

Minutes – Board Meeting on 22 July 2024

<p>Board attendees</p> <p>The Baroness Manzoor CBE, Chairman Jacob Abboud, Director Bill Castell, Director Nigel Fretwell, Director Shrinivas Honap, Director Sarah Lee, Director</p>	<p>Executive attendees</p> <p>Abby Thomas, CEO/Chief Ombudsman James Dipple-Johnstone, Deputy Chief Ombudsman Jane Cosgrove, Chief People Officer</p>
<p>Other attendees</p> <p>Dame Gillian Guy, Independent Assessor (<i>item 8 only</i>) Tania Scally, Senior Caseworker to the Independent Assessor (<i>item 8 only</i>) Mark Sceeny, Head of Private Office</p>	
<p>Apologies</p> <p>Karl Khan, Chief Operating Officer Jenny Simmonds, Chief Finance & Risk Officer and Company Secretary</p>	

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.

2. Conflicts of interest

- 2.1. Nobody 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 24 June 2024 subject to a minor amendment to make it clearer that the Board had made no decision yet on the outcome of the consultation on charging fees to professional representatives. Until they receive and review a paper later this month with recommendations from the Executive based on all the consultation feedback, the Board maintained an open mind about how the Financial Ombudsman Service ('FOS') would formally respond to the consultation. In any event, final approval – on, for example, who to charge, what to charge and when to charge – rests with the Financial Conduct Authority ('FCA') and Parliament.

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:

- Transformation Committee ('TransCo') minutes of 13 May 2024; and
 - Audit, Risk & Compliance Committee ('ARAC') minutes of 26 June 2024.
- 5.2. The respective sub-committee Chairs provided the Board with a summary of key points and actions set out in the minutes.
- 5.3. The Chair of the Remuneration & People Committee ('RemCo') noted that the minutes for their meeting of 2 July 2024 were in hand and would be presented to the September Board Meeting.
- 5.4. The Board noted that, for purposes of good governance, relevant Board sub-committees and their Chairs should have clear lines of sight for business cases and expenditures that go through the Executive Investment Committee – which is not a *Board* committee – to provide the Board with assurance that costs and benefits are appropriate and within the agreed financial delegations (including any cumulative spending that is part of a larger project).
- 5.5. The Board also **noted** the CFRO's paper on the governance map for Board and Executive meetings and the associated financial delegations. However, they requested a change to clarify that spending over £1m and cumulative spending (see 5.4 above) needs to be reviewed and approved by TransCo and spending over £5m needs to be reviewed and approved by the Board. This paper should come back to the Board for noting after the revised sub-committee terms of reference have been approved by the Nominations Committee after the Board Meeting on 24 September 2024. **Action: CFRO.**
- 5.6. The Board also requested that all transformation programmes, projects and portfolios have a clear strategy and implementation plan with an overarching architectural review by the relevant Design Authority to ensure targets are appropriate and complied with holistically and not in a piecemeal manner. This holistic architectural view needs to go to the next scheduled TransCo and thereafter back to the Board. **Action: COO/CEO.**

6. CEO/Chief Ombudsman's report

- 6.1. The Board **noted** the CEO/Chief Ombudsman's Report.
- 6.2. There was a discussion about the beta Digital Portal for firms, which was now looking good and would soon be rolled out more widely. The team were working on a complainant portal; as well as on one designed for professional representatives that would ensure cases submitted were accompanied by details and evidence for individual clients. FOS has engaged with the representative industry over the proposal to require professional representatives to use this channel exclusively for case submission in September 2024. The entire 'front door' of the casework process was being reviewed to ensure that all complaints are referred with the right amount of information before FOS agrees to take them on. An additional 30 to 40 FTE are therefore being recruited to the 'Customer Connect' team so that investigators and ombudsmen can focus on resolving cases.
- 6.3. The Board noted that caseworkers were encouraged to use all of FOS's statutory powers to process cases efficiently, including the power in DISP 3.5 of the FCA Handbook to progress to the next stage and decide the case based only on the evidence and arguments we already have if one of the parties fails to provide information on time or at all.
- 6.4. There was a discussion about the practical difficulties of recruiting so many new staff to deal with the rise in complaint referrals in the first quarter of 2024/25. This was impacting enabling functions as well as Casework. The Board noted that FOS was

having to recruit from a limited job market in which regulated firms and professional representatives had already recruited given their upstream position in the complaints process and suggested that regional hubs may have a key role in alleviating this problem. The Board noted that the Executive had set up a weekly forum for workforce planning to ensure that all relevant areas – such as HR, IT, Forecasting & Planning, etc – were fully joined up. Additional resources were also being brought in for the Forecasting & Planning Team as they were moving to monthly forecasts instead of quarterly to keep pace with the fast-changing demand scenarios. HR also has a dedicated person overseeing this to ensure that information is properly cascaded.

- 6.5. The Board noted that any key casework policy changes/decisions agreed by the Board would also go to the Forecasting & Planning Team so they can work out any potential impact on resourcing needs – and there is also regular engagement with firms and professional representatives to ensure we get the best possible intelligence about likely future demand.
- 6.6. There was a discussion about whether FOS does enough to discourage the referral of cases without reasonable prospects of success (on either merits or jurisdiction); and about whether FOS had the right approach to risk. The Executive confirmed that FOS does push back on referrals where appropriate – and also shares information with the FCA and other regulators where there are examples of poor conduct by regulated representatives. However, the DISP rules do not currently permit FOS to dismiss cases other than individually, so there is a limit as to what FOS can currently do if respondent firms or FOS are unreasonably flooded with ‘spreadsheet’ referrals. The new online portal for representatives should alleviate the problem (see above).
- 6.7. The Board **noted** the five annual assurance reports covering key area: (1) data protection; (2) property, health and safety, and social responsibility; (3) policy; (4) ombudsman panel and decision publication; and (5) legal work and litigation.

7. Operational performance report and transformation (COO)

- 7.1. The Board **discussed** the COO’s paper on increasing demand scenarios and resourcing capacity to handle these. The Board noted that the Executive were going to pursue all the options outlined in the paper as soon as possible. The Board requested that the achievability of service standards be added to the demand scenarios and options. **Action: COO.**
- 7.2. The Board **discussed** the COO’s operational performance report. They noted that referrals of Motor Finance Commission (‘MFC’) complaints had hugely increased and final outcomes would depend on associated current litigation (i.e. the linked Court of Appeal cases and a judicial review of an FOS final decision). The Board noted that MFC demand would tail off if the litigation went in favour of regulated firms. The Board requested reinstatement of the detailed breakdown of oldest cases – including by directorate – so they could see where they were, why they remained unresolved, and how they were going to be resolved to meet the new service standard of less than 1% of workable cases being over 12 months’ old. **Action: COO by 23 September 2024.**
- 7.3. The Board **discussed** the COO’s update on the Transformation portfolio and noted that the team were about to pilot a tool for automatically identifying key documents. The Chair of TransCo noted that there had been good work on the ‘Customer First’ programme with some good initiatives. However, the Board reiterated the need for clear lines of sight for all business cases and associated spending. Business cases need to go through a proper governance process via the relevant Design Authority to ensure it fits within the overall architecture – and any spending which is part of a

bigger project must go to TransCo for approval if it is worth over £1m in aggregate in the future (or to the Board if it is over £5m in aggregate). The Board gave an example of spending of c.£900,000 which had only been approved by an executive investment committee even though it was part of a c.£3.2m programme. **Action: CEO/CO and COO.**

7.4. The Board requested an internal audit of the Design Authority for IT and Transformation projects. **Action: CFRO no later than December 2024.**

8. Finance and assurance report (CFRO)

8.1. The Board **noted** the CFRO's financial outlook for the first quarter of 2024/25 and agreed that reporting should remain against the original budget even though it is helpful to see the revised estimates based on the latest data.

8.2. The Board **noted** the report about the top risks for 2024/25.

8.3. The Board **noted** the annual opinion of the Head of Internal Audit and agreed that he could attend the Board to discuss his findings in October/November after they had been reviewed at the next available meeting of ARAC.

8.4. The Board **noted** the CFRO's regular financial report.

9. Casework policy and strategy (DCO)

9.1. The Board **approved** the FCA's final *Dormant Assets (Collective Investment Schemes and Client Money) Instrument 2024*, which had been the subject of a discussion paper at the June Board Meeting.

9.2. The Board **discussed** the DCO's update on the consultation about charging fees to Claims Management Companies ('CMCs') and other professional representatives – and noted there was an extra-ordinary Board Meeting scheduled for 29 July 2024 to consider the Executive's recommendations and for the Board to make a decision once all the feedback had been carefully collated and analysed. The Board noted that any decision on 29 July would be subject to FCA approval and Parliament's post-election timelines for the statutory instrument.

9.3. For the meeting on 29 July, the Board requested a paper from the DCO clearly taking them through all the feedback and any risks identified together with appropriate mitigating actions. The Board asked that the paper clearly includes the following:

- That Board approval of any proposals for charging will be subject to FCA approval and the statutory instrument in Parliament.
- Any proposed changes as a result of consultation feedback should be highlighted. For example, some feedback had queried whether all regulated firms – and not just CMCs or other professional representatives – should be billed at the outset of a complaint referral rather than, as now, upon resolution.
- A clear timeline of how FOS got to the current position together with the best information presently available about likely timescales for key external stakeholders such as the FCA, HM Treasury and Parliament.
- Best available information about FOS's confidence in its functional ability to implement charging (if it is approved) by whichever date is deemed feasible.
- An explanation of why any data in the paper – or provided in any feedback – is accurate to enable the Board to make a clear and fair decision based on all

relevant facts and empirical evidence.

- 9.4. The Board also requested a second paper – to be prepared in August and presented to the Board in September – with a draft of FOS's formal public response to the consultation. The first paper (for 29 July) is intended to be shared with the FCA and HM Treasury once the Board had made their final decision on 29 July 2024.
- 9.5. The Board **noted** the DCO's regular update on policy and casework matters (including the litigation report). Going forwards, the Board requested that the litigation report be linked to any policy decisions or emerging issues that had a potential impact on FOS's costs and service standards, so the Board can keep track of this. **Action: DCO/General Counsel.**

10. HR update (CPO)

- 10.1. The Board **noted** the CPO's regular update report on HR matters, which this month included an update on any pay gaps by reference to gender and ethnicity. The CPO explained that there were no issues with equal pay, i.e. the same pay for the same type of work regardless of protected characteristics. But there were still some gaps to close in relation to gender and ethnicity at senior levels due to changes in the operating model and the adoption of regional hubs (which had, for example, recruited more women but not in the more senior roles whereas, by contrast, there had been greater recruitment of ethnic-minority men in more senior roles).
- 10.2. There was a discussion about the urgent need to recruit more staff to cope with increasing demand and all the options being explored, including contingent contracts and outsourcing. The CPO stated that FOS is accelerating the training package for contingent staff as this was a big part of any outsourcing programme. The Board noted again that additional recruitment will impact all areas of the business, not just Casework – so it is important that the relevant enabling teams are properly resourced and work closely together on this workforce planning, e.g. IT, HR, Forecasting & Planning. The Board noted that there were four elements to this:
- Proceeding at pace now with flexible contingent resourcing and outsourcing.
 - Recruitment of permanent staff.
 - Training and onboarding.
 - Efficient line-management and automation of certain tasks.
- 10.3. The CPO stated that the recruitment process took 12 weeks and then 14 weeks to train new starters. FOS was taking 50 FTE contingent staff in July plus 30 on fixed-term contracts. The Board noted that they had been recommending increasing the workforce for some time. The CPO stated that there was a management cap on how many staff can be absorbed at any given time – the maximum is 234 a year – because of the freeze on recruiting in London and the size of cohorts that can be fitted into the training academy as currently constituted. Training and mentoring which used to be federated within the organisation is now carried out solely in the Academy (so that investigators and ombudsmen can focus on resolving cases) – and it is not possible to upscale the operation overnight. In addition, the job market has shifted hugely since the end of the pandemic with more people now ready to move between employers. The Board noted that contingent workers did not go through the Academy but were trained and mentored using ombudsman-manager resources.
- 10.4. The Board emphasised the importance of seeing the results of more staff and using surplus reserves to fix any internal barriers that might be preventing this. The

Board authorised the Executive to do whatever was necessary and not put any ceilings on recruitment as there was money available for this. The CPO said that we were planning on 189 contingent staff by October and onboarding a further 113 by November.

- 10.5. The Board emphasised the importance of ensuring the quality and accuracy of ombudsman decisions despite all the new recruitment. It was vital that all new recruits have the necessary skills and experience.

11. Papers for noting

11.1. The Board **noted** the following papers, largely constituting completed actions from previous Board Meetings:

- The COO's quarterly update on new casework tools.
- The Business Continuity Update.
- The CFRO's plan for how to bill regulated firms and professional representatives (should the latter be charged in due course).
- The CFRO's Plan of Record for the 2024/25 bonus scheme.
- The DCO's update on assertive case management.
- The DCO's update on APP fraud and the mandatory reimbursement scheme being implemented in due course by the Payment Systems Regulator.
- The CPO's update on the staff 'pulse' survey.

11.2. The Board also **noted** the CFRO's paper on the governance map for Board and Executive meetings and the associated financial delegations and referred to the changes discussed above to the delegation of authorities. This paper should come back to the Board for noting after the revised sub-committee terms of reference have been approved by the Nominations Committee after the Board Meeting on 24 September 2024. **Action: CFRO.**

12. Independent Assessor's Annual Report

12.1. Dame Gillian Guy and her senior caseworker joined the meeting so the Board could **discuss** the Independent Assessor's Annual Report for 2023/24. Dame Gillian thanked the Board for their time and talked through the headline findings in her report. Although her office only dealt with a very small number of cases relative the overall output of FOS, it still enabled the drawing out of important issues, which largely remained unchanged from previous years such as not adhering to preferred channels of communication and timeliness. Satisfactory outcomes remained steady at about 35% but unsatisfactory ones had decreased. Dame Gillian noted that the new 'shortform' initial view had not generated many complaints.

12.2. The Board noted Dame Gillian's feedback about not allowing automation to take away focus from the customer; about having the impact on the customer at the forefront of everything FOS does; ensuring case handovers are smooth if there are team changes; ensuring that all vulnerability issues are picked up (especially when setting time limits); and being careful to leave it to the Independent Assessor to determine whether a complaint is within her terms of reference or really only about the merits/outcome. The Board also noted Dame Gillian's concerns that there was a perception of being too tolerant of delays by firms; and she cautioned against corresponding with firms' casehandlers in too familiar a way even though it was

inevitable that working relationships would naturally develop over time. It was important to be professional in tone even if not formal. Dame Gillian pointed out there was a decline in memos to her office, which made some cases harder to review. She also expressed concern about the sharp decline in referrals during the last quarter of 2023/24 and queried whether this might be due to the introduction of the Customer Service Team ('CST'). There were now multiple stages for a complainant to go through before a case reached the Independent Assessor as well as a backlog in the CST. This might be causing some complainants simply to give up.

- 12.3. The Board thanked the Independent Assessor and her team. They asked the Executive to relook at the number of stages in a service complaint as the intention was to speed up the process and reduce dissatisfaction; it was not intended to put obstacles in the way as a healthy organisation learns from complaints so does not discourage them. The Board noted that FOS's Management Response to the Report would be shared with them and the Independent Assessor shortly. **Action: DCO.**

13. AOB and next meeting

- 13.1. There was no other business.
- 13.2. The next Board Meeting is scheduled for **29 July 2024.**

14. Adjournment

- 14.1. The meeting was adjourned at 1.30pm.