



charging for our work: modernising our case fee arrangements from 2013



feedback statement

August 2012

summary

In January 2012 we published a preliminary consultation paper:
[*charging for our work: modernising our case fee arrangements from 2013*](#)

This set out proposals for a funding model that made new arrangements for the largest financial groups, while increasing the number of free cases available for smaller businesses.

This statement outlines the feedback we have received in response to the consultation paper – and how we intend to take our proposals further forward.

our proposals

In our consultation paper we said that, although it had served the needs of the ombudsman service and the industry well in many respects, our existing funding model had found it difficult to cope with financial risks and with costs associated with our handling of so-called “mass complaints”.

This was because the model largely took a “one size fits all” approach, attempting to suit both the largest group and the sole trader. We therefore suggested an alternative model for funding the ombudsman service. This took account of the impact that different businesses could have on our workload.

The proposals had three elements:

- for smaller users, we proposed to increase the number of free cases from three to 25. This would significantly reduce the number of financial businesses paying case fees, so that only around 1% would do so;
- for medium size users (those that account for between 26 and 2,000 cases a year), we proposed that the existing model should be largely unchanged – although this group would also benefit from the increase in the number of free cases to 25; *and*
- for the largest users (the ten or so financial groups that account for 70% of our caseload), we proposed a new group account arrangement, which would develop over time to measure more accurately the cost to the ombudsman service of the work generated by each of these groups.

In our consultation paper we said we believed that this approach would be fair to all case fee payers – and could help to encourage more efficient and effective complaints-handling. We also said that, as these were outline proposals, we would need to consult further with interested parties before finalising the arrangements – potentially in time for introduction in April 2013.

summary of responses to our consultation paper

We summarise below the feedback we have received from stakeholders on each of the questions we asked in our consultation paper. We also explain below how we have decided to proceed in the light of this feedback.

what are your views on the overall approach we set out in outline in the consultation paper?

Stakeholders were broadly supportive of our overall approach, with strong support for the principle that those businesses generating most complaints, and the most risky products, should pay most of the ombudsman service's costs. Some stakeholders additionally pointed to the relationship between the case fee and the general levy (which is set and collected by the FSA), suggesting that our proposals ought to be matched by a reduction in the levy.

A large majority of stakeholders agreed with us that we should not progress options that have sometimes been suggested for alternative case fee arrangements – for example, involving product-related, process-related or outcome-related case fees.

On the proposals for group account arrangements for the largest users, representatives of those potentially affected generally wanted more detail to be worked up on how these arrangements would work in practice. Areas where further detail was sought included how “migration” above and below the large user threshold would be managed and how overpayments would be dealt with.

Some also questioned what account would be taken of short-term factors (such as the abolition of the “two-stage” complaint-handling process) and long-term factors (such as potential scenarios where there were no “mass complaints” and/or no groups with complaint numbers above the large-user threshold).

In the light of this feedback, we have concluded that the overall approach we proposed is the right one to pursue. We acknowledge that our proposals for new case fee arrangements cannot be considered in isolation from the arrangements for the general levy, which is set by the FSA.

We are therefore discussing with the FSA what this might mean for the levy in future years. We will also be having further discussions with the financial services industry in the months ahead, as we work up further detail on the proposed group account arrangements.

claims-management companies

A significant minority of stakeholders asked us to consider introducing fees or levies to be paid by claims-management companies – and we have considered this point carefully. We understand why some believe that claims managers should contribute to the costs of the ombudsman service.

However, we do not believe that this would be the right way forward, even if we had the powers to require this. And we do not believe that such a requirement would address the underlying issues in the claims management sector – not least because the costs would ultimately be borne by consumers themselves.

Rather, we believe that these issues would best be addressed by better regulation of the claims management sector – and by better prevention of “mass complaints” at source.

is the proposed threshold of 25 free cases too high or too low?

Some stakeholders suggested aligning the free case “threshold” with that for publication of complaints data, which is 30. On the other hand, others cautioned that increasing the free case threshold too much could reduce the incentive for better complaints handling by some businesses.

However, a large majority of stakeholders supported increasing the free case threshold to 25. Those that represented the largest businesses said they wanted the threshold to apply equally to all businesses.

In the light of this feedback, we intend to proceed with our proposal to increase the free case threshold to 25 – and we will include this in our proposed funding arrangements for 2013/2014.

Our proposals are intended to be fair to all users – whether large, medium or small – by seeking to ensure that funding matches each group’s contribution to our costs, and so involving no cross-subsidy between different types of user.

what further factors should we consider in thinking about this approach?

For example, what should we take into account in assessing the use of our service by the major groups?

Stakeholders, in particular those potentially affected by our proposals for group account arrangements, generally wanted further detail to be worked up on the proposed arrangements.

The issues which they wanted us to focus on, in particular, included:

- the impact of the proposals on administrative costs both for businesses and for the ombudsman service;
- the extent to which the proposals would retain incentives for the service to reduce its own costs and to close cases more speedily;
- ensuring that the factors used in calculating the group account fees were transparent, verifiable and consulted upon;
- what the consequences might be if the service and a business could not agree on likely future workload; *and*
- how the success of the new arrangements would be measured – for example, whether the overall fee per case went down.

Some businesses potentially affected by the proposed group account arrangements asked us to consider alternative case fee proposals, such as moving to fees charged on the *receipt* of a case rather than on its *closure*.

Taking into account these comments, as well as the concerns expressed about how migration above and below the large user threshold would be managed, we are considering what the threshold for inclusion in the group account arrangements should be – and if it should be limited to the very largest users during the first year.

As explained above, we will be having further discussions with the financial services industry in the months ahead, as we work up further detail on the proposed group account arrangements, taking into account the feedback we have received.

when should we aim to implement our new approach – April 2013 or a later date?

A few stakeholders suggested that the proposals should be implemented earlier (for example, to align with implementation of the retail distribution review), while some suggested that they should be implemented later (for example, to allow further consultation with financial businesses on the detail of the group account proposals). A large majority of stakeholders, however, supported implementation in April 2013.

We will therefore continue to aim to implement the proposals in April 2013.

next steps

We will be working up further detail on our proposals in the months ahead, with a view to implementing them from April 2013.

We intend to consult on further details, including potential changes to the “FEES” rules in the FSA Handbook, in autumn 2012. This will pave the way for further consultation in the usual way, in January 2013, on the final shape of our funding proposals as part of our corporate plan and budget for 2013/2014.

list of respondents

The following organisations responded to our consultation paper. A further six organisations, who are not listed, also provided responses but requested that these be kept confidential.

AEGON

Association of British Insurers

Association of Finance Brokers

Association of Independent Financial Advisers

Association of Mortgage Intermediaries

Association of Private Client Investment Managers and Stockbrokers

AWD Group plc

AXA UK plc

British Bankers' Association

British Retail Consortium

Building Societies Association

CAF Bank Ltd

Capital One (Europe) plc

Castle Financial Services Ltd

Cofunds Ltd

Duncan Lawrie Ltd

Everyday Loans Ltd

Finance and Leasing Association

Financial Services Practitioner Panel

Hospital and Medical Care Association

J Moore & Co

Kinnell Group

Money Saving Expert

NFU Mutual

Prudential

Regal Credit Consultants Ltd

Royal & Sun Alliance Insurance plc

Smaller Businesses Practitioner Panel

Society of Pension Consultants

UK Cards Association

Western Provident Association

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