

Minutes – Consumer Credit Trade Body Forum

6 December 2021, Meeting held at Exchange Tower, London, E14 9SR, with some of the group joining via Microsoft Teams

Internal attendees	External attendees
<p>Nausicaa Delfas, Interim Chief Executive & Chief Ombudsman (Chairing the Forum)</p> <p>Simone Ferreira, Interim Chief of Staff</p> <p>Sarah Conway, Ombudsman Leader</p> <p>John Wightman, Ombudsman Leader</p> <p>David Bainbridge, Head of External Relations</p> <p>Sean Orrick, Policy and Communications Manager</p>	<p>Jason Wassell, Consumer Credit Trade Association (CCTA)</p> <p>Chris Leslie, Credit Services Association (CSA)</p> <p>Stephen Hadrill, Finance and Leasing Association (FLA)</p> <p>Dan Cockle, Consumer Credit Association (CCA)</p> <p>Eric Leenders, UK Finance</p> <p>Robert Kelly, Association of British Credit Unions (ABCUL)</p> <p>Robin Fieth, Building Societies Association (BSA)</p> <p>Janine Hirt, Innovate Finance</p> <p>Gerry Keaney, British Vehicle Rental & Leasing Association (BVRLA)</p>

Item number	Agenda
1.	<p>Welcome, introductions and Terms of Reference:</p> <ul style="list-style-type: none"> • Re-cap purpose of the Forum; and • Agreeing the Proposed Terms of Reference
2.	<p>Priorities and updates from the Financial Ombudsman Service:</p> <ul style="list-style-type: none"> • The Board-commissioned Independent Periodic Review • Financial Ombudsman Service update for 2021/2022 year to date • Overview of next steps on plan and budget for 2021/22
3.	<p>Open discussion on key areas of interest for the sector – including:</p> <ul style="list-style-type: none"> • Complaints about unaffordable lending • Issues around forbearance and recovery of debt • Emerging trends, market developments and CMC activity
4.	<p>Closing remarks and AOB</p>

1. Welcome, introductions and Terms of Reference (ToR)

- The Chair welcomed attendees to the first meeting of the Consumer Credit Trade Body Forum (the “Forum”).
- After introductions, the group discussed the draft ToR which was circulated in advance of the meeting. The Chair confirmed we envisaged high level, summary minutes to be published on our website, as provided for in the ToR. The group agreed that it would not be appropriate to discuss specific details of individual cases, and rather the Forum should engage on issues thematically.
- The ToR was formally agreed by the group without any changes.

2. Priorities and updates from the Financial Ombudsman Service

Periodic Review

- The Chair updated the Forum on the recently published Financial Ombudsman’s Action Plan and the Board commissioned independent Periodic Review, highlighting some of the steps the Financial Ombudsman is already taking to change and improve, such as:
 - improving communications at all levels, including with industry organisations, representative bodies and consumer organisations, such as setting up this Forum;
 - building on existing relationship to ensure an effective collaboration amongst regulatory partners on industry wide issues; and
 - refreshing the Financial Ombudsman’s strategy to make it clearer and more actionable, for example on prevention, which will involve sharing insights to allow for more timely identification and feedback on emerging issues and trends.
- The Chair said that improving waiting times and the overall customer experience is a priority. Last year, the Financial Ombudsman received 60% more non-PPI complaints than the Ombudsman was resourced to handle. The increased demand meant that the Ombudsman ended the year with nearly 90,000 complaints waiting to be allocated to investigators. By now, the Financial Ombudsman has nearly halved the number of complaints in the backlog and it continues to take a number of steps to ensure it resolves the cases as quickly as possible without decreasing the quality of the investigations.
- The Chair explained that another important aspect of the Action Plan was having specialist teams, which the group supported. The Chair explained how the Financial Ombudsman is changing the way new joiners are trained to have specialist skills for the area they are being recruited for. She also highlighted that there already exist centres of excellence (Practice Groups) which hold a significant amount of sectoral knowledge, insight and policy expertise and that these are already aligned to specific industries.
- There was general support from the group on the themes discussed.

Plan and budget overview – 2022/23

- The Chair provided an overview of the latest thinking on the Financial Ombudsman Services’ plans and budget consultation for 2022/23 later this month. She encouraged the group to respond with members’ views and ideas.

- The Chair explained the current and anticipated workload at the Financial Ombudsman and the need to implement its Action Plan to make significant productivity improvements. As such, the Financial Ombudsman expects to consult on a plan and budget that reflects the need to invest to change. The key elements of the consultation are:
 - an increase in the compulsory jurisdiction levy – a £10m increase to £106m;
 - a reduction in the number of free cases; and
 - maintaining the case fee at £750.
- A discussion was held about the efficiencies and productivity improvements required on the part of the Financial Ombudsman Service and how these would be achieved. The Chair explained how the Action Plan will be implemented, which includes making a detailed assessment in relation to each of the recommendations to ensure their benefits are clear and measurable.
- On case fees, the group asked the Financial Ombudsman to consider as part of the consultation a phased reduction in the number of free cases and provided feedback on ensuring that frivolous and vexatious claims do not incur a case fee.
- Finally, the Chair explained the Financial Ombudsman's plan to consult in more detail next year on how it might make changes to its funding model to drive the right behaviours from firms, for example, by charging a differentiated fee on early settlement.

3. Open discussion on issues of interest

Wider implications

- Trade Bodies welcomed a focus on developing a clearer and more transparent framework for dealing with cases that have potential wider implications and were keen to understand how it will work in practice and how an industry body or firm would be able to raise possible issues to be considered.
- The Financial Ombudsman explained it is building on existing mechanisms for cooperation with members of the regulatory family. The wider implications framework ensures the regulatory family identify and collaborate to resolve certain issues in a more joined-up way. As at now, issues can be raised with the Financial Ombudsman Service and other members of the regulatory family to be considered under the framework. Where appropriate, industry and other stakeholders could be invited to attend meetings where specific input was needed. The new proposed Consumer Duty is an example where the Financial Ombudsman and the Financial Conduct Authority (FCA) are collaborating given the potential for wider implications.
- The Financial Ombudsman explained the intention is to publish the terms of reference early next year and minutes of meetings held under the framework.

Claims Management Companies (CMCs)

- A discussion was held about CMCs' practices such as the use of templates in areas involving a single issue. The group also discussed the importance of operational readiness when dealing with significant volumes of complaints, of engaging with the Financial Ombudsman at an early stage, and of aligning their members' approach to that of the Financial Ombudsman's.
- The Financial Ombudsman confirmed that it works closely with CMCs to manage volumes and address issues it sees and that it reports misconduct, such as vexatious behaviour, to the FCA or Solicitors Regulatory Authority (SRA), where appropriate.
- Trade bodies agreed to ask their members to share further data with the Financial Ombudsman on future complaint volumes and CMC activity, where relevant.

Affordability in lending decisions

- There was a general discussion around the Financial Ombudsman's decisions on affordability including the use of bank statements to reconstruct customers' financial positions in absence of other evidence from the lender; proportionality of checks, particularly where the amount lent was small; the use of automation; how to consider 'buy now pay later' in lending decisions; approach to relending and repeat lending.
- The Financial Ombudsman reassured the group that its approach takes into account FCA's rules and guidance on repeat lending, including the principle that affordability checks should be proportionate and sufficient and highlighted the recent *Kerrigan* judgment.
- The Financial Ombudsman encouraged the group to ask their members to consider whether more could be done to provide additional detail about automated lending decision processes.

Motor Finance – commission

- There was a discussion on further support firms could provide to inform the Financial Ombudsman's consideration of these complaints.

4. Closing remarks and AOB

- There were no AOBs discussed.
- It was agreed that: future meetings will be extended to allow more time for discussions; the group would provide suggestions for areas of focused discussion in advance; and the timing of the meetings with this Forum should be considered in light of other regular engagements such as the Industry Steering Group.