Charging Claims Management Companies and other Professional Representatives

Responses to the Consultation of May to July 2024

Background to our consultation

By way of amendments made in 2023 to paragraph 15 of Schedule 17 to the Financial Services and Markets Act 2000 (FSMA), the Financial Ombudsman Service now has the power to make rules requiring such persons as may be specified by HM Treasury to pay fees to its service.

For our service to exercise this new power and make such rules, there are two key prerequisites:

1) The enabling secondary legislation, the Statutory Instrument (SI), is made, which requires approval by both Houses of Parliament under the affirmative procedure.
2) The FCA consents to the making and amendment of the rules for our scheme.

On 20 May 2024, in accordance with the relevant statutory requirements governing the passage of secondary legislation, HM Treasury laid the draft regulations (in the form of the SI) before both Houses of Parliament for scrutiny and approval.

On 28 October 2024, the House of Lords considered the motion to approve the SI and resolved in favour of its approval. Subsequently, the House of Commons will also need to consider the corresponding motion and resolve in favour of the legislation.

Until the SI has been enacted into law, no final decision on approach or approval can or will be taken. Accordingly, it is therefore for the FCA to consent to make our new rules after our Board has confirmed the final position.

This paper therefore sets out the indicative direction of travel for transparency purposes and reflects the level of interest we have seen in our proposals.

Our second consultation paper

We published our second consultation paper in May 2024 on these proposals for charging claims management companies (CMCs) and other professional representatives. This followed our initial consultation that formed part of our 2024/25 Strategic Plans and Budget Consultation Paper, which was published in December 2023.

The consultation was open for six weeks between 23 May 2024 and 4 July 2024. We received 137 responses. For a list of the organisations that sent a formal response, see Page 21.

We asked eight questions regarding the new power given to us in anticipation of HM Treasury making these regulations. The consultation sought views on the proposed fee level and mechanism for a charging model, as detailed in the consultation paper.

We also asked stakeholders for representations and evidence regarding the broader impact of our proposals on both consumers and professional representatives. We encouraged all respondents to include representations beyond that of the eight questions as they saw appropriate – and provide any factual data in support.

A change to our proposed implementation date

In the second consultation paper, we proposed to implement a charging arrangement to cases referred to our service from 1 October 2024, subject to relevant prerequisites being met.

At that point, HM Treasury had laid draft regulations before Parliament in May 2024. However, in light of the dissolution of Parliament due to the General Election being called, the affirmative procedure was not concluded.

Parliament was therefore not in a position to conclude this matter before 1 October 2024, meaning our service did not introduce a charging regime as proposed.

Purpose of this feedback statement

This feedback statement summarises the feedback our service received to our second consultation paper. It sets out the nature of consultees' responses to our proposals, focusing on the key themes within the representations made in answer to the eight questions we asked, along with prominent feedback points that we have been given by respondents overall.

This document also gives a high-level summary of our service's response to the feedback received, subject to the consideration of the FCA in respect of consenting to the making of any new rules. Our decision making has not reached its conclusion, in light of this ongoing procedure. We will publish a full policy statement at the appropriate time, along with a proposed implementation pathway.

Next steps

Depending on the outcome of the relevant approvals required, our service will detail our decision making and rationale within a separate policy statement in conclusion of our consultation process.

This will be published in due course, upon further development of the affirmative procedure by Parliament and appropriate final consideration by the FCA. We anticipate to be in a position to issue this in the coming months, recognising the need to remain transparent with our decision making and keep our stakeholders updated accordingly.

A summary of consultation feedback

In light of the nature of feedback received, we find it appropriate to group together the responses given by certain organisations that share similar or the same views about our proposals.

So, respondent businesses (that are subject to complaints referred to our service), financial services' trade bodies and other relevant financial services' organisations have been referred to as 'financial services industry respondents'.

For the same reason, we have also grouped together the feedback received by CMCs, legal professionals and claims management activity trade bodies and relevant industry organisations. This group has been referred to as 'claims management industry respondents'.

All other organisations that formally responded to our consultation have been referred to specifically or as 'other/miscellaneous'.

Financial services industry respondents

These organisations strongly believe that our proposal to implement a charging regime would ultimately result in better outcomes for consumers.

We have received unanimous support for introducing a fee from these members of the financial services industry, on the basis that it would be in consumers' best interests because it would counter poor CMC and other professional representative practices currently being seen.

The majority of these organisations support a case fee mechanism whereby the amount charged to both the respondent business and CMC or other professional representative would be dependent on the outcome reached on the complaint by our service.

While supporting the mechanism that we had proposed, almost all of these organisations told us that they believe that CMCs and other professional representatives should pay the same level of case fee as respondent businesses are required to when a case is referred to our service (which for the present financial year is £650 per complaint and so considerably higher than the £250 maximum case fee we had proposed).

Similarly, most of this group told us that, while they agree with our proposal to have a case fee chargeable upon the referral of a complaint, the fee level should be higher as these are commercial entities who benefit from our service.

These organisations represented that, should our service decide to introduce a case fee, we should do so within a relatively short amount of time. There is serious concern that CMCs and other professional representatives will refer a surge of cases prior to the charging start date to avoid a fee.

So, giving a significant amount of notice before implementing a charging start date and/or having a delayed implementation would not be the best thing to do, as it would lead to a huge spike in cases being referred to our service.

Most in this group of organisations expressed support for our proposal to retain a residual fee from CMCs and other professional representatives irrespective of the outcome reached on the complaint. The most prominent reason for this was that these organisations believe it is fair that CMCs and other professional representatives should always contribute to our service's costs for cases in scope.

We were also supported by these organisations to further improve our outreach work and public awareness of our free and accessible service for all consumers.

Claims management industry respondents

Conversely, all claims management industry respondents strongly oppose our proposal to introduce a charge, many of which have claimed that misinformation about them has led to unfair proposals.

There was serious concern from these organisations about being given insufficient time to prepare for any such change; a change which they say will have a significant impact on their operating models and impede their cashflow. Especially, if it takes time for our service to determine the case, as the proposals represent a stark difference where there is currently no charge or case fee payable by them.

Another prominent piece of feedback shared by this group was that any fee will ultimately be passed onto consumers, due to it being economically unviable for them to sustain a fee. It has also been expressed that consumers (especially those with lower value claims) will ultimately lack access to representation as a consequence of this economic impact.

There is shared belief amongst these organisations that the fee will be used to make it harder for consumers to make complaints to businesses.

Some CMCs and other professional representatives have voiced that our proposals breach certain legal obligations that we must follow, meaning that we should not be allowed to proceed.

Consumer groups, charities and all other organisations

Most consumer groups and charities that responded to the consultation support our proposals, advocating that it will be in consumers' best interests.

These organisations are wary of unintended consequences for consumers. Such as, the risk that we might inadvertently impede or restrict access to CMCs and other professional representatives for those consumers who might require professional representation or choose to employ it.

Those that voiced these concerns have therefore urged our service to ensure adequate protection can be introduced to counter this – should we go ahead with our proposals – by working with the regulators and relevant industry bodies as proposed in our consultation paper.

We have also received feedback that there should be a clear definition of exactly who is to be considered a 'professional representative', in order to avoid certain consumer bodies falling under this new policy, such as non-profit organisations.

Summary of feedback by question and our response

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

As described above, certain prerequisites must occur in order for our service to exercise the power to amend our rules and charge CMCs and other professional representatives. So, where we set out a summary of our response per question, this rationale is subject to having that enabling power which is yet to be determined.

Our final decision will be taken once these relevant factors have reached conclusion, which is what we will detail in our policy statement.

> **What we asked**
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> 1. Do you consider a case fee level of £250 payable by CMCs and other professional representatives to be fair and appropriate? If not, please state what fee level you believe would be fair with clear evidence to support this.

Consultation feedback summary

Our proposed approach to the fee level was opposed by all claims management industry respondents. Overall, these organisations cited that the proposed £250 is too high and will make it economically unviable for claims management activity for a significant proportion (if not all) of complaints that could be referred to our service by CMCs or other professional representatives.

CMCs and other professional representatives specifically said that they will be unable to afford this case fee level, given their operating expenditure and how much they are allowed to charge for claims in light of relevant regulations in place.

On the other hand, most financial services industry respondents believe that £250 is too low, stating that CMCs and other professional representatives are commercial entities and therefore should be treated on a more equal basis to that of respondent businesses (to whom, currently, a case fee of £650 is charged). The main reasons cited are that it will equate to a fairer apportionment of our service's costs and encourage better behaviour from CMCs and other professional representatives.

There were mixed responses from the other organisations that responded to this question, and some did not specify whether they agree or disagree to the £250 fee level proposed.

Feedback statistics

- 100% of financial services industry respondents agreed that we should enact a charging regime.
- In answer to our proposed £250 fee level, 78% of financial services industry respondents said that the fee level should be equivalent to the respondent business case fee of £650 for the 2024/25 financial year.
- 49% of the organisations that responded overall said a £250 fee level is too low (98% of which were from financial services industry respondents). 7% of the organisations that responded overall are in support of our proposed £250 maximum fee level. 11% of the organisations that responded overall said this fee is too high (87% of which were from claims management industry respondents).
- 99% of claims management industry respondents opposed a charge of any kind. All of this group also opposed our proposed £250 fee level.

Our response

Subject to the relevant approval by the FCA, our service would like to proceed with the £250 fee level as proposed in our consultation paper.

We feel that this maximum fee level for CMCs and other professional representatives is a proportionate contribution to our costs, based on the key cost considerations that we set out during our consultation. It will help ensure adequate resources continue to be available to meet our statutory purpose of resolving disputes quickly and with minimum formality.

We also believe that distributing our casework costs in this way will establish a more equitable funding model that supports the timely and effective resolution of all cases, encouraging behaviour from CMCs that is focused on resolution and co-operation with our case-handling approach.

We note that there is a clear difference in opinion between financial services industry respondents and claims management industry respondents. We feel that the £250 fee level as proposed will provide a fairer apportionment of financial responsibility between CMCs/other professional representatives and respondent businesses, while being in the best interests of consumers, considering the context of the overall complaints process and the role that our service plays in resolving disputes in a quick and informal manner.

We feel that the free case provision plays an important role in fairly meeting our objectives and purpose. In a change to our proposals within the consultation paper, we have listened to feedback and decided to increase the free case provision for CMCs and other professional representatives from three to ten cases per financial year.

Based on our analysis, 81% of CMCs and other professional representatives refer fewer than this amount, meaning that the vast majority of these organisations would not incur any fee at all. This decision therefore guarantees that it would only be those CMCs and other professional representatives that refer cases to our service at a larger scale that will be liable for a fee.

We have listened to concerns about how CMCs and other professional representatives might identify novel issues and we feel a higher number of free cases would allow them to test our position on such policy issues without a fee; this will then permit them to apply the learning to their due diligence on subsequent complaints.

We propose to keep the fee amount and free case provision level under review on an annual basis, as part of our yearly strategic plans and budget consultations. Our service is also taking forward a suggestion to have discretion to waive the case fee in exceptional circumstances where it is appropriate.

What we asked

2. What is your view on our proposed fee charging mechanism, where the £250 maximum fee level for CMCs and other professional representatives is reduced by £175 where the case outcome reached is in favour of the complainant?

Consultation feedback summary

Although some supported our proposed outcome-based charging mechanism, all claims management activity respondents said that the fee amounts involved (i.e. £250 reduced by £175 in certain circumstances) are too high.

Some within this group did not answer whether they agreed or disagreed with the charging mechanism, as they simply said they could not support any fee model (regardless of its mechanics).

On the other hand, financial services industry respondents supported our proposed charging mechanism being based on the outcome reached on the complaint. Within this group, the majority told us that the fee amounts involved should be higher.

A significant proportion said that our service should employ an outcome-based charging model as proposed, but one that requires a CMC or other professional representative to pay £650 (instead of our proposed £250) if the outcome is not determined in favour of the complainant.

There was a mixed response from the four charities that directly answered this question. One expressed concern that a fee could inhibit access to our service to those consumers who seek or rely on professional representation (and therefore welcomed further detail on this aspect of our proposals), with the other three being supportive of a fee because they agree it would encourage behaviors from CMCs and other professional representatives that is in the best interest of consumers.

Feedback statistics

- 36% of the organisations that responded overall stated that our proposed charging mechanism is fair.
- 36% of the organisations that responded overall said there should be a full refund for either the professional representative or respondent business.
- Of the 36% who believe that there should be a full refund for either the professional representative or respondent business, 56% were claims management industry respondents, 38% were from financial services industry respondents and 6% were made up of miscellaneous groups (other).
- 22% of the organisations that responded overall stated that there should be a higher refund for either the professional representative or respondent business.
- 6% of the organisations that responded overall did not provide a view on this question.

Our response

Although there were mixed responses as to the fee levels involved, it is evident that there is broad support for introducing a fee level that is contingent on the outcome attained by the CMC or other professional representative. We note that this principle was consistent with the alternative options which we are grateful that some organisations suggested.

Subject to the relevant approval by the FCA, our service would like to proceed with the case fee charging mechanism as proposed in our consultation. We feel that this differential case fee arrangement establishes a fairer allocation of our costs between respondent firms and CMCs/other professional representatives and implements a charging arrangement that more accurately reflects our cost drivers.

We intend to provide clear definitions in our policy statement, but our service expects to proceed on the basis that the fee level payable by CMCs/other professional representatives will only reduce when the outcome is determined in favour of the complainant.

In case outcomes that are not in favour of the complainant, we aim to reduce the case fee payable by the respondent firm by £175 so that our service has no vested financial interest in the outcome of any individual complaint. In all professionally represented cases in scope, we seek to retain £75 regardless of the outcome reached (see next section).

We believe that this will be in keeping with relevant regulatory obligations and will encourage conduct that consumers should expect to receive from their CMC or other professional representative. Including, that professional representatives should pursue claims that have a good basis for escalation to our service.

What we asked 3. What is your view on our service retaining £75 from CMCs and other professional representatives in any event? Do you think this should be higher or lower? Please give clear reasons and evidence.

Consultation feedback summary

The vast majority of financial services industry respondents that answered this question expressed support for the principle of our service retaining a residual fee irrespective of the outcome reached on the complaint.

The most prominent reason for this was that these organisations believe it to be fair that CMCs and other professional representatives always contribute to our service's costs for cases in scope. Almost all of this group told us that the fee level should be higher than the £75 we proposed.

The vast majority of claims management industry respondents refuted our proposal in answer to this question. This group largely reiterated the reasons for their disagreement for any fee being charged (whether that be a £75 residual fee or otherwise).

There was a mixed response from charities to this question, similar to that of Question 2. Of the four that responded directly to it, one questioned whether a fee could inhibit access to our service to those consumers who seek professional representation, while the remaining three supported a residual fee because they believe it would encourage behaviour from CMCs and other professional representatives that is ultimately in the best interests of consumers.

Of the three charities that showed support for this proposal, one said that it would seem reasonable to have a higher fee than the £75 we proposed, subject to our service increasing awareness of the role we are here to carry out. Particularly, because we can be used directly, without professional representation and are free of charge for consumers.

Feedback statistics

- 50% of the organisations that responded overall say that the retention of a residual fee is a positive move. Of this 50%, 91% were from financial services industry respondents, 4% were from claims management industry respondents, 4% were made up of miscellaneous organisations and 1% were from consumer groups.
- 15% of the organisations that responded overall were against the retention of a fee, of which 95% were from claims management industry respondents.
- Most claims management industry respondents (95%) disagree with the proposal that £75 should be paid for every case referred, regardless of the outcome reached by our service.
- 28% of the organisations that responded overall did not provide an answer to this question specifically.

Our response

Subject to the relevant approval by the FCA, our service would like to proceed with our proposal to charge £75 to CMCs and other professional representatives in all cases referred by them over the ten free case limit, regardless of the case outcome. As detailed in our consultation paper, this equates to a total of £725 being remunerated to our service for all cases that are in scope for a fee.

We feel it is proportionate and fairer to fund our cost base using this method and that CMCs and other professional representatives should contribute a residual £75 fee for each case (over the ten free case provision per financial year). It is our aim that this £75 will go towards the costs of running our service, including administering the fee collection scheme and enhancing our awareness raising campaigns.

In line with the feedback consistently received as part of our consultation process, we intend to focus on reaching more complainants who might not know the role we play, seeking to increase understanding that consumers are entitled to use our service free of charge. As we are not-for-profit, any amounts recovered in excess of our costs could be reflected in reduced fees in later years.

Like the £250 maximum fee level, we will keep the residual (£75) fee under review on an annual basis, as part of our yearly strategic plan and budget consultations. Our service is also taking forward a proposal to have discretion to waive this fee, for example in exceptional circumstances.

Financial Ombudsman Service

> **What we asked**
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> 4. What is your view on the case fee to CMCs and other professional representatives being chargeable when they refer the case to our service? Do you think there is another stage in our process where charging a fee would be appropriate? What is your evidence for this?

Consultation feedback summary

All financial services industry respondents agreed with our proposal for a fee payable by CMCs and other professional representatives to be chargeable upon referral of the complaint.

On the other hand, most claims management industry respondents opposed the proposal of paying a case fee upon referral of the complaint to our service. Most in this group said that CMCs and other professional representatives would be unable to sustain this proposed upfront charging model, as it would make it economically unviable to operate based on the present arrangement of almost all cases being on no-win-no-fee contracts.

A number of claims management industry respondents told us that it is unfair to have a different charging model than that of the one for respondent businesses (where our service invoices a case fee upon resolution of the complaint).

This unequal treatment argument was cited on the basis of CMCs and other professional representatives instead having to pay a case fee at the beginning of our case handling process – whereas most respondent businesses currently pay once the case is closed.

Of the two charities that responded directly to this question, both showed support for a charge being payable upon referral. The other charities that responded to the consultation overall either offered no comment to this question or did not respond directly to it.

Feedback statistics

- 57% of the organisations that responded overall said that the case fee should be applied upon case referral, as we proposed. Of this 57%, 93% were from financial services industry respondents, 4% were from miscellaneous organisations and 3% were from consumer groups.
- 100% of claims management industry respondents opposed a case fee being chargeable upon referral of a case to our service.
- 100% of financial services industry respondents supported a case fee being chargeable upon referral of a case to our service.

Our response

We note the strong views expressed by claims management industry respondents. We understand that a charge upon referral of a complaint to our service could have an economic impact on their business models, which for the most part rely upon remuneration for their services at the conclusion of the complaint.

However, recently our service has seen a significant rise in complaints brought to us by CMCs and other professional representatives, that runs into tens of thousands of cases across different product areas and complaint issues simultaneously.

We are finding that in a substantial proportion of these cases the matter is being withdrawn or abandoned by the complainant and/or their professional representative or the matter is not determined in favour of the complainant.

In these circumstances, where our costs are incurred from the point at which the complaint is referred to our service, we feel it is proportionate for the fee to be chargeable at the same point.

Subject to the relevant approval by the FCA, our service would therefore like to proceed with implementing a £250 case fee that will be payable by CMCs and other professional representatives upon referral of the complaint to our service, as described in our consultation paper.

If we reach an outcome on the case that is in favour of the CMC or other professional representative compared to the one reached by the respondent firm at final response stage, we intend to provide reimbursement of £175 to the CMC/other professional representative upon resolution of the complaint.

Currently, all respondent firms become liable for a case fee upon referral of the complaint, the same as the model we aim to establish for CMCs/other professional representatives. Still, there is a difference in the payment terms, as for most respondent firms we invoice once the case has been resolved at the end of our complaint handling process.

We see that there could be a reasonable argument for enhancing the consistency in our approach between CMCs/other professional representatives and respondent firms. Our service therefore commits to considering an alteration to our charging method for respondent firms to one that means we would ask for repayment on more similar terms, i.e., upon referral of the complaint to our service.

In accordance with the statutory process for such a change to our rules, we would consult in a future strategic plan and budget consultation on bringing payment terms into closer alignment and provide further detail on our proposals in due course.

What we asked

5. Do you agree with our proposed approach to group charging of respondent firms? If not, what alternative method would you suggest?

6. Do you support our proposed method for the late payment of case fees? If not, what alternative solution would you propose?

Consultation feedback summary

Most of the organisations that responded to our consultation overall did not answer these questions directly. For example, many explained that our group charging arrangements are not relevant to them.

Of the eight respondent firms that are currently within our group charging structure, seven responded directly to Question 5. Out of this seven, there was overall support for our proposed methodology to group charging, with further detail and clarity on our approach in this area being welcomed.

Feedback statistics

- 75% of the organisations that responded overall provided no answer to Question 5.
- 18% of the organisations that responded overall showed support for our proposed approach in Question 5. Of the 18% that showed support, 76% were from financial services industry respondents,16% were claims management industry respondents and 8% were miscellaneous organisations.
- 32% of the organisations that responded overall supported our proposed approach in Question 6. Of this 32%, financial services industry respondents made up 84%, 14% were claims management industry respondents and 2% were from miscellaneous organisations. Within this 32%, many welcomed further detail about how the approach would work in practice.
- 34% of claims management industry respondents did not support our proposal set out in Question 6 due to the impact that our proposed method for the late payment of case fees would have upon the financial viability of claims management activity businesses.
- 34% of the organisations that responded overall offered no view to Question 6. Of this 34%, 39% of respondents were financial services industry respondents, 39% were claims management industry respondents, 13% were from miscellaneous organisations and 9% were from consumer groups.

Our response

Given the broad support from those that responded to these two questions, our service would like to proceed with both proposals as set out in our consultation paper, subject to FCA approval. We aim to provide further detail in our policy statement, which would include an amended FEES instrument.

We acknowledge the feedback from the respondent firms that are within our group charging arrangement and will ensure we work collaboratively with these businesses to ensure parity.

We noted some organisations suggested alternative methods for the late payment of case fees. Whilst we are grateful for these alternate options, we are mindful of the need to have a practical arrangement that can be operated and one that is comparable with the steps we take for respondent firms that delay payment of their case fee.

We feel therefore that applying a percentage that is dependent on the amount of cost/effort that we have undertaken in chasing the debt would provide a proportionate, fair and effective means of responding to late payment.

> **What we asked**
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> 7. What further measures could we implement to improve our service, accessibility and public awareness for all our customers? Please provide any supporting evidence.

Consultation feedback summary

The most prominent theme of feedback in answer to this question (which originated from a broad mix of different organisation types) was that we should focus on raising understanding of our service with consumers to improve our accessibility and public awareness.

There were suggestions such as collaborative consumer education campaigns between our service and other organisations, for example the FCA.

Another suggestion of further measures our service could undertake which was raised by multiple organisation types was that we should publish data (similar to how we do with respondent businesses) to show how CMCs and other professional representatives compare to each other in respect of attaining outcomes for the consumers that they represent.

Claims management industry respondents expressed strong disproval for the measures we set out; there was serious concern from this group that risks to consumer protection and access to justice issues caused by economic viability should mean our service should not proceed with our proposals. Especially, in light of the argument that vulnerable consumers would be the most severely disadvantaged.

On the other hand, financial services industry respondents showed support for the measures we set out in the consultation paper, with many commenting that the regulations in place already protect consumers (which our proposals are in alignment with).

Between charities and consumer groups, there was a mixed set of responses; some mirrored the representations made in response to this question by financial services industry respondents, showing support.

Whereas others were concerned about the same risks as claims management industry respondents. These organisations encouraged our service to work towards further measures to protect consumers, offering various different suggestions for how to do so.

Feedback statistics

- 39% of the organisations that responded overall to this question provided suggestions that our service should improve messaging to consumers to help raise awareness of the fact that they are able to take complaints to the Financial Ombudsman Service free of charge, and without employing a CMC or other professional representative.
- Of this 39%, 90% were from financial services industry respondents, 4% were from miscellaneous organisations, 4% were from claims management industry respondents and 2% were from consumer groups.
- Out of the remaining 61% of organisations that responded to our consultation overall, 27% did not give a response to this question and 34% provided a mixture of responses with no clear recurring themes.

Our response

Our service intends to proceed with our proposal to raise public awareness of our service, emphasising that we are accessible and free for consumers who come to us directly. We aim to reach all those that might need to seek our help, such as those that are vulnerable in line with the FCA's definition of vulnerability.

Our plan is to enhance public understanding of the integral role we play for consumer protection within the UK, so complainants know that they can come to us easily, with confidence, and without the need to employ a CMC or other professional representative – unless this is an informed choice by them.

We have worked closely with regulators such as the FCA and Solicitors Regulation Authority (SRA) throughout our consultation process, with these authorities accounting for 96% of the professional representatives that refer cases to our service. The FCA and SRA understand our decision to introduce a charging regime, and our scheme is aligned with the strong regulatory obligations that are in place that CMCs and other professional representatives must follow.

We are therefore assured that the same protections that are afforded to consumers extend to claims that are brought to our service. This has been further enhanced following the SRA's recent enactment of the Claims Management Fees Rules 2024, which, like the FCA's rules for regulated CMCs, protect consumers from excessive charges when they are represented by solicitors in claims relating to financial products and services.

We have listened to the feedback that some complainants believe they need professional representation, and that this is a personal choice. We also understand that some rely on professional representation because of their individual circumstances.

Our service is dedicated to proactively addressing any equality gaps and implementing proposals that are fair and equitable for all consumers, regardless of their background or circumstances. In alignment with our Public Sector Equality Duty (PSED), we are conducting an Equality Impact Assessment which we intend to publish as part of our policy statement.

Our analyses of the evidence submitted in response to our consultation, together with our internal data and policy work, which shows that the vast majority of vulnerable consumers who come to us come direct, have given us reasonable assurance that there should not be a significant disincentive to the bringing of complaints or to the support provided to vulnerable consumers.

Accordingly, we consider it reasonable to conclude that vulnerable consumers will continue to have access to our easy-to-use scheme (and the enhancements we are making to our service will further improve our service for them).

In light of the feedback received regarding the possible impact a charging regime might have on the UK financial services complaints sector as a whole, we found it prudent to consider how our scheme might impact consumer complaints in the overall financial services claims industry. We used the evidence received in response to both consultation papers, together with objective and factual data such as that of the FCA's research[1].

[1] *https://www.fca.org.uk/data/complaints-data*

We have been assured by the available evidence that complaints dealt with by our service currently account for less than 5% (or 1 in 20 complaints) of the overall consumer complaints raised, meaning that the vast majority of professionally represented complaints would not incur any fee and that the impact of a fee on the overall sector would therefore not be significant.

For example, based on FCA data[2], in 2023 there were 3.74 million complaints raised by consumers about financial services complaints overall. By matching this with our own volumes of complaints for the same time period, we concluded that over 95% (or in excess of 3.58 million) of these complaints would not have incurred any fee charged by our service to CMCs or other professional representatives.

Furthermore, we estimate that the revenues derivable for cases upheld by our service are at present a corresponding small percentage of the wider income attained by CMCs and other professional representatives in scope for a fee payable to our scheme.

We have also considered that, pursuant to relevant regulatory obligations, CMCs and other professional representatives would have the ability to mitigate their exposure to our maximum fee level by using their professional insight to advise their client as to the prospects of their case.

We are therefore assured that our proposed fee arrangement would be a proportionate means to achieve our objectives.

[2] *https://www.fca.org.uk/data/complaints-data/closed-complaints*

What we asked
8. What implementation considerations should we take into account if we proceed with our proposals? Please support your answer with factual evidence where possible.

Consultation feedback summary

The vast majority of financial services industry respondents urged our service to enact a charging effective date with a relatively short notice period, to avoid a surge in complaints being referred by CMCs and other professional representatives beforehand.

There is serious concern that many CMCs and other professional representatives could bring substantial referral volumes to avoid a fee.

Claims management industry respondents urged our service to only bring in a charging regime if we were to give a sufficient notice period prior to beginning to charge. This group reiterated their disproval of any fee, but insisted that if we were to introduce one, it would only be fair to allow them adequate time to prepare.

Out of the other organisations that answered this question specifically, there was a broad mix of answers; some supported a 1 October 2024 effective date and/or a relatively short notice period, with others answering that a sufficient length of time should be given before enacting any charging regime.

Feedback statistics

- 20% of the organisations that responded overall cited that a charging effective date or prolonged notice period before a charging effective date would likely lead to a significant spike in complaints being referred to our service ahead of that time.
- Of the 20% that raised this concern, 100% were financial services industry respondents.
- 100% of claims management industry respondents said that they require sufficient time to prepare for a charging regime in order to adjust their operations, with many suggesting that we do not enact a charging effective date with less than a 12 month notice period.

Our response

Subject to the relevant prerequisites being met, our service intends to communicate a date from which we propose to begin charging CMCs and other professional representatives. This will depend on Parliamentary approval of the SI and the timing of the consent procedure to be carried out by the FCA; so we will communicate our decision in due course.

We note the disparity between what the two main groups that responded to this question have told us and feel that a proportionate decision needs to be made in response. We recognise the concerns to have sufficient time to prepare, as do we appreciate the strong representations that the complaints system will see a rush of complaints before the start of a fee regime introduced by our service.

The recent significant increase in case referrals to our service by CMCs and other professional representatives is consistent with what we are being told to expect by financial services industry respondents; as detailed above, we have seen a considerable increase in cases brought to our service by these organisations compared to prior years and many of these cases are either being withdrawn when we seek further details or are being found to be lacking merit.

We remain of the view that the professional status of the CMCs and other professional representatives engaged by our consultation should mean that complaints brought to us by these organisations should be expected to have a considerably higher uphold rate compared to those consumers who use our service without professional representation.

Our experience continues to demonstrate that those complaints that our service has resolved that were CMC or professionally represented did not achieve outcomes favoring the complainant in higher percentages when compared to complaints referred directly to us by complainants without CMC/other professional representation.

This position looks to be worsening, which we believe is only fair to take into consideration when deciding the extent of any notice/implementation period.

Organisations who responded to our consultation:

Lowndes Halsden & Partners Limited
Tandem Bank
IFAs Included
Life Policy Reclaim Ltd
Virgin Money UK
Direct Line Group
Equilibrium Financial Planning
British Insurance Brokers' Association (BIBA)
New South Law Limited
John King/IJK Regulatory Consulting Ltd
ITC Compliance Limited
APFIN LTD
Sainsbury's Bank Plc
Kevin Cahill
James Cook – Independent Loss Assessor
Debt Managers Standards Association (DEMSA)
Money Advice Trust (MAT)
Jencap Partners Ltd
Wealth Club Ltd and Wealth Club Asset Management Ltd
Accord Associates Solicitors Limited
Admiral Financial Services Limited
Fleet Alliance
St James's Place
AMK Legal
Next Holdings Ltd
Claims Review Team (Goldman Smith Claims Management Ltd)
FCA Smaller Business Practitioner Panel
CCTA Members (incl. 22 individual responses)
Sanderson Drake Limited
CEL Solicitors
Oodle Car Finance
The Finance and Leasing Association (FLA)
Capital One Europe Plc
Secure Trust Bank
Innovate Finance
Courmacs Legal
The Money Platform
Sentinel Legal
PIMFA
Aviva
Next Chapter Financial Planning
Flaxman Partners Ltd
NewDay
CCTA
HD Law Limited
Building Societies Association (BSA)
Royal & Sun Alliance (RSA)
Praetorian Legal
Mercantile Claims
NatWest Group
BVRLA
Claims (London) Ltd
APJ Solicitors
Consumer Credit Association (UK) Ltd
Impakt Claims
The Law Society
Reclaims4u Ltd
TSB
Hallbrook Partners
The Claims Guys Legal
UK Finance
Johnson Law Group
TMS Legal
Aldermore Bank
Simply Biz
HT Legal Solicitors
Lloyds Banking Group
FCA Consumer Panel
N Brown
ABI
CSA
Very Group
Santander UK
Vanquis Banking Group
HSBC
Phoenix Group
SRA
Fair4All Finance
Revolut Ltd
TLW Solicitors
Claims Management Association
Pogust Goodhead
Allianz UK
CRA
ASCO
International Underwriting Association
Belmond Claims
Allegiant
Novuna
Retail Motor Industry Federation
Law Society Scotland
ABCUL
AMI
It Is Your Money
Which?
Toyota Financial Services
BMW Financial Services
Refundee Limited
Wise Payments Ltd
Sesame Bankhall Group
Accord Associates Solicitors Limited
Investment & Life Assurance Group
Bott & Co Solicitors Ltd
Barclays UK
Adriana Stoyanova LLB
Tesco Bank
Nationwide UK
British Retail Consortium (BRC)
Pearson Locke
Benson Goldstein
The IFA Corporation Limited
StepChange
TheCityUK
The Refund Lawyer (Fairplane Solicitors Limited)
ClaimLion Law (BlackLion Law LLP)