

# Financial Ombudsman Service Limited

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## MINUTES

MINUTES of the meeting of the directors, held at South Quay Plaza, 183 Marsh Wall, London E14 9SR on Wednesday 10 May 2011 at 9.30am

Present	Chris Kelly	chairman
	Janet Gaymer	director
	Elaine Kempson	director
	Kate Lampard	director
	Julian Lee	director
	Maeve Sherlock	director
	Roger Sanders	director
	Pat Stafford	director
In attendance	Natalie Ceeney	chief executive & chief ombudsman (CEO)
	Tony Boorman	decisions director
	Julia Cavanagh	performance & finance director
	Barbara Cheney	company secretary
	David Cresswell	director of communications & customer insight
	Simon Rouse	operations director
	David Thomas	corporate director
	Caroline Wayman	legal director
	Jacquie Wiggett	HR & organisational development director
	Linda Costelloe Baker	independent assessor (item 7)
Observers	Simon Osborne	ICSA board evaluation
	Geoffrey Shephard	ICSA board evaluation

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The chairman welcomed Geoffrey Shephard and Simon Osborne who were observing the meeting as part of their board performance evaluation.

### **1/1105 Apology for absence**

An apology for absence was received from Alan Jenkins.

### **2/1105 Minutes**

The minutes of the board meeting held on 13 April 2011 were approved as an accurate record of the meeting.

The board noted the draft minutes of the meeting of the nomination/remuneration committee that was held on 13 April 2011.

### **3/1105 Matters arising**

The chairman confirmed that he was asking the Financial Services Authority to appoint an additional non-executive director to replace Alan Cook.

### **4/1105 Payment protection insurance (PPI)**

Following confirmation on 9 May 2011 by the British Bankers Association that it would not appeal against the High Court judgment handed down on 20 April 2011, the board congratulated everyone involved in defending the action. The decisions director also thanked the board for its support in withstanding the pressure that the Service had faced in the past three years.

The board noted the legal implications (which supported the approach taken by the Service) and the operational implications of the conclusion of the High Court action. The legal director explained the aspects of the ombudsman's jurisdiction and powers that had arisen during the case and the helpful clarification that had been provided. These included the interpretation of 'fair and reasonable', confirmation that the FSA and ombudsman service were both correct in taking into account the FSA's high level 'principles' in support of their decisions, support for the ombudsman's approach to PPI cases, process and decision making and endorsement of root cause analysis principles applicable to firms.

The CEO reported that plans were already being made to cope with the next phase but uncertainty remained about the behaviour of financial businesses. The decisions director explained that, with over 100,000 cases to consider, the Service faced a considerable challenge. Discussions were being held with the major banks, the FSA and claims management companies about managing these cases appropriately. It was likely that some firms would decide to offer some form of automatic compensation to some groups of customers, whilst others would want a full investigation of each case.

The board agreed that, as there was considerable uncertainty about the future volume of cases and reaction by financial businesses, the need for the special reserves, and separate accounting, remained. It also endorsed the principle of protecting non-PPI complaint handling to ensure that the high volume of PPI cases did not have an adverse impact on general service standards.

Whilst endorsing the adoption of future proofing principles, the board noted that a short term solution may be needed at some stage. It also agreed that the current proactive strategy should be maintained, ie to ensure that stakeholders all understood that it was very unlikely that complaints would all be resolved quickly.

### **5/1105 Transparency**

The decisions director presented a paper about the publication of ombudsman decisions, which included consideration of the logistics, impacts and next steps. This followed the government's proposals to ask the ombudsman service to publish final ombudsman decisions.

The decisions director explained that the next step was for the ombudsman service to engage with stakeholders to work out the detail of how this new approach would work, ideally through a consultation paper in the autumn. He said that the key issues were likely to be about the level of redaction, and timing.

Points raised during the discussion included

- a) the importance of ensuring that the consumer's identity was not inadvertently revealed. The decisions director assured the board that ombudsmen would take care in drafting decisions to avoid quoting details that might reveal the consumer's identity, eg by not naming the home town;
- b) seeking the consumer's permission to publish a decision. However it was pointed out that this would not be compatible with the objective of an automatic, cost effective process. It was agreed that this issue would form a key part of the consultation process.
- c) the need to avoid alienating parliament by pre-empting a decision it may be taking. It was agreed that this consultation would be clearly positioned as working through detail of how the government's plans could be implemented, and not about prejudging the will of parliament;
- d) ensuring that 'unintended consequences' were managed – for example, ensuring that consumers were not dissuaded from complaining because a decision would be published. The decisions director agreed to explore this issue further.
- e) making clear to stakeholders what this proposal actually meant. It was agreed that examples of redacted decisions should be included in the discussion paper.

The decisions director added that the intention was to publish the discussion paper in the autumn.

The board agreed that:

- a) it continued to support the government's plans to publish ombudsman decisions;
- b) a discussion document should be prepared and published to obtain feedback from stakeholders on how this might work in detail;
- c) views should be invited during the process about revealing the consumer's identity;
- d) further work should be undertaken to obtain consumers' views about disclosure and to explore how they would feel about submitting a complaint to the Service if they knew a decision would be published (even if their name was removed);
- e) careful drafting would be needed to avoid appearing to anticipate Parliamentary decisions; *and*
- f) the document should be drafted on the basis that the Service was committed to transparency and that publishing decisions was part of this aspiration. The purpose of the discussion paper was to invite views from stakeholders.

**Action**        The decisions director will present a draft discussion paper to the board prior to publication.

## **6/1105 Culture change**

The discussion about cultural change was deferred to the next meeting on 22 June.

## **7/1105 Service complaints**

The operations director presented a paper which explained recent developments in the way in which the Service handled complaints about itself. Instead of dealing with complaints in a central team they were now being considered by the managers of the relevant casework team. It was thought that together with the new operational structure and the raising of the profile of this work to the most senior level, significant improvements were being achieved in this important aspect of the Service.

The chairman welcomed the independent assessor to the meeting. On behalf of the board he thanked her for both her work in the past year and for her annual report. The independent assessor presented a summary of her workload, the outcome of complaints she had considered and the key themes she had noted. She added that the complaints she received were a very small percentage of the Service's workload, a factor that should be taken into account when assessing trends or themes.

It was agreed that the involvement of team managers and executive assistants in providing feedback had resulted in better complaint handling. The independent assessor added that her quarterly meetings with the operations director and the corporate director were constructive and provided the appropriate balance between independence and co-operation.

It was noted that instead of being published in the *annual review*, the independent assessor's report would form part of the directors' report and financial statements.

## **8/1105 Annual review 2010/2011**

Having had an opportunity to comment on the draft annual review 2010/2011 in the period since the last meeting, the board received a final version, which contained many of the suggestions made by board members.

The board approved the *annual review 2010/2011* for publication on the website on 18 May. The chairman thanked the director of communications & customer insight for preparing the review.

## **9/1105 Rules instrument - FOS 2011/3**

Following joint consultation with the FSA in 2010 about consumer complaints (CP 10/21 - the ombudsman award limit and changes to complaints-handling rules) the corporate director explained the changes that would be made about:

1. the rules in respect of how financial businesses consider complaints.
2. an increase in the maximum award an ombudsman can make – from £100,000 to £150,000
3. victims of identity theft and mis-tracing.

He added that these changes would be made between July 2011 and July 2012.

The board approved the Dispute Resolution: Complaints Sourcebook (Amendment No 3) Instrument 2011, subject to the approval of the board of the Financial Services Authority on 26 May 2011

#### **10/1105 Resource strategy tender**

The board noted the timetable for the procurement process to find a provider to support permanent and contingent staff recruitment. It was also noted that the board would be asked to review and agree the evaluation panel recommendation at its meeting on 20 July.

#### **11/1105 Ombudsmen appointments**

The chairman reported that he had approved the appointment of 14 more ombudsmen to the panel. It was confirmed that there was sufficient flexibility in the terms of appointment to ensure an appropriate number of ombudsmen to match the fluctuating caseload.

The chairman reminded the board that it was responsible for the appointment of ombudsmen on terms that ensured their independence and that it had delegated authority to him in the past to make these appointments on behalf of the board. The board reaffirmed its authority for the chairman to continue to do so.

#### **12/1105 Any other business**

##### *a) Board papers*

As some board members were experiencing postal delays in receiving their meeting papers, it was agreed that these documents could also be circulated electronically, on request.

**Action** Board members should notify the secretary if they wish to receive board papers electronically, as well as in paper format.

There being no other business, the meeting ended at 12.50 pm