below).

- *In what circumstances would a firm’s material be withheld from a complainant? How often does this happen?*

In accordance with the principles of natural justice, we operate an open and transparent process as far as legally permissible. We have discretion to accept evidence from either party in confidence but, in reality, we rarely do so. We also rarely rely on the provisions available to us to withhold information from parties.

Circumstances where information might be held confidentially include where it is legitimately commercially sensitive (e.g. an insurer’s actuarial tables), subject to legal professional privilege, or where legislation prohibits full disclosure (e.g. the Proceeds of Crime Act).

We do not record how often a firm’s material is withheld from a complainant as, due to the very low frequency of such cases, creating a separate mechanism to record them would not be cost effective.

- *Is the process or frequency of sharing a financial firm’s material different for SME complainants?*

There is no difference in our process for complaints from businesses compared with those from consumers, and no difference in the principles and circumstances under which information might need to be held confidentially.

SMEs

9. *In your evidence, you stated that “[...] This year the [SME] team is expecting to resolve 4,500 complaints [...]”. However, your 2022/23 Plans and Budget Consultation forecasts 1,300 SME resolutions in both 2021/22 and 2022/22. Can you please explain this difference? [Q91]*

For many years, we have been able to consider complaints from micro-enterprises (broadly, businesses with turnover below €2 million). On 1 April 2019, we gained jurisdiction to

consider complaints from small businesses⁵ (businesses which are larger than micro-enterprises but broadly with a turnover below £6.5 million).⁶

Our Small Business team handles many complaints from both micro-enterprises and small businesses. For example, it has led the Financial Ombudsman Service's response to complaints arising in relation to the Government-backed pandemic loan schemes (e.g. the Bounce Back Loan Scheme (**BBLS**)) and Business Interruption Insurance (**BII**). We expect this team to resolve over 4,500 complaints from micro-enterprises and small businesses this financial year.

Looking just at complaints from small businesses, we anticipate that we will resolve around 1,400 complaints (i.e. new jurisdiction complaints) in 2021/22, broadly in line with our forecasts.

10. *Please provide data for the time it takes to resolve SME complaints for the each of the following financial years 2019/20, 2020/21, and 2021/22 (to date). Please include:*

- *The average length of time to resolve an SME complaint.*
- *The percentage of cases taking three, six, nine, twelve and eighteen months to resolve.*

Small business complainants could only come to the Financial Ombudsman Service after 1 April 2019, and the act or omission they complained about also needed to have occurred after 1 April 2019 for their complaint to be eligible for our service. So, in the early days of our new jurisdiction, we found a high proportion of the cases brought to us from small businesses to be ineligible. These cases could be resolved quickly.

However, over time, the caseload grew, particularly in 2020 with high numbers of complaints relating to BBLS and BII. This caused queues to form, and the time taken to resolution to lengthen. As these queues have now come down in the current financial year, we would expect the average time to resolution for small business complaints to fall in the next financial year.

The table below shows the number of small business complaints (i.e. new jurisdiction) resolved by our service in the last two complete financial years and the current financial year (YTD), and the average length of time taken to resolve these cases in each year.

	2019/20	2020/21	2021/22 YTD
Total small business resolutions	471	859	1,461
Average period to resolve (in months)	1.85	4.64	7.55

The tables below show for each of the last two financial years and the current financial year (YTD) a split of the cases resolved each year into ageing bands.

	0-3 month banding	3-6 month banding	6-9 month banding	9-12 month banding	12-18 month banding	18+ month banding	Total
2019/20	359	80	22	6	3	1	471
	76%	17%	5%	1%	1%	0%	100%

⁵ Although the language of small and medium-sized enterprises (SMEs) is often used, in the rules in the FCA's Dispute Resolution manual, which sets out the eligibility of a complainant to come to our service, the two categories of business complainant are a 'micro-enterprise' or 'small business'.

⁶ Please note, there are several additional elements to the jurisdictional assessment, e.g. it also considers asset values and headcount.

	0-3 month banding	3-6 month banding	6-9 month banding	9-12 month banding	12-18 month banding	18+ month banding	Total
2020/21	300	274	166	62	52	5	859
	35%	32%	19%	7%	6%	1%	100%

	0-3 month banding	3-6 month banding	6-9 month banding	9-12 month banding	12-18 month banding	18+ month banding	Total
2021/22 (YTD)	273	331	288	272	227	70	1,461
	19%	23%	20%	19%	16%	5%	100%

11. *What are the Financial Ombudsman Service's customer satisfaction scores for SME complainants for each of the following financial years 2019/20, 2020/21, and 2021/22 (to date)?*

We conduct a closure survey for all complaints brought by businesses just as we do for complaints brought by consumers. The table below presents the results for small business (i.e. new jurisdiction) complainants for each of the last two financial years and the current financial year (YTD). The results follow a typical pattern with upheld complaints receiving a far higher rate of positive response compared with complaints which are not upheld. Due to the low numbers of responses in each category, any trend analysis is not statistically significant.

	2019/20	2020/21	2021/22 YTD
Overall number of responses	5	45	79
Response number where upheld	1	11	25
- of which % positive	100%	64%	73%
Response number where not upheld	-	14	28
- of which % positive	-	31%	32%
Response number 'other'	4	20	26
- of which % positive	50%	50%	40%

12. *The Financial Ombudsman Service can recommend awards over £355,000, however firms do not have to agree to pay out any more than this figure. For how many SME cases, from 1 April 2019 to date, has the Financial Ombudsman Service recommended a compensation award above the compulsory pay-out maximum of £355,000? [Q103] Please could you provide details of:*

- *The number of cases with compensation awards over £355,000.*
- *The number of cases where firms have refused to pay in full a compensation award over £355,000.*
- *The highest compensation awards voluntarily accepted and refused over £355,000.*

In the vast majority of complaints which are brought to the Financial Ombudsman Service by small businesses under the new jurisdiction, the business is seeking redress within our award limits.⁷

⁷ Where a complainant is seeking redress substantially above our award limits, it is more likely that their complaint would be suitable for the courts.

Most cases where our redress is above £355,000 are insurance complaints. In these cases, we typically direct the insurer to settle the claim according to the terms of the policy, without quantifying the amount to be paid. As a result, we will not know the precise value of the final redress paid.

Since 1 April 2019, there have been only a couple of cases where the Financial Ombudsman Service has awarded redress to a small business above the limit, and in both cases, this has been paid by the respondent firm to the complainant.

Dishonesty by financial firms and revisiting past Financial Ombudsman Service's decisions

13. *In the session, you explained that a 'minority' of complaints involve a consumer who presents information dishonestly to the Financial Ombudsman Service, but how many cases involve allegations from complainants that financial firms are failing to be open and honest with the Financial Ombudsman Service? [Q132]*

Complainants occasionally accuse firms of dishonesty or fraud. They also sometimes characterise carelessness or errors as fraud. Such assertions are usually unsupported and fall short of the usual standard of proof for such serious matters. Aside from a few notable exceptions of which the Committee and the FCA will be aware, we have seen no evidence from our casework of systemic dishonesty by regulated firms.

We do not record separately the number of complaints where allegations of dishonesty or fraud are made as the number is very small. Were we to find evidence of dishonesty or fraud by a regulated firm, we would notify the police and FCA.

- *In such cases, how does the Financial Ombudsman Service verify that financial firms are providing it with all the relevant information?*

Financial firms have a regulatory duty to co-operate with our enquiries and provide the information and evidence we require to progress cases brought to us. This can be enforced in court. We find that firms typically interact with us fully and frankly. If we have reasonable grounds for suspecting otherwise, we may report the matter to the FCA, and use our statutory powers to require information or to decide the case in favour of the complainant based on the reliable information we have at that time. We are not aware of systemic issues with firms withholding evidence from us.

- *In circumstances where a consumer provides evidence to the Financial Ombudsman Service after a final decision has been made which contradicts or calls into question information previously supplied by a financial firm, what is your policy towards revisiting such decisions?*

We have no legal power to revisit final decisions. Decisions are final and binding once accepted by the complainant and we have no legal standing to comment further on the merits of that case. A complainant whose complaint is not upheld by our ombudsmen may pursue alternative remedies of civil legal action against the firm or a judicial review of our decision-making process.

However, if we were to become aware of contradictory information after a final decision, we may informally invite the firm to change its position or mediate. If it refused, the complainant could refer a new complaint to us. We would then consider on the individual facts whether or not to exercise our discretion under our rules to dismiss the new complaint without considering its merits (e.g. on the grounds that the subject-matter had already been considered or excluded by us). The threshold is high and is rarely and cautiously exercised. Finality is important for our customers and it is not equitable for honest respondents to face 'double jeopardy'.

- *Has the Financial Ombudsman Service referred any financial firms to the Financial Conduct Authority for having been found to have lied, or being unforthcoming?*

No. We have seen no compelling evidence of a respondent firm having lied to us or been unforthcoming. If this were the case, we would refer the matter to the FCA.

Further answers to questions raised during the TSC meeting on 9 February 2022

SME Advisory Group

In question 108, Kevin Hollinrake MP asked about the frequency of meetings for the SME Advisory Group. We confirm that the frequency of these meetings is every 6 months. The last meeting of the SME Advisory Group occurred in October 2021, with the next meeting scheduled for April 2022.

In question 111, Kevin Hollinrake MP asked about the anticipated review of the SME Advisory Group. The effectiveness of the Group was reviewed in 2021. It was agreed that the Group remained a valuable source of insight into the challenges facing small businesses and a useful forum for establishing stronger links between the Financial Ombudsman Service and business representative groups. On this basis, it was agreed that the Group should continue.

Complaints from Claims Management Companies (CMCs)

In question 118, Anthony Brown MP asked about the claims management industry bringing complaints to the Financial Ombudsman Service. I stated that we received about 40 complaints a week from CMCs. This is the number of cases per week that we receive on average from CMCs across each of the areas of our casework that are of interest to CMCs, i.e. pensions, PPI, packaged bank accounts and short-term lending. Overall, across all areas of our casework, we receive in aggregate around 370 cases per week which are represented by CMCs. Very few complainants are represented by other professional advocates (such as solicitors or loss assessors).

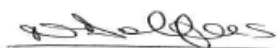
Funding consultation

The Financial Ombudsman Service will be consulting on its funding structure in Q1 of 2022/23 financial year. As mentioned at the Committee hearing, we would very much welcome the Committee's views on our future funding.

Next steps

We look forward to keeping you updated on our progress with implementing our Action Plan to change and improve the Financial Ombudsman Service. If there is any further information that would be helpful to the Committee, please do let me know.

Yours sincerely,



Nausicaa Delfas
Interim Chief Executive & Chief Ombudsman