

**Financial Ombudsman Service Limited**


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**Minutes**

Minutes of the meeting of the directors, held on 19 July 2022 at 10.15am

**Present**

|                             |                        |
|-----------------------------|------------------------|
| Baroness Zahida Manzoor CBE | Chair of the board     |
| Bill Castell                | Non-Executive Director |
| Sarah Lee                   | Non-Executive Director |
| Ruth Leak                   | Non-Executive Director |
| Shrinivas Honap             | Non-Executive Director |

**In attendance**

|                 |   |
|-----------------|---|
| Nausicaa Delfas | Interim Chief Executive & Chief Ombudsman |
| Chandra Hirani  | Interim Chief Financial Officer           |
| Stephanie Abel  | Senior Manager – HR Advisory Services     |
| Nicola Wadham   | Chief Information Officer                 |
| Simone Ferreira | Interim Chief of Staff                    |
| Yvette Banister | General Counsel                           |
| Carys Williams  | Interim Operations Director               |
| Colin Douglas   | Interim Director of Communications        |
| Paul Mills      | Head of Risk and Governance               |
| Emma Jane Daly  | Transformation Director                   |
| Alison Hoyland  | Board Secretary                           |
| Sacha McInnis   | Secretariat                               |

**Apologies**

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| Jacob Abboud   | Non-Executive Director |
| Nigel Fretwell | Non-Executive Director |

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**1/0722 Board and committee meetings:**

The Board agreed the minutes of the Board meetings on 24 May and 21 June with no matters arising.

Jacob Abboud and Nigel Fretwell had shared comments on the papers for the Board meeting of 19 July 2022 in advance and these were addressed in absentia.

The Board noted:

- the oral update of the Remuneration Committee on 5 July; and
- the oral update of the Audit Risk and Compliance Committee on 14 July.

In noting the oral update of the Audit Risk and Compliance Committee, the Board discussed the later timetable for the NAO's sign-off of the Financial Ombudsman's Annual Report and Accounts, which would fall after the Summer recess for the second year. The Board noted the NAO steer that it anticipated returning to the usual pre-Summer recess timetable for the 2022/23 audit. The Board would consider any follow up if that subsequently looked unlikely, when next year's audit timetable became clear in the new year.

## 02/0722 Interim Chief Executive & Chief Ombudsman and Executive update fos/22/07/02a

### *Casework*

In noting the casework update, the Board discussed the reduction in incoming cases, the wider impact of which would be discussed under the Q1 reforecast item later on the agenda. The Board reflected on the opportunities that lower incoming cases (and some staff cost savings) presented to drive for higher resolutions.

The Board noted the continued focus on resolving the oldest cases and the good progress that was being made. 58% of cases that were at risk of being over 18 months old by the year end had been resolved and the Board noted its ultimate ambition for no cases older than 12 months. On a point of detail, the Board asked for the recording and tracking of oldest cases (which included those that were held up due to reasons outside the Service's control, such as those subject to Judicial Review) to be coordinated and a holistic view maintained so the focus on closing the oldest cases extended across all categories. The Board noted that the ongoing work to improve case triage would impact positively on case resolution times.

### *Finance*

The Board noted the update from the Interim Chief Financial Officer which included details of year-to-date performance which was ahead on all key measures, costs vs budget which showed savings across all cost lines, and a review of the balance sheet which showed positive variance against March 2022.

The Board welcomed the fact that the Financial Ombudsman was in a better financial position compared with the previous year, recognising also the impact of continued attrition and the need for improved productivity.

### *Technology*

The Board heard that Tata Consultancy Services (TCS) were making steady progress in providing the Financial Ombudsman's contracted services and had reached Phase 2 in delivery of the Enterprise Data Warehouse.

### *People*

The Board discussed continued challenges with attrition and retention and the risks associated with losing talent from casework in particular, where there were early signs that the Financial Ombudsman was starting to lose more experienced case-handlers. Attrition and its causes, and how to retain talent would be a key feature of the Board's strategic away days in September.

In noting long-term sickness absence and the current top 2 reasons - 'mental health' and 'stress' – the Board sought assurance that this was being monitored and relevant steps were being taken to support staff. The Board noted that data from Employee Assistance Programme helplines indicated that the circumstances at play tended to be due to personal circumstances, rather than work related issues, though a deep dive into sickness absence and Workday categorisation would provide greater insight.

### *Legal*

The Board noted key non-litigation and litigation highlights over the last month.

The Board noted the increasingly complex jurisdiction issues being brought to the Service and whether more could be done to mitigate against delays in progressing

impacted cases, including whether decisions could be made sooner on whether the matters should be dealt with elsewhere, such as the courts.

### *Policy and strategy*

The Wider Implications Framework (WIF) continued to be embedded with the wider regulatory family. The Service continued to work closely with the FCA and the FSCS in relation to the proposed s404 redress scheme for complaints about BSPS, and how the proposed facilitated referral would work. Operational challenges for the Service, including costs, were made clear within the Financial Ombudsman's formal response to the FCA's consultation.

Regular engagement continued with the FCA team responsible for the proposed New Consumer Duty ahead of the publishing of the final rules. Case studies were being prepared to support engagement on the new duty which the Service expected to publish during the implementation period. The Service also worked with HMT, FCA and FSCS on proposals for a new duty of cooperation in the forthcoming Financial Services Bill, which sought to underpin the WIF.

HMT had published the feedback from its first consultation on Buy Now Pay Later (BNPL) products and was expected to publish a second consultation later in 2022. The timetable presumed that the FCA would consult on its approach to the new regime in mid-2023, and that full regulation would come into effect in Autumn 2024 – at which point BNPL complaints would also come within the Financial Ombudsman's jurisdiction. Funeral Planning was due to come into the Financial Ombudsman's jurisdiction from 29 July 2022.

### *Communications*

The Board noted the update on external and internal engagement and communication activity.

In noting the internal communications updates, the Board discussed evolving staff sentiment with regard to the transformation programme and the future. Colleagues were beginning to reflect on what the changes might mean for them and were keen to understand more of the detail about the plans, particularly in relation to the new casework model.

More recent external engagement with industry groups had touched on future complaint volumes associated with the cost of living, though most stakeholders agreed that it was difficult to be clear at this stage about what the scale of impact might be.

### **Q1 Risk review**

**fos/22/07/02b**

The Board noted the top risks for the Financial Ombudsman at the end of Q1 analysis as well as an update on the progress implementing risk appetite into the Service's wider framework.

The top risks in Q1 2022/23 were reflective of the Q4 2021/22 position, though the emphasis was slightly different compared to the Q4 analysis. The number of critical risks – six – remained the same, though several target dates for reducing the risks had moved back. The critical risks were timeliness, financial sustainability, cyber threat (due to the conflict in Ukraine), data protection compliance, recruitment and retention and capacity and capability to deliver on the Service's plans. High risks were communication and engagement, governance framework and key person risk.

In relation to cyber risks, the Board discussed the importance of regular horizon scanning and the need to have adequate systems in place to monitor and influence risks, and touched on the action agreed at the last Audit Risk and Compliance Committee which

was to have a cyber dashboard. The Board discussed the labelling of target risks and dates and how this could be best presented to ensure a realistic and clear view of progress towards target.

Looking at the forward view which anticipated reduced risks in Q1 next year, the Board agreed with the observation the Audit Risk and Compliance Committee had made which was that this view may be too optimistic. It noted that Executive took an action to consider a more realistic outlook.

**03/0722 Q1 Casework and financial re-forecast**

**fos/22/07/03**

The Board agreed the re-forecast for new cases, where the assumption based on current volumes was that the Financial Ombudsman Service would receive nearer 160,000 new cases, versus the 177,000 budget view. There was an expectation that volumes may increase again in 2023/24, against the context of cost of living increases amongst other things.

While the Financial Ombudsman Service also anticipated case resolutions would be below budget, reflecting lower incoming volumes, the Board agreed to hold the assumptions at 220,000 resolutions for now.

Higher income and lower operating costs had helped reduce the deficit by £27.6m. Productivity was forecast to improve by 6% against budget which, together with the lower incoming demand, would help to reduce queues. Against the backdrop of the savings in Q1 against the budget, the Board asked the Executive to consider what other steps might be taken to re-invest the savings in aid of improving waiting times and reducing backlogs.

**Action**

- Executive management to consider further steps to improve waiting times, re-investing the in-year savings.

**04/0722 Transformation portfolio update**

**fos/22/07/04a&b**

The Board noted that the next iteration of the Integrated Plan was being developed for presentation to the next Transformation Committee on 3 August, reflecting the earlier feedback from the Committee and Board. The development work included analysis of the anticipated benefits and costs to provide an overall view of the projects and initiatives that would deliver the necessary efficiency gains and future financial sustainability.

On future funding, responses to the Discussion Paper were due by 5 August. The Board deferred any agreement to the principles around assigning costs as between the levy and case fee, pending a more detailed review at the Audit Risk and Compliance Committee, where further discussion would take place around which costs were considered fixed and which were variable.

In relation to the developing plans for the casework Target Operating Model, the Board was supportive of the overall direction of travel and the core assumptions that were being made, though noted that any final decisions, including on the timetable, would be subject to the support of the new Chief Executive and Chief Ombudsman, the Deputy Chief Executive and Chief Operating Officer, given the timing of their appointments and the accountability they would have going forward. A business case and the key 'go, no go' decisions would come to the Board in due course.

**05/0722 2021/22 Annual report of the Independent Assessor**

**fos/22/07/05**

The Board received the Independent Assessor (IA) annual report on service complaints during 2021/22. While 0.26% of cases resolved overall at the Financial Ombudsman Service resulted in a complaint to the IA, the findings and recommendations nevertheless

provided a valuable opportunity to learn lessons and address the quality of service provided.

The Board stressed the importance of tackling recurring complaint themes – particularly around communication and timeliness, where these were themes that had arisen in successive years. In relation to communications, the IA highlighted the need for transparency and clarity around case status and cited the particular circumstances of cases on hold for reasons outside the service’s control. On the issue of timeliness, the IA highlighted deliberations on jurisdiction as an example where customers were waiting for a long time to find out if the service could investigate their complaint.

Opportunities to address service failures also arose in the context of complaints escalated to the Chair and/or the Chief Executive. Where relevant, these were now also being flagged to the Operations Director so that the issues and themes could be reviewed and addressed in a timely manner.

The Board thanked the IA and her team for their work and agreed the report and management response for publication – subject to some small amendments on the latter.

**06/0722 The Voluntary Jurisdiction (VJ): Rule amendments**

Due to the need to coordinate with the timing of the FCA Board, the Board had been asked to make rules (subject to FCA agreement) by email to exclude certain dormant asset complaints against Reclaim Fund Ltd from the scope of the Voluntary Jurisdiction, on the basis that they fell within the scope of the Compulsory Jurisdiction. The Board confirmed its agreement to rule change by email on 14 July.

**07/0722 Business Banking Resolution Service fos/22/07/07**

The Board noted an update in relation to the Business Banking Resolution Service which operated a scheme for complaints against participating banks from eligible larger SMEs covering historic and contemporary complaints.

**08/0322 Annual assurance reports fos/22/03/08**

The Papers were noted.

**AOB**

The Board noted its thanks to Nausicaa Delfas for her contribution as Interim Chief Executive and Chief Ombudsman, noting that this would be the last formal Board meeting before her departure in early October. Nausicaa had led the ombudsman during a period of significant challenge and had helped set the Ombudsman Service on the right path and ensure it was better prepared to deliver its ambitious strategy for service improvement and operational excellence.