

Financial Ombudsman Service Limited

MINUTES

MINUTES of the meeting of the directors, held on Wednesday 31 October 2018 at 09.00

Present	Nick Montagu (NM)	chairman
	Gerard Connell (GC)	director
	Alan Jenkins (AJ)	director
	Diana Warwick (DW)	director
	Jenny Watson (JW)	director
Apologies	Sienna Veit (SV)	director
In attendance	Caroline Wayman (CW)	chief executive & chief ombudsman
	Julia Cavanagh (JC)	chief finance officer
	Chris McDermott (CMcD)	chief operating officer
	Annette Lovell (AL)	director of engagement
	Caroline Nugent (CN)	HR director
	Richard Thompson (RT)	principal ombudsman & director of quality
	Garry Wilkinson (GW)	principal ombudsman & director of new services
	Yvette Bannister (TB)	general counsel (items 8 & 9)
	Kate Lloyd (KL)	senior legal counsel (items 8 & 9)
	Alison Hoyland (AH)	board secretary
	Megan Webster (MW)	policy and communications manager

1-4/31/10 Board and committee meetings:

The Board:

- approved the minute of the meeting of the board held on 19 September and noted the record of the away day on 20 September;
- noted the minutes of the meeting of the audit committee on 27 June; and
- noted the oral update of the meeting of the audit committee on 10 October 2018.

Matters arising

The matters were picked up in the main substantive 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: 1:1s with NEDs, approval of the latest set of ombudsmen appointments, which the board noted, and attendance at a 'Parity' event focussed on helping BAME men aged between 18 and 30 to find suitable employment. On the latter, the chairman and chief executive and chief

ombudsman had both attended and had spoken about their experiences and taken part in speed networking sessions.

- Industry engagement: A chair to chair meeting with Dame Clara Furse at HSBC.
- Regulatory and other policy engagement: The chairman and chief executive and chief ombudsman had both attended the City of London Banquet. The chairman had spoken to the economic secretary, John Glen MP, who was at the dinner and the minister had been very supportive of the work of the ombudsman service. The chairman planned to write to the minister to invite him to visit the service and see its work at first hand.

Chief ombudsman and chief executive's update

Much of the chief ombudsman and chief executive's update was picked up in substantive business, with the board noting under this item that since the papers had been sent:

- The service had been named as a Best Employer for Race by Business in the Community; and
- The judicial review claim by Berkeley Burke SIPP Administration Ltd had been dismissed and that following the judgment, the FCA had sent a Dear CEO letter to SIPP providers to remind them of their responsibilities.

On the judicial review claim, the board suggested that the judgment and dismissal should be highlighted to staff in case they might not otherwise be aware of the important ground it covered. The ruling endorsed established case law on the 'fair and reasonable' remit of the ombudsman and cautioned against "over-active judicial interventions" and courts substituting their own views as to what would be fair in place of an ombudsman's.

The chief ombudsman and chief executive's update had covered the latest developments in relation to small and medium sized enterprises (SMEs), which included FCA confirming its intention to extend the service's remit to larger SMEs and the findings of a report by Simon Walker CBE, former Director General of the Institute of Directors, who had been commissioned by the banking industry body, UK finance, to undertake a separate piece of work to look at SME access to redress. The Simon Walker report had made a number of recommendations, one of which was aligned with the FCA's proposal to extend the service's jurisdiction, and others which could have a bearing on the service and its work and on which the service would keep a track to see how any further thinking developed.

actions

- AH to circulate the judicial review judgment and arrange an internal update on the ruling

Overall performance and the prevailing context for the first half of the year included higher than forecast incoming general casework volumes (which were still being driven by short term lending cases and now packaged bank account complaints) and lower than forecast PPI complaints. Further, ongoing recruitment and the steps being taken to embed the investigation model continued to have a bearing on performance. Total resolutions were lower than target and waiting times longer, therefore.

Encouragingly, consumer confidence remained above target at 66% for the year to date, although it had decreased slightly in the last quarter and would likely remain under pressure for the remainder of the year as higher new case volumes impacted on timeliness.

In the light of significantly higher case volumes in the current year, and expected volumes for the following year (which the board would be considering in further detail under the next item on the budget), the proposed mitigating steps included investing in additional headcount in the current financial year, so that the service could put itself in the best possible position to respond to demand for its help the following year.

The board agreed the proposed investment to build capacity in the current financial year, ready for 2019/20. It was inevitable though that the steps being taken would place additional demand on people's time as they helped support the recruitment and train new recruits and that there would be a corresponding impact on general casework resolutions in the current financial year. While the service now expected to resolve fewer cases, compared to the budget forecast, it would nevertheless continue to look for productivity gains and efficient ways of working.

The board agreed the reforecast position for the year end that the service would:

- receive 145,000 and resolve 120,000 general casework cases;
- receive and resolve 12,000 package bank account cases;
- receive 50,000 and resolve 20,000 short term lending cases; and
- receive 200,000 and resolve 230,000 PPI cases.

At this early stage in the budget cycle, the service relied on 'reasonable estimates' of potential work, costs and income – to create an overall budget envelope to form the starting point for discussions with the board, FCA, industry and other stakeholders. The service would continue to seek views to help refine its thinking and validate assumptions, ahead of its consultation in December and thereafter as it finalised the position for approval in March.

As the board had discussed under the previous item on current year performance, the balance of work between general casework and PPI was shifting and the

service was now seeing increasing general casework volumes and greater volatility in its case mix and wasn't now expecting PPI volumes to be quite as high as earlier medium term assumptions had projected. It was also looking ahead to a year in which its jurisdiction would be extended to cover larger SMEs and complaints about claims management companies (CMCs).

Another consideration which arose from increasing volatility in case volumes and case mix and from an extended jurisdiction was how the service might best maintain stability in its reserves, not least as it approached the end of PPI. The case-fee and levy had remained unchanged for 6 years, and the board agreed that it would be prudent to explore options for raising additional funding, noting its clear preference for raising additional funds via the levy, based on its view that this would be the fairest mechanism. The service would raise the prospect in its early round discussions with all its stakeholders to inform its inclusion in the subsequent consultation.

The board noted the next steps and timetable, including:

- the FCA oversight committee and a more detailed board review later in November;
- the consultation in December;
- a post-consultation review in February; and
- the submission of the budget to the FCA Board for final approval in March.

7/1810 Independent Review

fos/18/10/07

The board noted the steps being taken to address the recommendations in Richard Lloyd's Independent Review and the position the service expected to be able to relay when it published its progress report in December.

In relation to the specific recommendation for a sample case review and the proposed approach comprising two independently facilitated stages, the board noted that this continued to be the subject of correspondence with the Treasury Select Committee and that they would be kept updated.

actions

- Board members to submit any specific comments on the report to GW.
- Updated report to be circulated to the board ahead of the next review at the November board.

8/1810 Handling complaints against CMCs

fos/18/10/08

The board noted the key decisions that had been taken in preparation of the transfer of complaints about CMC's from the Legal Ombudsman (LeO) from 1 April 2019.

The key decisions included that the service would:

- Handle CMC complaints within the investigation model, but ring-fence the teams to manage any actual, or perceived, conflicts which might arise from other casework where CMCs represented consumers on cases.
- Locate the CMC work in its office in Coventry.
- Help ensure ease of access and mitigate against customer confusion by positioning the CMC jurisdiction as a 'sub-brand'.

Given the decision to locate the work in Coventry, the board noted that it was more likely that some of the relevant casework staff at LeO (who were based in Birmingham) would wish to transfer across to the service. The service was working with LeO to go through the detail of what that might mean for individuals impacted by the transfer.

The board also noted the work that was in hand between the service, LeO, HMT and the NAO to reach a suitable approach to covering the transfer costs.

action

- AH to check the ToR for the Independent Assessor and consider whether a more explicit reference to coverage of complaints about conflicts of interest/bias might be prudent.

9/1810 Short term lending

fos/18/10/09

The external environment surrounding the short term lending sector continued to be highly volatile.

While case volumes had fallen from an average of 1,400 new cases per week in the summer, to an average of less than 800 over the previous 4 weeks – largely due to a combination of Wonga's exit from the market and the work the service had done with one of the largest CMCs, the board noted the service was still expecting 30,000 more cases than forecast for the 2018/19 financial year. The FCA had also issued a 'Dear CEO' letter to market participants highlighting recent decisions by the ombudsman and reminding them of their obligations, which could lead to further fluctuations in cases.

In relation to Wonga cases specifically, the service was working through the implications of its administration and what it meant for customers who had brought cases to the service and for the recovery of the case fees it was due. The service had explored a range of options, not least to see if there were any steps it could take which would mean more funds would be available to eligible consumers in the administration arrangements.

The analysis of the options suggested there was little, if any, scope to not seek recovery of the case fees, and so the board agreed the service should submit to the administration process and register a proof of debt as an unsecured creditor.

Embedding the investigation model

Good progress was being made across the programme of work to establish the investigation teams and build capability and capacity.

Internal and external recruitment had gone well – and recruitment continued in line with plans to invest in general casework capacity.

Kinetic, a firm of specialist process improvement consultants, had been appointed to help identify areas where improvements could be made in order to get the very best out of the investigation operating model.

The team from Kinetic had spent four weeks embedded in the investigation teams carrying out a range of activities – from conducting ‘time and motion’ studies to running drop-in sessions to gather ideas from front line case-handling staff.

The team had completed its initial analysis and had made a number of insightful observations about how investigators spent their time and made recommendations for improvements – some could be implemented quickly and others would see improvements over the medium term. A more detailed review of the work was due to go to the executive, ahead of a ‘deep dive’ review at the service development steering committee.

Mass claims and transition support

The board noted that the number of applications for voluntary redundancy was in line with projections and compulsory redundancies had not been necessary. The position with regard to the transition support area would be kept under review, with plans to bring a more considered view on resourcing needs to the November board.

Technology

Since the September board meeting, the decision had been taken that the new case handling system, Phoenix, was not ready to be rolled out across the service. The decision was based on performance issues when the system was under load in the live environment and which would have adversely impacted user and customer experience. Effort was now focussed on further testing and fixing the performance issues, and a revised timetable for launch would be confirmed as soon as possible.

The board agreed an additional £250,000 to the budget in light of the delayed launch date to cover the costs up to the end of November.

The board noted that from the following month, the service development update would report on progress under the next phase of the change programme, in line

with the '3 Horizons' framework it had agreed at its away day for future strategic planning.

11/1810 Rule changes - update

fos/18/10/11

The board noted the update on upcoming rule changes, and that the timetable for making rules in relation to Authorised Push Payment (APP) Fraud meant that the board would likely be asked to agree the changes by email in December.

12/1810 Board effectiveness

fos/18/10/12

The Board and executive had undertaken its annual exercise to review how the board was working and to identify where it could make things work better. The review was run internally by way of anonymous questionnaires. As in previous years, the surveys indicated a well-run and effective board with high level of satisfaction across the board and committee feedback, with the executive and board members in close agreement.

On points of detail, the board:

- was keen to ensure that papers and discussions focussed on strategic matters and on any decisions the board was being asked to make;
- was mindful of maintaining the line between its responsibilities and those of the executive management;
- agreed its 'critical friend' work, supporting key projects such as the transformation programme, was important and with careful management would avoid the blurring of boundaries;
- thought papers could be less detailed, including the chief executive and chief ombudsman's report, which it suggested should focus on two or three key strategic issues, annexing any information for noting; and
- agreed it would be helpful for the papers to include the action log so it could keep track of agreed, completed and outstanding actions.