

Charging professional representatives

Responses to the consultation of December 2023 to January 2024

About the consultation

As part of our 2024/25 Plans and Budget Consultation Paper, we asked eight questions about implementing a charging regime for professional representatives in the UK to help inform next steps.

The consultation was open for seven weeks between 13 December 2023 and 30 January 2024. We received 71 relevant responses. For a list of the organisations that sent a response, see page 8.

The eight questions covered the principle of exercising the powers provided by the amendment to the Financial Services and Markets Act 2000 (FSMA) in 2023, as well as the possible areas of impact for our service, for professional representatives and for complainants.

We also asked stakeholders to share their thoughts about how they might need to prepare for charging, possible pricing options and fee proposals.

This paper only summarises the responses to our consultation on charging professional representatives. For detailed consultation feedback and our responses to other topics and questions in the consultation paper, please see [our Plans and Budget for 2024/25](#).

Key points emerging from consultation responses

Two thirds of respondents agreed that we should introduce a fee for professional representatives in scope. This was on the basis that it would ultimately benefit consumers and improve the complaints ecosystem overall. Support for the introduction of a fee came from different parts of the industry and organisation types, including trade associations, charities and consumer panels.

Of the third who disagreed with charging, most were professional representatives. They cited concerns that a fee would significantly impede, or even eliminate, the economic viability of professional representation in complaints about financial services.

Respondents from across different stakeholder groups (including both those that approved and opposed a fee), urged us to carefully consider how to ensure the fee level was fair. It was thought that an unfair fee level (for example, if it were too high) might mean professional representatives would be less likely to pursue certain complaints on behalf of consumers. This could be the case especially where claims involve a lower redress value.

The behaviour of some professional representatives emerged as a prominent theme. Some respondents suggested that charging a fee would encourage better conduct. We were told that the behaviour of some professional representatives can stop complaints being effectively resolved and often conflicts with the relevant principles of business put in place by regulators.

Most stakeholders who responded expressed concern about professional representatives bringing numerous complaints to our service that lack merit and are unlikely to be upheld. They agreed that the best way to address this is to implement a fee at the right level.

Several responses emphasised that we should do more to raise awareness of how we can help people in need and that we are free for consumers.

We received support on our proposals to permit professional representatives three free cases each year as we do with financial businesses. Overall, respondents agreed this consistency makes sense and provides a suitable limit to non-chargeable complaints each financial year.

Response summaries by question

This summary does not include all the individual points that respondents made in answer to each question. Instead, it brings together the range of feedback into common and contrasting themes, as well as key areas of agreement or difference, that featured across the questions. It also builds on feedback we received from stakeholders as part of our ongoing engagement.

What we asked

14. Do you consider that the Financial Ombudsman Service should exercise the power given to charge professional representatives? If not, why not?

Response summary

Just under two thirds (63%) of respondents agreed that we should exercise the power to charge professional representatives in scope.

Respondents who supported the proposal suggested it would incentivise the right behaviours, such as:

- increased due diligence and thorough preparation of complaints before escalation, to ensure they are evidenced appropriately.
- early consideration of the individual merits and our approach to complaints, by making use of published insight and resources beforehand.

Respondents broadly agreed that both of these would lead to better outcomes for customers.

However, there was a marked difference in attitude between stakeholder groups. Almost all respondent businesses agreed we should charge professional representatives. Conversely, all the professional representatives who responded opposed the introduction of a fee.

Although many respondents were supportive, some concerns emerged.

These included whether an increase in costs to professional representatives would create barriers to the services they provide. For example, if charges were to be passed on to consumers. This might have broader and negative consequences for the market or access to justice.

What we asked

15. If this power is exercised, what is your view of the likely impact of a fee for professional representatives on overall complaint volumes and types submitted to the Financial Ombudsman Service?

Response summary

Many respondents said they expected charging a fee would reduce the volume of cases referred by professional representatives. Introducing a charge would ensure that professional representatives only escalated cases that had merit or a reasonable prospect of success.

However, some respondents suggested that if more cases come directly from consumers, without the assistance of a professional representative, we might see a rise in cases coming to us without the correct information. Consumers may not be sure what they should collate to support their case or might contact us before completing the complaints process with the financial business.

Some respondents thought that charging might cut the number of opportunistic referrals and that, in turn, would affect the balance or type of cases we receive.

Some respondents also suggested that charging might reduce the so-called 'weaponisation' of escalation of cases to us. (This is the suggestion that escalating a particular complaint, or number of complaints, is used as a tactic to persuade financial businesses to make 'goodwill' payments to settle complaints regardless of their merits).

What we asked

16. If this power is exercised, to help shape our Equality Impact Assessment, do you think there are any potential impacts of charging professional representatives on different groups of complainants, for example vulnerable groups and those with protected characteristics? If so, how you think these could be mitigated?

Response summary

Some respondents were concerned that introducing a charge would disadvantage some complainants. These might be the more vulnerable consumers, such as those with low financial literacy or who are facing significant or unexpected life-events. It could also be detrimental for anyone who might find it challenging to make a complaint or navigate a complaints process, and therefore choose to rely on professional representation to bring their case to us.

It should be noted that there was limited supporting evidence for these representations, with not a great degree of detail submitted about the suggested impact on consumers by most respondents who made these arguments.

What we asked

17. If this power is exercised, how do you think the regulatory system could address/avoid professional representatives passing on the fee to consumers?
18. If this power is exercised, what other factors should we consider when evaluating charging professional representatives?

Response summary

Many respondents believed it was inevitable that professional representatives would pass on increased costs to consumers. Some suggested that unless professional representatives could pass the fees on, they'd go out of business and even that the whole sector might disappear.

A large number of respondents worried about costs being passed to consumers, particularly vulnerable consumers who might struggle to get their cases to us without help. One idea was to introduce a fee cap, while some suggested that regulation should prevent fees from being passed on to consumers.

Many alluded to the cap that affects fees for FCA-regulated claims management companies (CMCs). A large portion of respondents suggested that regulators, including the Solicitors Regulation Authority (SRA), should work together to align their fee caps, monitor trends and educate both firms and consumers about the Consumer Duty.

One respondent called for regulators to collaborate on communications and guidance for both professional representatives and customers.

In the same vein, several suggested we run customer awareness campaigns of our service to educate consumers about the redress system. One proposed that CMCs should be obliged to tell potential customers they can bring their complaint to us without professional assistance and that our service is free.

Some respondents proposed we should consider publishing data and statistics of cases that CMCs/other professional representatives have been involved in. Other suggestions included charging penalties for bringing cases with no merit and making professional representatives pay for any mistakes (for example, in documentation, form filling, and raising claims) to save financial businesses and our service from bearing these costs.

A portion of respondents called for regulation to prevent fees being passed to those representing, for example, survivor-victims of economic abuse. Several respondents proposed that not-for-profit organisations who support consumers should also be exempt from charges.

What we asked

19. If this power is exercised, do you agree with our initial thoughts to provide the same level of free cases (three) as for respondent firms?

Response summary

The majority of respondents agreed that the level of free cases should be the same as for respondent firms (presently set at three cases per financial year).

Around a quarter of respondents either did not agree that the level of free cases should be the same, and/or that there should be no free case provision at all for professional representatives.

Other respondents either did not answer this question, or they felt this should be the subject of further consultation so the issue can be explored more fully once we have provided further details about a charging regime.

A small portion of respondents suggested this free case limit might incentivise poor practice from financial businesses, who might reject legitimate complaints if the complainant is represented by a professional representative.

What we asked

20. If this power is exercised, what do you think of the potential pricing options, or the proposed fees, for charging professional representatives?

To facilitate feedback for Question 20, we proposed some initial fee options for consideration:

Fee level	When chargeable	Price point per case
Low	On case conversion	£50 - £100
Moderate	On case conversion	£101 - £200
High	On case closure	Full case-fee level (for 2024/25, the £650 proposed)

Response summary

Approximately 48 respondents directly answered this question. The majority of these cited that a price point within the 'High' range would be appropriate and these mainly came from respondent firms. The main reasoning behind this being that we should match any fee for professional representatives to that of the (£650) respondent firm case fee.

A significant portion of those that responded directly to this question proposed that our service differentiate the case fee on the basis of either having the fee level contingent on the outcome achieved on the case. And/or that this fee should be offset against what the respondent firm pays for its case fee. The organisation type varied for this group.

A smaller group of respondents cited that a lower fee should be implemented, with one respondent suggesting that we charge only for cases determined by a decision from an Ombudsman.

The majority of those respondents that expressed that our service should charge no fee (in answer to Question 14 in particular) reiterated this in response to Question 20. This made up approximately 20% of the 48 direct responses to this question and came predominantly from CMCs or other professional representatives as an organisation type.

What we asked

21. If this power is exercised, what preparations will professional representatives need to make? And what is the timescale that it will take to implement such preparations?

Response summary

Respondents cited a variety of possible preparations, including updating information in company documents or on websites, creating new policies and procedures, and staff training.

While some respondents said they wouldn't need to do much to prepare, others said they'd need to make changes to IT and/or finance systems.

Some respondents highlighted that they might require a lead-in period to complete their preparations. A portion of respondents quoted timescales for this, while others felt that only a short lead-in period would be necessary.

A few respondents suggested the introduction of a charge would force professional representatives to consider whether they could continue to represent complainants in cases to our service.

Organisations who responded to our consultation:

AFS Compliance Ltd	It Is Your Money
Allegiant	ITC Compliance Limited
Allianz	Johnson Law Group
AMK Legal	Jurni Leasing
APFIN Ltd t/as cashasap.co.uk	Legal & General
APJ Solicitors	Lloyds
Association of Mortgage Intermediaries/Association of Finance Brokers	Lloyds Banking Group
Aviva	Money Advice Trust
Barclays Bank	Money and Me Solicitors
BMW Group Financial Services	N Brown Group plc
Bott and Co Solicitors Ltd	Nationwide
BRC	Next plc
British Vehicle Rental and Leasing Association (BVRLA)	NFU Mutual
Building Societies Association	Pension Works Limited
Calibrate Compliance	PIMFA
Capital One (Europe) plc	Pogust Goodhead
CEL solicitors	Richmond Wealth
Claims Protection Agency	Rightside Financial Services Limited
Claims Review Team	RSA Group
Consumer Credit Association(UK) Ltd	Santander
Consumer Credit Trade Association (CCTA)	Sentinel Legal
Co-operative Bank	Simplybiz
Credit Services Association	Step Change (debt charity)
Direct Line Group	Surviving Economic Abuse
Enra Specialist Finance Ltd	The Association of Consumer Support Organisations
fair4allfinance	The Claims Guys Legal
FCA Practitioner Panel	The Law Society
FCA Small Business Practitioner Panel	The Law Society of Northern Ireland
Finance & Leasing Association (FLA)	The Law Society of Scotland
Financial Services Consumer Panel	The Lloyd's Market Association (LMA)
Fountain Finances Ltd	The Money Platform
Guarantor My Loan	The National Franchised Dealers Association (NFDA)
HD Law Limited	TLW Solicitors
HSBC	UK Finance
HT Legal Ltd	Vanquis Banking Group
IJK Regulatory Consulting Ltd	Wise Payments Ltd
Innovate Finance	X-Claims