



2 Marylebone Road
London NW1 4DF
t 020 7770 7000
f 020 7770 7600
which.co.uk

Caroline Wayman
Chief Executive & Chief Ombudsman
The Financial Ombudsman Service
Exchange Tower
London E14 9SR

30th January 2017

Dear Caroline,

Financial Services Ombudsman consultation on *Our plans and budget for 2017/18*

Which? welcomes the opportunity to respond to your plans and budget for 2017/18.

The Financial Ombudsman Service continues to play an essential role in providing redress to consumers and resolving complaints efficiently. However, effective redress schemes do not just ensure good complaint outcomes for individuals; they also deliver broader benefits to the sector and consumers as whole. In our response last year and in subsequent discussions, we have outlined our views on the three key roles of Alternative Dispute Resolution (ADR): the resolution of individual complaints, driving improvement in complaint handling, and helping reduce the causes of complaints. Which? is keen to improve consumer access to, and experience of, ADR schemes across all sectors, and we will continue to engage with the Financial Ombudsman Services as part of our work to support effective ADR delivery that focuses on all these three roles.

Which? welcomes the increase in speed of complaint resolution at the Ombudsman over the past year, and we support the new ways of working implemented by the Ombudsman to resolve complaints quicker and informally where possible. However, it is important to evaluate the extent to which these changes have been beneficial for complainants, and ensure that the quality of service provided remains high. The Ombudsman notes that businesses have responded well to new complaints-handling rules, and Which? would welcome more evidence of the positive outcomes for consumers. Aside from speed, there is no mention in the annual plan of the consumer experience of the Ombudsman. The Ombudsman should undertake consumer research to understand consumer views of its operation. This research should gather and publish consumers' views on speed, quality of communication, accessibility and ease of use, as well as their views on the levels of compensation awarded in different circumstances and for different types of loss.

The Ombudsman should then use this research to inform a set of consistent principles for awarding compensation. These principles should be published, together with indicative levels of what might be awarded, to help consumers make a more informed decision about the value of pursuing their claim.



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In general, we agree with the overall approach you outline in your plans and priorities for 2017/18. We also broadly agree with the assumptions you make in relation to the volumes of new complaints you expect to receive during the year.

In particular, we agree that the workload of the Ombudsman in 2017/18 will be heavily influenced by the Financial Conduct Authority's (FCA) proposed deadline for PPI complaints and its rules and guidance on how firms should approach PPI complaints following the Supreme Court's judgment in Plevin vs Paragon Personal Finance Limited.

We disagree with the FCA's proposal not to require firms to proactively review PPI sales, nor to proactively review previously rejected PPI complaints that may be impacted by the finding in Plevin. It is our view that no firm should be able to introduce a time bar for a complaint where an unfair relationship existed, as found in the Plevin case, and it is unreasonable for the FCA to rely on a complaint driven system of redress in these circumstances.

As we stated last year, the Ombudsman is right to anticipate an increase in the number of PPI complaints if a deadline is introduced, and should anticipate spikes of increases following any significant communications activity.

The number of PPI complaints that the FOS continues to receive suggests that the problem is far from resolved. In our response to the FCA's consultation on its proposal to introduce a time bar on redress claims for mis-sold PPI, Which? argued that the complaints driven approach has not been successful in the case of PPI mis-selling, and that a more pro-active approach, placing responsibility with firms for identifying consumers entitled to redress, was needed.

In particular, if a time bar is to be introduced, the FCA must ensure that customers who might not know they were mis-sold PPI are given the information they need to understand if they have cause for complaint, and there are significant improvements to firms' complaint handling processes.

The Ombudsman is right to recognise that the businesses' behaviour will also have an impact on its workload. If firms do not treat customers fairly, wrongly rejecting complaints, failing to respond quickly, or not explaining decisions clearly, then this will likely result in an increase in the number of cases escalated to the Ombudsman.

In this respect, we look forward to rapid progress being made to remove barriers to consumers successfully making PPI complaints directly to firms, and we welcome the work the Ombudsman has done with Claims Management Companies (CMCs) to reduce unnecessary and/or unjustified complaints. This frees up the Ombudsman's resource for better-founded complaints and prevents consumers from wasting their own time on making such complaints.

Which? understands the important role of complaints data in a consumer-focused approach to regulation. We have suggested that the FCA should improve its collection and analysis of data from redress schemes and make that data publicly available to at least the level of detail that the Ombudsman publishes case data.



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The Ombudsman's complaints data gives an important insight into the issues affecting consumers, and the outcomes that are needed. For example, we found the Ombudsman's 2015 vishing report extremely useful when gathering evidence of harm to present in our super-complaint to the Payment Systems Regulator in 2016. It was also useful to note that in the first half of 2016, the Ombudsman closed 2,842 'fraud and scams' complaints, and we welcomed the additional research the Ombudsman conducted to give an indication of the proportion of this total that were relevant to the focus of our super-complaint, identifying examples of scams where consumers had authorised a transfer either online or in branch, or the withdrawal of cash.

Finally, in 2016, we suggested that there was the potential for an increase in the number of complaints related to pensions and financial advice, resulting from reforms to both these markets. Although there might not be an impact for the Ombudsman in the short term, there are concerns that financial services firms re-entering the advice and guidance markets could result in consumer detriment, and the Ombudsman may see an increase in consumer complaints in future years as a result.

Which? continues to support the important work the Ombudsman undertakes in dealing with consumer complaint in financial services, and we look forward to continuing to work closely with your team over the coming year.

Yours sincerely,

Caroline Normand
Director of Policy