Financial Ombudsman Service

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


a preliminary consultation paper

January 2012

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modernising our case fee arrangements from 2013

This paper is not about *how much* the Financial Ombudsman Service costs – we cover that in our annual consultation on our *plans and budget*. It is about *how* the costs should be divided among the charges paid by the financial businesses that use our service.

The funding model for the ombudsman service was established in 2000 and was based on a compromise between the varying approaches used by our predecessor schemes. It is based on two components – a levy paid by almost all retail financial businesses and a case fee set and collected by the ombudsmen service, payable for each case we resolve (although some cases are not charged for).

In many ways that model has served the ombudsman service and case fee payers well. It is simple to understand and reasonably straightforward to operate. It has coped with a service that has grown from handling 30,000 complaints a year to one that expects to handle nearly ten times that number next year.

But there are challenges too. Our current case fee structure has found it difficult to handle the costs pressures and financial risks brought about by the increasingly volatile demand for our service. And case fees do not cover the increasingly important work we do to help resolve issues *before* they become formal complaints. We also now cover a much wider and more diverse group of financial businesses – ranging from some of the largest businesses in the UK to many of the smallest.

We have already talked to many case fee payers and their representatives, to develop our thinking about how we might modernise our charging structure. Of course, the charges levied to meet a service such as the ombudsman may never be welcome by those who are required to pay them. But so far as is possible, we have sought to gain consensus around the underlying approach we should adopt.

So this consultation paper sets out a proposal for a *new approach* – designed to better reflect the diverse needs and issues of fee payers, while securing continuing adequate funding for the work of the ombudsman service.

Depending on the views of fee payers and other stakeholders, we expect to introduce a new charging structure from April 2013. We will need to consult again on these funding proposals, as further details are finalised.

Natalie Ceeney CBE
chief ombudsman and chief executive

January 2012

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responses

We welcome your feedback on how we charge for our work and our proposals for modernising our case fee arrangements. Please send your views and comments – to reach us by Monday 16 April 2012 – to: adrian.dally@financial-ombudsman.org.uk
Or write to:

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We may want to publish the responses we receive to this consultation paper. In the interests of openness, we encourage *non*-confidential responses.

Information provided in response to this consultation, including personal data, may be subject to publication, disclosure or release to third parties – in order to comply with the *Freedom of Information Act 2000*, to which we are subject.

It would be helpful if you could tell us why you might consider the information you have provided us with to be confidential, so that we can take this into account before deciding whether to release it. We cannot guarantee that confidentiality can always be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the service.

“settling disputes, without taking sides … ”

“… using our insight to help prevent future problems”

The Financial Ombudsman Service was set up by law to resolve individual disputes between consumers and financial businesses – fairly, reasonably, quickly and informally.

We can look at complaints about a wide range of financial and money matters – from insurance and mortgages to investments and credit.

If a business cannot resolve a consumer’s complaint, we can step in to settle the dispute. We are independent and impartial. When we decide a complaint we look carefully at both sides of the story and weigh up all the facts.

If we decide a business has treated a consumer fairly, we will explain why. But if we decide the business has acted wrongly – and the consumer has lost out – we can order matters to be put right.

We are constantly looking for ways of improving how we can resolve cases to the highest professional standards.

Best practice in complaints handling includes learning lessons when dissatisfaction and disputes arise. This means we have a crucial role in sharing the insights from the complaints we see. This gives consumers greater confidence in financial services and helps businesses prevent future problems by learning from situations where things have gone wrong.

chapter 1: executive summary

In this consultation paper we set out:

- The background to the current funding arrangements for the ombudsman service, including the charges we make and who pays them.
- The suggestions that some case fee payers have raised in the past about how the current model might best be altered.
- Our outline proposal for a funding model that makes new arrangements for the largest financial groups, while increasing the number of free cases available for smaller businesses.

The current funding model – involving case fees payable by financial businesses when they have complaints referred to the ombudsman service, supplemented by a levy payable by all businesses operating in retail financial markets – has served the industry and the ombudsman service well in many respects. It provides a degree of flexibility around changes in case numbers – especially when volumes are increasing. It is simple to explain and relatively low cost to administer.

But the current funding model has found it difficult to cope with the financial risks and costs associated with our handling so-called "mass complaints" – such as those involving mis-sold payment protection insurance (PPI). The current arrangements broadly take a "one size fits all" approach that has needed to suit all users from the largest financial group to the sole proprietor.

So in this consultation, we suggest an alternative approach to funding the ombudsman service. This approach takes account of the impact that different businesses have on our workload through the number of complaints they account for.

- For smaller users, we propose that we increase the number of free cases from 3 to 25. This would significantly reduce the number of financial businesses paying any case fees, so that only 1% of financial businesses would pay any case fees at all.
- For medium size users (those that send us between 25 and 2,000 cases a year), we propose that the existing model should be largely unchanged – although this group would also benefit from the increase in free cases from 3 to 25.
- For the largest users (the ten or so financial groups that account for over 70% of our caseload), we propose a new group account arrangement, which would develop over time to measure more accurately the costs to the ombudsman of the work generated by each of these groups.

We believe this approach would be fair to all case fee payers – and could help encourage greater efficiency and effectiveness in complaints handling.

This is only an outline proposal at this stage. We welcome comments from case fee payers and others, to help us decide whether this approach should be further developed.

We will need to consult further with interested parties before finalising these proposals. No new funding arrangement like this could be introduced before April 2013.

We want to hear from our stakeholders.

We would like to hear your feedback on the issues raised by this consultation paper – and in particular on whether we should move in April 2013 to the new charging model we propose in this paper.

Your views, thoughts and comments on this consultation paper will help us to finalise our approach to case fees for April 2013 and beyond.

Please send responses to us by Monday 16 April 2012. Our contact details are on page 3.

chapter 2: overview of the current charging arrangements

In this chapter:

- We look at how we currently charge financial businesses.
- We give stakeholders details of how these costs have been distributed, who pays, and how this compares with our case volumes.

background

The *Financial Services and Markets Act 2000* sets out the mechanisms under which the Financial Ombudsman Service is funded. It provides for all the costs of the service to be met by the financial services industry.

This consultation focuses on the case fees set by the ombudsman service for the compulsory jurisdiction, the consumer credit jurisdiction and the voluntary jurisdiction. These three separate jurisdictions are all funded by a combination of an annual levy and case fees.

Over 95% of the ombudsman service's budget relates to the compulsory jurisdiction, where the annual levy is:

- paid by all FSA-regulated firms covered by the compulsory jurisdiction, whether or not they have any cases referred to the ombudsman service;
- set by the FSA after public consultation; *and*
- invoiced and collected by the FSA (under a single invoice covering fees for the FSA, the ombudsman service, the Financial Services Compensation Scheme and the Money Advice Service).

The case fees are:

- paid by financial businesses that have cases referred to the ombudsman service;
- set by the ombudsman service (with FSA's approval); *and*
- invoiced and collected by the ombudsman service when the case is resolved and closed.

Since 2004/2005 case fees have been charged only for the third case (increased to the fourth case in subsequent years) referred to the ombudsman service during the year about each business. Case fees are *not* charged in relation to credit unions, cash-plan health providers and friendly societies – or for any case that we decide is frivolous or vexatious.

The proportion of the ombudsman service's budget covered by the annual levy does not reflect a specific area of costs. It represents the difference between total expenditure and anticipated income from case fees (after free cases and bad debts have been taken into account).

In the compulsory jurisdiction, the total levy is allocated among businesses in two stages:

- The total levy is divided among the fee blocks (based on activities) – according to the proportion of resources the ombudsman service expects to need for cases from each sector.
- The levy for each fee block is divided among the firms in that block, according to a tariff rate (relevant to that sector) which, in the higher-paying blocks, is intended to reflect the scale of each firm's business.

There are currently 17 separate activity-based fee blocks – reflecting current FSA fee blocks or amalgamations of them. The blocks do *not* differentiate between large firms and small, though some of the tariff rates *do*. Within a block, the levy cannot distinguish between firms based on factors such as different volumes of complaints.

The compulsory jurisdiction covers about 26,000 FSA-regulated firms. Because some firms are involved in more than one regulated activity and appear in more than one fee block, the 26,000 firms pay about 31,000 annual levies. The split between case fees and annual levies applies in the same way to all firms – from businesses forming part of the largest financial groups to sole proprietors.

The annual levies are assessed in relation to FSA-regulated firms. Some major financial services groups contain around 50 FSA-regulated firms – each of which is assessed separately. About 85% of firms are so small that they pay the minimum annual fee for their ombudsman fee block.

A firm carrying out more than one activity pays an annual fee for each ombudsman fee block within which it falls. This means, for example, that a sole practitioner who is both an insurance broker *and* a mortgage broker pays two minimum annual fees.

the balance between levy and case fees

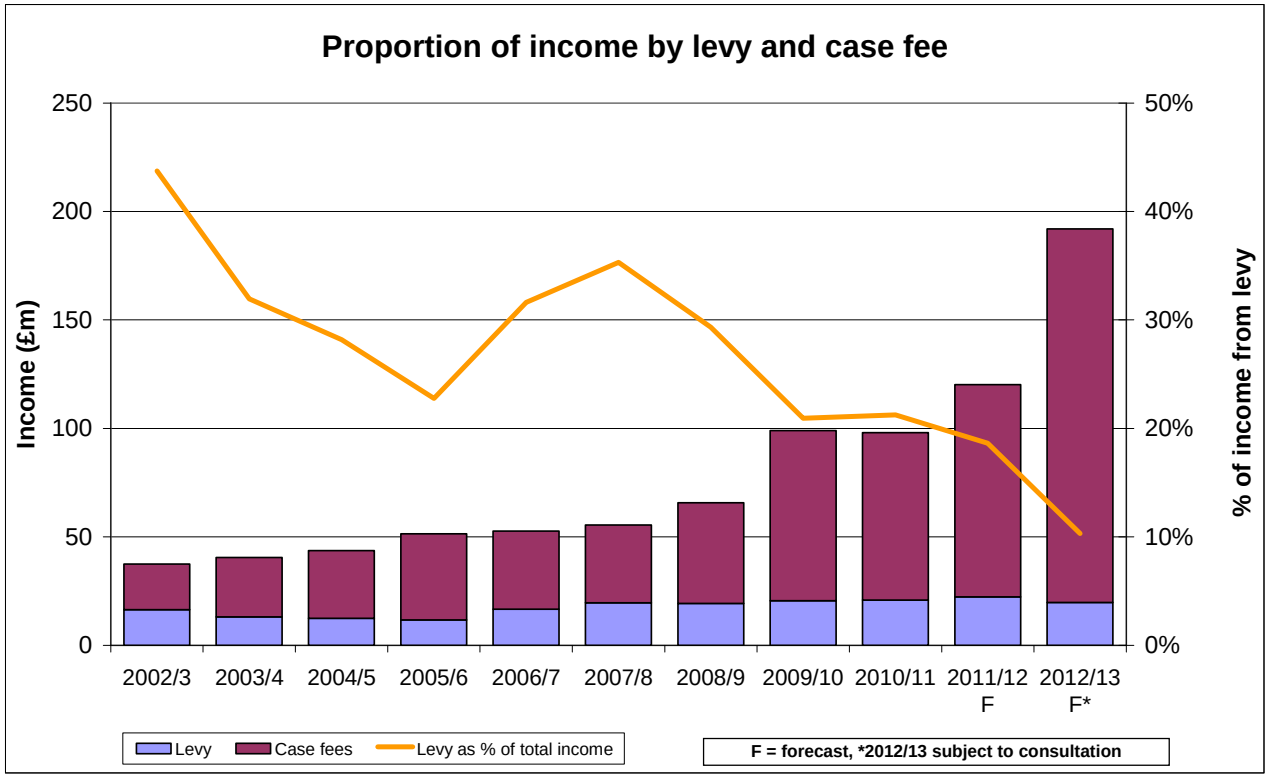
As explained above, the proportion of the ombudsman service's budget covered by the annual levy does not reflect a specific area of costs. It represents the difference between total expenditure and anticipated income from case fees (after free cases and bad debts have been taken into account). So there is no pre-determined approach to deciding what proportion of our income should be collected by case fees as opposed to industry levies.

The levy part of our overall funding means that all businesses involved in retail financial services contribute to our costs. Many of our costs do not relate directly to the cases we handle. For example, our customer-contact centre deals with a wide range of queries from consumers about financial services complaints – not all of which turn into formal complaints. Our technical support and outreach work is available to all businesses, regardless of whether they have complaints with us. And our website and public information reach customers of all businesses.

In practice, our consultations each year on our budget and funding have indicated a general preference across the financial services industry for our placing more weight on the case fee element of our overall charging structure.

This is seen by many case fee payers as the best way of ensuring that our charges are more closely aligned with the sources of the complaints with which we deal – and so with most of our costs.

Reflecting those views, there has been a steady growth over the decade in the proportion of our income that we receive from case fees. This is shown in the table below.



who pays our case fees?

Most financial businesses contribute to the costs of the ombudsman service *only* through the levy collected by the FSA. This is because most financial businesses do not pay any case fees.

In fact, out of more than 26,000 businesses (31,000 permissions), over 97% pay *no* case fees – whereas fewer than 3% (just 743 businesses) paid case fees in 2010/2011.

cases referred to the ombudsman service – and income by FSA "permission" (2010/2011)

number of cases referred during year	*number of FSA "permissions"*	*total number of cases*	*levy income (£)*	*% of total income*	*% of all cases*
0	28,458	0	5,431	6.0	0
1 to 3	1,807	2,511	630	0.7	1.7
4 to 10	324	1,948	320	0.9	1.3
11 to 25	155	2,527	503	1.7	1.7
26 to 100	159	8,735	1,504	6.2	5.8
101 to 500	66	14,854	1,970	10.2	9.8
501 to 1,000	18	13,182	890	8.2	8.7
1,001 to 2,000	9	11,326	572	6.8	7.5
2,001 to 5,000	4	15,880	1,076	9.9	10.5
5,001 to 10,000	4	22,479	1,574	14.1	14.9
more than 10,000	4	57,796	3,177	35.3	38.2

This chart also shows that:

- Businesses that have 25 or fewer complaints a year referred to the ombudsman service together account for less than 5% of all cases to the ombudsman service – but over 9% of total income. Over 60% of the businesses that pay case fees send 25 or fewer cases to the ombudsman service.

- 12 businesses each had over 2,000 cases referred to the ombudsman service in 2010/2011. These 12 businesses accounted for over 60% of all cases.

our unit costs and fees

Our unit costs can vary significantly from year to year. This can happen for a number of reasons, including our own cost-reduction measures and the inflationary pressures we face. But a more significant factor in our unit costs varying over time is change to the *types* of cases we receive and, crucially, how the parties to these disputes respond to our involvement. The costs of resolving an individual case can vary substantially, depending on a variety of factors including:

- how much investigation is required to establish the facts;

- whether we need to involve technical or legal experts – especially from third parties;

- whether the case can be settled by an adjudicator – or requires an ombudsman to make a final decision;

- whether the case is delayed by the actions of either of the parties involved.

While these factors are, in part, within the control of the financial business in each case, they are often driven by the inherent complexity of the particular dispute – or by the actions of the consumer.

volatility, businesses and our costs

At an organisation-wide level, the most significant driver of our costs is whether we have a stable volume of cases to handle. Sudden bursts of work (or a type of case coming to an abrupt end) give rise to costs, as we need either to rapidly upsize our service or reduce it. The changes in our service over recent years to handle large volumes of complaints about mortgage endowments, bank charges and now PPI have all resulted in very major adjustments in our resources – and so in our funding needs.

Of course, these well publicised "mass claim" issues are not the only spikes of workload that the ombudsman has to deal with. Issues such as volcanic ash and travel-insurance claims, Arch cru funds, split-capital investment trusts, Keydata investments and Equitable Life have all generated significant bursts of casework activity for us.

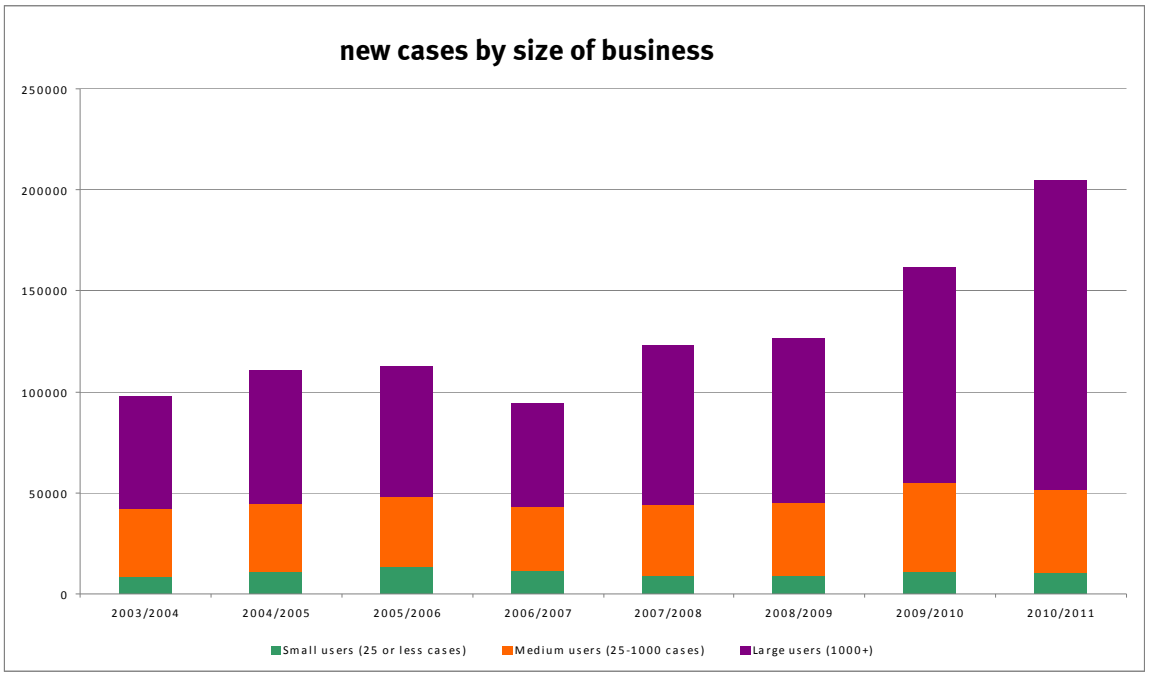
But the total number of cases involved in these issues has been modest when compared with the volumes of cases involved in "mass claim" issues such as PPI. So while for the businesses concerned these issues can be significant, from our operational and cost-management perspective they are largely within the expected variations of our workloads. Only when we see 10,000s or more cases on a single topic is that issue likely to have a material impact on our funding needs.

Inevitably, much of the significant variation in our caseload is driven by the actions of the largest businesses. Even without issues like PPI, the actions of the large financial groups are a more significant driver of our overall costs than the impact of thousands of smaller businesses combined. This means that if a large group improves its complaints handling – or allows its standards to deteriorate – the impact on the ombudsman service can be substantial.

Historically, it has been the small number of the largest businesses that has also been most heavily involved in the "mass claims" issues which have driven the greatest volumes of cases to our service. The chart on the next page shows how this affected our caseload over the past eight years.

So, for example, in 2003/2004 just over a half of the cases referred to us involved financial businesses that each accounted for over 1,000 cases that year. In 2010/2011 nearly three-quarters of our work came from businesses accounting for this level of cases. In contrast, the total volumes of cases received from smaller businesses were reasonably stable.

Of course, there is some fluctuation in the financial businesses that each have over 1,000 cases referred to us in a year. But of the 16 businesses that each accounted for over 1,000 cases in 2010/2011, 14 also had that level of cases back in 2007/2008.



The financial businesses that each had more than 1,000 cases referred to us during 2010/2011 were:

- AXA insurance UK plc
- Aviva
- Barclays
- Capital One
- Cattles
- Citibank
- Co-operative Group
- HSBC
- Inter partner assistance SA
- Lloyds Banking Group
- MBNA
- NAG
- Nationwide
- Santander
- Tesco Personal Finance
- The Royal Bank of Scotland Group

chapter 3: previous observations on our fees

Before setting out our proposals in the next chapter, we briefly review in this chapter a number of the comments and suggestions that some case fee payers have made over the past few years. While we do not propose to progress these suggestions as they stand, elements of some of these ideas have informed the proposals we set out in chapter 4.

product-related case fees

Some case fee payers have suggested that our case fees should vary between different products. Typically, those who have proposed this change in the past have viewed complaints in their particular product area as lower cost to resolve – or involving disputes that turn on amounts lower than the case fee.

This year, in our consultation on our *plans and budget* for 2012/2013, we have proposed for the first time some changes to our case fee structure, to introduce a product-differentiated case fee – with a supplementary fee for PPI mis-selling cases.

While our own costs, of course, do not vary simply because of the sum in dispute, we recognise that for some users the size of the case fee can seem disproportionate to the amount involved in the complaint. However, a range of product-related case fees would be complex to administer. And the rationale for varying charges would be difficult to develop and maintain, in the face of changing circumstances. After all, until relatively recently PPI cases were simply a more or less typical insurance dispute.

Our experience shows that the cost of a case depends more on its individual complexity – and on the behaviour of the two sides in the dispute – than on the product involved.

process-related case fees

Some have suggested that we should charge different case fees depending upon the stage at which a case is resolved – charging *more* for cases that are settled by final ombudsman decision and *less* for cases that are resolved informally at an earlier stage.

Certainly, it is normally more costly for us to resolve cases *formally* at the ombudsman stage than *informally* by one of our adjudicators. But cases might be referred to an ombudsman by a consumer – and not just by a financial business.

A differential fee might also be seen as a way of discouraging businesses from progressing to the "appeal" stage of our process. However, it could also discourage businesses who simply appeal any case they lose at the adjudicator stage.

outcome-related fees

An alternative proposal is that our fees should be different, depending on whether or not a financial business "wins" its case.

Around half of the cases we settle are upheld and half not – so if only those who *lost* cases had to pay a case fee, this could mean a doubling of the fee for those complaints. This would add a significant additional level of uncertainty into our budgeting, as we would need to reach a view on what proportion of cases in the year would be upheld against firms. Some might be concerned that this would give us an incentive to uphold complaints to secure income.

From the perspective of a financial business, an outcome-related case fee of, say, £1,000 – perhaps arising because we decided that the business should have paid a small amount of additional compensation to the consumer – could appear disproportionate. Certainly, it could often make the decision on the case fee more material than the decision on the actual merits of the case itself.

For larger users, there would be an element of "swings and roundabouts" in relation to the outcome of a wider spread of individual cases. For smaller users, we believe it is simpler to deal with this issue by offering a significant increase in the number of free cases (see chapter 4).

charging claims-management companies

Some financial businesses say that claims-management companies should contribute to the costs of the ombudsman service. We understand why they say this. The actions of some claims managers certainly add significantly – and sometimes unnecessarily – to the costs we incur.

However, so far as the ombudsman service is concerned, the role of claims-management companies should not be overstated. Other than cases involving bank and credit-card charges, and of course PPI, claims managers are involved in only a very small proportion of the cases we deal with.

Charging claims-management companies case fees is not something we have the power to do. And we do not believe it would address the underlying issues in the claims-management market. Inevitably, fees charged direct to claims managers would be passed onto consumers. Charging by claims managers is often opaque – and consumers do not appear to select claims-management companies based on price. In many areas where claims managers operate, the proportion of complaints upheld is high – so restricting charges to cases that claims managers *lose* may have little practical significance.

The definition of a claims manager is not straightforward. Would any arrangements for charging for this type of activity also apply to *others* representing clients, such as lawyers or independent financial advisers (IFAs)?

We believe instead that the issues around the behaviours of claims managers are best addressed by better regulation of that sector – rather than through our case-fee arrangements.

charging consumers a deposit

A small number of case fee payers argue that we should charge consumers a deposit – refundable if they win their case. This is not something we can do within the existing statutory framework – and it is not something we would welcome.

Charging consumers would inevitably mean that vulnerable and disadvantaged people – including those in financial hardship – would feel discouraged from using our service. It is an established principle of ombudsman schemes across the UK that they are free to consumers. The accessibility of our service to the widest possible range of people is fundamental to our role in underpinning confidence in financial services.

In any event, a deposit-based scheme would be expensive and complex to administer in practice. We already ensure that cases that are frivolous or vexatious are not charged for. In our view, charging consumers a deposit would not make a material difference to the number of frivolous and vexatious cases referred to us. Indeed, it might simply make such cases harder to manage.

increase the number of free cases

Representatives of smaller businesses have from time to time suggested that we should increase the number of free cases – in other words, raise the threshold at which cases become chargeable. We are sympathetic to this proposal.

Many of the frustrations with our current case fee arrangements are felt more keenly by smaller businesses – because for them, each complaint is unique. Inevitably, having fewer cases means smaller businesses see less of the wide variation in circumstances that larger businesses see. And as the data shows (see page 10), smaller businesses already pay a full share of the costs of the service.

However, the rules cannot easily distinguish between different groups of financial businesses by *overall type*. So, for example, the current three free cases are given to *each* legal entity that we deal with – from the sole proprietor to the major bank and each of the bank's subsidiaries. This means that increasing the number of free cases becomes increasingly expensive if *all* businesses benefit.

chapter four: our alternative approach

our objectives

In considering an alternative approach to our case fee arrangements, we have sought to develop a proposal which:

- is seen to be fair between financial businesses and industry groups – and can gain widespread acceptance from case fee payers;
- will provide the service with a secure and predictable income in a range of scenarios;
- is rules-based and transparent to all case fee payers and works within the existing statutory framework;
- promotes good complaints-handling standards and overall efficiency in complaints handling;
- retains the impartiality and independence of the ombudsman service – and underpins the fair and reasonable resolution of cases; *and*
- is efficient to administer and collect – and does not involve undue difficulties in moving to these arrangements.

our alternative proposal

Following initial discussions with interested parties, we are proposing the model set out in this chapter. At this stage, the model is in outline. We will need to provide further detail and assessment, if the overall approach is to be implemented. This would take some time – so we do not believe we can implement this model until April 2013.

The purpose of this stage of consultation is to identify whether this approach has sufficiently wide support among case fee payers for us to develop this detail – and work with key groups to finalise our proposals.

Our alternative approach starts from the recognition that the current "one size fits all" arrangement does not fully reflect the differing circumstances of case fee payers. On the one hand, these include the large financial groups that inevitably provide us with a substantial proportion of our caseload. On the other hand, they also include smaller businesses for whom complaints are generally an infrequent experience.

We also recognise that to provide a straightforward model – appropriate for large numbers of users and cases – our current flat-rate case fee can only be a broad proxy for the costs that an individual business imposes on our service. The number of calls to our customer-contact centre, the enquiries to our technical advice desk, the proportion of complaints that are resolved informally, and the nature of the cases that are referred – all these factors shape the actual costs that we incur arising from a business's activities.

Dealing with this variation on a case-by-case basis is unlikely to be proportionate. But for large users, some more in-depth consideration of actual costs may help drive efficiency through the system – and ensure a fair means of allocating our costs.

So we envisage three groups of users:

- smaller users – who would contribute to our costs through the existing levy but would *not* pay case fees;
- moderately-sized users – who would continue to pay a mix of levy and case fees;
- larger users – who would move to a new approach that more accurately reflects the costs associated with each major business.

We describe each group in more detail below.

smaller users

For smaller users, complaints are an infrequent experience. But many of these businesses worry that a flurry of complaints – even if not ultimately upheld – would involve their business in significant costs.

The number and type of complaints referred to us about these businesses vary significantly at an individual level – and the behaviour of individual businesses may also vary. But seen as a group, the cases involved are a relatively predictable part of our caseload. So we think it right to recognise the particular needs and issues of smaller businesses in our charging model.

We believe that all financial businesses should contribute something to the ombudsman service's costs. All benefit from the confidence we bring to consumers in the financial services market. So we propose that smaller users would continue to pay a levy as now. Many of these users already pay the minimum levy.

However, we propose to increase the threshold at which the case fee becomes payable. This threshold is currently the fourth case – with the first *three cases* free. Our proposal is to raise the number of free cases to *between 20 and 25* cases. This would mean that more than 60% of those currently paying case fees would no longer do so.

More significantly, this would mean that for most smaller businesses there would in practice be no prospect of their having to pay case fees in future.

However, the costs of introducing this model would not be trivial. The charges currently recovered through these case fees amount to around £2m. Of greater significance is the impact of additional free cases for larger businesses. If *all* financial businesses had 25 free cases, the lost income from those businesses with more than 25 cases a year would amount to nearly £6m.

This means that an overall £8m transfer of charges would need to be recovered *either* through higher case fees *or* through additional levies.

However, current charges to smaller businesses tend to "over-recover" costs.
For example, if businesses with *fewer* than 25 cases in 2010/2011 had paid *no* case fees at all, they would have contributed around £6.9m to our income (from the levy). Assuming a unit cost of £644, the casework costs involved in their cases would have amounted to around £4.5m.

Of course, businesses that do *not* have cases referred to us may still receive benefits from being covered by the ombudsman service – for example, by using our free technical advice desk, attending our free seminars and getting copies of *ombudsman news.* And we may still incur costs from contact with them and their customers during the year.

So the issue to be addressed is the impact of larger businesses on the cost calculations involved in increasing the number of free cases. We propose later in this chapter that large groups should *not* benefit from the free cases available to smaller users. This would significantly reduce the costs and risks of an increase in the number of free cases. This is because large groups often include a significant number of subsidiaries that each benefit from the current arrangement for free cases.

This approach would average out the costs of dealing with complaints from smaller users. In practice, some smaller users would, of course, benefit more from this than others – and our approach would not distinguish between those smaller businesses that handle complaints well and those that do not. But more detailed charging approaches do not work well when the businesses may be involved only in a handful of cases.

In principle, raising the number of free cases might increase the volume of complaints involving smaller businesses – if businesses decide to dispute with the ombudsman "free cases" that they might otherwise have settled directly with their customers. Our initial view is that this is unlikely to be a material consideration.

We believe that significantly increasing the number of free cases would be a desirable change to our case fee model – but that this can be achieved without undue disruption to our charging structure only if businesses in the largest financial groups do *not* benefit from this increase.

largest users

Our largest users are complex financial groups that each send several thousand cases a year to the ombudsman service. Almost all are heavily involved in most areas of financial services and "mass complaints" such as mortgage endowments and PPI. Their approach to complaints handling and customer service is often shaped at group level – with significant impacts on the number of cases that the ombudsman service receives.

The volume of complaints referred to us about larger businesses has been volatile – both across the groups as a whole and individually. The outcome of complaints and issues indicating the general approach to complaints handling – such as the proportion of requests for final ombudsman decisions and the number of cases where no final response letter was issued – vary significantly between these larger businesses.

For these reasons, we believe that for our largest users we should move more towards a model that recognises in greater detail the *actual* costs associated with the work that each business and its customers generate for our service. At its simplest, this would involve moving towards a model that geared our charges for these businesses to an overall assessment of the costs associated with it. This means that a business that produced 10% of our work should expect to contribute around 10% of our costs.

To assess the level of the contribution, a more targeted charging structure seems appropriate. This would involve taking account not only the number of cases but also other indicators – such as the number of front-line enquiries we have handled from the business's customers – to shape a view about the *overall impact* of that business's

activities on our service. The precise make-up of the appropriate bundle of indicators is a matter for further consideration.

We would need to use the same set of indicators across all large groups. But this could evolve over time, as we gained more experience of measuring and monitoring aspects of our service according to business usage. This bundle of indicators would – together with our forecasts for overall usage in the next year – produce an assessment of likely future use of our service by each major group.

In practice, we would establish a group account for any financial group where one component business had over 2,000 cases a year referred to us. The group would then pay a quarterly case-related fee, payable in advance – and based on an agreed assessment of likely future use of our service. If the outcome was broadly as expected, then that quarterly fee would be the *total* case fee payment made by the group. This would provide both the financial group and the ombudsman service with a greater degree of certainty about costs and income.

If the charge is inherently forward looking – and based on *forecast* use of the service – there is clearly a risk (for both the ombudsman service and the financial group) that actual use of the service might diverge significantly from what was forecast. Consideration would need to be given to how this could best be addressed.

In principle, this risk could be carried by both parties. But in practice, we think it would be necessary to adjust the charges if the variation from forecast was material – upwards for over-use of our service, downwards for under-use. In discussion with the groups, we would need to determine the range within which adjustments could, or could not, be made – and whether performance *outside* that range gave rise to *pro rata* adjustments to charges.

Our initial view is that the range should be reasonably significant (say, 10% to 15%). The ombudsman service would be incentivised to manage its activities within the budget provided. But outside that range, adjustments would need to be made. One approach would be for the group to pay *excess* charges if use of the service increased – though if usage decreased, the group might *not* be rebated *pro rata*. This would reflect the additional costs that the ombudsman service incurs as a result of any significant volatility in demand for our service.

We believe that these new arrangements should apply only to the largest of groups – but we welcome views on this. Our initial view is that restricting the arrangement to those businesses that have more than 2,000 cases a year referred to us (and then to the entire group within which that business operates) would be a sensible way to proceed.

The existence of a group-wide quarterly fee would focus the attention of group management on the desirability of accurately predicting the workload that will be imposed on the ombudsman service – as well as on improving the standard of complaints-handling cross all the financial businesses in the group.

medium users

Medium-sized users inevitably fall somewhere between the very largest groups and smaller users. There are around 250 financial businesses that each have between 25 and 2,000 cases a year referred to the ombudsman service. These businesses account for around 30% of our workload. They range from smaller businesses through to financial groups – including a significant number of insurance companies. Overall, it is

a reasonably stable group. However, the number of complaints each receives, and the approach taken, varies significantly from business to business.

In our view, the current case fee arrangements work well for this group. Over time it might be desirable to extend the scope of our *group account* approach to some medium-sized users. But for most, the number of cases referred to us remains quite modest – and variations in practice may be difficult to identify statistically.

So our view is that the *current* case fee model should continue for this group. However, these financial businesses would benefit from the 25 free cases provided to smaller users – but otherwise, their case fee structure would remain unchanged.

chapter 5: next steps

Subject to the comments we receive on this consultation paper, we will decide whether or not to proceed with this approach. If decide to proceed, we will need to set out further details – and to seek views before finalising our plans in time for implementation in April 2013.

Any changes to our case fee arrangements need to be determined by our non-executive board and approved by the Financial Services Authority (FSA). Changes to the levy are matters for the FSA.

While we welcome all comments on these proposals, case fee payers will recognise that the proposals have to be viewed *in their entirety*. A reduction in charges for some case fee payers would need to be matched by an increase in fees for others. There is no single "right" answer to how we should be funded. And we are unlikely to be able to adopt new approaches *unless* they broadly reflect the costs of providing our service to the different sectors and/or types of business we cover or otherwise have clear public policy benefits – as well as being workable in practice.

Although the outcome of this consultation might have impacts on the amounts that *individual* businesses pay, the *overall* impact of the changes would be "cost neutral". In other words, it would neither increase nor reduce the overall level of fees paid by financial businesses.

In addition to comments on these proposals, it would also be helpful to have observations on the timetable for any changes. Our initial view is that if changes are introduced, they should be implemented from April 2013.

your feedback

We want to hear from our stakeholders on these questions:

- What are your views on the overall approach that we set out in outline in this consultation paper?
- Is the proposed threshold of 25 free cases too high or too low?
- 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?
- When should we aim to implement our new approach – April 2013 or a later date?

Please send your views and comments – to reach us by Monday 16 April 2012 – to: adrian.dally@financial-ombudsman.org.uk

Or write to:

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We may want to publish the responses we receive to this consultation paper. In the interests of openness, we encourage *non*-confidential responses.

Information provided in response to this consultation, including personal data, may be subject to publication, disclosure or release to third parties – in order to comply with the *Freedom of Information Act 2000*, to which we are subject.

It would be helpful if you could tell us why you might consider the information you have provided us with to be confidential, so that we can take this into account before deciding whether to release it. We cannot guarantee that confidentiality can always be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the service.