

# Financial Ombudsman Service Limited

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## MINUTES

MINUTES of the meeting of the directors, held on Wednesday 25 April 2018 at 09.00

<b>Present</b>	Nick Montagu (NM)	chairman
	Gerard Connell (GC)	director
	Alan Jenkins (A)	director
	Diana Warwick (DW)	director
	Jenny Watson (JW)	director
<b>Apologies</b>	Sienna Veit (SV)	director
<b>In attendance</b>	Caroline Wayman (CW)	chief executive & chief ombudsman
	Julia Cavanagh (JC)	chief finance officer
	Chris McDermott (CMcD)	chief operating officer
	Garry Wilkinson (GW)	principal ombudsman & director of new services
	Richard Thompson (RT)	principal ombudsman & director of quality
	David Cresswell (DC)	director of strategy
	Annette Lovell (AL)	director of engagement
	Amerdeep Somal (AS)	Independent Assessor (item 7)
	Paul Mills (PM)	head of governance and risk (item 8)
	Yvette Bannister (YB)	general counsel (items 10, 11 & 12)
	Caroline Wood (CWo)	data protection officer (item 11)
	James Hamon (JH)	head of information security (item 11)
	Debbie Enever (DE)	head of external relations (item 12)
	Kavita Savani (KS)	senior legal counsel (item 12)
	Alison Hoyland (AH)	board secretary

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### 1-4/1804 Board and committee meetings:

The Board:

- approved the note of the meeting held on 7 March 2018;
- noted the minute of the meeting of the audit committee on 18 January 2018; and
- noted the oral update of the meeting of the audit committee on 18 April 2018.

#### Matters arising

- The FCA had approved the budget and the service's '*our plans for the year ahead*' had been published.
- The commitments dashboard and underlying performance measures had been updated in the light of board comments.
- A discussion on future funding would be coming back to the board in September.
- Other matters were picked up in main business before the board

## **Chairman's update:**

The chairman updated the Board on the ombudsman service business in which he had been involved since the last board meeting, which had included:

- Internal engagement, including meetings with Board directors, members of the executive and the Independent Assessor.
- Regulatory engagement, including attending the FCA oversight committee and attending the retirement reception for John Griffith-Jones, who was stepping down from his role as FCA chair.
- Approving the appointment of an ombudsman, which the board noted.

## **Chief ombudsman and chief executive's update**

Much of the chief ombudsman and chief executive's update focussed on the recent Dispatches programme on the work of the ombudsman service.

Since the programme had aired on 13 March, a great deal of board, executive and senior management focus had been directed at the next steps for looking into the concerns raised. The service was committed to learning any lessons and recognised how vital it was that everyone had confidence and trust in the work it did. The board agreed, therefore, that it should commission an independent review to examine the issues openly and transparently.

The board agreed the appointment of Richard Lloyd to carry out the review, confident that his credentials stood up to scrutiny as one of the UK's foremost consumer rights champions, with more than 25 years' experience in consumer groups, charities, housing agencies and national government. The reviewer's appointment and the Terms of Reference have since been made public.

It was anticipated that the review would be completed by the end of June this year, and that it would be published during the summer. The Treasury Select Committee had also indicated that it expected to invite Richard Lloyd to give evidence to the committee on the review before Parliament's summer recess.

## **5/1804 Q4 end of year performance**

**fos/18/04/05**

In 2017/18, the service had performed very strongly in some areas, but other areas had been impacted by a range of factors.

In headline terms:

- it had resolved more cases than it had received, but not as many as it had set out to do at the start of the year;
- some customers had waited longer for answers than anticipated;
- customer satisfaction had, though, remained high; and
- performance against quality measures was the highest it had been.

The board noted that overall performance was set against the backdrop of:

- a delay in the implementation of the FCA's rules and guidance for Plevin-affected PPI cases, impacting the service's ability to progress cases; and

- a significant transformation programme to ensure the service's future effectiveness, efficiency and sustainability, impacting capacity and capability across a number of functions in short term.

Performance targets for the coming year were realistic and achievable against an analysis of the anticipated growth in capacity and capability and the service's confidence in the casework model it was building. Any significant departures in anticipated demand, though, would need to be kept under review. There were already early signs, for example, that high-cost credit cases could exceed anticipated volumes. The board would expect timeliness and output to be kept under close scrutiny; any necessary mitigating steps to address productivity would need to be balanced against the need to ensure quality outcomes.

The board agreed to the payment of a reduced annual collective reward given the fact that service performance against some key commitments had fallen short, but recognising too that it had been a tough and challenging year with a number of internal and external factors at play.

#### **6/1804 2017/18 Annual Review**

**fos/18/04/06**

Last year, the service had taken a new approach to the production of its annual review and planned to follow the same approach this year. The content would again be structured around overarching themes, providing for a comprehensive narrative on what the service had seen over the year and helping to emphasise the breadth of its work. The themes for the 2017/18 annual review were:

- vulnerability: exploring the ongoing challenge of vulnerability and emphasising the fine line that exists between people managing their money and experiencing difficulties;
- new ideas: highlighting the complaints the service had seen that reflect technological, social and regulatory developments and noting the service's own transformation to ensure it can remain fit for purpose and meet customers' needs; and
- loyalty and trust: noting the reliance people have on financial providers to treat them fairly and the need to build and maintain confidence in the ombudsman service itself.

The board agreed that the service's long-held values and its core purpose should be reflected in the annual review's narrative. A clear articulation of the service's strategic vision to ensure it continued to provide a meaningful service, fit for the future, would be important context to both its achievements and the challenges it had faced during the year.

The board would receive a draft of the report after the meeting for review and comments, ahead of the planned publication on 30 May.

The Independent Assessor (IA) attended the meeting to present her annual review to the Board, which recorded:

- a decrease in the number of opinions issued;
- a slight increase in the number of critical recommendations.

The IA caseload, as a percentage of the total number of cases the service had resolved, had fallen too – 0.62% in 17/18, compared to 0.84% in 16/17.

The IA reflected positively on the flexible and responsive ways of working in the service's investigation teams and noted that she had received fewer complaints about the professionalism and attitude of staff, compared to the previous year. The IA found no instances of bias in any of the complaints she had reviewed and she welcomed the changes the service was making to streamline its service complaint arrangements by moving to a one stage process.

The areas for improvement identified in the IA's report centred around the need for the service to ensure it sets out clearly how it will communicate with customers, the timescales involved, the processes it will follow and the basis of findings.

The Board thanked the IA for her work, which it saw as an important part of the assurance framework, providing a check and balance on quality and customer service and the opportunity to improve things.

The Board formally accepted the IA's annual report. The report and management response would be published alongside the service's 2017/18 annual review in May.

**8/1804 2018/19 risk management review**

**fos/18/04/08**

The current risk management approach had been in place since 2014. The annual risk review exercise had identified a number of improvements which would increase the transparency and accountability around how the service was doing against key corporate risks and the progress that was being made in reaching tolerance levels.

The audit committee had reviewed the new framework, which introduced new risk themes and a new method of reporting, at its meeting the previous week and had agreed it for submission and final approval by the board.

The board agreed the new framework and noted that further thought would be given to ensuring the right level of information was presented to the board to allow for appropriate scrutiny.

As part of the Board assurance framework, the ombudsman provided year-end reports on its statutory obligations in relation to:

*Information sharing with the Financial Conduct Authority*

The Financial Services Act 2012 placed duties on the ombudsman service in relation to cooperation and information sharing with the regulator.

Engagement with the regulator during the year had been wide-ranging and had included formal Board and executive-level engagement, for example, in relation to FCA Board approval of the ombudsman's budget, as well as liaison between ombudsman and FCA teams on a broad range of issues relevant to both organisations' work.

*Information rights*

The ombudsman service was subject to the Data Protection Act (DPA) and the Freedom of Information Act (FOIA).

The number of FOIA requests had decreased compared to the previous year, with people asking mostly for information about volumes and outcomes of complaints and about publications, processes, or guidance. The number of DPA subject access requests had increased slightly.

There had also been a reduction in the number of complaints to the Information Commissioner's Office (ICO) about the service's handling of requests. The ICO's findings showed that the office had confidence in the service's compliance with the respective pieces of legislation.

More generally, the service was preparing for the General Data Protection Regulation (a substantive update on which was provided at item 11) and anticipated receiving higher volumes of SARs when the regulation came into effect on 25 May 2018, not least as a fee for requests would no longer apply under the regulation.

*Matching resource to demand*

The service development programme remained focussed on ensuring the service was able to match resource to demand in the most efficient and effective way.

This centred on building capacity and capability in the investigation teams so that they would be able to handle all general casework in due course, removing the need for our temporary transition support area, and managing the PPI caseload through to an orderly conclusion.

Good progress was being made in building capacity and capability in the investigation teams and FCA rules and guidance were now in place for Plevin-affected PPI cases and for a time-bar, bringing more certainty to the planning environment. But considerable uncertainty still remained, in particular forecasting how many PPI complaints would come to the service between now and the deadline, and the scale of any last-minute peak, driven by the deadline itself.

Against this backdrop, and a commitment to provide as much certainty as possible to staff about future plans and their options, decisions would need to be made soon about the resources required in casework and what this meant for the choices that people would have in relation to their future career opportunities.

Further relevant context for the next steps included a recent employment tribunal case which had found in an ex-employee's favour. The judgment concluded that there was a difference in the roles of a general casework adjudicator and a mass claims adjudicator and it therefore had potential implications for any future plans to move adjudicators between different areas of casework.

The board noted the key considerations for future resourcing and asked for some further analysis to be prepared on casework demand and operational resilience over the medium to longer term, before it made any final decisions on the next steps, including the offer of any voluntary exit arrangements.

### *Technology transformation*

The technology transformation programme was a component part of the service development programme, a central feature of which was the introduction of a new customer-centric case-handling system.

The new system was due to be rolled out in May; however, a number of core features required further testing. The roll-out would be delayed, therefore, by around 10 weeks. While the programme had managed to absorb a number of unforeseen cost variations to date, there was no further contingency available to meet the additional costs, albeit that these would be minimal when seen against the scale and ambition of the technology programme as a whole. The board agreed to a modest uplift to the budget therefore.

## **11/1804 General Data Protection Regulation (GDPR) readiness**

**fos/18/04/11**

The service started preparing for the GDPR in late 2015. An internal audit report in January 2018 gave a 'substantial' assurance rating on the service's preparation to date and a good deal more progress had been made in a number of key areas since then.

Data security was of paramount importance and the service placed a premium on safeguarding the information which customers entrusted to it. There was no room for complacency, therefore, and effort remained firmly focussed on addressing the remaining actions before the regulation came into force on 25 May 2018.

The board acknowledged the huge amount of work that had been done to date and the work that was in hand to meet the requirements under the regulation.

**12/1803 Handling “Green Deal” cases**

**fos/18/04/12**

The “Green Deal” was primarily a Government backed finance mechanism which enabled homeowners to borrow money to improve the energy efficiency of their home. In 2015, the Government ended funding for Green Deal loans and the scheme came to an end. The board had been kept updated on proposals that the service should provide the ADR mechanism for the investigation of “Green Deal” cases where the finance provider had since gone into liquidation.

The mechanism under which the service would handle the cases required a change to its articles of association and draft amendments were shared with the board for comment, alongside some other minor amendments which the service was taking the opportunity to make at the same time.

The board confirmed that it was content with the proposed arrangements for handling “Green Deal” cases and, in turn, the amendments to the articles of association. A general meeting would, therefore, be arranged in the next couple of weeks at which the board would be asked to pass a special resolution to make the changes.