

Financial Ombudsman Service Limited

MINUTES

MINUTES of the meeting of the directors, held at South Quay Plaza, 183 Marsh Wall, London E14 9SR on Wednesday 15 December 2010 at 9.30am

Present	Chris Kelly	chairman
	Alan Cook	director
	Elaine Kempson	director
	Kate Lampard	director (items 1 – 7)
	Julian Lee	director
	Maeve Sherlock	director
	Roger Sanders	director
In attendance	Natalie Ceeney	chief executive & chief ombudsman (CEO)
	Tony Boorman	decisions director
	Barbara Cheney	company secretary
	David Cresswell	director of communications & customer insight
	Stuart Curl	interim performance & finance director
	Simon Rouse	operations director
	David Thomas	corporate director
	Caroline Wayman	deputy decisions & legal director
	Jacquie Wiggett	HR & organisational development director
Linda Costelloe Baker	independent assessor (item 7)	

1/1012 Minutes of meetings

- a) The minutes of the board meeting held on 10 November 2010 were approved as an accurate record of the meeting.
- b) The draft minutes of the audit committee meeting that was held on 10 November 2010 were noted.
- c) The minutes of the strategy group meeting that was held on 10 November 2010 were noted.
- d) The draft minutes of the quality committee meeting that was held on 23 November 2010 were noted.

2/1012 Terms of reference

The board approved revisions to the terms of reference of

- a) the audit committee; *and*
- b) the Independent Assessor.

3/1012 Executive update

a) Flagship teams

The operations director circulated a summary of the objectives of the flagship teams, their early successes and future plans. Achievements included productivity improvements, fewer cases referred to ombudsmen and successful completion of some of the pilot schemes.

Action The operations director will arrange for flagship team members to give a lunchtime presentation to the board in 2011.

b) Technology committee

The board noted that the technology committee was being re-convened with Alan Cook as the chairman.

c) Consumer awareness survey

The latest consumer awareness survey showed variations in awareness according to measures such as age groups and geographical regions, eg 21% of adults in Wales could name the Financial Ombudsman Service *without being prompted* but only 4% of adults in Northern Ireland could do so. It was confirmed that this was not an isolated outcome. Also 22% of adults aged between 45 and 54 could name the Service *unprompted*, whilst only 3% of people under 24 could do so. The board discussed these measures and the ways in which awareness could be raised in the younger age groups who use different networks for communication. It was noted that financial businesses were required, as part of their complaints-handling procedure, to notify consumers of their right to refer their complaint to the ombudsman service if still dissatisfied.

d) Corporate social responsibility

The board noted the work being done to develop the Service's approach to corporate social responsibility.

Action The HR director will submit the Service's draft CSR policy to the board for discussion by June 2011.

e) Finance director

The CEO reported that Julia Cavanagh had been appointed as the permanent finance & performance director. She was due to start on 31 January 2011 and Stuart Curl will remain in post for her first week to ensure a smooth hand over.

f) Casework performance – November 2010

The board noted the increased number of business-as-usual case closures (16,500) and the progress that was being made in resolving older complaints. For the second consecutive month, a surplus was achieved (£471k).

The CEO reminded the board that a detailed review of operations in the third quarter would form a significant part of the next board meeting agenda. The decisions director reported that the number of cases being decided by ombudsmen was similar to those being referred to them. He was reviewing ombudsman resources and was likely to ask the board to approve more appointments in the near future. The board requested more details of the ombudsmen's workload, for discussion at the next meeting.

Action The decisions director will ensure the requested information is available at the next meeting.

4/1012 Draft budget & plan 2011/12

The corporate director introduced the draft plan & budget 2011/12 which was due to be published for consultation in January.

a) Reserves Policy

The board approved an amended reserves policy that had been proposed by the audit committee. The new policy recognised the impact on the board's legal obligations of the increasing volatility of the workload in the Service's compulsory jurisdiction, with the consequent effect on income and outgoings. The new policy would be likely to require a significant increase to the Service's reserves for 2010/11, which the board invited the FSA board to fund through the compulsory jurisdiction levy. The amount required would be set in March 2011, when the 2011/12 budget was adopted, by which time the overall position might be a little clearer, particularly if the outcome of the BBA's judicial review was known. Meanwhile, the budget consultation would flag up the possibility of an additional levy being required for this purpose, ranging between £10 million and £30 million. This had already been discussed with key stakeholders.

b) Draft budget 2011/12

The board reaffirmed its previously agreed strategy to freeze, for the second year running, both the case fee and the underlying levy (before the increase in reserves). To deliver this, the executive had committed to making savings of 10% on budgeted expenditure. It was confirmed that half of this saving had already been achieved and the executive was confident of finding the other half.

Whilst caseload productivity was improving, the CEO confirmed that work was under way to make further enhancements. However, as some large financial businesses were settling fewer payment protection insurance (PPI) cases (or not sending any information at all), this was having a significant and detrimental effect on productivity in PPI casework. It was agreed that business-as-usual and PPI activities should be reported separately.

Mindful of their duty as directors to prepare a realistic budget, the board approved the proposed budget strategy.

c) Plan & budget consultation paper

The board agreed the draft consultation paper. It also authorised the chairman to approve the final version for publication in January.

Action Board members should refer drafting comments to David Cresswell by 21 December

d) Budget paper to FSA board

The board noted that the chairman and CEO would be attending the FSA board meeting on 16 December to present the Service's budget consultation paper for 2011/12.

e) Compulsory jurisdiction levy

The CEO reminded the board that allocation of the levy was a matter for the FSA. This was due to be set by the FSA board on 20 January 2011, which would be after the Service's budget consultation paper had been published. It was noted that there did not appear to be an easy way of allocating the costs of the additional reserve requirement to those firms which were the main cause of the costs (ie those bringing the British Bankers Association (BBA)'s judicial review action) within the current fee block structure.

5/1012 Transparency

The decisions director thanked the board for its comments on the Service's draft briefing paper to the Treasury that had been circulated to the board by email on 26 November. He confirmed that the board had endorsed the proposed approach and agreed that the executive should progress the points raised in the paper with stakeholders.

He went on to say that a discussion or consultation document about the substance of the planned approach would be published in the spring. The board's comments on the overall approach would therefore be welcome before more detailed plans are prepared early in 2011.

He went on to explain the key issues that will need to be considered before finalising the Service's approach and the associated timelines. The board reiterated its commitment to transparency, bearing in mind that the Service would be subject to the Freedom of Information Act in 2011.

The chairman reported that the industry steering group had concerns about naming financial businesses and the risk that publication of decisions would provide more 'ammunition' to claims management companies. Conversely, consumer groups were in favour of full naming of firms and publishing of final decisions.

A number of other issues were considered, including

- whether publication of decisions should be delayed until after quantum had been calculated.
- as about 20,000 decisions are issued each year, the logistics of publishing them would need to be considered carefully.
- the assumption that the consumer should not be identifiable but that financial businesses would be named was tested, together with the impact this would have on the way that ombudsmen drafted their decisions.
- the need to ensure a continued effective dialogue with regulatory authorities whilst also providing for a transparent approach – for example to areas of systemic risk.

The board concluded that

- a) there was a need for greater transparency but it would be important for this to be provided in a way which had been thoroughly considered;
- b) a decision would be needed about the extent of the Service's transparency in relation to communication with the FSA/CPMA; and
- c) further work on the practicalities of publishing decisions was needed.

Action i) Board members should relay any further comments about this issue

to the decisions director.

- ii) The decisions director will prepare more detailed proposals for taking this work forward and report back to the board in March (by which time government intentions may be clearer).

6/1012 Payment protection insurance

The deputy decisions and legal director reported that the grounds for resisting the claim for an application for permission to claim judicial review by the BBA had been filed on time, on 10 December. Witness statements from the decisions director and from the deputy decisions direction were filed at the same time. The BBA had until 31 December 2010 to respond, after which the Service would have until 11 January 2011 to comment. Consultations with Counsel and liaison with the FSA had been continuing.

An extract from *ombudsman news* issue 91 was circulated to the board which provided an update on the judicial review and the affect on complaints about PPI. This confirmed that the volume of complaints was increasing but that some financial businesses were not responding substantively to complaints until the final legal outcome is known. This had meant that fewer cases were being resolved.

The board expressed its appreciation to the staff involved for the substantial amount of work involved in preparing the grounds and witness statements.

Action Copies of the grounds and witness statements will be circulated to members of the board, to be treated as confidential.

7/1012 Independent Assessor

Linda Costelloe Baker presented her first report following her appointment as the independent assessor by the board on 24 May 2010.

She confirmed that sending a speedy response to complaints was a matter of high priority for her and that she was on top of her caseload. Her practice was to reply to complainants by return with an initial summary of the issues she could, or could not, consider. This was followed by a substantive response within three weeks.

The independent assessor reassured the board that, having reviewed about 150 cases, she had not found any significant problems and the complaints she had received were consistent with those that could normally be expected about an organisation of the scale of the Service.

The board discussed the size and volatility of her current workload and the changes to the way in which complaints about the Service were being handled internally in the initial stages. The independent assessor confirmed that, by dealing with complaints promptly at team level, improvements were being achieved.

The board went on to review the proposed amendments to the independent assessor's terms of reference. The changes had largely been made to provide greater clarity.

Approval

The board approved the independent assessor's revised terms of reference, as proposed.

8/1012 Risk management

The board noted the risk register, the risk snapshot chart and the changes that had been made to the former in the past month. It was also noted that the audit committee was due to meet on 19 January to undertake a 'deep dive' into one of the key risks.

Action Board members should refer specific queries to the risk owner, with a copy to the chairman of the audit committee and to the CEO.

9/1012 Instruments

a) FEES (Miscellaneous Amendments and Financial Ombudsman Service Rules) Instrument 2010 – FOS 2010/2, FSA 2010/63

The board made this instrument and noted that the FSA board was due to be invited to do likewise at its meeting on 16 December 2010.

b) Electronic Money and Payment Services Instrument

The board was informed that it would be invited to approve the rules instrument that was required to implement the European Second Electronic Money Directive (2EMD). However, this would have to be done before the board next meets on 1 February 2011. The board agreed in principle to approve the instrument by email in January.

Action The corporate director will circulate an explanatory paper and a copy of the draft instrument.

10/1012 Any other business

a) Board strategy group

The chairman reported that the board strategy group had met immediately before the board meeting. He said that, once the *public affairs manager* had been appointed, s/he would want to discuss individual board member's contacts.

b) Board appointments

The chairman confirmed that interviews for non-executive directors were being held later in the week. He would then forward recommendations for both new appointments and re-appointments to the FSA.

c) Next meeting – 1 February 2011

The CEO advised the board that the agenda for the next meeting was very full and that the meeting was unlikely to finish before 2.30pm.

There being no other business, the meeting ended at 12.45pm