

# Financial Ombudsman Service Limited

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## SUMMARY MINUTES

MINUTES of the ninety sixth meeting of the directors, held at South Quay Plaza 2, 183 Marsh Wall, London E14 9SR on 10 September 2008 at 9.30am

Present	Chris Kelly Alan Cook Joe Garner John Howard Kate Lampard Julian Lee Roger Sanders Maeve Sherlock	chairman
	Walter Merricks	chief ombudsman
In attendance	Tony Boorman Barbara Cheney David Thomas	decisions director company secretary corporate director

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### 1. Apologies for absence

Apologies for absence were received from Elaine Kempson and Roy Hewlett.

### 2. Minutes of meetings held on 23 July 2008

The minutes and summary minutes of the board meeting held on 23 July 2008 were approved as accurate records of the meeting.

The minutes of the quality committee meeting held on 23 July 2008 were noted.

### 3. Matters arising

#### *PPI cases*

The decisions director reported that, since the last board meeting, discussions had been held with the FSA about the scope of the wider implications referral and redress.

There were some indications that there was now a greater recognition of the significance of the PPI issue within the financial services community. Key industry stakeholders were discussing ways of finding a solution, such as the introduction of an industry code on handling PPI complaints. But any approach to complaint handling would need to be consistent with the ombudsman's approach to PPI cases. It was agreed that it was important to keep all channels of communication open to enable a satisfactory solution to be found.

Whilst it was encouraging that there were some positive signs of greater engagement with the issues, it was agreed that it was important for the Service to continue to

- a) maintain pressure on stakeholders to achieve a satisfactory solution; and
- b) enhance its capacity to deal with complaints if the FSA decided to rely on a complaints based strategy for resolving past PPI mis-sales.

The decisions director reported that PPI complaints continued to come in at a steady rate of about 2,500 cases per month which were being progressed as quickly as possible. Whilst handling this significant level of cases gave rise to certain operational challenges, the board recognised that there was benefit in giving time to stakeholders to produce satisfactory solutions to the PPI issue.

#### **4. Funding principles**

The corporate director presented his paper about the funding arrangements for the Service. He explained that the board would be asked to consider the budget for 2009/10 at the next meeting but the objective of this paper was to review the principles behind the funding structure.

The board discussed whether the funding structure provided sufficient incentive for firms to deal with complaints themselves, rather than routinely refer them to the Service. It also considered the number of free cases, the balance between levy and case fees, whether claims management companies should provide funding (which would require a change to the Act) and the effect of the charging structure on firms' behaviour.

There was also discussion about Lord Hunt's recommendation that no case fee should be charged if the case was found to be outside the ombudsman service's jurisdiction. It was pointed out that Lord Hunt's report had not gone into this in any detail. As merits and time-limit issues can be extensively integrated, a good deal of effort could be spent deciding difficult jurisdiction issues when the case would not be upheld anyway. It was confirmed that, if it was apparent that a complaint was outside jurisdiction, it should be dismissed prior to conversion. So it was up to firms to make the relevant points at the outset. However some cases required a significant amount of work to establish jurisdiction for which a charge should be made.

The board agreed that

- a) the funding principles adopted in 2007 were still valid, though the board did not want to commit itself to specific figures for the proportions represented by the levy and by case fees.
- b) cases found to be outside jurisdiction should remain within the charging structure.
- c) it was important that the consumer contact division should continue to turn down cases that were clearly outside jurisdiction.
- d) in view of the volatility in the future caseload, and hence case fee income, it would not be possible to publish longer term funding commitments with the 2009/10 budget.

#### **5 Publishing complaint data**

The corporate director explained that the draft discussion paper, *publishing complaint data: next steps*, had been amended to reflect comments received from both the board and the accessibility and transparency consultative group.

It was recognised that the Service held information that was valuable both to consumers and firms and that transparency was important. However there was a risk that this could lead to an unintended impact on firms' behaviour, such as discouraging informal settlements, if firms felt this was reflected adversely in the published outcome data.

The board considered whether commentary on the data should be added but agreed that it would be inappropriate for an impartial ombudsman service to provide this information.

The timing of a starting date for publication of data was also considered. As far as issuing the discussion paper was concerned, it was suggested that trade and consumer bodies should be forewarned of the date of publication of the discussion paper and that they should subsequently be given the opportunity to discuss the issues.

The board approved the discussion paper for publication.

## **6. Policy Report**

The board approved FOS 2008/4, Dispute Resolution: Complaints (Amendment No 2) Instrument 2008.

The board noted the policy report which provided information about PPI, credit card charges, payment services, pensions, limits on awards, senior appointments at the FSA and an update on litigation.

## **7. Casehandling update**

The board considered an update on casehandling which included key headlines for the year to date and a summary of the main activities that were under way to increase case closure capacity.

The decisions director reported that the outsourcing trial was proving successful and the system was becoming a viable addition to the Service's casehandling capacity.

It was noted that large numbers of new complaints continued to come in (about 500 new complaints each working day). Casework efficiencies were being identified, and capacity was being increased. Experience previously gained from recruiting significant numbers of staff to deal with endowment cases had been invaluable. By spreading the search for adjudicators to outsourced and contract staff, as well as salaried staff, opportunities had been increased to attract high quality people.

The board approved all the initiatives taken so far to improve casehandling capacity. Further consideration would be given to staffing levels as part of the discussion on the budget for 2009/10.

There being no other business, the meeting ended at 12.20pm