



## *Financial Ombudsman Service complaints data publication*

**December 2016**

### **feedback statement**

In October 2016 we published a [consultation paper](#): *Financial Ombudsman Service complaints data publication*. The paper set out the conclusions of our review into how we publish complaints data.

We are grateful to the organisations that submitted a response. In total we received 35 responses, the majority of which were from industry. A list of respondents can be found at the end of this document.

This statement outlines the feedback from stakeholders in response to the consultation and the decisions we have made in light of the comments received.

### **what we will do**

#### **changes in outcome**

- We will continue to report those cases where there has been a change in outcome in favour of the consumer as a percentage of all closed cases.

#### **frequency**

- We will continue to publish complaints data naming individual firms every six months, and quarterly complaints figures showing the number of new enquiries, new complaints, ombudsman decisions and the uphold rate for different products.

#### **changes to FCA complaints return**

- We will move endowments from the decumulation, life and pensions product grouping to the investments product grouping in order to reflect changes made by the FCA to its complaints return. This change is effective immediately and applies from the current reporting period (1 July – 31 December 2016) onwards.

### **new cases per 1,000 customers**

- We will continue to publish the number of new cases for financial businesses that have received 30 complaints or more in a reporting period. We will also work with stakeholders to develop a new measure showing the number of new cases received per 100 FCA-reportable complaints. The first reporting period this new measure would apply to would be 1 January – 30 June 2017.

### **more granular data**

- We will continue to publish additional data about different industry sectors in our *annual review*. In our *annual review* for 2016/17, we will include details of cases about financial advisers where the event being complained about happened more than 15 years before the complaint. We will also publish six-monthly data in subsequent issues of *ombudsman news*.

### **Plevin-affected PPI complaints<sup>1</sup>**

- For a limited period of time, we will not publish an uphold rate for Plevin-affected PPI cases. Instead we will publish the total number of Plevin-affected cases we have closed. This will apply to cases received by the ombudsman service up to the point that the FCA's final guidance comes into effect, and which are resolved by the end of the next full reporting period.

## **outcomes of closed cases**

### **what we asked**

*Q1. Do you agree with our conclusion that it would not be practical to distinguish between different types of change in outcome?*

*Q2. If not, please suggest how different types of change in outcome could be defined in a way that would avoid subjectivity and be simple to verify.*

### **comments received**

- Many respondents disagreed with our conclusion that it would not be practical to distinguish between different types of changes in outcome. They said that simply distinguishing between cases where there has been a change or no change in outcome in favour of the consumer didn't accurately reflect the quality of the firm's complaint handling and could therefore be misleading.
- The comments we received included:

---

<sup>1</sup> In November 2014 the Supreme Court handed down its judgment in the case of Plevin v Paragon Personal Finance Limited. In this case, the court decided that an undisclosed commission on a PPI policy could, in some circumstances, result in an unfair relationship under the *Consumer Credit Act 1974*.

- That any change in redress or trouble and upset below £100 should not be recorded as a change in outcome.
  - That any change in outcome below 10% or £50 of the original redress offered should be considered a small change in outcome.
  - One respondent suggested that we subdivide changes in outcome into nine different categories to reflect some of the common reasons for changes in outcome.
  - Some respondents commented that there were circumstances in which we should record cases as either a small change or no change in outcome. For example, if the consumer provided new evidence once the case had been referred to the ombudsman service.
  - The suggestion put forward by the most respondents was that we should distinguish between cases we have upheld on merits, and those we have upheld because we have disagreed with the amount of redress or compensation for trouble and upset offered by the business.
  - It was suggested that by distinguishing between cases where there had been either a small or significant change in outcome would encourage firms to settle more complaints informally.
- However, a significant number of respondents supported our current approach. They agreed with our conclusion that distinguishing between different types of change in outcome would be subjective, difficult to verify, could lead to inconsistencies and would be of limited value to consumers.

### **our response and conclusions**

- While many respondents disagreed with our conclusion, fewer addressed how we might distinguish between different types of change in outcome in a way that would avoid subjectivity and be simple to verify.
- As we set out in our consultation paper, we don't think it would be suitable to set a figure or a percentage above which a change in redress would become substantial. For example, a change of £100 on a case where the business had initially offered £1,000 could be considered small, but it is hard to argue this for a change of £100 where the business had offered £50. Similarly, a 10% increase on an initial offer of £100 could be considered small, whereas a 10% increase on an offer of £10,000 would be significant. Ultimately, whether a change is small or significant will depend on the individual circumstances of the consumer.
- We recognise that in some cases consumers may provide additional information to our service that they didn't present to the business when submitting their original complaint, and that this can result in the business overturning its original decision and settling the case. However, we don't think it would be appropriate to categorise such cases differently. For example, in some instances the "new" information provided by the consumer may be evidence that the business would have been aware of had it fully investigated the original complaint.

- We do not think it would be appropriate to distinguish between cases we have upheld on merits and those where we have disagreed with the amount of redress offered. This might suggest that getting redress wrong is inherently less important, whereas it can have a big impact on the consumer. We are also concerned that distinguishing between cases in this way could create perverse incentives. For example, firms may be less incentivised to align their approach with ours on redress or for awards for trouble and upset.
- We will continue to report those cases where there has been a change in outcome in favour of the consumer as a percentage of all closed cases. We will also continue to report closed cases where we have become involved before the business has issued a Final Response Letter by volume.

## **frequency of publication**

### **what we asked**

*Q3. Do you agree that we should continue to publish complaints data naming individual businesses every six months and product-based complaints data quarterly in ombudsman news?*

### **comments received**

- All respondents agreed that we should continue to publish complaints data naming individual businesses every six months and product-based complaints data quarterly in *ombudsman news*.
- One trade association commented that its members – many of which are small businesses that do not appear in our six-monthly complaints data – particularly value the quarterly statistics published in *ombudsman news*.

### **our response and conclusions**

- We will continue to publish complaints data at the current frequency.

## **changes to FCA complaints return**

### **what we asked**

*Q4. Do you agree with our proposal to move endowment complaints into the investments product grouping to reflect changes to the FCA complaints return?*

### **comments received**

- All but one respondent agreed that we should move endowment complaints into the investment product grouping to reflect changes to the FCA complaints return. It argued that it was important to maintain consistency in product groupings over time and that

while the number of new endowment cases was relatively small, it would still have the potential to distort the investment category.

### **our response and conclusions**

- We will move endowments from the decumulation, life and pensions product grouping to the investments product grouping in order to reflect changes made by the FCA to its complaints return. This change will be effective immediately and apply from the current reporting period (1 July – 31 December 2016) onwards.
- We note the concern over the impact this may have on the product grouping data, particularly for the purposes of analysing historical trends. For this reason we will add a note to our complaints data publication and *annual review* to highlight the change and mitigate any misinterpretation of the data by stakeholders.

### **new complaints per 1,000 customers**

#### **what we asked**

*Q5. How do you think we might overcome the practical considerations identified for introducing new complaints per 1,000 customers as a measure?*

#### **comments received**

- While respondents broadly welcomed the principle of adding more context to our complaints data, views were mixed about whether introducing a new measure of complaints per 1,000 customers would be the best way of achieving this.
- Some respondents commented that this measure could be misleading as complaints are often historical and from consumers who are no longer customers of the business they are complaining about.
- There were also concerns about the fact that businesses would be under no obligation to share data about customer numbers with the ombudsman service. Two businesses said that if we were to pursue this measure, DISP rules should be changed to compel firms to share the contextualisation data they already provide to the FCA with the ombudsman service.
- Several respondents suggested an alternative measure of new cases per 100 FCA-reportable complaints, or a “referral rate”. This would indicate the percentage of complaints received by a firm that were then referred to the ombudsman service. As the FCA’s published complaints data could be used to calculate this, we would not have to rely on firms supplying data on a voluntary basis.

## our response and conclusions

- We welcome respondents' openness to introducing a new measure to add context to the number of new complaints we receive, and the suggestions on how we might achieve this.
- Given the mixed response to publishing new complaints per 1,000 customers, we will not pursue this measure. The lack of consensus from industry suggests that it would be difficult to achieve a critical mass of businesses willing to share the contextualisation data they provide to the FCA. This would make the resulting information of limited use to stakeholders.
- We believe that the alternative measure suggested by some respondents of new cases per 100 FCA-reportable complaints merits further investigation. On the face of it, this appears to be a sensible way to reflect consumer satisfaction with firms' front line complaint handling. It would also enable us to use data that is already in the public domain. This would also help minimise the amount of work involved for both our service and businesses in collecting and verifying the data.
- However, we have identified some practical issues with implementing such a measure:
  - Not all of the data required to calculate new cases per 100 FCA-reportable complaints is publicly available. The firm level data published by the FCA includes PPI in the general insurance and pure protection product grouping, whereas we report PPI separately. We would need firms to provide us with the number of PPI complaints they receive, as the FCA is not permitted by law to share this data with us. Alternatively, we would need to publish a combined referral rate for PPI and general insurance and pure protection. This would amount to a significant loss of insight into two of the biggest product groups that we report on.
  - Due to the inherent time lag between consumers complaining to a business and then referring their complaint to the service there would never be an exact correlation between the two sets of data. Businesses have up to eight weeks to respond to a consumer's complaint and then the consumer has up to six months after the business' final answer to refer their complaint to our service. Therefore, the time between a consumer's complaint to a firm and that case arriving at our service could straddle more than one reporting period. This would mean that the two sets of data would compare different cohorts of cases.
  - Some respondents suggested that we should synchronise the publication of our complaints data with the FCA's in order to implement this measure. However, given the time lag referred to above, we believe that it would be no less accurate for us to calculate the number of cases we received per 100 FCA-reportable complaints using the published FCA data from the previous reporting period. For example, to calculate the referral rate for H2 2016, we would use the FCA data for H1 2016, which was published in October.

- Using complaints data published by the FCA and our service from H1 2016 (1 January – 30 June) we have projected what this measure would look like for a number of businesses, with referral rates ranging from 4% - 20%. However, it should be noted that with the FCA's new complaint handling rules, it is anticipated that the number of complaints reported by some businesses will increase significantly. This may result in referral rates of less than 1% for some businesses, which could be considered too low to make this a meaningful metric.
- We will work through the issues identified above with businesses and trade bodies to explore whether a metric of new cases per 100 FCA complaints is viable. Provisionally this new measure would apply to new cases received during H1 2017 (1 January – 30 June).

## **more granular data**

### **what we asked**

*Q6. Do you consider it worthwhile to publish more granular data on individual businesses?*

### **comments received**

- There was broad agreement with our conclusion that it would be impractical for us to publish more granular data on individual businesses.
- However, several trade bodies commented that it would be highly beneficial for their members if we were to publish more granular data at a sector level. This would enable smaller firms who do not appear in our six-monthly complaints data to benchmark themselves.

### **our response and conclusions**

- While we agree that it may be useful for consumers if we publish complaints data for individual businesses against narrower product types, such as current accounts, our analysis shows that this would only produce statistically meaningful results for a small number of businesses.
- We will continue to publish the same level of data on individual businesses.

## **average resolution time**

### **what we asked**

*Q7. Do you agree with our assessment of the practical considerations for implementing average resolution time as a measure?*

### **comments received**

- While some respondents said that average resolution time would be a useful operational benchmark, the vast majority agreed with our assessment that it would be an impractical measure to implement and that the focus should be on achieving fair outcomes.
- Some respondents highlighted that complaints about certain product types can be more complex than others and take longer to resolve. This would disadvantage businesses whose products typically resulted in more complex complaints.
- Several respondents agreed with our point that the time it takes to resolve a complaint is not entirely down to the business. Businesses often rely on information from third parties, such as PI insurers, in order to progress a case.
- Several respondents said that while they didn't think that we should show average resolution time by business, it may be useful for us to publish overall average resolution time by product group.

#### **our response and conclusions**

- We will not pursue average resolution time for individual businesses as a measure, although we will continue to publish information about how quickly we resolve complaints in our *annual review*.

### **“informally” resolved complaints**

#### **what we asked**

*Q8. Do you agree with our assessment of the risks attached to a category for “informally” resolved cases?*

#### **comments received**

- The majority of respondents agreed with our assessment that it would not be appropriate to introduce a category for “informally” resolved cases.
- One trade body commented that smaller businesses, many of which do not have specialist complaint teams, are not as well placed to work with the ombudsman service in this way, so such a measure would advantage larger, better-resourced firms.

#### **our response and conclusions**

- We will not be pursuing a measure for “informally” resolved complaints.

### **sector-based breakdown of complaints data**

#### **what we asked**



Q9. Do you agree with our plans to publish sector-based complaints data every six months in *ombudsman news* and once a year in our *annual review*?

#### **comments received**

- Respondents welcomed our proposal to publish more sector-based complaints data. There was particularly strong support from trade bodies whose members largely comprise smaller businesses that do not appear in our six-monthly data.
- A number of respondents commented that it would be useful if we were to show outcome data for the most common product types complained about for each sector, rather than the six high-level product groupings that we currently use in our *annual review*.
- Several respondents questioned the value of data about complaints where the event being complained about happened 15 years or more before the complaint.

#### **our response and conclusions**

- We will continue to publish additional data about different industry sectors in our *annual review*. As of our *annual review* for 2016/17, we will include details of cases about financial advisers where the event being complained about happened more than 15 years before the complaint. We will also publish six-monthly data in subsequent issues of *ombudsman news*.

### **Plevin-affected PPI cases**

#### **what we asked**

Q10. We would welcome your views on the merits of distinguishing between cases we have upheld for a mis-sale and any we uphold where Plevin is a relevant consideration – “Plevin affected cases”.

#### **comments received**

- The majority of respondents that answered this question agreed it would be useful for us to distinguish between PPI cases we have upheld on merits because the policy was mis-sold, and anywhere we agree the policy was not mis-sold, but award redress for Plevin-related reasons. Some were concerned at the precedent such an exception might set.
- A number of respondents commented that, once the proposed FCA guidance is in place, businesses should be allowed to “take back” Plevin-affected cases where we have agreed there was no mis-sale. It was suggested that businesses would then assess the Plevin aspect of the case and issue a new Final Response Letter to the customer.
- A number of respondents suggested that all Plevin-affected cases should be reported as having had no change in outcome. It was argued that this would reflect that we will have agreed with the business on the merits of the case, and that the business had not had the opportunity to consider the Plevin aspect of the complaint. It was also suggested that

Plevin-affected cases should be reported by volume only as this would reflect the approach the service already uses for cases where we get involved before the business has issued a Final Response Letter.

- Several respondents commented about the proposed cut-off point for any exception. Some suggested that the exception should apply to cases received by businesses up to the point that the proposed FCA guidance comes into effect. It was argued that businesses will need time to implement the FCA's guidance.

### **our response and conclusions**

- We would expect businesses to review Plevin-affected complaints with the service in light of any guidance issued by the FCA – and to consider, in light of that guidance, whether it was now appropriate to make some other offer of redress to the complainant. We would expect any such offers to be communicated via the service where a customer has already chosen to bring their PPI dispute to us. The service will help ensure that consumers (or their representatives) understand whether the offer being made is fair and reasonable in the circumstances - and that they are aware of what their next steps are if they remain unhappy.
- If complaints already with the service were sent back to businesses to consider the Plevin aspect, it might lead to a poor customer journey, undermine trust and confidence and unnecessarily add to the cost of resolving complaints. Furthermore, it could result in a number of cases being referred back to our service for a second time – and incurring a second case fee.
- We agree that reporting Plevin-affected cases already with our service under our current approach would not reflect the quality of firms' current complaints handling and could create a misleading picture for consumers and their representatives. Once the FCA's proposed guidance is finalised and effective, however, businesses will be required to be handle any new cases involving Plevin issues in accordance with that guidance – so going forward it would be appropriate to report such cases referred to the ombudsman service in the usual way.
- Therefore, for a limited period of time, we will not publish the number of Plevin-affected PPI cases which we uphold or reject. Instead we will publish the volume of Plevin-affected cases closed. As highlighted by a number of respondents, this is consistent with the approach we already use to report on complaints we get involved with before the business has issued a Final Response Letter.
- We currently envisage that the exception will apply to cases received by the ombudsman service up to the point that the FCA's final guidance comes into effect, and which are resolved by the end of the next full reporting period (1 January – 30 June or 1 July – 31 December). For example, if the FCA's guidance was to come into effect on 31 March 2017, then the reporting exception would apply to cases received by the service by that date, and which are resolved by 31 December 2017.
- Our rationale for this is:

- Businesses have had time to prepare for the FCA's proposed guidance on Plevin, which was published in its November 2015 and August 2016 consultations (CP15/39 and CP16/20). Barring any significant changes to this approach, businesses should be in a position to address the Plevin aspect of PPI complaints soon after the final guidance is published.
- Some respondents commented that the cut-off should be complaints received by businesses at the point that the proposed FCA guidance comes into effect. While our complaint form includes a field for the date that the consumer/their representative first complained to the business, this information is not always provided or reliable, as it often relies on the consumer's recollection. Furthermore, there may be a lag between the consumer making the complaint and the business logging it, so our date of complaint field will not match the firm's record of when it was received. This would be onerous to verify and could lead to inaccuracies in our published data. Therefore we will use the date that cases are received by the ombudsman service.
- We appreciate that consumers have up to six months after receiving a Final Response Letter to refer complaints to the service, and therefore we may receive some complaints after the cut-off where the business has not had the opportunity to address the Plevin aspect of the complaint. However, most complaints where businesses have been unable to address Plevin – including the 120,000 already with the service as of 1 December – will be captured by the exception.
- Applying an exception to the reporting of Plevin-affected cases will add an additional layer of complexity to verifying complaints data with firms. It therefore seems sensible to limit the number of reporting periods that the exception will apply to. Several businesses used their responses to reaffirm their commitment to working with us to resolve Plevin-affected cases as quickly as possible once the proposed guidance is published. Assuming businesses and CMCs work cooperatively with us once the FCA's proposed guidance is finalised, we would expect to have resolved the bulk of Plevin-affected cases by the end of the next full reporting period. However, we will keep this under review.

### **List of respondents\***

Association of British Insurers  
 Association of Professional Financial Advisers  
 Barclays  
 British Bankers Association  
 British Retail Consortium  
 Building Societies Association  
 Capital One  
 Consumer Finance Association  
 Council of Mortgage Lenders  
 Coventry Building Society  
 Direct Line Group

Equity Release Council  
Finance and Leasing Association  
Hiscox  
HSBC  
Legal & General  
Lloyds Banking Group  
Local Government Ombudsman  
Lloyd's  
Lloyd's Market Association  
MBNA  
MoneySavingExpert.com  
Nationwide  
National Franchised Dealers Association  
NFU Mutual  
Ombudsman Services  
Royal & Sun Alliance  
Sabre Insurance  
Sun Life  
St James's Place  
Tenet Group  
Tesco Underwriting  
Vanquis Bank  
Yorkshire Building Society  
Zurich

\*One respondent asked not to be named.