



**UK Finance  
response to  
‘Modernising the  
Redress System  
Call for Input’.**

# Introduction

Representing 300 firms, UK Finance is a centre of trust, expertise and collaboration at the heart of financial services. Championing a thriving sector and building a better society.

We welcome the opportunity to respond to the Modernising the Redress System Call for Input.

Our high-level views and responses to the call for input questions are set out below and we would be pleased to discuss this submission in more detail if that would be useful. Please contact [Daniel.ryall@UKFinance.org.uk](mailto:Daniel.ryall@UKFinance.org.uk) in the first instance to discuss further.

## Executive summary

- ▶ The current redress system faces significant challenges, requiring targeted reforms to ensure it remains transparent, efficient, and fit for purpose. There are key issues not identified by this Call for Input (CFI) which we believe are the root cause of instability and unpredictability within the redress framework. We have attempted, where possible, to introduce these key themes within questions 3, 15 and 19. There is also a table highlighting the key recommended solutions at the bottom of this executive summary.
- ▶ The domestic regulatory environment is a critical factor for investor decision making and the FOS is a key part of the regulatory landscape in financial services. In her Mansion House speech the Chancellor said reform of the FOS was needed to create a “surer climate for investment”. We agree with her assessment, and it is clear this part of the regulatory system is not functioning as efficiently as it could, creating significant uncertainty in the framework and therefore acting as a drag on the investor appeal for UK financial services.
- ▶ The FOS currently acts as a de-facto regulator, which was not Parliament’s intention when creating it. To address this, the rules and processes governing the FOS should be amended to ensure the FCA and other relevant bodies are consulted on significant decisions. This would help ensure the FOS interprets FCA rules as intended and adheres to relevant Industry guidance, such as the CRM Code and moving forward the PSR reimbursement rules. Ensuring the FOS is focused on its original mandate can also benefit the consumers it serves, by ensuring its resources are deployed to provide swift and effective redress rather than examining major, complex disputes that sit more comfortably within the purview of other bodies.
- ▶ The FCA has proposed a formal definition of ‘Mass Redress Events’ but ‘Wider Implications cases’ is preferred, as it captures both large-scale consumer redress

scenarios and nuanced regulatory matters. Regardless of the label, a formalised definition and process within DISP are necessary to ensure these cases are managed transparently and consistently. Firms cannot have comfort that compliance with regulations and law will be sufficient to avoid mass redress events, so long as the FOS is not required to follow regulations and law. The FOS is not suited to interpreting regulatory and legal standards in cases with wider implications, such as determinations are more appropriately handled by the FCA or the courts. The ability for any party – whether complainant, firm, or regulator – to trigger a referral to the FCA for regulatory input is required, with the FCA being the final arbiter of whether a complaint is a wider implications complaint.

- ▶ The principle of deciding cases based on what is ‘fair and reasonable’ underpins the FOS’s decision making but has drawn criticism for its subjectivity. This approach, combined with the lack of a robust appeal mechanism, can lead to unpredictability and a perceived imbalance between firms and consumers and serves to create further uncertainty, impacting confidence and growth. Judicial review, the sole route to challenge FOS decisions, is costly and rarely successful due to the FOS’s significant discretion. Introducing a statutory right of appeal, as seen in the Pensions Ombudsman framework, would enhance procedural accountability while preserving the FOS’s alternative dispute resolution (ADR) role.
- ▶ The lack of a clear and consistently applied time limit for complaints presents a significant challenge for firms, who face considerable burdens from indefinite liability exposure. This uncertainty, in contrast to other professional sectors, discourages market participation and investment in financial services. To address this, we propose introducing a long-stop for claims, ensuring clarity, and predictability.
- ▶ The FOS’s limited use of hearings further underscores the need for procedural transparency. Expanding hearings with the involvement of the FCA, in wider implications cases would improve stakeholder confidence and ensure more rigorous decision-making.
- ▶ The Wider Implications Framework (WIF), relaunched in 2022, is intended to facilitate collaboration among the FOS, FCA, and FSCS on significant issues. However, it lacks transparency, governance, and the involvement of key stakeholders, such as the Prudential Regulation Authority (PRA), Payment Systems Regulator (PSR) and industry and consumer representatives. Greater transparency in publishing detailed minutes and decisions, alongside the inclusion of industry and consumer representatives, would enhance its effectiveness.
- ▶ Case fees, professional representatives and interest awards are also critical areas of concern. The current flat fee structure for FOS case fees can penalise firms disproportionately, particularly in the context of mass-generated complaints driven by professional representatives. These entities exploit procedural inefficiencies, delaying redress and eroding consumer compensation through high fees. Rightly, DISP was designed to make it easy for consumers to raise complaints without needing to instruct professional representatives. However, these consumer-friendly rules have

inadvertently supported business models where professional representatives submit high volumes of templated and speculative claims. Professional representatives should not be able to rely on DISP rules unless they have met their regulatory obligations to thoroughly investigate and substantiate claims before pursuing them. Procedural reforms such as challenging speculative or unsubstantial professional representative-led claims and adjustments to case fee structures, would mitigate these issues. Similarly, review of the flat 8% application of interest awards in redress cases is needed to ensure consistency and fairness in outcomes.

- ▶ Ultimately, these reforms aim to balance consumer protection with predictability and accountability for firms. By reinforcing the FOS’s focus on resolving individual complaints and enabling the FCA to lead on systemic issues through public consultation and clear guidance, the redress system can evolve into one that is more transparent, effective, and trusted by all stakeholders.
- ▶ It’s crucial that these reforms are progressed through an expedited consultation process, with announcements on non-legislative DISP changes targeted for summer 2025. All proposed DISP changes must be adopted in full, as they are designed to function cohesively and cannot deliver their intended impact if implemented selectively. We acknowledge legislative changes may take longer, but this should not delay swift progress on the full suite of non-legislative reforms.
- ▶ A Table summarizing the suggested solutions, not necessarily raised in the CFI, but discussed in this response, is below:

Solutions		
<b>Definition of Mass Redress Events</b>	Replace with ‘Wider Implications’ definition and add to DISP rules. FCA to play more proactive role in providing guidance on ‘wider implications’ cases to avoid market uncertainty, relieve FOS of burden of making decisions on such cases.	Paragraph 4
<b>Precedent effect rules</b>	The precedent effect of FOS decisions should be reviewed with a view to remove the precedent effect. In its place, the FCA should be empowered to issue new rules and guidance following public consultation.	Paragraph 18
<b>Professional Representatives</b>	<p>Introduce new rules into DISP differentiating between professionally represented and non-professionally represented complaints and allow respondent firms to pause the complaint time limits when challenging speculative or unsubstantiated claims.</p> <p>Unifying regulation of Professional Representatives.</p> <p>Professional Representatives should not be able to engage DISP until properly investigating merits of complaints.</p>	Paragraph 19, 47 to 51, and 94

	Stricter transparency requirements for professional representative advertising practices.	
<b>Cross border regulatory collaboration</b>	FCA to explore ways to collaborate with international regulators and best practices on cross border issues.	Paragraph 28
<b>Supplementary changes to DISP</b>	DISP rules on Root Cause Analysis separated into standalone section.	Paragraph 30
<b>FOS Final decisions – escalation restrictions</b>	Reluctance to introduce, but if Ombudsman Decisions are restricted care must be taken to avoid unintended consequences by implementing appropriate safeguards.	Paragraph 40 and 41
<b>Case Fees</b>	Introduce a tiered fee structure based on case complexity or financial value, and a lower case-fee on dismissed or withdrawn cases.	Paragraph 52, 53
<b>FOS Fair and Reasonable Remit</b>	Amend FOS remit, require the FOS to ‘apply’ applicable laws, regulations, and guidance in its determinations.	Paragraph 60
<b>FOS Dismissal Grounds</b>	Introduction of new FOS dismissal grounds including, firms legitimate exercise of commercial judgement, referrals where there is no evidence, and referrals that are templated and unsubstantiated.	Paragraphs 66 to 70
<b>FOS Time Limits</b>	Introduce a ‘long-stop’ into DISP.  Clarify application of three- and six-year rule.  Introduce exceptions into eight-week complaint handling timeframes, taking into account delays outside of firms control.	Paragraph, 33, 74 to 76
<b>Hearings before the FOS</b>	Reform DISP 3.5.6 to grant firms and complainants the right to request hearings in wider implications cases, with FCA involvement through attendance or submissions of written evidence.	Paragraph 78
<b>Interest Awards</b>	Review of FOS’s flat 8% interest awards, replace with a tailored approach to interest awards.	Paragraph 81
<b>Test cases</b>	Amend existing DISP rules to allow Test Cases to be referred to court without complainant consent.	Paragraph 83
<b>FOS Board representatives</b>	Inclusion of <i>active</i> representatives from both consumer and industry groups on FOS board of representatives.	Paragraph 84
<b>Recording changes in outcomes</b>	FOS should not record a change in outcome for cases with nominal change in D&I award.	Paragraph 85
<b>Fraud cases</b>	FOS to consider approach to certain Fraud cases where it deviates from accepted industry standard or has unrealistic expectations on industry.	Paragraph 62, and 87 to 92

	Introduce restrictions preventing FOS requiring firms to pay compensation where there is ongoing law enforcement or investigation.	
<b>FOS Award Limits</b>	Substantial awards should be more closely scrutinized when exceeding a certain thresholds.	Paragraph 96
<b>Referral of Wider Implications Complaint to FCA or Court</b>	Amend existing rules to allow any party to trigger a referral to the FCA for regulatory input as required, once triggered, FOS timescales should be paused pending response from the FCA.	Paragraph 99 to 102, and 105
<b>Alternative Mechanisms to challenge FOS Decisions</b>	Introduce a statutory right of appeal, as seen in the Pensions Ombudsman framework.	Paragraph 109, and 23
<b>Wider Implications Framework</b>	<p>Include key stakeholders (PSR and PRA) along with industry and consumer representatives.</p> <p>Greater transparency in publishing minutes and decisions.</p> <p>Establish definition of Wider Implications Complaints in WIF terms of reference into DISP.</p>	Paragraph 118, 119, 121, and 4

## Response to consultation questions

**Question 1: Should we define what a mass redress event is? If yes, please explain how we should define it. If no, please explain how we could better identify and address mass redress events (without defining them).**

1. Mass Redress Events have widespread negative effects on both consumers and firms. They create uncertainty, provide opportunities for exploitation by professional representatives, and hinder market growth and innovation. In extreme cases, they can have business-critical impacts on firms. While firms must ensure good customer outcomes, it is equally essential to address the regulatory uncertainty and grey areas that give rise to these events.
2. The FCA must play a more proactive role in providing clear and consistent regulatory guidance, particularly on live cases with wider implications. This would prevent the FOS from being placed in the difficult position of interpreting regulatory intentions in lead cases, a role that risks burdening the FOS with quasi-regulatory responsibilities.
3. We welcome the FCA's efforts to define a 'mass redress event' however, the suggested approach is too narrow, focusing only on large-scale issues without addressing the broader context or root causes, it also presupposes an outcome. The definition in this Call for Input relies heavily on volumes of complaints received, which can be misleading given the high number of speculative complaints submitted by

some professional representatives. Relying purely on numerical thresholds risks conflating high complaint volumes with actual harm.

4. Instead, we propose formalising a definition of 'Wider Implications Complaints' into DISP, building on the existing definition in the Wider Implications Framework terms of reference.<sup>1</sup>
5. A formalised definition would enable the identification of not only large-scale mass redress events but also smaller, nuanced issues with regulatory implications that could seed confusion in specific market segments. We recommend introducing a referral mechanism within DISP for wider implications cases. This would allow the FCA to provide regulatory input, relieving FOS of the burden of making decisions with broader market consequences, ensuring that such decisions remain within the regulator's remit.
6. Clear guidance should accompany any formal definition to reduce ambiguity and mitigate the risk of disputes over what qualifies as a wider implications case. This clarity is critical for fostering trust in the system and delivering better outcomes for both firms and consumers.

**Question 2: Do you agree with our assessment of the difficulties that mass redress events can create for firms and consumers?**

7. We broadly agree with the FCA's assessment of the operational difficulties posed by mass redress events, including the challenges for firms and the FOS. High complaint volumes can overwhelm firms, delay responses to consumers, and lead to significant case fee liabilities, which can disproportionately impact firms struggling to manage large-scale complaints. This also risks undermining consumer trust in the redress system and presents challenges for firms prioritising complaints over other essential activities. In addition, there are potentially wider impacts that are indirect to complaint handling, including time-cost incurred by support functions, and costs associated with legal advice and third-party consultancy.
8. The involvement of professional representatives often exacerbates these challenges, adding to the volume of complaints and stretching firms' operational capacity even in the absence of 'mass redress events'. Regulatory uncertainty also plays a key role in the escalation of mass redress events. Firms require greater clarity and consistency in regulatory guidance to prevent the FOS from making decisions with quasi-regulatory

---

<sup>1</sup> See paragraph 12: Framework Terms of Reference. When considering whether an issue has, or is likely to have, significant implications, factors to consider include: the number and type of consumers affected, the amount of potential loss or redress that may be owed, the risk of firm failure, where relevant, the extent of alignment between relevant members in their understanding of and approach to the issue, the risk of contagion to other financial services businesses or markets, wider regulatory action under contemplation, including but not limited to: industry-wide regulatory change that will impact general expectations of financial services businesses; and the use of the FCA's statutory powers to require the establishment and operation of a consumer redress scheme.

impacts, which can set precedents without formal oversight. With no effective mechanism to appeal FOS rulings, firms can face significant financial liabilities almost immediately, even when they believe the decisions to be flawed.

9. The introduction of the Consumer Duty provides an opportunity to address some of these systemic issues and may help reduce the likelihood of future mass redress events. However, its long-term effectiveness will depend on continued enforcement and monitoring to ensure firms deliver good outcomes for consumers and prevent disputes from escalating unnecessarily.
10. By addressing the underlying causes and providing proactive regulatory clarity, we believe the system can become more predictable and resilient.

### **Question 3: What other issues should we consider as part of this review?**

11. The FOS has significantly evolved from its original purpose of resolving low value, business-as-usual disputes informally and cost effectively. Its current remit encompasses a much higher volume of complaints, including those of increasing complexity and value.<sup>2</sup>
12. This evolution has created unintended consequences that undermine the FOS's statutory remit. While originally intended to resolve individual complaints, the FOS now frequently addresses broader sector-wide issues. However, its decisions often lack the transparency and procedural safeguards expected of formal regulatory bodies. This role traditionally belongs to the FCA or legislative bodies that operate with comprehensive consultation processes. These developments erode legal certainty, disproportionately burden smaller firms, hinder competition and innovation, and act as a significant deterrent for investors.
13. The introduction of the Consumer Duty in July 2023 compounds these issues, as the FOS's actions increasingly overlap with the FCA's regulatory domain. For instance, the FOS has required firms to provide Fair Value Assessments (FVAs) during pricing disputes<sup>3</sup> – which is arguably an irrelevant consideration for FOS determining such complaints (because it's based on a cohort review, and not an individual basis) and an area better suited for FCA determination.

---

<sup>2</sup> For example, since its establishment, the number of complaints handled by the FOS has significantly risen. The complaints themselves have become more complex and involve higher monetary values, as reflected in the FOS's increased award limit, which rose from £150,000 (pre 1/4/19) to £430,000 as of January 1 2024. A growing proportion of complaints are now being brought by professional representatives, with nearly 50% of cases in 2024 involving such representatives, up from 25% the year before (see page 3, [here](#)). This trend highlights the increasing complexity and volume of complaints handled by the FOS.

<sup>3</sup> See [here](#)



14. Further complicating matters, the FOS processes lack the formal scrutiny needed to address complex cases - such as complaints relating to complex fraud<sup>4</sup> - with significant industry implications.<sup>5</sup>
15. This is exacerbated by prolonged resolution times<sup>6</sup>, which leave firms and consumers in uncertainty, and by the activities of professional representatives exploiting the system through mass-generated complaints. The involvement in professional representatives in these matters significantly increases data processing volumes. There are concerns that professional representatives are not prioritising the minimisation of data processing or managing data effectively. They often submit large volumes of speculative DSARs, many of which do not pertain to actual customers or potentially viable claims<sup>7</sup>. These practices delay redress and compel consumers to surrender significant portions of their compensation to professional representatives.
16. Another concern is the precedent effect of FOS decisions. Under DISP 1.3.2A and 1.4.2, firms are required to implement FOS decisions across similar complaints. While this ensures consistency, it also imposes quasi-regulatory obligations on firms, despite the FOS being unbound by its own rulings. The FOS often shifts its approach to similar issues over time, leading to perceptions of arbitrariness, increased costs, and poor outcomes for firms and consumers. This was not Parliament's intent when creating the FOS, as the responsibility for issuing binding rules and guidance lies with the FCA.
17. The FOS's decisions, which are made informally and subjectively based on what it considers 'fair and reasonable', have, in practice, created significant and unexpected liabilities for firms. This subjectivity is amplified by the Consumer Duty outcomes-based regulation. This undermines the rule of law and reduces confidence in the UK Financial services sector, discouraging investment and competitiveness. It also means that innovators are disincentivised from bringing improved services to customers.

---

<sup>4</sup> Complex cases have been defined by industry as: a case which is under investigation by a statutory authority, which may include and is not limited to, Law Enforcement, the FCA and Serious Fraud office and involve complex movement of funds spanning multiple PSPs and victims where PSPS involved are unable to reach confident assessment that criminality has occurred through assessment of the accounts available.

<sup>5</sup> We have observed that the FOS is not producing fair outcomes on aggregate across impacted customers in complex fraud cases. This primarily due to rigid application of CRM code provisions that were not designed for such cases and are ill-suited to them. As a result, there are inconsistent levels of recovery for similarly situated customers, with a high risk of reimbursement discrepancies, especially in cases requiring forensic accountancy support to verify net losses across multiple financial institutions or where alternative reimbursement channels, such as FSCS, are available.

<sup>6</sup> For example, in respect of the motor finance commission FOS decision that is currently subject to judicial review (see [here](#)), the complainant referred her complaint to the FOS in 2022. The FOS published its final decision on 10 January 2024.

<sup>7</sup> For example, one firm told us that in relation to PPI claims, less than 10% of the information requests related to potentially viable claims.

18. To address these issues, the precedent effect of FOS decisions should be reviewed, with a view to remove the precedent effect of FOS decisions particularly for 'wider implications' or 'mass redress events' complaints. Instead, the FCA should be empowered to issue new rules and guidance following public consultation. Historical examples support this approach, such as the FCA's tailored DISP appendices for mortgage endowment complaints, payment protection insurance claims, and pension transfer redress.
19. Respondent firms are required to report and publish data on complaint volumes, uphold rates, and redress amounts. The same level of transparency should apply to professional representatives. This information would help consumers make informed decisions when choosing whether to instruct a professional representative. It would also enable the FCA to identify and address professional representatives causing the most harm by highlighting those submitting high volumes of speculative complaints.

**Question 4: Are there any changes to the regime that we ought to consider to ensure it remains appropriate, given the shift to outcomes focused regulation?**

20. Members have expressed concerns that principles-based regulations, while offering flexibility, may inadvertently encourage speculative complaints from professional representatives. Clear rules are necessary to prevent cases being submitted without proper evidence, which can burden firms with unnecessary costs and undermine trust in the system. Ensuring complaints meet a minimum threshold before progressing would address this issue.
21. Collaboration between the FCA and FOS is seen as essential, particularly in mass redress scenarios. Members have raised concerns about the risk of conflicting decisions when these bodies are not aligned. Establishing mechanisms for early FCA involvement in cases with wider market implications would help ensure decisions are consistent with the regulatory standards members are required to follow. It would also have the benefit of reducing the instances of backlogs as the FCA will be able to direct what firms need to do.
22. Consistency across case decisions remains a significant challenge. Members report instances of similar complaints being handled differently<sup>8</sup> and decisions being based on unverified or unavailable information<sup>9</sup>. Greater clarity under DISP on what constitutes fair outcomes, particularly under the Consumer Duty, would provide firms with a clearer understanding of expectations, which in turn could help avoid case

---

<sup>8</sup> We've seen examples of FOS determinations relating to 'Me to Me' transactions and fraud claims where the FOS have ignored the Contingent Reimbursement Code (CRM) which only covers payments made from an account by the victim to another account held by another person. In these instances, the FOS found the firms partly liable citing that firms should have found the transactions suspicious, but in other near identical examples, the FOS reached a different outcome and applied the CRM code.

<sup>9</sup> For example, house values based on estate agent estimates

backlogs. Expanding the transparency and governance of the Wider Implications Framework (referred to in Question 23), with input from firms and consumer representatives, would further enhance confidence in the process.

23. Members have also suggested introducing a statutory right of appeal (referred to in Question 16) to challenge decisions in complex or precedent setting cases. This would provide accountability without the high costs associated with judicial review. In cases where decisions deviate from FCA rules and guidance, allowing the FCA to intervene could reduce unnecessary subjectivity.
24. Reforms to the regime should focus on delivering greater clarity, consistency, and fairness. By addressing these issues, the redress system can better support members in meeting their obligations.

**Question 5: Do you agree that our proposals to better manage mass redress events can help ensure that the FCA acts in a way which is compatible with its statutory objectives, including the secondary international competitiveness and growth objective? Please explain why you agree or disagree.**

25. We agree that better management of mass redress events can support the FCA in achieving its statutory objectives, including fostering international competitiveness and growth. To ensure this, clearer controls and a robust definition of ‘mass redress events’ (as outlined in the response to Question 1) are necessary. This would allow firms to manage such events more effectively and reduce disruption.
26. Regulatory uncertainty and the potential for extensive and extended liabilities in the form of consumer redress programmes can make regulated sectors, such as consumer credit, unattractive to investors and deters new entrants which impedes sector growth and competitiveness.
27. Finality in mass redress events must be prioritised, as ongoing claims, even after regulatory deadlines, create uncertainty and deter investment. For instance, in respect of PPI, the FCA sought to bring finality to the issue by imposing a deadline for complaints. However, after the deadline firms were still inundated with court claims seeking further redress.<sup>10</sup>
28. To further enhance the framework, the FCA should explore ways to collaborate with international regulators on best practices and cross-border issues, strengthening the resilience of the UK financial sector. Additionally, more resources dedicated to consumer education and awareness could empower individuals to make better financial decisions, reducing the likelihood of large-scale grievances.

## Stage 1 – Short to Medium term changes

---

<sup>10</sup> For example, the law firm Harcus Parker recently initiated a group action for legacy PPI policies

**Question 6: What, if any, further information or guidance is needed in DISP to help firms identify and proactively address harm, given the Consumer Duty?**

29. Further clarity is needed to align the Consumer Duty's focus on 'foreseeable harm' with the FOS's 'fair and reasonable' approach. Firms generally understand the Duty's requirements, but the FOS's approach isn't always clear. For example, inconsistencies arise when FOS requests, such as fair value assessments, lack clear links to the specific complaint.
30. DISP rules on Root Cause Analysis (RCA) are widely understood but could be reorganised for clarity. Separating RCA requirements into a standalone section and maintaining consistency with CONC and supplementary guidance would aid firms. The FCA's continued sharing of good and poor practice examples in this area would further support compliance.
31. Enhanced guidance on implementing proactive past complaint reviews would help firms identify recurring issues and prevent harm before it escalates. This could be coupled with improved use of complaints data, encouraging firms to analyse trends and take early corrective action.
32. Improving communication between firms, the FCA, and FOS is also key. Swiftly flagging complaints with wider implications would enable faster resolution and better outcomes, reducing harm.

**Question 7: What options should we consider to ensure firms are given an appropriate opportunity to resolve complaints fairly before cases are referred to the Financial Ombudsman?**

33. The eight-week timeframe outlined in DISP is too rigid for certain complaints, particularly those that require an interested party to respond before the case can progress. For example, complaints involving third parties, brokers, dealers, warranty and other finance companies. In these situations, firms may struggle to meet the current deadlines due to factors beyond their control. Introducing flexibility, such as pauses or extensions, would allow firms to conduct thorough investigations and reach fair outcomes.
34. Another challenge arises when claimants submit new information to FOS that was not provided to the respondent firm during the complaint process. In these instances, fairness would dictate that firms are given the opportunity to review and address this new evidence before FOS issues its decision. This would ensure that decisions reflect the most accurate and complete information available.
35. For mass redress events, the FCA and FOS could work together to improve the quality of submissions by professional representatives. Setting minimum standards for submissions, such as requiring clear complaint points and supporting evidence, would streamline the process and reduce unnecessary delays. Ensuring these controls are in place would help firms respond effectively to high volumes of claims while maintaining fairness in the complaint resolution process.

**Question 8: Would a 2-stage process be appropriate in light of the Consumer Duty, and if implemented, how could it be effectively monitored to ensure good outcomes for consumers?**

36. Broadly speaking, most of our members do not support reintroducing a two-stage process for complaint resolution. This approach, abolished in 2011, is inconsistent with the principles of the Consumer Duty, which emphasises a timely and fair resolution of complaints. A two-stage process risks raising false expectations for consumers by suggesting decisions could be overturned after further review, which may not always be the case. Instead, firms should aim to resolve complaints correctly, the first time, providing clarity and setting appropriate expectations for consumers.
37. When the two-stage process was previously in place, the complaint handling landscape was markedly different, with fewer high-volume submissions from professional representatives. If such a process were reintroduced, there is a risk that complainants and professional representatives would exploit it by speculatively appealing decisions without adding new information or evidence. Any reconsideration of the two-stage process would therefore need safeguards, such as requiring complainants to specify why they disagree with the initial responses and provide substantive grounds for escalation.
38. Ultimately, the focus should remain on resolving complaints swiftly and fairly, without unnecessary procedural hurdles.

**Question 9: What options should be considered to ensure firms and complainants resolve complaints fairly at the earliest opportunity before a final Ombudsman decision is taken?**

39. We recognise that limiting the ability to escalate cases to a final Ombudsman decision could have significant consequences for both consumers and firms, not least because this would further limit firms' ability to challenge FOS decisions outside of Judicial Review. While such a measure could help streamline complaint handling, it must be carefully managed to ensure fairness and maintain trust in the redress system. Any such change must be implemented with appropriate safeguards in place.
40. Investigator decisions could be considered final in specific circumstances such as mass redress events where the FCA has already agreed on principles or regulations. However, the option to escalate must remain available in situations where individual circumstances have been overlooked, factual inaccuracies exist in the investigators decision, or where the investigator's reasoning diverges from prior determinations or FCA rules and industry guidance.
41. If the use of final Ombudsman decisions is restricted, care must be taken to avoid unintended consequences, such as an increased reliance on professional representatives. A more complicated or restrictive system might discourage consumers from pursuing legitimate claims independently, leaving them vulnerable to additional costs. Addressing speculative or frivolous appeals by raising evidentiary

standards for professional representatives would mitigate this risk and free up resources to focus on resolving genuine complaints.

42. Additionally, the Financial Ombudsman Service must provide firms with detailed explanations for any changes between investigator and Ombudsman decisions to help firms better understand the rationale for outcomes and help make improvements to their complaint handling processes.
43. While limiting appeals may help reduce backlogs, these measures must not come at the expense of fairness or accessibility.

**Question 10: Should the rules in DISP provide different routes to redress for represented and non-represented complainants with different expectations? If so, what factors should be considered?**

44. Claims Management Companies (CMCs) and Claimant Law Firms (CLFs) can exploit the FOS's structure to pursue speculative or unsubstantiated complaints. These professional representatives, often targeting areas of legal or regulatory uncertainty, generate mass complaints using technology with minimal due diligence. The (current) absence of a fee for escalating complaints to the FOS has enabled this behaviour, creating delays and uncertainty that harm both consumers and firms. During these delays, consumers often sign agreements with professional representatives, resulting in a significant share of redress being diverted from claimants to these representatives.
45. Recent measures, such as the FOS's proposed case fees for professional representatives and Solicitors Regulation Authority's (SRA's) warnings on high-volume claims are welcome steps but remain at an early stage and it remains to be seen if they adequately address the broader issue of how wider implication complaints are handled by the FOS.
46. Under DISP 1.6.2, firms are obligated to resolve complaints within eight weeks, after which complainants may escalate their cases to the FOS. Professional representatives often use this time limit to their advantage, submitting templated or inadequately evidenced claims that are challenging to address within the prescribed timeframe. These complaints frequently proceed to the FOS, incurring significant case fees for firms irrespective of complaints merits.
47. To address these issues, DISP should introduce mechanisms to differentiate between professionally represented and non-professionally represented complainants, particularly when confined to templated or speculative complaints. Specifically, respondent firms should be able to challenge speculative or unsubstantiated claims by formally requesting additional information or evidence. This request would pause the eight-week resolution clock, ensuring professional representatives meet higher evidentiary standards and preventing the misuse of FOS fees as leverage against firms. In addition, DISP could clarify that the FOS is not required to adopt an inquisitorial approach when investigating complaints brought by professional representatives. Given their expertise, these representatives should be expected to

present their cases fully and comprehensively, without the need for exploratory inquiry by the FOS.

48. Professional Representatives should not be able to engage the DISP rules unless they have met their regulatory requirements to properly investigate and substantiate claims before they are pursued.
49. Professional Representatives should be required to ensure that customers have formally and freely raised their claim or complaint directly with their financial institution before the CMC is able to profit from the case. Introducing such a requirement would promote transparency, safeguard consumers – particularly those in vulnerable circumstances – and ensure complaints are addressed appropriately at their source.
50. We recommend unifying the regulation of all Professional Representatives under the FCA, rather than splitting responsibilities across the FCA and the Solicitors Regulation Authority (SRA). The FCA's regulatory framework for Claims Management Companies (CMCs) is more robust and effective than the SRA's regime for Claimant Law Firms (CLFs). Centralising regulation under the FCA would eliminate the regulatory arbitrage currently observed, where CMCs convert to CLFs to benefit from a less stringent regulatory regime. If unification is not feasible, the FCA's rules should be adopted by the SRA and applied to the professional representatives it regulates.
51. Stricter transparency requirements should also be imposed on professional representatives advertising practices. Professional representatives must clearly disclose all potential fees consumers may incur, providing examples to illustrate how these fees impact any redress awarded. This mirrors the requirements financial services firms follow when advertising the costs of their products. Additionally, professional representatives should inform consumers that they can bring complaints to the FOS directly and without charge, emphasising that professional representatives' services are not a necessity.

**Question 11: What amendments, if any, to the Financial Ombudsman case fee rules should be considered for mass redress events?**

52. The current flat-fee structure for case fees charged by the FOS creates challenges in ensuring fairness, efficiency, and proportionality. Presently, the same fee is applied to all cases, regardless of the complexity or value of the compensation awarded<sup>11</sup>. This approach fails to reflect the varying levels of resources and time required to resolve different complaints. For example, a significant proportion of cases result in compensation awards of less than £1,000<sup>12</sup>, yet these attract the same case fee as more complex cases with higher compensation awards, discouraging firms from

---

<sup>11</sup> One firm told us they had 44 cases in relation to Quanta Law complaints, which were the same and eventually dismissed. As these were the same in nature these were not all investigated but the firm was still charged the full fee (£28,600). Other firms have cited similar examples.

<sup>12</sup> Based on averages for all upheld complaints from 2015/16 to 2016/18

contesting low-value claims even where they have strong grounds to do so. This encourages speculative or frivolous complaints, adding strain to the FOS system. A tiered fee structure based on case complexity or financial value would better align fees with resource use, ensuring fairness for both firms and consumers.

53. If a tiered fee structure is not feasible, reforms should at least address cases dismissed or withdrawn before full adjudication. Currently, full fees are charged even in these scenarios, disproportionately impacting firms and failing to reflect the lower resource costs incurred by the FOS. Our members report that unsubstantiated complaints from professional representatives are frequently withdrawn, yet firms still face full case fees. Reducing fees for such cases would align costs with actual resource usage and deter speculative submissions.
54. The introduction of FOS changes enabling cohort reviews could potentially further reduce repetitive administrative tasks, thereby lowering FOS resource requirements. In such cases, applying full case fees may appear inequitable, particularly if the investigation process is less complex than for individual complaints. Adjusting fees to reflect reduced workloads in cohort reviews would enhance fairness and ensure proportionality in the fee structure.
55. Where the FOS has changed its approach to certain complaint types, respondent firms should be given the opportunity to proactively resolve similar in-flight complaints without incurring a FOS fee.
56. These measures would strengthen trust in the FOS's processes and reinforce its role as an effective, equitable dispute resolution mechanism.

**Question 12: Are there additional or different considerations that the Financial Ombudsman should take into account when deciding what is fair and reasonable in all the circumstances of the case?**

57. The FOS's wide discretion to determine complaints on the basis of what is 'fair and reasonable' introduces significant challenges for firms. While it is required to consider the law, FCA regulations, and good industry practice, it is not bound to apply them, leading to situations where firms that comply with regulations and contractual terms may still have complaints upheld against them. This undermines legal certainty, the principle of freedom of contract, and the ability of firms – especially smaller providers – to operate confidently within established frameworks.
58. This discretion, combined with the FOS's close operational relationship with the FCA, raises concerns about independence and impartiality. The tension between resolving disputes informally and ensuring fairness for all parties creates structural imbalances. Quick informal resolutions can conflict with the level of rigor and due process needed for fairness, contributing to inconsistent decisions and delays.
59. The FOS's broad remit also has wider market implications. By elevating fairness beyond legal and regulatory standards, it risks anti-competitive effects in sectors like lending and financial advice, where firms face challenges in providing affordable services profitably. This can disproportionately affect lower-income consumers and



does not consistently demonstrate improved consumer outcomes. Furthermore, the FOS's approach may encourage speculative claims, which burden the system and erode efficiency.

60. Under section 228 FSMA and DISP 3.6.1, the FOS determines complaints based on what it considers 'fair and reasonable' in all the circumstances. DISP 3.6.4R requires it to 'take into account' relevant laws, regulations, rules, and guidance, but this wording grants the FOS significant discretion, arguably beyond Parliament's original intent. Strengthening these provisions to require the FOS to 'apply' applicable laws, regulations, and guidance in its determinations would increase predictability and align outcomes more closely with established standards. Crucially, this should not allow the FOS to extend its own time limits by relying on applicable laws to override its usual timeframes. FOS determinations must remain subject to the time limits set within its framework to avoid undermining consistency and creating uncertainty for firms and consumers.
61. Additionally, it may be appropriate to amend DISP 3.6.4R, which currently requires the FOS to consider 'what the Ombudsman considers to have been *good* industry practice'. Lessening this standard to 'accepted industry practice' would help prevent the retrospective imposition of higher standards.
62. Building on the point that the FOS should apply applicable laws, regulations and guidance, there should also be restrictions preventing it from requiring firms to pay compensation where there is an ongoing law enforcement investigation or unresolved liability (as referenced in response to question 13). This is particularly relevant under the new APP reimbursement regime or in cases involving litigation to determine supplier liability, such as breaches of contract or misrepresentation triggering section 75 claims. Firms should not be expected to pre-empt outcomes or bridge liability gaps in such cases. To address this, a mechanism should allow complaints to be paused where liability remains unresolved. This would prevent unfair penalties on firms and ensure decisions are based on established outcomes from investigations or legal proceedings.
63. We also suggest incorporating the principle outlined in Section 3B(1)(d) of FSMA 2000 – that 'consumers should take responsibility for their decisions' – into DISP as a factor the FOS must consider when determining what is fair and reasonable.
64. Such reforms would reduce the likelihood of decisions that conflict with FCA rules or accepted industry practices. It would also provide firms and complainants with greater confidence in the process and facilitate challenges to incorrect decisions without necessitating a separate appeals mechanism. This alignment would preserve the FOS's role as a cost-effective and accessible dispute resolution body while fostering greater trust and predictability in its outcomes.

**Question 13: What amendments to the dismissal grounds should be considered when the Government repeals the 2015 Regulations?**

65. We recommend that the FOS should be able to dismiss complaints in the following situations:
66. Where complaints relate to matters under active police investigation or court proceedings should be dismissed or paused to avoid pre-empting judicial outcomes or making rushed decisions that could lead to incorrect results for customers.
67. DISP 3.3.4R should be amended to reinstate the FOS's ability to dismiss complaints about a firm's legitimate exercise of commercial judgement. This change, reversed in 2015 to align with the EU Alternative Dispute Resolution Directive, undermines firms' ability to make risk-based decisions, such as lending, without undue interference.
68. In addition, the FOS should have the discretion to dismiss or return complaints to firms when professional representatives present new information or allegations that have not been reviewed by the respondent firm. This ensures that firms have a fair opportunity to address such claims before they are escalated.
69. The FOS should be encouraged to reject referrals where complainants fail to provide any evidence to support their allegations. Amendments to DISP could ensure the FOS applies a reasonable evidentiary standard across submissions.
70. The FOS should also implement controls to identify mass submissions that are templated and unsubstantiated. In such cases, the FOS should close the complaint and request specific information. If sufficient information is not provided, the FOS should have the authority to dismiss the case.

**Question 14: Should the current time limits for referring complaints to the Financial Ombudsman be reviewed? If so, what alternative approaches should we consider that would provide an appropriate level of protection for consumers?**

71. The current time limits under DISP 2.8.2R(2) state that the FOS cannot consider complaints referred more than six years after the event or three years after the complainant ought reasonably to have become aware that they had cause for complaint. However, the FOS's practical application of these rules has raised concerns. For example, in affordability complaints, the FOS has extended timeframes by adopting legal interpretations, like those under the unfair relationship provisions of the Consumer Credit Act 1974, even when no unfair relationship is alleged.
72. This lack of clear and consistently applied limits creates significant challenges for firms, particularly as no definitive 'long-stop' exists. The open-ended nature of liabilities poses a disproportionate burden on smaller firms, such as Independent Financial advisors, who face difficulties securing professional indemnity insurance. This indefinite exposure contrasts with other professional sectors like law and accountancy, where long-stop provisions are common. It also discourages market participation and investment in financial services by creating uncertainty about potential liabilities.
73. Limitation periods are critical to ensuring fairness. They prevent the litigation of 'stale' claims where evidence may no longer be reliable due to lost records or fading

memories. However, the absence of a clear ‘long-stop’ leaves firms vulnerable to complaints about historic matters they may no longer be equipped to defend, particularly given the strict GDPR requirements that often mandate the deletion of older data.

74. To address these issues, DISP could introduce a ‘long-stop’ deadline for complaints, either based on a set number of years from complaint event, or from the end of the product or service involved. Some of our members have suggested aligning this long-stop with GDPR requirements, considering firms obligations under data protection rules. An expedited consultation on this proposal could help refine the approach and gather industry feedback.
75. DISP rules should clarify the application of the three-year rule concerning when a complainant became aware, or ought reasonably to have been aware, of the cause for complaint. The FOS has inconsistently interpreted this, often applying a subjective test even when it is evident the complainant knew the relevant facts of their complaint for several years. A more objective standard is needed, where it is sufficient that the complainant could have known, even if they did not act on this knowledge. Without such clarity, claims are brought years later, often prompted by professional representatives, undermining the original intent of the time limit.
76. FOS’s application of the six-year rule remains a significant issue, particularly as it has been the subject of recent judicial reviews. Greater clarity is needed on how this rule operates in practice, specifically to confirm that FOS cannot assess fairness or award redress for events occurring more than six years ago, unless the three-year rule applies. Introducing a long stop provides necessary limitations, it does not eliminate the need to address the ambiguities surrounding the six-year rule.

**Question 15: Are there any other short to medium term changes you think should be made to the framework? Please tell us:**

- a. Your thoughts on the likely costs and benefits (for firms and consumers) of each of the short to medium term options discussed above.**
- b. What the impact could be on consumers or consumer protection, or other relevant considerations such as the impact on firms, market integrity, competition and the UK’s international competitiveness?**

#### Hearings before FOS

77. The FOS’s reliance on paper-based processes, with hearings rarely granted, undermines procedural fairness and the ability of firms to fully defend themselves or challenge the reliability of consumer evidence. While DISP provisions technically allow for hearings, these are seldom used due to concerns over cost and time efficiency. This practice limits the procedural safeguards available to firms in cases with wider implications, where more rigorous testing of evidence is warranted.
78. Reforming DISP 3.5.6 to grant firms and complainants the right to request hearings in wider implications cases would address this imbalance, allowing both parties a more

meaningful opportunity to present their case. FCA involvement through attendance at hearings or submissions of written evidence, would ensure expert regulatory perspectives are transparently integrated into decision-making. To ensure fairness, the Ombudsman should grant a hearing request unless it is determined that convening a hearing would obstruct a fair determination of the *wider implications complaint*. Clear guidance would be needed to outline when a hearing may not be appropriate.

79. While introducing hearings could increase FOS operational costs and extend resolution timelines, the enhanced procedural fairness and scrutiny would likely improve confidence in FOS decisions. This, in turn, would mitigate firms' perceptions of bias and improve overall trust in the framework. To mitigate the resource burden, a further step involving peer or second review from another Ombudsman before a case is referred to a hearing, may help. The changes would have a positive impact on market integrity and competitiveness, reducing the deterrent effect on firms concerned about procedural risks, while also benefiting consumers by ensuring decisions are more robust and evidence based.

#### Interest awards

80. The default 8% annual interest rate under DISP 3.7.1R requires reconsideration to ensure it aligns with current market conditions and court practices, where compensatory interest rates are typically lower. While the intention is to return complainants to the position they would have been in (and not in a better position), the current blanket approach risks overcompensating in some instances, particularly where they have maintained a credit balance and not borrowed funds at a high interest rate to cover losses. There are examples of professional representatives delaying claims to accrue additional interest and of the FOS interpreting time limits liberally, allowing claims to accumulate interest over extended periods.
81. A more tailored approach to interest, reflective of market rates and the specifics of individual cases, would reduce overcompensation and ensure fairness for firms. While 8% may be appropriate in some cases, it should not be applied as a blanket rate. This is particularly relevant in cases where delays are beyond a firm's control, such as historical claims or stretched legal time limits, where material costs of 8% interest can impose undue burdens on firms. Should more stringent time limits be imposed on the FOS, as per our response in question 14, any interest awards should then only be payable on the period, any extension or breach past that period would be non-chargeable to firms.

#### Test cases

82. The FOS rarely employs DISP 3.4.2, which allows for significant legal issues to be referred to court as test cases. Barriers such as the need for complainant consent, high associated costs, and the FOS's perceived preference for retaining jurisdiction have left this mechanism largely unused, despite its potential to resolve industry-wide issues with broader legal implications.

83. Removal of the complainant consent requirement, which should be possible when ADR requirements are revoked, would help improve this. We recommend the rules in 3.4.2R and 3.4.3G R do not apply to wider implications complaints and are replaced with a new set of rules outlining how test cases can work more effectively.

#### FOS Board level representatives

84. The FOS Board's composition also requires attention. Currently, there is no representation from either the consumer or industry perspective, despite the FOS's mandate to serve both. While industry experience is present, it lacks active experience. Schedule 17, paragraph 3 of FSMA allows the FCA to appoint directors of the FOS Board, and the inclusion of representatives from both consumer and industry groups would ensure more balanced decision-making. This structural change would better reflect the interests of all stakeholders and improve perceptions of fairness and impartiality in the FOS's operations.

#### Recording changes in outcomes

85. The FOS records changes in outcome for cases even when there has only been a nominal change to a Distress and Inconvenience award (e.g. adding an extra £50 to compensation amount)<sup>13</sup>. This approach doesn't appear fair, as the same outcome has been reached – upheld in favour of the complainant – with only a slightly higher award.

#### Independent quality checking

86. We would like to understand what independent quality checking is conducted for FOS case handlers to ensure consistency in approach. Currently, even with near identical cases, different case handlers can reach completely different outcomes, which, even on a case-by-case basis, doesn't always seem appropriate.

#### FOS approach to Fraud cases

87. As highlighted within this response, there are ongoing concerns about the FOS's handling of fraud cases, which are tied to broader issues with the redress framework. Specifically, there are concerns that the FOS lacks the formal scrutiny needed to handle complex cases. Additionally, the FOS's decisions, based on what it considers to be fair and reasonable, have, in practice, created significant and unexpected liabilities for firms. At times, these decisions conflict with FCA rules or accepted industry practices.
88. The FOS's approach to complex fraud cases requires reconsideration and a more coordinated, consistent strategy. As noted in response to question 13, the FOS is failing to deliver fair outcomes across impacted customers. We recommend that

---

<sup>13</sup> As highlighted in a Warwick University study - [New Study Reveals Financial Ombudsman Service is inflating complaint success rates - Press Releases](#)

complaints related to matters under active police investigation or court proceedings should be dismissed or paused to avoid pre-empting judicial outcomes or making rushed decisions that could lead to incorrect results for customers.

89. The FOS's approach to 'Me to Me' transactions and consistently applying industry standards at the time is problematic. It's crucial the FOS understands and correctly applies the relevant industry standards without deviating based on what it considers fair and reasonable. This approach creates uncertainty and sets new standards. In particular, the FOS should adhere to the Contingent Reimbursement Code or APP Reimbursement Code including guidance like the APP Fraud Reimbursement Best Practice Guide, which directs firms on how to correctly categorise and handle 'Me to Me' transactions.
90. The FOS's approach to distinguishing 'unusual' versus 'suspicious' payments is outdated, and its expectations for bank intervention are unreasonable. Increasingly the FOS has ruled in favour of customers when banks failed to monitor and intervene in allegedly 'suspicious' transactions. However, based on H1 2023 industry data only 0.000096% of payments (or 1 in every 10,455 payments) resulted in an Authorised Push Payment scam. Including BACs and Chaps payments in the data further reduces this to 0.000037% or 1 in every 26,800 payments. Customers often make payments which are potentially unusual, if PSPs intervened in all such cases, this would be an unreasonable approach.
91. The FOS approach to fraud cases raises concerns where firms are required to reimburse claims from non-UK-based consumers. Expecting firms to address potential shortcomings in other countries' frameworks could place an unreasonable burden on UK firms, particularly when they are unable to engage with foreign entities to validate complaints. This risks creating an unbalanced system that encourages reliance on the UK reimbursement model in cases where other jurisdictions lack equivalent mandates.
92. While we recognise the scope of the current call for input, there may be merit in broadening the discussion to consider how the Ombudsman could evolve to address cross-sector complaints more effectively. This is particularly true for fraud-based complaints, where the root cause of consumer losses often lies outside the banking industry, involving other participants in the UK ecosystem, such as technology platforms. By incorporating these sectors into the conversation and potential solutions, a more consistent and holistic approach can be achieved, fostering trust and ensuring the UK market remains an appealing and safe environment for consumers.

### Professional Representatives

93. As stated earlier, the most fundamental issue with the current framework is that Professional Representatives are taking advantage of consumer-friendly rules to support their business models and negate their regulatory requirements. Professional Representatives should not be able to engage the DISP rules unless they have properly investigated the merits of complaints.

94. Promoting greater transparency in the Professional Representatives market would help to improve conduct, including requiring Professional Representatives to report/publish data on - claims volumes, success rates, average redress values received by clients, number of FOS referral and FOS overturn rates.

#### FOS award limits

95. Currently firms face financially significant awards based on the FOS's interpretation of fairness, often without sufficient regard for fairness to the firm or legal substantiation. For Smaller firms, judicial review is rarely a viable option due to prohibitive costs and low success rates, leaving them with no alternative but to comply with decisions that might not hold up in court or align with regulatory standards. A more balanced approach is needed to ensure fairness for all parties involved.
96. The significant levels of individual redress that the FOS can award warrant scrutiny. Given the now substantial award limits, it may be more appropriate for cases exceeding a certain threshold to require resolution through legal proceedings, rather than solely through the FOS. This approach would address concerns regarding the inconsistency in FOS decisions and its ability to determine awards beyond regulatory and legal requirements.

## Stage 2: Longer Term Changes

**Question 16: Should we do more to consult each other on cases, and make our views more widely known publicly, when significant numbers of complaints on a similar issue are being made and/or interpretation of FCA rules is a key issue in the complaint?**

97. The FOS's increasing involvement in systemic and regulatory issues has diverted focus from its core role of resolving individual complaints swiftly and fairly. Addressing complaints with broader implications or requiring detailed interpretations of FCA rules has strained its resources, resulting in delays, inconsistent outcomes, and diminished confidence in the dispute resolution process.
98. A clearer division of responsibilities, where wider implications complaints are escalated to the FCA or courts, would allow the FOS to refocus on its primary objective of providing timely and equitable resolutions to individual complaints. This approach leverages the FCA's statutory role and expertise in managing broader market conduct and regulatory issues, ensuring more consistent oversight while allowing the FOS to concentrate on consumer disputes.
99. The new provision could allow any party – the complainant, respondent firm, the FOS or FCA - to trigger the referral of any Wider Implications Complaint to the FCA for review, ensuring that the power would not solely lie with the FOS. If the FOS declines to treat a complaint as one with wider implications, the requesting party should be able to escalate the matter to the FCA, with the FOS obligated to share all relevant information and report back once the FCA has provided its view.

100. It's important that the FOS is required to identify similar complaints as wider implications complaints and pause them while the process for addressing the wider implications is worked through. There should also be a requirement for the FOS to consult the FCA on several points, with the FOS reporting back to the parties once consultation is complete.
101. New rules should require the FOS to consider whether judicial clarification on a point of law is necessary, taking into account the FCA's view on the matter. The FOS should then dismiss similar complaints once the process for addressing the wider implications has been completed.
102. A definition of 'Wider Implications Complaint' will be needed (see response to Question 1).
103. These reforms would benefit both consumers and firms by reducing delays and improving confidence in the process. For consumers, the FOS could process individual complaints more effectively, delivering quicker resolutions. For firms, removing systemic issues from the FOS's remit would mitigate concerns about inconsistent decisions and provide greater predictability in how complaints are resolved. Over the medium to long term, these changes would strengthen the financial sector, fostering competitiveness and reinforcing trust in the regulatory and dispute resolution framework.

**Question 17: Should the Financial Ombudsman be able to pause the timescales in the DISP rules while it awaits regulatory input on the interpretation of rules?**

104. The FOS's handling of complex cases with significant regulatory implications often highlights a lack of formal scrutiny in its processes. Prolonged resolution times create uncertainty for both consumers and firms, a situation exacerbated by claims management companies exploiting the system through mass complaints. This undermines confidence in the FOS and delays redress, with consumers often losing part of their compensation to CMC fees due to procedural inefficiencies.
105. To address these challenges, DISP rules should include a provision requiring the FOS to pause the resolution of Wider Implications Complaints to seek regulatory input from the FCA. This would enable the FCA to provide views on relevant regulatory issues, introduce new rules or guidance if necessary, and ensure consistent interpretation across the industry.
106. Under this approach, any party – whether the complainant, respondent firm, FOS, or FCA – could trigger the referral of a Wider Implications Complaint for FCA review. By pausing, rather than ceasing complaints, this mechanism would preserve the FOS's focus on resolving individual disputes while ensuring decisions with regulatory implications are guided by the FCA's expertise. This balanced framework would benefit all stakeholders, fostering greater trust and predictability in the financial services sector.

**Question 18: What changes to the current rules should be considered for mass redress events? Please tell us:**



**a. Your thoughts on the likely costs and benefits (for firms and consumers) of each of the longer-term options discussed above.**

**b. What the impact could be on consumers or consumer protection, or on other relevant considerations such as the impact on firms, market integrity, competition and the UK's international competitiveness?**

107. We agree with the proposal in 3.35 to 'pause' complaints handling requirements when the FCA's primary or secondary objectives are engaged. The suggestions in paragraph 3.37 to extend limitation periods during a pause to preserve customer rights is also sensible. However, it may be necessary to consider potential conflicts with other requirements, such as GDPR, to ensure that firms are not adversely affected by such an extension. Additionally, the proposal in paragraph 3.38 to return cases to firms without charging a case fee, or with a reduced fee, is reasonable.

**Question 19: Are there any other longer-term changes you think should be made to the framework, including potential legislative changes?**

108. The absence of a robust appeal mechanism for FOS decisions remains a key concern for firms. Judicial review, the sole recourse for challenging FOS rulings, is highly limited due to the broad discretion granted to ombudsmen, who base their decisions on what they deem fair and reasonable rather than strictly adhering to law and regulation. This limitation has rendered judicial review ineffective in most cases, as demonstrated in high profile disputes.<sup>14</sup>
109. To address these challenges, the introduction of a statutory right of appeal – akin to the model used by the Pensions Ombudsman or the Financial Services and Pensions Ombudsman in Ireland – would provide firms and consumers with clearer and more effective pathway for challenging decisions.
110. Such changes would enhance procedural transparency, bolster confidence in the FOS's decision-making, and ensure its processes can address the growing complexity of its caseload. While this reform would require legislative action, it represents a necessary step to balance the FOS's informal alternative dispute resolution role with the procedural rigor needed for fairness and market integrity.

**Question 20: What proportionate approaches could the FCA use to collect better data on emerging redress events?**

111. We agree with paragraph 4.7, which suggests that the FCA should consider changes to require professional representatives to notify firms, the FOS, and the FCA about

---

<sup>14</sup> For example: see: FT article re [Vanquis](#) and recent judicial review proceedings brought by The Co-operative Bank's Mortgage Agency Services No.5 (MAS5) [judicial review proceedings](#) against the FOS in relation to a complaint about the fairness of the interest rates charged on a mortgage (MAS5 was not successful)

potential systemic issues at an earlier stage, before officially registering complaints. Although it is noted that the FCA already receives large volumes of complaint data via the current SUP 15 reporting requirements, albeit half-yearly reporting may not be sufficient to intervene early enough.

**Question 21: In what circumstances should the FCA expect firms, including PRs, to notify it of emerging redress events?**

- 112. As above, the FCA could consider changes to require professional representatives to notify firms, the FOS, or the FCA about potential systemic issues, before officially registering complaints. However, in order to engage this mechanism professional representatives should be required to properly evidence the harm they believe has occurred to avoid speculatively referring emerging redress events to the FCA.
- 113. Additionally, wide sector implications, particularly those arising from regulatory or legal breaches, should prompt early notification to enable timely intervention.

**Question 22: What other factors should be taken into account when determining if an issue has wider implications or the potential to become a mass redress event?**

- 114. As referenced earlier in the response, we wish to highlight that the volume of complaints alone is an unhelpful metric when considering whether an issue has wider implications or the potential to become a mass redress event.
- 115. A more effective evaluation must consider the likelihood of mass litigation, regulatory actions, or significant reputational damage to the financial services sector, ensuring that systemic risks are addressed appropriately. Decisions that impact points of law, such as the fairness of terms, should also be taken into account, as should those with unintended consequences beyond the specific case, where other products might be affected differently.
- 116. Similarly, decisions that undermine or conflict with other legislative provisions, such as the extension of Section 75 cases where claims under indemnity are invalid because the intermediary is not the supplier, must be carefully assessed. Complex issues that interact with other regulatory requirements, including affordability decisions affecting prudential rules or savings rate disputes impacting treasury management, also require consideration. Finally, 'windfall' outcomes, where the resolution does not reflect the harm caused, highlight the need for a more nuanced approach to identifying and addressing wider implications or mass address events.

**Question 23: Are there any other changes needed to make the WIF more effective?**

- 117. The current constitution of the WIF excludes industry and consumer representatives, as well as the Prudential Regulation Authority (PRA) and the Payment Systems Regulator (PSR). This lack of inclusivity undermines its effectiveness. The absence of the PRA is particularly surprising given that large, unexpected liabilities arising from wider implications complaints can have prudential impacts on firms.
- 118. The November 2024 amendment to the Terms of Reference, which requires framework members to liaise with independent statutory industry and consumer

panels twice a year, is a positive step. However, further clarification and improvements are needed. Panel sessions should be scheduled and published well in advance to allow firms and consumers to prepare and submit representations. Biannual meetings may also prove insufficient, and a mechanism should be introduced to convene sessions on short notice for urgent matters. Additionally, relying solely on the publication of panel representations in the annual report is inadequate, as this approach lacks the timeliness necessary for meaningful engagement.

119. Including both industry and consumer representatives, alongside the PRA, would create a more balanced and comprehensive decision-making structure. As the framework is voluntary, there appears to be no barrier to amending its terms to broaden representation above what has been recently introduced.
120. The Framework's Terms of Reference tasks its members – the FOS, FCA, and FSCS – with agreeing on how much to manage wider implications issues, including deciding which body should lead. However, in practice, the FOS often addresses such matters, even when regulatory issues fall within the FCA's remit. This either reflects improper use of the Framework or gaps in the DISP rules preventing timely FCA intervention.
121. To address this, a formal definition of 'Wider Implications Complaints' should be established in DISP, building on existing references in the Framework's Terms of Reference and DISP 3.4.3. This would clarify when matters should be escalated and ensure alignment in their management. Furthermore, a DISP provision should require the FOS to pause any such complaint, enabling the FCA to provide its views, consult on new rules or guidance, and resolve regulatory issues before the FOS proceeds. This approach ensures that decisions with regulatory implications are first addressed by the FCA as the appropriate body.
122. It is essential that the power to trigger a referral to the FCA should rest not solely with the FOS but also with complainants, respondent firms, or the FCA itself. This would foster collaboration, ensure that wider implications issues are appropriately addressed, and allow the FOS to focus on its primary role of resolving routine individual complaints effectively.

**Question 24: How effective has the WIF been in facilitating early collaboration between its members and industry on matters with wider implications?**

123. The Wider Implications Framework (WIF) has not been effective in facilitating early collaboration between its members and the industry on matters with significant implications. While section 415C(1) of FSMA requires cooperation between the FOS, FCA, and FSCS, the WIF, relaunched in 2022, suffers from shortcomings in transparency, governance, and stakeholder engagement. Meetings between framework members result in limited published insights, and the absence of key entities such as the Prudential Regulation Authority (PRA) and Payment Systems Regulator (PSR) restricts its potential impact.
124. A critical flaw is the lack of a formal mechanism for firms to seek the FCA's public stance on regulatory issues stemming from significant Lead Decisions. This often

leaves Lead Decisions with quasi-regulatory consequences being handled by the FOS without public consultation or active FCA intervention. Such an approach is contrary to the collaborative structure Parliament intended and undermines confidence in the framework's ability to address systemic concerns.

125. The framework is not equipped to handle sector-wide issues effectively. The FOS's processes are designed for resolving individual disputes, and its informal decision-making procedures are ill-suited to address complex cases with wider implications. This highlights structural gap that necessitates a more robust mechanism to ensure fair, proportionate, and transparent decision-making.
126. According to explanatory notes on section 415C of FSMA, the framework was intended to provide 'transparent structure for collaboration' and to ensure stakeholders receive appropriate information through published minutes, an annual report, and a central log of identified issues.<sup>15</sup> However, in practice, this transparency is lacking. Stakeholders, including firms and consumer representatives, have limited access to meaningful information or opportunities to contribute, further hindering the WIF's efficacy.

**Question 25: What improvements could be made to how we work under the current framework to ensure effective co-operation on matters with wider implications?**

127. See answers to questions 23 and 24

**Question 26: Do you believe that the amendments made to the WIF ToRs will improve the ability for external stakeholders to provide input on issues where wider implications are identified, and if not, why not?**

128. Answered earlier in the response.

**Question 27: What other improvements could be made to how we engage and communicate with stakeholders when considering issues with wider implications?**

129. Engagement and communication with stakeholders could be significantly improved by addressing the transparency and governance gaps currently hindering WIF. The FCA, FOS, and FSCS should establish a more formalised process for stakeholder input, including opportunities for firms, consumer groups, and regulators to participate on discussions of wider issues.
130. Publishing detailed updates on the progress of the cases being considered under WIF, along with clear explanations of how external input has influenced decisions, would enhance trust and collaboration.
131. Enabling complainants and firms to trigger referrals under the framework and requiring the FCA to issue public stances on significant regulatory issues before they

---

<sup>15</sup> (see paragraph 373 of the explanatory notes: <https://www.legislation.gov.uk/ukpga/2023/29/notes/division/3/index.htm>)

are handled by the FOS would ensure collaborative and proportionate decision-making.

132. Additionally, Calls for Input provide a valuable mechanism for the FCA and the FOS to gather balanced insights on issues before forming a view on matters with wider implications. This approach enables the FCA to ensure it carefully considers all four of its objectives before taking any action on such issues.

**Ends**

