

Minutes – Board Meeting on 28 May 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 Karl Khan, Chief Operating Officer Jenny Simmonds, Chief Finance & Risk Officer and Company Secretary Jane Cosgrove, Chief People Officer</p>
<p>Other Financial Ombudsman Service attendees</p> <p>Mark Sceeny, Head of Private Office (MS)</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. No Board Member declared any conflict of interest.
- 2.2. The DCO declared an interest in item 6.2 (about the Workforce Plan for Manchester).

3. Approval of board minutes

- 3.1. The Board reviewed and **approved** the minutes of the previous Board meeting held on 29 April 2024.

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 minutes of 15 April 2024; and
 - Audit, Risk & Compliance Committee minutes of 24 April 2024.
- 5.2. The respective committee Chairs provided the Board with a summary of key points and actions.

6. Internal audit of bonus calculations

- 6.1. The Board **noted** the internal audit of the 2023/24 bonus calculation submitted by the Head of Internal Audit. They noted the audit and the areas identified for

improvement had been reviewed on the bonus and approved by the Remuneration & People Committee ('RemCo').

6.2. The Board also asked for the following **actions (CFRO)**:

- the bonus construct for 2024/25 be subject to a pre-audit by the Head of Internal Audit to check the metrics can actually be measured;
- there be audits throughout the year – e.g. at the 6-month point – to ensure the service standards are robustly calculated with the data feeds available; and
- there be an audit at the end of the year on the final bonus calculations.

7. CEO/Chief Ombudsman's report

7.1. The Board **noted** the CEO/Chief Ombudsman's Report.

7.2. There was a discussion about how April had been a good month. However, the CEO/CO had concerns about the exceptionally high demand with incoming volumes of cases 27% greater than at the time of the 2024/25 Plan & Budget in March. This was largely due to consumer-credit and banking cases, with roughly a 50/50 split between complaints referred directly by complainants and indirectly by Claims Management Companies ('CMCs'). Key topics were credit cards, unsecured loans, unaffordable/irresponsible lending, and fraud/scams. There was evidence of some CMCs using existing client databases to move between product types. The Board noted that the forecast for incoming demand had increased from c.210,000 cases at the time of the March Budget to c.275,000 now.

7.3. The Board noted that caseworkers should use all the powers in the DISP Rules (of the Financial Conduct Authority Handbook) to progress cases pro-actively. They noted that the COO Report recorded a big increase in non-progressable cases in the Consumer Credit Directorate – and queried the reasons behind this.

7.4. There was a discussion about a Supreme Court judgment on when time limits start for the purpose of disputes involving s.140A of the Consumer Credit Act 1974 – but this only affected c.3,600 irresponsible lending cases (largely CMC-led referrals), so was not the cause of the big increase in non-progressable cases, which was more due to Motor Finance Commission, and investment cases involving one firm.

7.5. The Board noted and stressed the importance of the Financial Ombudsman Service ('FOS') adhering to its statutory remit of resolving disputes "quickly and with minimum formality". This might mean not taking on cases that are unsuited to alternative dispute resolution, e.g. because the disputed events occurred too many years ago and/or involve complex legal arguments better suited for the courts. The Board noted that, despite FOS successfully defending judicial reviews in cases about (for example) fractional timeshares and SIPP Due Diligence, many of the cases sitting behind those were now very old – and it was vital to remember the consumers involved in those cases. Learning lessons from previous big or contentious policy issues could avoid building a backlog of old, unworkable cases.

7.6. The CEO/CO confirmed that this was the approach being taken to Motor Finance Commission cases, where information pertinent to each case would still be gathered even as we awaited the outcome of litigation.

7.7. There was a discussion on how to tackle increased demand and pressure on resources. For example, whilst investigators were now more productive overall due to Activity-Based Management, there was a greater demand for an Ombudsman's final decision even though c.90% resulted in no change of outcome from the initial view. The Board stressed the importance of introducing activity-based management

to all ombudsmen and were assured pilots were in place. The Board also noted that the Executive had plans to address this, e.g. batching cases with high referral but low uphold rates, shorter decisions endorsing the investigator's reasons, recruiting more Associate Ombudsmen, more secondments to the Panel, etc. The Board stressed the importance of ensuring active recruitment of contingent workers and options for outsourcing.

- 7.8. The Board noted the CEO/CO's summary of press and social-media coverage following the 23 May publication of the latest consultation about charging fees to CMCs and other professional representatives. This had been positive, as had recent round-table updates with a wide range of firms and trade associations. Most attendees seemed broadly happy with the proposals, albeit noting the challenges surrounding the implementation timetable due to the General Election and potential impact of that on Parliamentary approval of the secondary legislation that was laid on 20 May. The Board noted that the DCO was already preparing answers to potential questions from the consultation.

8. Operational performance report and transformation (COO)

- 8.1. The Board **discussed** the COO's update on operational performance in April. They noted that performance in May is forecast to outstrip April's performance.
- 8.2. The Board also noted the COO's summary of plans to outsource some casework and pro-actively manage the 'front door' – for example, by ensuring CMCs comply with basic evidential requirements when presenting cases via a CMC Portal. However, outsourcing will not be in place until late H2 2024/25 (at the earliest) due to the elapsed time required to contract appropriately with such third parties and ensure trained staff are in place via the outsourcing arrangement. The Board noted the Executive's three-point plan to attack overall stock: (1) automation where possible; (2) enhanced performance management; and (3) recruiting more staff. The Board noted that the Executive had concerns about meeting service standards in light of the unexpected extra demand. The Board re-iterated advocacy for 'no-regrets' options, such as using the contingency funding already in budget or additional surplus reserves to hire contingent staff to reduce stock.
- 8.3. The Board noted that the COO was looking at a wide range of suppliers for outsourcing; and also whether to outsource discrete casework activities as well as entire cases. The cost was unlikely to differ much from managing in-house contingent caseworkers. The Board noted the importance of carefully considering the pros and cons of outsourcing before proceeding – and of ensuring quality remained paramount and within FOS's control for the sake of customers and reputation. The COO will bring a paper to the Board in July about the options for outsourcing, which should consider how it delivers on flexibility to meet extra demand, how to mitigate any risks, what the timelines are, etc. **Action: COO for July Board.**
- 8.4. In light of the higher level of demand, the Board requested clear timelines and headcounts across all resourcing options that would tackle overall stock and, in particular, cases older than 12 months. The Board asked the Executive to bring forward resourcing and recruitment plans, where at all possible. Tight control over the use of DISP powers, policy changes, working with the wider regulatory family, and learning from previous situations should help manage workflow and stock. Although casework policy issues or changes were a matter for the Ombudsman Panel, where there was a potential impact on FOS's finances and operational efficiency, the Board needed to be sighted on them in good time. **Action: CEO/CO.**

- 8.5. The Board noted the COO's report on the oldest cases and requested that, in future, it sets out the breakdown of all cases over 12 months instead of stopping at 4yrs+. The Board also requested a report on all cases designated as non-progressable for Board-approved reasons (such as litigation). This should set out the number and age of cases sitting in each Directorate behind each policy issue. **Action: COO.**
- 8.6. The Board **noted** the COO's report on the Transformation Portfolio. They requested that the wording about the recent fee-charging consultation be changed to what the Board actually approved, namely, that they had agreed to a wide-ranging and open consultation, not at this stage to any particular option under proposal. **Action: COO.**
- 8.7. The Board noted the importance of ensuring an appropriate fee-billing system was in place in order to start invoicing CMCs from October 2024 (subject to consultation feedback and secondary legislation). The DCO and CFRO would provide further detail on the implementation plan when appropriate. **Action: DCO and CFRO.**
- 8.8. The COO gave the Board an update about the positive response to the beta digital portal for firms. The firms involved in the pilot were pleased about the information it provided. They were giving constructive feedback on potential improvements.
- 8.9. The Board noted the financial statement on transformation costs but requested in future that it more easily reads across to the structure of previously shared budget and three-year plan information, with clear benefits to be given. **Action: CFRO and COO.**

9. Finance and assurance report (CFRO)

- 9.1. The Board **noted** the CFRO's regular financial report. The CFRO explained that, as the schedule was only covering April, there was no full year outlook.
- 9.2. The CFRO agreed to provide a full year outlook each month, only submitting a full re-forecast at the half-year point (unless there were significant changes from the original Plan & Budget before this point in time, e.g. if it became necessary to drawdown on the contingent £9m set aside for additional incoming demand). **Action: CFRO.**

10. Bonus proposals for 2024/25 (CPO and CFRO)

- 10.1. The Board noted but did not approve the paper on proposals for the 2024/25 bonus scheme. This proposal built on that shared at January'24 Board and subsequent Remco discussions. It includes an individual element to the bonus award (in addition to a collective element), any bonus being subject to an overriding quality gateway and a discretionary Board override for exceptional circumstances. All of this was welcomed.
- 10.2. There was a constructive discussion by the Board and Executive about the timeliness measures and the weighting of all measures. The Board asked the Executive to bring back just the timeliness metrics for approval in June – after first agreeing them with the Chair of RemCo – to reach the best balance across key principles, such as simplicity for employees, alignment to service standards, measurability and coverage of a full year of performance. The Board also suggested further consideration of the respective weighting of the collective metrics to best ensure motivation and balance. **Action: CFRO for June Board.**

11. Workforce plan and HR update (CPO)

- 11.1. The Board **approved** the CPO's paper on proposals for scoping out a permanent base in Manchester together with new contracts for existing staff assigned to that regional hub. The Board noted that the longer-term workforce plan would be discussed at the September strategy days, so the Board approved a pragmatic solution for now based on an extension of fixed term contracts (subject to performance and business needs).
- 11.2. The Board **noted** the CPO's regular update report on HR matters. The Board also noted that the recent announcement about bonus payments for 2023/24 had been well-received by staff.

12. Casework policy and strategy (DCO)

- 12.1. The Board **noted** the following updates from the DCO about policy and strategy:
- A paper about potential legislative changes to the ADR Regulations and the impact on the DISP Rules;
 - A paper about the judicial review and associated Court of Appeal litigation on Motor Finance Commission; and
 - The DCO's regular monthly update.
- 12.2. The Board also noted the Legal Team's update on current litigation and judicial reviews involving FOS.

13. AOB and next meeting

- 13.1. There was no other business.
- 13.2. The next Board Meeting is scheduled for **24 June 2024**.

14. Adjournment

- 14.1. The meeting was adjourned at 1.15pm.