

# Temporary changes to outcome reporting in our business-specific complaints data

March 2023

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## How to respond

We welcome stakeholders' thoughts on our proposals. Please send your responses, to reach us by 5.00pm on Monday 20 March 2023, to: [consultations@financial-ombudsman.org.uk](mailto:consultations@financial-ombudsman.org.uk). Please also use this email address to contact us if you have any questions about the consultation or responding to it.

We'll publish a list of respondents and an anonymised summary of responses as part of our consultation process. If you think there's a reason your name should not be published, please let us know – we won't automatically take a standard email disclaimer as an indication that your name shouldn't be included. Our legal responsibilities around freedom of information mean we cannot guarantee responses can be kept confidential.

## Next steps

Consultation opens: Monday 6 March 2023

Deadline for responses: Monday 20 March 2023

Decision: We will consider stakeholders' responses and publish our decision and any associated plans by 3 April 2023.

## Introduction

This consultation sets out the amendments that we propose to make to the way we report business-specific complaints data.

Between 1 November 2021 and 31 March 2022, the Financial Ombudsman Service amended the way it recorded the outcomes of certain complaints that were proactively resolved by respondent businesses. This led to around 100 financial businesses making nearly 7,000 offers to resolve complaints – helping complainants get fair answers more quickly.

Since then, our service has been considering the results and feedback from that initiative to see if it is something we can and should take forward on a more permanent basis.

## How we publish data

The Financial Ombudsman Service has published complaints data about individual financial businesses and products since 2009. For financial products, we publish yearly complaints data in our annual complaints data publication and quarterly complaint statistics on our website. Alongside this, we publish complaints data on individual financial businesses twice a year.

The biannual data we publish on individual firms includes the percentage of resolved complaints where we find in favour of the complainant, commonly known as the ‘uphold rate’ or ‘change in outcome’ rate. This data covers businesses that have had at least 30 new complaints and 30 resolved complaints in the six-month reporting period.

Complaints are recorded as having had a “change in outcome” if the complaint is resolved by the Financial Ombudsman Service with a more favourable outcome for the complainant than when it was referred to us. Complaints are recorded as having had “no change in outcome” if we resolve the complaint having found the business to have done nothing wrong, or if we agree that any outcome proposed by the business prior to our involvement was fair. The ‘uphold rate’ reflects the percentage of complaints resolved as “change in outcome”.

We publish this data as it increases transparency, helps to inform consumer choice, and provides an incentive to businesses to improve their complaint handling.

## 2021/22 temporary outcome codes initiative

Our engagement with financial businesses suggests that they place a strong emphasis on their respective uphold rates, which are seen as an important benchmark not only as an individual metric, but also as a comparative measure across industry, helping to drive improvements in complaint handling.

As part of our objective to resolve complaints quickly and with minimum formality, the Financial Ombudsman Service regularly engages with businesses across the sectors we cover to discuss opportunities to resolve complaints without the need for detailed investigations on each case. Financial businesses can be willing to do this for various commercial or operational reasons, most commonly to clear backlogs, or where they wish to align more closely with our approach, or to maintain customer satisfaction.

However, due to the way we record outcomes, resolving cases in this way will increase businesses’ published uphold rates. Businesses have previously told us they can be reluctant to resolve complaints in this way due to potential negative public connotations of a higher recorded uphold rate. Although there are of course other considerations that will sit behind a business’s decision to settle a complaint, this factor might act as a disincentive to resolving complaints proactively.

After consulting on proposals, in November 2021 we made a temporary amendment to the way we reported half-yearly business-specific complaints data. In addition to the “change” and “no change” in outcome, we introduced a third outcome to record complaints that were “proactively settled” by

businesses. This amendment was introduced primarily to address the challenges brought about by the Covid-19 pandemic, which resulted in a substantial increase in demand for our service and caused operational issues both at our service and businesses alike.

We considered a firm to have “proactively settled” a complaint if:

- It made an offer to settle a complaint which had become a chargeable case before 31 October 2021 and before we had issued our initial opinion on the complaint;
- We considered the offer was a fair way to resolve the complaint, and;
- The complainant accepted the offer, or if they didn't, that we agreed that the offer was a fair way to resolve the complaint when investigating and deciding it.

This was limited to complaints that had been referred to our service on or before 31 October 2021, to maintain a focus on cases already in our queue.

Our engagement with businesses and the responses to our [consultation](#) suggested that such an amendment would act positively as an incentive for businesses to settle complaints pragmatically at an earlier stage, without the need for a full investigation by an investigator or ombudsman. During the five months the initiative was live, we found this to be the case – with around 100 businesses making nearly 7,000 offers to resolve complaints. This had a substantial impact on our queue, eased operational pressures at businesses, and helped complainants get fair answers more quickly – particularly in the area of fraud, where over 2,000 victims of scams were reimbursed more quickly for the money they lost.

Since then, some stakeholders have told us that some form of continuation of the initiative should be considered and even implemented on a permanent basis, as it provides an incentive to settle complaints more quickly without the perceived negative connotations of an increased uphold rate.

We are therefore proposing a longer-term implementation of such an amendment, and we welcome our stakeholders' views.

## **Our future funding discussion paper**

In June 2022, we published a separate [discussion paper](#) that sought views from stakeholders on how the Financial Ombudsman Service should be funded in the future, and we were grateful for the views shared with us. While we are continuing to consider our long-term funding structure, this consultation focuses only on changes to how we report business-specific complaints data – although the data and insight we'll receive from amending our reporting will help us when determining any future decisions around funding.

For example, over half of respondents to the discussion paper felt that charging a separate fee based on the stage a case closes was a good idea, and that it was logical that the further a case progresses, the more it costs our service to resolve. Many respondents linked this idea to the outcome codes initiative and suggested it could be built on further.

However, ideas of how this should be implemented were varied and it was suggested that we undertake further modelling and run pilot schemes to provide further data as to how such proposals may work.

Although the main reason behind this proposal to amend our outcome reporting is to encourage the earlier resolution of complaints, leading to fair answers for complainants being delivered more quickly, we also believe this proposal will complement our longer-term commitment to exploring changes to our funding model by providing valuable insight into the costs associated with complaints resolved at an earlier stage. This will help to inform our service in determining what, if any, changes can be made to our case fee structure with a greater degree of accuracy.

## Proposed amendment to outcome reporting

We propose to create a separate category in our biannual business-specific complaints data to record any complaint that is resolved by a fair and reasonable offer put forward by a business within 14 days of us requesting the respondent business's complaints file. This is the point at which we inform both parties that we are satisfied that the complaint is chargeable – a point we often call “conversion”.

We usually ask a business to send us its complaints file within 14 days of “conversion” – so we feel 14 days is a reasonable amount of time for a business to reconsider its position and make an offer to settle a complaint. By setting a time limit for offers to be considered as “proactively settled”, we believe this will drive good behaviour from businesses in providing timely responses.

Complaints settled in this way would not be recorded as having either a “change in outcome” or “no change in outcome”, but instead would be reported as “proactively settled”. These outcomes would not contribute to a business' overall ‘uphold rate’.

We believe that this would incentivise financial businesses to settle complaints proactively and pragmatically at an earlier stage, which in turn would help to bring closure to affected complainants.

The amendment differs to the one made in the 2021/22 financial year in that it will apply to new complaints, rather than ones already referred to our service. The previous amendment addressed a unique set of circumstances, caused largely in part by the pandemic, which created an urgent need to resolve a backlog of complaints. This new proposal focuses on new complaints being referred to us, with the aim of resolving them at an earlier stage.

We intend to make this amendment for the entirety of the 2023/24 financial year. We will monitor its effectiveness throughout this time and review the data, insight and feedback we receive before making a decision on our longer-term reporting into 2024/25 and beyond.

## How the proposal would work in practice

If, having received a file request from the Financial Ombudsman Service, a business wishes to make an offer to settle a complaint, it should respond to the file request with an offer within 14 calendar days of the request. The complaint would then be handled as follows:

- The Financial Ombudsman Service will review the offer to determine whether it is fair and reasonable.
  - If it is deemed to be fair and reasonable, we will communicate the proposed settlement to the complainant.
  - If it is not deemed to be fair and reasonable, we will let both parties know and begin investigating the complaint as normal.
- If the complainant accepts the offer, the complaint will close and we will record the outcome as “proactively settled”.
- If the complainant declines the offer, we will begin investigating the complaint as normal. If, having reviewed the complaint, we continue to find the offer to be fair and reasonable – and the offer forms the basis of the resolution of the complaint – we will record the outcome as “proactively settled”.

As all the complaints will be chargeable under the definition of a [‘chargeable case’](#), a standard case fee would continue to apply to all complaints settled in this way.

We appreciate that there will be some instances where we would've asked for the business' file within the 14 days immediately prior to making this amendment, but that an offer may be made by a business after the amendment has been made. For example, if we “convert” the complaint on 28 March, and an offer is made on or before 11 April. In these instances, we would consider the offers in the way described above.

Similarly, there may be instances towards the end of the 2023/24 financial year where the 14-day period to make an offer strays into the 2024/25 financial year. In the interests of fairness and given we will still be in the same half-yearly reporting period, we will consider these offers in the way described above as long as the complaint was “converted” on or before 31 March 2024.

**Q1: Do you agree do you agree or disagree with this proposal?**

**Q2: Are there any amendments you would suggest we make to this proposal?**

## **Ensuring fairness for complainants**

When a business makes an offer to settle a complaint, the Financial Ombudsman Service will review it to make sure it is fair before communicating it to a complainant. We believe it is important for complainants to be as informed as possible before deciding whether to accept an offer – and by not doing so, we could leave complainants open to unfair outcomes. It could lead to poor value redress offers being accepted without complainants knowing whether it was fair, or conversely reasonable offers being rejected. There is also a concern that financially vulnerable complainants may feel pressured to accept a lower offer to meet an immediate need.

We will therefore scrutinise all offers made by a business. Where we think it’s fair, we will explain this to the complainant. Where we don’t think so, we will let both parties know.

As a service, we are conscious of the effects of the actions we take can have on the wider industry. While this doesn’t impact on our role in resolving individual complaints, we must consider whether actions such as the way we record the outcomes of complaints can produce unintended consequences.

We have already mentioned the possibility of firms making lower offers that we might consider unfair, and the concern around vulnerable complainants accepting low offers. While we were pleased not to see any such practices during the period of the last amendment in 2021/22, we recognise that well-intentioned awards may nevertheless fall short of our expectations. We believe the safeguards put in place, described above, will be effective in preventing this from happening.

Of course, we cannot predict every scenario or effect that such a proposal can give rise to. It is difficult to say what effect it may have not just on business behaviour, but on the behaviour of complainants and representatives as well. While we will monitor the effects of this amendment on stakeholder behaviour – including how it affects the outcomes of complaints – we also welcome stakeholders’ views as to whether there are any other mitigations we should consider before proceeding with this proposal.

**Q3: To what extent do you agree that the Financial Ombudsman Service should review the fairness of an offer made under this process?**

**Q4: Are there any additional risks towards fairness that haven’t been identified, or mitigations that we should consider putting in place, should this proposal be implemented?**

## **Data integrity and transparency**

Our outcome data is considered a benchmark for complaint handling performance in financial services. The consistency of the data makes it easy for comparisons to be made both between different businesses and across periods of time. Its simplicity makes it a useful metric for determining performance.

We considered the effects to the integrity of our data and its transparency in our 2021 consultation. Feedback at the time suggested we may lose access to valuable insight, and that comparisons between firms may become more difficult to make with less meaningful data. Some firms suggested that our data should be accompanied by greater context, to mitigate the risk of it being misunderstood or misconstrued.

During the period where we temporarily amended our outcome reporting in 2021/22, we found that a substantial number of complaints were still recorded as either a “change in outcome” or “no change in outcome”. While reporting some complaints separately meant we couldn’t paint a full picture, we were nonetheless satisfied that the volume of complaints behind the uphold rate still rendered it meaningful and provided a strong indication of a business’ complaint handling performance. Indeed, we felt that by adding a separate line of reporting for “proactively settled” complaints, we added a new element of transparency to business performance and behaviour. And outside of outcome reporting, we retained a range of information about the types of complaint being referred to us.

While we expect such an amendment to our outcome reporting to lead to an increase in offers made by businesses, as it did in 2021/22, we still expect the majority of complaints to be defended by businesses. Indeed, we would question a business’ complaint handling process if complaints it had rejected in its final response letters were disproportionately overturned when referred to the Financial Ombudsman Service. We therefore envisage that a sufficient number of complaints will be resolved as either a “change in outcome” or “no change in outcome” to maintain the integrity of our data.

**Q5: To what extent do you agree or disagree with our assessment of the risks to data integrity and transparency?**

**Q6: Are there any additional mitigations for this risk that we should consider putting in place, should the proposal be implemented?**

## **Other risks and comments**

Finally, we would be grateful to hear stakeholders’ thoughts on whether there are any other risks relevant to our proposals that we haven’t identified but should consider mitigations for, or whether the proposals might give rise to any unintended consequences.

**Q7: Do you have any other comments or thoughts about the proposals set out in this consultation paper?**

## **Next steps**

We look forward to receiving stakeholders’ feedback on the proposals we have put forward, and any additional comments not directly covered by the questions in the consultation paper. Following the close of the consultation on 20 March 2023, the Financial Ombudsman Service will consider all the feedback received and publish a decision confirming how it will proceed by 3 April 2023.



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