UK Finance

Modernising the Redress System

UK Finance response to FCA CP26/9 consultation paper

May | 2026

Introduction

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Sent via email to: cp26-9@fca.org.uk

UK Finance is the collective voice for the banking and finance industry. Representing around 300 firms across the industry, members act to enhance competitiveness, support customers and facilitate innovation.

Members welcome the opportunity to respond to this consultation and given the subject matter, have consulted widely across our membership to attain views from a broad range of firms, with different business models and customer bases.

Our high-level views and responses to the consultation questions are set out below and members would be happy to discuss this submission in more detail if that would be useful. Please contact Daniel.ryall@ukfinance.org.uk in the first instance to discuss further.

Introduction

Members welcome the package of reforms being taken forward by HM Treasury, the Financial Conduct Authority (FCA) and the Financial Ombudsman Service (FOS) to modernise the UK redress framework. Taken together, these reforms offer a significant opportunity to deliver a system that works better for consumers, firms and the wider economy.

A core aim of reform is to ensure that the FOS operates as a simple, impartial and effective dispute-resolution service, capable of resolving complaints more quickly and consistently. Members consider that a more timely and efficient FOS will deliver clear benefits for consumers, including faster resolution, clearer expectations and improved confidence in outcomes—particularly important given concerns about delay, inconsistency and access to redress.

Members also strongly support the drive for closer alignment between the FOS and the FCA, and welcome the focus on delivering tangible improvements in the near term, ahead of wider legislative reform. Early progress is seen as essential to maintaining momentum, supporting confidence in the redress system, and underpinning the government's broader growth and competitiveness agenda, including initiatives such as Targeted Support.

At the same time, members stress the importance of improving clarity and predictability within the framework. While the government's intention to allow targeted carve-outs is understood, members have concerns about how this may operate in practice. In particular, there is a risk that carve-outs for high-level obligations could enable the FOS to reintroduce elements of the previous fair and reasonable approach, increasing discretion and retrospection. There is also concern that the Consumer Duty could, in effect, trump more

prescriptive rules, undermining the aim of greater certainty. Members consider it important that these risks are recognised and addressed as the reforms are taken forward.

Members also note the increasing use of advanced technologies, including AI, across financial services, and emphasise that the redress framework will need to be equipped to take appropriate account of this as integration becomes more widespread.

Against this backdrop, this response sets out members' views on the proposals in CP26/9, recognising their potential to deliver real benefits for consumers while highlighting where further clarity and structure will be needed to ensure the reforms succeed in practice.

Executive Summary

Members support the package of reforms being taken forward by HM Treasury, the FCA and the FOS to modernise the redress system. The overall direction of travel is welcomed.

Members welcome the focus on delivering practical improvements in the near term, ahead of wider legislative change. Early implementation of measures such as the registration stage, updated dismissal grounds and targeted changes to the fair and reasonable framework is seen as critical to achieving meaningful progress now.

The proposed changes to the fair and reasonable test are strongly supported. In particular, members welcome the removal of references to *good industry practice* and the strengthened emphasis on ensuring complaints are assessed by reference to the law, FCA rules and regulatory standards applicable at the time. These changes are viewed as an important safeguard against retrospective application and a necessary step in improving certainty.

Members support the introduction of a registration stage as a sensible reform with the potential to improve timeliness and prevent clearly unmeritorious or out-of-scope complaints progressing to full investigation. Members emphasise that it must operate as a structured readiness and jurisdiction check—not an informal investigation—and be underpinned by clear objective criteria and defined timeframes.

Members also strongly welcome the proposed expansion and clarification of dismissal grounds, which are seen as essential to preventing clearly unmeritorious or out-of-scope complaints entering full investigation.

Overall, members consider the proposals in this consultation to be a positive and necessary step. Their success will depend on early delivery, strong guardrails around discretion, and a framework that delivers predictable, timely and proportionate outcomes for consumers and firms alike.

Consultation questions

1. **Do you agree with the proposed rules to introduce a registration stage (pre-registration and registration stages), as set out in the Appendix? If not, please give evidence or reasons as to why not.**

- Members broadly support the introduction of a two-stage pre-registration and registration. Members consider that, if well designed, a registration stage could reduce poorly evidenced and poorly scoped complaints entering full investigation, set clearer expectations on evidential requirements, support early identification of complaints outside FOS jurisdiction, and enable more efficient use of FOS resource.
- Members emphasise that a complaint should only progress to registration where there is sufficient information to allow the ombudsman to consider both jurisdiction and what is fair and reasonable, rather than either in isolation. Members also seek clarity on whether jurisdiction can be assessed earlier, at the pre-registration stage, with early jurisdiction testing seen as essential to avoiding unnecessary escalation and cost.
- There is concern that pre-registration could become an informal investigation stage if not tightly constrained. Members stress that it should not allow complainants or representatives to submit new evidence that firms have not had the opportunity to review under DISP, and that where new material is submitted complaints should be returned to firms for consideration before registration.
- Members also raise concerns about provisions allowing complaints to move between stages at any time at the Ombudsman's discretion. Without objective criteria and defined limits, this creates operational uncertainty for firms and risks cases becoming stalled at pre-registration. Members would welcome defined maximum timeframes and regular updates to ensure the process improves efficiency rather than adding a further administrative layer.
- While acknowledging that charging arrangements will be consulted on separately, members note that a significant process change should be accompanied by a proportionate charging structure, as a secondary implementation issue, particularly for cases that never reach registration.
- More generally, members highlight that further non-Handbook guidance will be critical to assessing the effectiveness of the proposal and would welcome greater clarity at Handbook level on evidential expectations, the handling of complaints returned to firms, the early use of dismissal powers, and the treatment of interest where delays arise from missing complainant information, with appropriate flexibility for vulnerable consumers.

2. **Do you agree with the proposal for the Financial Ombudsman to assess whether a case is ready to investigate within the registration stage, recognising that it will develop and publish further supporting guidance to support the rules in due course? If not, please give reasons or evidence as to why not.**

- Members support the proposal for the registration stage to include an assessment against the updated dismissal grounds, recognising this as an important mechanism. When applied effectively, this assessment should help filter out complaints that are clearly outside scope or unsuitable for FOS consideration.

- Members emphasise that dismissal assessments at registration must be applied consistently and transparently, supported by clear guidance so that firms and complainants understand how the grounds will be interpreted in practice. Members stress that this consistency will depend on the capability and experience of those undertaking registration-stage assessments, and consider it important that caseworkers at the pre-registration stage have skills and training comparable to those of full investigators, to avoid bottlenecks or inconsistencies in decision-making. Decisions to dismiss at this stage should be clearly reasoned and communicated promptly, with appropriate safeguards where outcomes are disputed. Members would welcome product-specific guidance where this would help support consistency and reduce delay, including on evidential requirements in unaffordable lending cases and on the scope and validity of letters of authority, particularly in IVA cases.
- Without careful limits, the application of dismissal grounds at registration could stray into substantive assessment of the merits. They stress that evidential requests and analysis should be limited to what is necessary to apply the dismissal grounds, to avoid duplicating investigation activity and increasing burden where cases later proceed.
- Members also note that the considerable discussion around the application of the 6/3-year time limits suggests that further guidance would be helpful. In particular, members would welcome further clarification from the FCA on what is meant by “cause to complain”.

3. **Do you have any other comments, data, evidence, or suggestions regarding the proposed registration stage?**

- There is a strong view that professional representatives should be held to a higher standard than individual complainants, reflecting their expertise, the charges they impose and their repeated use of the FOS process. Members’ experience suggests that poorly evidenced or formulaic complaints submitted by some representatives can place a disproportionate operational burden on the system. Members consider that where such complaints fail to progress beyond registration due to inadequate evidence, the associated costs should not fall on respondent firms. Members note that the FCA has recently highlighted concerns, through its review of claims management company practices, about the conduct of some professional representatives, including weaknesses in onboarding standards, multiple representation and the operational strain created by high-volume, low-quality claims, reinforcing the importance of proportionate evidential expectations at the registration stage.
- Members also emphasise the need for clear communication of evidential requirements and registration outcomes to both complainants and representatives, alongside timely notification of any deficiencies. This should include clarity on the treatment of interest where a complaint is held due to the complainant not providing sufficient information; members consider that interest should not accrue during periods of delay attributable to missing complainant information.

- In addition, members would welcome clearer guidance on the role firms are expected to play at the registration stage, including notification, information requests and how the pre-registration and registration stages differ in practice from earlier processes. This should include clearer guidance on the handling of complaints returned to firms at the pre-registration stage due to missing information, including what, if anything, firms are expected to do where they have already investigated the complaint and issued a final response based on the information available.
- Members also consider that firms should be formally notified when a complaint moves between stages so that they can track cases effectively and meet the relevant obligations at each stage.

4. Do you agree that the Financial Ombudsman should retain the ability to dismiss complaints that are frivolous or vexatious? If not, please give evidence or reasons as to why not.

- Members agree that the Financial Ombudsman should retain the ability to dismiss complaints that are frivolous or vexatious, viewing this power as essential to the efficient and fair operation of the complaints framework given the deliberately broad definition of a complaint and the absence of any requirement for initial justification.
- Members emphasise that dismissal powers must be exercised using clear, objective and transparent criteria, with decisions taken at the earliest opportunity and reasons clearly communicated to both parties. There is concern that terms such as “frivolous” or “vexatious” could otherwise become catch-all labels, leading to inconsistent or subjective application. Safeguards are therefore needed to ensure vulnerability is handled carefully and that fairness remains central, including where complaints may be tactical in nature.
- Members expressed differing views on whether dismissal should be mandatory where defined criteria are met. Some members consider that predictability and efficiency would be improved if dismissal were mandatory in such cases, subject only to narrowly defined exceptions such as vulnerability or domestic or economic abuse. These members argue that a mandatory approach would promote consistency and confidence in outcomes where complaints clearly meet the dismissal thresholds.
- Other members do not support a mandatory approach, emphasising the statutory role of the Ombudsman to assess complaints on a case-by-case basis and the importance of preserving discretion to take account of individual circumstances. These members caution that an overly rigid framework could risk undermining the Ombudsman’s independence and limiting its ability to deal appropriately with exceptional cases.
- Overall, members agree on the importance of strong and clearly articulated expectations around the early use of dismissal powers. Many members favour a strong presumption that complaints meeting the relevant criteria will be dismissed, supported by transparent reasoning, appropriate quality-assurance arrangements and clear articulation where discretion is exercised not to dismiss.

- A number of members note that the current framework places the burden of identifying frivolous or vexatious complaints entirely on the FOS, while firms remain obliged under DISP 1 to investigate all complaints fully regardless of apparent merit. They recommend that the FCA should publish non-Handbook guidance to assist firms in identifying and flagging at the complaint-handling stage, based on clear indicators such as refusal to cooperate, misleading behaviour or contradictory accounts. This would not give firms unilateral dismissal powers but would create a more balanced, two-stage process with the FOS as final arbiter, reducing the number of clearly unmeritorious complaints referred.
- Members would also welcome a commitment to review the operation of the dismissal framework after implementation, with published findings and stakeholder engagement.

5. **Do you agree that the Financial Ombudsman should be able to dismiss complaints where complainants have acted vexatiously, abusively or otherwise unreasonably? If not, please give evidence or reasons as to why not**

- Members agree that the Financial Ombudsman should be able to dismiss complaints where complainants have acted vexatiously, abusively or otherwise unreasonably, and see this as a necessary and proportionate addition to the dismissal framework. Members have experience of behaviour that deliberately impedes resolution, including obstructive, abusive or threatening conduct, and consider that an explicit ground would help protect operational efficiency, staff welfare and fair access for other complainants.
- Members support expanding the existing vexatious ground to focus on complainant behaviour, including where the system is misused or “gamed”, such as through repeat activity by prolific frivolous complainants, but stress that clear guidance is needed to ensure consistent and proportionate application. Members note that this should include complaints brought by complainants where the FOS has had previous dealings and identified a pattern of repeat unreasonable behaviour, based on prior Ombudsman activity. As with other dismissal grounds, members emphasise the importance of clear definitions, a high threshold and transparent criteria, with dismissal generally based on patterns of behaviour rather than isolated incidents. Robust safeguards are needed to ensure that genuinely vulnerable complainants, or those who make innocent mistakes, are not inappropriately captured, including clarity on the interaction with the Consumer Duty and vulnerability policies.
- Members also highlight the importance of alignment between firm-level complaint handling and the FOS framework, including confirmation that firms can identify and flag unreasonable conduct using published criteria without regulatory risk, while the FOS remains the final arbiter.

6. **Do you agree that the Financial Ombudsman should be able to dismiss complaints where the respondent has reviewed the subject matter of the complaint in accordance with (a) the regulatory standards for the review of such**

transactions prevailing at the time of the review; or (b) any formal regulatory requirement, standard or guidance published by the FCA or other regulator in respect of that type of complaint? If not, please give evidence or reasons as to why not.

- Members broadly support allowing the Financial Ombudsman to dismiss complaints where a respondent firm has already reviewed the subject matter in line with the regulatory standards, rules or formal guidance applicable at the time of that review. Members consider this an important safeguard against duplication, uncertainty and unnecessary cost, and emphasise that the role of the FOS is to resolve individual disputes rather than to re-litigate issues or act as a secondary regulator where firms have already complied with clear regulatory expectations.
- Support for this proposal is strongly conditional on clear limits to the power. Members stress that any dismissal must be based on an assessment of the standards and regulatory requirements in force at the time the review was conducted, with no scope for retrospective reinterpretation using newer rules, guidance or evolving expectations. Several members highlight that allowing the FOS to overturn compliant historic reviews through the application of “fair and reasonable” could undermine confidence in undertaking regulatory remediation exercises and create material uncertainty.
- Members also welcome the proposal being framed broadly enough to capture formal requirements beyond FCA rules, for example under the Payment Services Regulations in unauthorised fraud cases or under the Payment Systems Regulator’s mandatory reimbursement regime in APP fraud cases, but emphasise the need for safeguards to ensure the FOS does not misinterpret regulatory requirements or apply inappropriate benchmarks. In particular, clarity is requested on how this ground would apply to firms operating within the FOS voluntary jurisdiction, and what standards would be used in those cases, to avoid firms being held to regulatory standards that did not apply to their business.
- To support consistent application, members would welcome guidance on the evidence firms are expected to provide to demonstrate that a compliant review has taken place, such as records, decision rationale and customer communications. Subject to these protections, members strongly support this dismissal ground.

7. **Do you agree that the Financial Ombudsman should be able to dismiss complaints where, the Financial Ombudsman is satisfied, having considered its responsibilities under s. 404B FSMA, the respondent has reviewed the subject matter of the complaint in accordance with a consumer redress scheme? If not, please give evidence or reasons as to why not.**

- Members agree that the Financial Ombudsman should be able to dismiss complaints where the respondent has reviewed the subject matter in accordance with an applicable consumer redress scheme and see this as an important safeguard against parallel processes once a scheme has been implemented. Members consider that

allowing complaints to proceed in these circumstances risks undermining the purpose of redress schemes, creating duplication and exposing firms to repeated challenge despite having already delivered regulator-mandated outcomes.

- Support for this proposal is strong but conditional on the approach being tightly framed and consistently applied. Members emphasise that dismissal should be appropriate where the redress scheme covered the same subject matter and the firm has applied the scheme properly and fairly. Clear guidance is requested on how the FOS will assess this, to avoid subjective decision-making and to provide certainty to firms and consumers. In particular, members would welcome clarity on how edge cases will be handled, such as disputes about scheme scope, partial coverage or alleged procedural failings.
- Members also highlight the importance of clear consumer communications under redress schemes and note that dismissal should generally be appropriate unless the complainant can present new, material evidence that was not available at the time of the scheme review.

8. **Do you agree that the Financial Ombudsman should be able to bring finality by dismissing complaints where the subject matter of the complaint has previously been considered or excluded under the Financial Ombudsman Service? If not, please give evidence or reasons as to why not.**

- Members agree that the Financial Ombudsman should be able to bring finality by dismissing complaints where the subject matter has already been considered or properly excluded by the FOS. This is seen as an important safeguard against issues being re-raised with reframed arguments rather than new facts, including the artificial splitting of complaints or repeated referrals through different channels.
- To support consistent application, members would welcome clear guidance confirming that “previously considered” covers substantive and procedural decisions, and that minor reframing, alternative legal bases or use of professional representatives should not reopen the same underlying issue.

9. **Do you agree with the addition of ‘factual’ into the existing rule? If not, please give evidence or reasons as to why not.**

- Members agree with the addition of “factual” to the existing rule and see this as a necessary clarification. Members emphasise that genuinely new factual information should be limited to information that was not available, and could not reasonably have been obtained, at the time of the original complaint, and should not capture reframed arguments, hindsight or information that could have been provided earlier.
- Where new factual information does arise, members consider complainants should be directed back to firms in the first instance to allow firms the opportunity to reassess and, where appropriate, resolve the complaint. Where new information is introduced at or after registration, firms should have a defined window to consider it,

with any resolution treated as proactive settlement rather than a change in FOS outcome.

- Members also support the principle that determinations should be made without the benefit of hindsight and recommend that the FOS be able to dismiss or return complaints where new facts or allegations are raised that firms have not previously had the opportunity to address. This clarification is seen as important in preventing complaints being reopened on evolving interpretations rather than genuinely new evidence, while preserving fairness where new facts genuinely come to light.

10. Do you agree that the Financial Ombudsman should be able to dismiss complaints where the subject matter of the complaint has been dealt with, or is being dealt with, by a comparable complaints scheme, regulatory or law enforcement body or dispute resolution process? If not, please give evidence or reasons as to why not.

- Members agree with this proposal. This is seen as an important safeguard against duplication, inconsistent outcomes and the risk of double recovery, and as a way of ensuring complaints are handled by the most appropriate body, particularly in complex or serious cases such as large-scale or complex investment scams where regulatory or criminal processes are better suited. Members also agree that, where a claim has been considered and dismissed by a court, it should not subsequently be considered by the FOS.
- Members emphasise that the power should be tightly framed and supported by clear guidance, including on what constitutes a "comparable" scheme, how mandatory reimbursement is captured, and how cases should be handled where court proceedings commence after FOS registration, with a strong preference for dismissal rather than pausing to avoid parallel routes to redress. Members also note that complaints can be multi-faceted and overlap with other regimes, such as the ICO, and caution that dismissal should take account of the scope and powers of the alternative body so complaints are not dismissed where that process cannot fully address consumer detriment. In particular, members highlight that this dismissal ground is likely to be relevant to "complex" APP scam cases, where parallel criminal, civil or regulatory investigations are ongoing and other forums (notably the courts) are better placed to assess and scrutinise evidence, for example through oral evidence, cross-examination and other specialised rules of evidence.
- Members would welcome clarity on whether cases can be returned to pre-registration where relevant information emerges after registration, and on how complaints may be revisited if a parallel process concludes without resolving the underlying issues. Members also emphasise the importance of avoiding premature outcomes in complex cases, noting examples where determinations have been reached while independent investigations remain ongoing, which can undermine consumer and public confidence and lead to significant contention. Members further question whether it is an effective use of FOS resources to proactively seek evidence from third parties, such as law enforcement bodies, where a parallel investigation has

been established to consider the same issues. In this context, members note ongoing industry engagement with the Payment Systems Regulator and Pay.UK on the handling of complex APP scam cases and urge the FOS to engage with industry and the PSR to ensure that the exercise of this dismissal ground is aligned with any agreed complex-case process, to avoid prejudice to investigations and promote consistent outcomes.

11. **Do you agree that the Financial Ombudsman should be able to dismiss complaints where the complaint has been or is the subject of court proceedings? If not, please give evidence or reasons as to why not.**

- Members agree that the Financial Ombudsman should be able to dismiss complaints where the complaint has been, or is, the subject of court proceedings. This is seen as necessary to maintain a clear boundary between the FOS as an ADR body and the courts, avoid duplication and prevent parallel routes to redress being pursued at the same time.
- Members emphasise that the two processes should not overlap and that complainants should be required to pursue one route at a time, with court proceedings taking priority. Several members argue that intended legal action should also be captured, including the issuing of a pre-action letter or letter of claim, and that DISP should be clear this cannot simultaneously constitute a DISP complaint. Other members, however, note that a Letter Before Action can in some cases be issued at an exploratory stage and consider that customers should still be encouraged to use the FOS before litigation is formally commenced. There is also strong support for dismissal, rather than pausing, where court proceedings are active, to provide certainty and mitigate the risk of double recovery.
- Members would welcome clarification on how the FOS should treat different litigation outcomes, such as withdrawal, settlement on a full and final basis, or judgment, and in what limited circumstances a new complaint might be permitted on the basis of genuinely new factual evidence. Clarity is also sought on how related litigation, for example proceedings against third parties rather than the respondent firm, should be treated.
- Members also note that, given litigation is intended to be a last resort, the FOS should encourage customers to use its service before pursuing court proceedings, but stress that clear regulatory boundaries are needed so that complainants cannot pursue the courts and the FOS in parallel.

12. **Do you agree that the Financial Ombudsman should be able to dismiss complaints that are more appropriate for court, arbitration or another complaint scheme or dispute resolution process? If not, please give evidence or reasons as to why not.**

- Members broadly agree with the proposals. Members see this power as important to preserving the FOS's role as an alternative dispute resolution body and avoiding it being drawn into matters that are inherently legal, involve novel or complex points of

law, or require procedures better suited to the courts, such as cross-examination or the determination of legal precedent, particularly where there may be wider implications.

- Members would encourage the FOS to make more active use of this power than it has historically, and to be prepared to defer to the courts on matters of law where appropriate. There is strong support for clear, published guidance setting out the criteria for when a complaint will be considered more appropriate for another forum, including illustrative examples, to support predictability and manage cost implications for firms. Several members also note that technical legal disputes that do not turn on consumer detriment should fall outside the FOS's remit.
- Members emphasise that the power should be exercised transparently and proportionately, with clear signposting to the appropriate alternative route and guardrails to avoid consumers being bounced between forums. Clarity is also sought on how this would operate in practice, including any expectations placed on firms.
- One member expressed concern about this proposal, arguing that consumers should retain the ability to choose their preferred route to redress and that directing complaints away from the FOS could disadvantage consumers due to cost or access barriers associated with the courts, as well as potential backlogs in alternative forums. While this view was not widely shared, members recognise the importance of ensuring that access considerations are taken into account when applying this dismissal ground.

13. Do you agree with reintroducing a dismissal ground for complaints about employment matters from an employee, or employees, of a respondent? If not, please give evidence or reasons as to why not.

- Members agree with reintroducing a dismissal ground for complaints relating to employment matters raised by employees of a respondent firm. Members consider that employment disputes fall outside the intended scope of the consumer redress regime and are more appropriately handled through established employment law frameworks, including employment tribunals, even where financial products are involved.
- Members emphasise that this dismissal ground should apply where the complaint is made in the complainant's capacity as an employee, rather than as a customer. Clear guidance is therefore requested to distinguish between complaints arising from the employment relationship and complaints brought by an employee acting as a consumer, for example in relation to a personal account or product, which should remain within FOS jurisdiction.

14. Do you agree with reintroducing a dismissal ground for complaints purely about investment performance? If not, please give evidence or reasons as to why not.

- Members agree with reintroducing a dismissal ground for complaints that are purely about investment performance. Members consider this an important clarification that

helps distinguish between market risk, which consumers knowingly accept when investing, and complaints that properly relate to regulatory, conduct, suitability or disclosure failings.

- Members emphasise that poor performance alone does not indicate wrongdoing, particularly where the advice process was compliant and appropriate risk warnings were provided. Allowing complaints to proceed solely because an investment underperformed risks blurring the boundary between investment risk and mis-selling and could undermine confidence in the advice and redress framework.
- Members note that, without robust clarity on this dismissal ground, firms may adopt more defensive approaches to offering investment support, to the detriment of consumers. This would risk undermining the objectives of the Targeted Support regime and wider government policy to encourage greater consumer engagement with investment and savings.
- Support for this proposal is strongly linked to clear guidance. Members stress that the FOS should look beyond how a complaint is framed and assess its substance, so that complaints labelled as suitability or advice issues, but which are, in reality, about performance can be dismissed appropriately. At the same time, guidance is needed on how mixed complaints involving both performance and potential suitability or disclosure issues will be handled, to ensure valid complaints are not excluded.
- Members also highlight the relevance of this dismissal ground in the context of the Targeted Support regime. For that regime to function as intended, firms need confidence that Targeted Support will not be retrospectively treated as individualised regulated advice simply because an investment performs poorly.

15. **Do you agree with reintroducing a dismissal ground for complaints relating to a respondent's discretion under a will or private trust. If not, please give evidence or reasons as to why not.**

- Members agree with reintroducing a dismissal ground for complaints relating to a respondent's discretion under a will or private trust. Members consider that such matters fall outside the intended scope of the consumer redress regime and are more appropriately addressed through legal routes, including the courts, given their reliance on specialist trust, probate and estate law principles.
- Members note that complaints in this area are often highly complex and can turn on subjective interpretation of trust documents or the exercise of trustee discretion. They consider that the Financial Ombudsman Service is not best placed to determine these issues and that attempting to do so risks inconsistent outcomes and uncertainty. Beneficiaries already have established legal mechanisms to challenge discretionary decisions, where evidence can be properly tested and legal standards applied.

- Members would welcome clear confirmation of the scope of this dismissal ground, including that it covers matters such as trustee investment decisions, discretionary distributions and interpretations of trust wording.

16. **Do you agree that the Financial Ombudsman should be able to dismiss complaints where there is more than one eligible complainant, but they have not all consented to the complaint? If not, please give evidence or reasons as to why not.**

- Members broadly agree that the Financial Ombudsman should be able to dismiss complaints where there is more than one eligible complainant and not all have consented, recognising this as an important safeguard for fairness, procedural clarity and finality. Members note that this is particularly relevant for joint products or arrangements, such as joint accounts, partnerships or trusts, where proceeding without all parties' consent risks the dispute being between complainants rather than with the respondent firm, and may raise data protection and authority concerns.
- Support for this proposal is, however, conditional on appropriate flexibility. Members emphasise that discretion should be retained where requiring consent would produce unfair outcomes, including cases involving vulnerability, coercion, safeguarding concerns or relationship breakdowns, where it may not be reasonable or safe for one party to engage with another. Some members also highlight the risk of "hold-out" behaviour, where one party strategically withholds consent to obstruct resolution, and suggest dismissal should only apply where the lack of consent is material to progressing the complaint.
- Members further stress the importance of clarity around authority and representation, noting cases where third-party authority has been accepted without clear legal basis. Clear guidance is therefore requested on when consent is required, how authority should be evidenced, and how this ground will be applied in practice, particularly in more complex or multi-party scenarios.

17. **Do you agree that the Financial Ombudsman should be able to dismiss complaints for other compelling reasons? If not, please give evidence or reasons as to why not.**

- Members agree that the Financial Ombudsman should be able to dismiss complaints for other compelling reasons and support retaining a degree of flexibility within the dismissal framework. Members recognise that it is neither practical nor desirable to attempt to prescribe every circumstance in which dismissal may be appropriate and therefore welcome the use of guidance supported by examples.
- Support for this ground is, however, strongly conditional on it being tightly controlled. Members emphasise that "other compelling reasons" should not operate as a broad or catch-all category, and that clear guardrails are essential to avoid unpredictable or inconsistent application. There is strong support for clear, non-exhaustive guidance setting out when this ground may be used, alongside robust quality-assurance arrangements to ensure consistency and protect access to redress.

- Members note that this ground may be particularly appropriate in cases involving trivial sums, no financial loss, distress or inconvenience, or where a complainant has already accepted an offer of compensation. Members also note that it may be appropriate in cases where the complaint consists primarily of unsubstantiated or speculative content, including AI-generated material that contains material inaccuracies, and does not raise a coherent or evidenced dispute requiring investigation. Members stress the importance of ensuring that dismissal under this ground does not disadvantage vulnerable complainants and that decisions are transparently reasoned.

18. Do you agree with the examples that are proposed for DISP 3.3.4D G? If not, please give evidence or reasons as to why not.

- Members broadly agree with the examples proposed in DISP 3.3.4D G and welcome them as a helpful set of guiding principles rather than an exhaustive list. Members consider that publishing examples should improve predictability and support more consistent decision-making by the Financial Ombudsman Service.
- Support is, however, conditional on the drafting being tightened and supplemented with clearer definitions and guidance. Members request greater clarity around key concepts, including what constitutes “material” harm, what is meant by “no reasonable prospect of success”, how a “fair and reasonable” offer should be assessed, and how terms such as “legitimate commercial judgment” and “significantly exceed” should be interpreted. Clear criteria and illustrative case studies are seen as important to avoid subjective application.
- Members particularly support the use of these examples to prevent complaints progressing where the harm is immaterial, such as cases involving minimal sums or marginal differences in redress (for example where the dispute is over an additional £25–£50), or where a complainant has already accepted a full and final settlement. Several members note that in such cases complaints should not proceed to registration, and that firms should be able to apply similar logic at the complaint-handling stage in appropriate circumstances.
- Additional scenarios could be included in guidance, such as complaints relating to purely commercial decisions, cases arising from fraud where the customer has not taken reasonable care, and situations where complainants refuse to engage with reasonable requests for information.

19. Do you think the six examples that are proposed as guidance for other compelling reasons in DISP 3.3.4D G should instead be separate rules in their own right?

- Members expressed mixed views on whether the six examples proposed as guidance for “other compelling reasons” should instead be separate rules in their own right. The majority view is that retaining these examples as guidance is preferable. Members note that the purpose of this ground is to preserve flexibility and avoid an exhaustive or overly rigid set of rules that would require frequent updating as new

scenarios emerge. Keeping the examples as guidance makes clear that they are non-exhaustive and allows ombudsmen to exercise judgment across a wide range of fact patterns, which members see as important to fairness.

- A minority of members, however, consider that the examples should be elevated into standalone rules. In their view, doing so would provide greater clarity and weight, help promote more consistent application by the Financial Ombudsman Service, and reduce the risk that a complaint is not dismissed despite falling within one of the listed examples. These members do not consider that making the examples rules would imply that they are exhaustive, nor that it would prevent the FOS from relying on other compelling reasons where appropriate.
- Several members suggest a pragmatic middle ground, supporting the examples remaining as guidance initially, provided the guidance is clear, detailed and supported by strong quality-assurance arrangements. Some also propose that the operation of this ground should be reviewed post-implementation, using management information to assess consistency and effectiveness, with the option of elevating specific examples into rules in future if evidence of inconsistency emerges. Members also emphasise that the success of the registration stage will depend on the FOS providing clear and robust guidance, together with strong controls, to avoid unintended customer harm and to reduce the risk of cases becoming stalled or being passed back and forth without resolution.
- Overall, members emphasise that whichever approach is taken, the priority is clear guardrails, consistent application and transparency, to ensure the “other compelling reasons” ground does not become unpredictable while retaining sufficient flexibility to deal with edge cases appropriately.

20. Do you agree with the Financial Ombudsman’s proposed changes to DISP 3 (as set out in the Appendix)? If not, please give evidence or reasons as to why not.

- Members are broadly supportive of the Financial Ombudsman’s proposed changes to DISP 3 and welcome the overall direction of travel to modernise the framework, improve efficiency and increase predictability. In particular, members support the introduction of a registration stage, strengthened dismissal grounds and clearer procedural rules, provided these are underpinned by transparency, proportionality and consistent application.
- Support is, however, conditional on clearer operational detail and guidance. Members would welcome further clarification on how key provisions will operate in practice, including the distinction between dismissal and withdrawal, the treatment of re-referred complaints on the same subject matter. Members also stress the importance of clear expectations around deadlines, extensions and non-response by complainants, including safeguards to prevent delay or misuse of the process, while ensuring vulnerability is appropriately taken into account.

- Members also raise specific concerns about the operation of the pre-registration stage, noting that the proposed amendments to DISP 3.5.4R, as drafted, risk blurring the line between a readiness assessment and substantive investigation. Members emphasise that pre-registration should remain a structured readiness check rather than an investigation stage. Permitting the Ombudsman to determine at the pre-registration stage whether a complaint is ready to be investigated risks collapsing the distinction between those two stages, contrary to the intention that they should remain clearly separate. Any dismissals at this point should be confined to jurisdictional, procedural or clearly evidential grounds, rather than merits-based determinations.
- Members also highlight the need for clarity and consistency around the use of referral mechanisms, test-case processes and information requests. Evidence requests should be necessary, proportionate and clearly linked to the individual complaint, and guidance is sought on how these processes interact with wider implications work, mass redress events and FCA referrals. Several members also note the importance of service-level standards and published data to support transparency and accountability.

21. Do you agree with the proposed changes to DISP 3.6.4R? If not, please give reasons or evidence as to why not.

- Members broadly support the proposed changes to DISP 3.6.4R and welcome the intention to improve clarity, certainty and alignment with HM Treasury's planned legislative reforms to the fair and reasonable test.
- In particular, members support the emphasis on assessing complaints by reference to the law, FCA rules and regulatory standards applicable at the time of the act or omission and strongly support the removal of "good industry practice" as a determinative factor, viewing both changes as important safeguards against retrospection, subjectivity and the creation of de facto "shadow regulation".
- Members consider that, where a complaint turns on a point of law and a firm has acted in accordance with the applicable law, this should provide a strong basis for determining that the firm has acted fairly and reasonably, absent exceptional or clearly defined circumstances.
- However, members raise consistent concerns about the continued use of the wording "take into account", which is seen as granting the FOS a wide degree of discretion. Several members argue that greater certainty would be achieved if the Ombudsman were required to apply, or follow, relevant law and regulatory requirements, rather than merely having regard to them. This concern is particularly acute in regimes with clear regulatory limits, where discretion risks undermining the policy intent and creating inconsistent outcomes.
- Members also seek clarity on the treatment of industry codes and standards. In particular, guidance is requested to confirm that voluntary codes are only relevant where a firm has signed up to them, that codes are applied only to the respondent

firm without cross-sector read-across, and that complaints should not be upheld solely on the basis of a code in the absence of a breach of law or FCA rules.

- More generally, members stress that the revised test should explicitly require proportionality and fairness to both complainants and respondents and be supported by the proposed referral mechanisms to the FCA where rule interpretation is unclear or has wider implications. Members also consider that any discretion retained by the FOS should be subject to robust controls and clear guidance, and limited to exceptional, defined circumstances, such as vulnerability or safeguarding concerns, to reduce the risk of inconsistent outcomes or the FOS acting beyond its remit.

END