

## Minutes – Board Meeting on 18 March 2024

<b>Board attendees</b> The Baroness Manzoor CBE, Chairman Jacob Abboud, Director Bill Castell, Director Nigel Fretwell, Director Shrinivas Honap, Director Ruth Leak, Director Sarah Lee, Director	<b>Executive attendees</b> Abby Thomas, CEO/Chief Ombudsman James Dipple-Johnstone, Deputy Chief Ombudsman Karl Khan, Chief Operating Officer Jenny Simmonds, Chief Finance & Risk Officer and Company Secretary Jane Cosgrove, Chief People Officer
<b>Other Financial Ombudsman Service attendees</b> Mark Sceeny, Head of Private Office (MS)	
<b>External attendees</b> None	
<b>Apologies</b> None	

### 1. Introduction and approval of agenda

- 1.1. The meeting was called to order at 10.15am by The Lady Manzoor, Chairman.
- 1.2. The agenda was approved as presented.
- 1.3. The Chairman noted that this was Ruth Leak's last Board Meeting before stepping down as a Non-Executive Director on 31 March 2024. The Chairman thanked Ruth for her significant input over the last three years, and for all her help and support. Ruth in turn thanked the Board and Executive, noting the many positive improvements that had been achieved over that period, which it was good to reflect on even whilst always striving to achieve more.

### 2. Conflicts of interest

- 2.1. No Board Member declared any conflict of interest.

### 3. Approval of board minutes

- 3.1. The Board reviewed and **approved** the minutes of the previous Board meeting held on 19 February 2024 subject to minor amendments.

### 4. Actions log

- 4.1. The Board **approved** the Actions Log subject to minor amendments.

## 5. Noting of sub-committee minutes

- 5.1. The following sub-committee minutes were **noted** by the Board after the respective Chairs of two sub-committees provided the Board with a summary of key actions:
- Transformation Committee of 15 January 2024;
  - Transformation Committee of 12 February 2024; and
  - Remuneration & People Committee of 5 February 2024.

## 6. CEO/Chief Ombudsman's report

- 6.1. The Board **noted** the CEO/Chief Ombudsman's Report. There was a discussion with the CEO/CO about improved timeliness overall save for case resolutions within 3 months. The Board noted the CEO/CO's concerns about a significant rise in incoming case volumes, such as those about Motor Finance Commission (**MFC**). These had been budgeted for (20k) at the start of 2023/24 but were now coming in January 2024.
- 6.2. The Board noted the importance of being able to flex resources up or down to deal with such variable demand; and noted the practical difficulties of recruiting new case-handlers (especially at ombudsman level). The Board noted the COO and DCO's explanation that a fast-changing complaints environment plus rising Claims Management Company (**CMC**) activity in certain product areas were also affecting the ability of firms to handle complaints, resulting in more cases not receiving a final response within the 8-week period allowed in the jurisdiction rules (ref. DISP 2.8 of the Financial Conduct Authority Handbook). This means they often end up coming to the Financial Ombudsman Service (**FOS**) more quickly than usual – i.e. straight after the 8-week 'deadlock' rather than during the 6-month limitation period thereafter – and before they are ready. This affects FOS's overall stock and age-profile of cases.
- 6.3. The Board noted that FOS was issuing fewer case resolutions than budgeted, so it does need to 'turn the dial' on that. They queried whether cases from CMCs (and/or other professional representatives) could be summarily dismissed if referred prematurely and/or with poorly prepared files; or be upheld administratively like a 'judgment in default of defence' (*cf.* FOS's statutory powers in DISP Rules 3.5.8 to 3.5.15) if firms failed to issue a proper final response or submit casefiles on time. The Board noted the DCO's confirmation that FOS did use such powers – and how cases were now managed assertively in the interests of both parties and service-users generally. The Board noted the CEO/CO's observation that, even after the successful defence of a judicial review (as with the 2023 timeshares litigation), there are often subsequent problems and delays due to firms and CMCs not following the ratio of the court's judgment, which leads to operational obstacles and additional work/costs for FOS.
- 6.4. The Board therefore requested a paper about the new approach to assertive case management: what does it involve and what is FOS doing to ensure that it only takes on cases which are appropriate for alternative dispute resolution that, in law, is supposed to be carried out "quickly and with minimum formality"? **Action: DCO.**

## 7. Finance and assurance report (CFRO)

- 7.1. The Board discussed the CFRO's additional papers on the proposed 2024/25 budget, which had been revised following constructive feedback in February's Board Meeting and the 5 March 2024 meeting of the Oversight Committee of the Financial Conduct Authority (**FCA**), and recognised the work that had gone into delivering this.

The Board noted that FOS was still committed to the February draft budget (which had received broad consensus in the consultation feedback) but with an additional narrative for the benefit of the FCA Board to clarify contingency plans to drawdown on surplus reserves if necessary due to increased incoming demand caused by external events since the consultation and draft February budget, e.g. the FCA's pause on MFC cases and <1% of cases over 12 months.

7.2. The Board **approved** the March 2024/25 Plan and Budget as presented by the CFRO/COO and requested a further paper on the use of reserves to achieve <1% of cases that are over 12 months' old.

7.3. The proposed 2024/25 Service Standards and Balanced Scorecard in the budget papers were also **approved** by the Board subject to the proposal about older cases (i.e. those over 12 months). The Board agreed that the CFRO's consolidated publication on the final Plan & Budget should clearly (i) explain the differences from the consultation draft, and (ii) state that FOS was "working towards holding no case older than 12 months". The Board asked:

- To track the productivity per FTE for both new recruits and more experienced case-handlers to ensure resources are targeted at (i) tackling the stock of older cases (which are of varying complexity) and (ii) facilitating an overall blended productivity per FTE of at least 2.74 resolutions per week. **Action: COO.**
- The Executive should update the Board each quarter on how they are spending the additional ~£9m drawn from surplus reserves to deal with extra demand and older cases. **Action: CFRO and COO.**
- FOS should recruit (on flexible contracts) dedicated trainers and operational managers with the right background to look after and drive the performance of new caseworkers brought in to deal with temporary high volumes. This will ensure that experienced caseworkers can still focus on resolving cases for customers. **Action: CPO.**
- Additional contingent costs should not be built into the Plan and Budget, as FOS needs its overarching organisational plan to be flexible enough to manage surges in demand and should be shown as separate costs. **Action: COO.**
- The Plan and Budget did not make provision for expanding jurisdiction to cover Buy-Now-Pay-Later contracts because it is now clear that this is highly unlikely to be introduced during the present Parliament (albeit FOS already has a project team making provisional preparations for this).
- The Plan and Budget did not make provision for the charging of fees to CMCs and other commercial professional representatives because of the second consultation in April and the timetable for the secondary legislation (i.e. statutory instrument), which mean that such fees will not be introduced until 1 October 2024.

7.4. The Board **approved** the draft FEES Instrument annexed to the CFRO's paper on the 2024/25 Plan and Budget. This will go to the FCA Board Meeting for approval at the end of March with the additional annex.

7.5. The Board **noted** the CFRO's regular Finance and Assurance Report.

## 8. Casework policy and strategy – consultation on charging fees to professional representatives (DCO)

8.1. The Board discussed the DCO's further revised paper about the second consultation (scheduled for April 2024) on charging fees to commercial professional representatives such as CMCs and solicitors. The Board noted that the paper

accepted that such fees should be charged upfront rather than at the end of a case; and that there would be no blanket exemption for certain classes of complainant.

- 8.2. The paper also recommended a fee of £75, which the Board discussed and noted, and requested more information about different fee options.
- 8.3. There was a constructive discussion between the Board and Executive about different levels of fees and the varying impact this might have on certain demographics, representatives' conduct, and FOS's stock, timeliness and productivity. The Board noted concerns about not reducing accessibility for complainants with lower-value cases from more deprived areas.
- 8.4. The Board therefore asked the DCO to circulate a revised paper via email with a stronger narrative that focused on the reasons why Parliament introduced a fee; that showed how FOS was aligned with the FCA and HM Treasury on this issue; and that looks at the issue from an ombudsman's point of view with a focus on the fair and impartial administration of justice. The Board reinforced the importance of a service that is free and fully accessible to everybody who needs to use it, combined with a high degree of public awareness. **Action: DCO by 26 March 2024.**
- 8.5. The Board **noted** the DCO's regular casework policy and strategy report.

## 9. Transformation Portfolio and Digital Portal (COO)

- 9.1. The Board **noted** the COO's report on the Transformation Portfolio and Digital Portal (DP).
- 9.2. The COO gave an update on recent progress that had been achieved with the DP through FOS's third-party supplier, such as successful pen testing and the remediation plan, which were scheduled to complete shortly. He would therefore be in a position to report back with a go-live recommendation for a beta version for firms in April. **Action: COO.**
- 9.3. The COO reported that it was now more about engaging with firms to scale up rather than technical issues. This scaling up will be done in a very controlled way because, so far, the technicians have been able to test function successfully but not a scalable solution which would allow firms to use the system live and give feedback. The proof of concept has passed and remedied problems with the original design and business case; but, as a proof of concept, has not yet tested every element for when it goes live. There is a need to ensure it connects properly with the case management system and does not slow it down. The Board noted that, realistically, DP for firms would be released in the Autumn followed by a version for complainants at the end of March 2025.
- 9.4. The CEO/CO and COO explained that the business case was still under review in light of other self-serve options that were now or shortly available via the *Customer First* programme. The Board discussed the paper and noted there will be a follow-up paper next month.

## 10. Operational performance report (COO)

- 10.1. The Board **discussed and noted** the COO's regular update on operational performance.
- 10.2. The Board noted that the cost per case has gone up from that budgeted for but, as set out in the CEO/CO Report, there is increasing pressure from incoming demand. The Board requested an update on what is going well and what could be improved

with regard to the new casework tools (such as auto-allocation and activity-based management). The COO confirmed that an optional demonstration of artificial intelligence was scheduled for after the April Board Meeting. **Action: COO.**

- 10.3. The Board requested that future reports show the start-of-year budget and results being reported on so could see variance from budget and service standards set. The Board also requested a breakdown of the age profile of cases that are over 12 months on a monthly basis. **Action: COO.**

## 11. HR report (CPO)

- 11.1. The Board **noted** the CPO's regular update report and found it helpful, concise and gave a good oversight.
- 11.2. The Board noted that staff attrition had reduced – and the CPO explained this was due to market conditions and things having settled down after last year's structural reorganisation.
- 11.3. The Board requested that future reports give the number of grievances rather than just percentages. **Action: CPO.**
- 11.4. The Board noted the relatively high percentage of staff who have not provided information about their diversity or disabilities, which makes it harder to ensure FOS is treating everyone fairly (albeit there are no signs or concerns that it is not). The CPO explained that her team had recently encouraged all managers and staff to disclose their diversity and inclusion data confidentially on Workday – but it was not possible to mandate this as people were always entitled to “prefer not to say”.

## 12. AOB and next meeting

- 12.1. The Board noted that appointments to the Ombudsman Panel – for (i) Associate Ombudsmen and (ii) Ombudsman Managers on 4-month secondments – had been approved via papers from the DCO that had been shared on Board Intelligence in advance of this Board Meeting.
- 12.2. There was no other business.
- 12.3. The next Board meeting is scheduled for **29 April 2024.**

## 13. Adjournment

- 13.1. The meeting was adjourned at 1.45pm.