

Baroness Manzoor CBE
Chair
Financial Ombudsman Service
Exchange Tower
London
E14 9SR

16 July 2024

Dear Baroness Manzoor,

I am writing on behalf of TheCityUK to address the Financial Ombudsman Service (FOS) consultation on [Charging Claims Management Companies and other professional representatives](#).

TheCityUK is the industry-led body representing UK-based financial and related professional services. We champion and support the success of the ecosystem, and thereby our members, promoting policies in the UK and internationally that drive competitiveness, support job creation and enable long-term economic growth. The industry contributes 12% of the UK's total economic output and employs over 2.4 million people – with two thirds of these jobs outside London across the country's regions and nations. It pays more corporation tax than any other sector and is the largest net exporting industry. The industry plays an important role in enabling the transition to net zero and driving economic growth across the wider economy through its provision of capital, investment, professional advice and insurance. It also makes a real difference to people in their daily lives, helping them save for the future, buy a home, invest in a business, insure what is important to them and manage risk.

We welcome the Financial Ombudsman Service (FOS) consulting on proposals to charge case fees for claims management companies (CMCs) and other professional representatives. As the FOS has acknowledged, the current arrangements, whereby the costs fall solely on respondent firms, are inequitable and do not fairly reflect the advent of CMC's participation in the consumer dispute resolution ecosystem for financial services.

Whilst we agree that professional representative firms can add value for customers, the FOS' own evidence shows that too often such representatives drive significant cost and operational challenges for the FOS and respondent firms without sufficient corresponding benefit for customers, bringing the current system into disrepute.

The introduction of charging for CMC and other professional representatives can help to address these concerns and deter high volumes of speculative complaints from such firms. However, we are concerned that the current proposals retain an imbalance in favour of these firms and will fall short of delivering the fair and equitable regime that the FOS is seeking to deliver.

Our primary concern is that the lack of an effective deterrent is now proving to be potentially business critical for some financial services companies that are inundated with complaints. The uphold rate for these complaints is remarkably low, but the bottom-line cost can only be sustained through increased pricing and risk aversion, exacerbating both customer costs and access to credit issues.

The FOS proposes to set a £250 case fee for CMCs and other professional representatives for complaints *not* upheld in favour of the customer. We welcome and support the introduction of fees for this group. However, this proposed fee level is still materially lower than the £475 case fee it is proposed be applied to respondent firms when the outcome of the complaint is not in favour of the complainant. The arrangement proposed would, therefore, continue to create a significant imbalance in costs incurred.

We believe the FOS should operate fee parity and that the case fee should be set at £650 for CMCs and other professional representatives, when the case is *not* upheld in the complainant's favour. We believe that an equitable framework can only be achieved through fee parity for both respondent and professional representative firms, especially those professional representative firms pursuing mass volume claims which FOS' analysis demonstrates does not, in the vast majority of cases, improve customer outcomes.

Whilst the Financial Conduct Authority (FCA) has made strides to improve regulation of the complaints management sector, too many circumvent these rules through alternative business structures that are less tightly regulated by the Solicitors Regulation Authority (SRA). A commercial incentive is required to augment the current regulatory arrangements.

We recognise that provision has been made for the fee to be reviewed in due course. However, we firmly believe that unless the principle of fee parity is established now, an important opportunity will be lost and the mass speculative claims currently witnessed from some CMCs will persist. In short, it is our firm view that CMCs should be required to pay a £650 case fee if their complaint is *not* upheld.

We recognise the risk of CMCs passing on fees to customers. We therefore suggest that measures to prevent fees being passed on to customers are created in conjunction with regulators (including the SRA). The timing of the introduction of FOS fees, vis-a-vis the introduction of a fee cap by the SRA, will be an important consideration in the context of fee pass-through to customers. If there is evidence to demonstrate that the application of a £650 case fee could unduly impact smaller CMC and other professional representative firms' business models, then FOS could consider increasing the free case level for these firms in mitigation.

It will be important to ensure that the new fee charging regime cannot be circumvented, for example through loopholes that allow firms to describe themselves in another way which would mean they are not considered a professional representative (e.g. rebrand themselves as a consumer champion). It is imperative that the FCA, SRA and HM Treasury rapidly identify and address weaknesses and loopholes in the definition of the regulated activities relating to claims management.

We note that there are no proposals to publish data by FOS on uphold rates for the top complainant CMC and other professional representative firms. As is the case for respondent firms, we believe that CMC / representative firms should also be under public scrutiny, as performance transparency is a strong incentive for firms to get things right. This would work alongside a fee of £650 to discourage mass, ill thought through claims. The publication of data on CMCs would also assist customers in making an informed choice when selecting a CMC to assist them with their claim.

Yours sincerely,



Miles Celic
Chief Executive | [TheCityUK](#)