Modernising the Redress System Fair4All Finance Response

About Fair4All Finance

Fair4All Finance is a not for profit organisation set up through government in 2019, through the Dormant Assets Scheme, to increase financial inclusion. We work across three key areas to make sure financial services provide what people need to manage their money, build their resilience and lead richer lives:

- **Influence** key actors across the system to prioritise, enable and deliver financial inclusion
- **Transform** the market to test and deliver the right products for all customers who need them
- **Scale** fair and affordable products to meet the needs of millions of customers

We work with government, regulators, industry and the social sector to ensure that financial services meet the needs of financially excluded consumers.

Introduction

We welcome the opportunity to respond to this consultation (CP26/9), building on our previous responses to Consultation Paper CP25/22 and the earlier Call for Input on Modernising the Redress System.

A well-functioning, predictable and transparent redress system is central to Fair4All Finance's mission to expand access to fair, affordable and appropriate financial products and services. Confidence in how consumer harm is assessed and remedied is essential if firms are to innovate and invest in products that serve financially excluded consumers, and if consumers are to engage with financial services with trust.

We would like to see a redress system that actively supports financial inclusion, including access to affordable credit, particularly for the millions of people who are currently unable to access even small amounts of credit[1]. An effective framework should protect consumers and allow them to receive due

[1] LEK Consulting, 2023, Improving Access to Lending for the Financially Vulnerable

redress, while also enabling firms to serve underserved markets without undue uncertainty or risk.

Our response

Question 1: Do you agree with the proposed rules to introduce a registration stage (pre-registration and registration stages), as set out in the Appendix? If not, please give evidence or reasons as to why not.

Yes, we support the introduction of a registration stage and believe that this change can could improve efficiency, reduce delays later in the process, and enable earlier identification of vulnerability and systemic issues. A clearer, more structured approach to ensuring complaints are complete and ready to investigate before allocation has the potential to benefit both consumers and firms.

We also support the proposal to enable the Financial Ombudsman to hold cases before registration, or move cases from the registered stage back to pre-registration, where required. This supports consistency and alignment across the regulatory environment in cases which require input from the FCA.

It is also crucial that the registration stage is designed and implemented in a way that does not create an additional barrier to redress, particularly for consumers in vulnerable circumstances - accessibility should be a central design principle.

Question 2: Do you agree with the proposal for the Financial Ombudsman to assess whether a case is ready to investigate within the registration stage, recognising that it will develop and publish further supporting guidance to support the rules in due course? If not, please give reasons or evidence as to why not.

Yes, we strongly support embedding a case readiness framework, and using the registration stage to assess whether complaints are well evidenced. We believe that this will have a positive impact on the efficiency of the Financial Ombudsman Service.

Within this, we believe guidance on case-readiness must explicitly recognise vulnerability and allow flexibility and adjustments for vulnerable consumers, for example:

- Proactive assistance from the Financial Ombudsman to help consumers understand what evidence is required to support their case, and how it might be gathered
- Flexibility with evidence standards when appropriate, ie moving a case on to the next stage based on the evidence available, where a gap cannot reasonably be filled by a vulnerable consumer
- Longer or flexible deadlines for gathering information and evidence.

We would welcome the opportunity to input to the supporting guidance when it is being developed.

Question 3: Do you have any other comments, data, evidence, or suggestions regarding the proposed registration stage?

We strongly recommend that the registration process is subject to accessibility and journey-mapping testing before full implementation, including testing with vulnerable consumers and engagement with advice and advocacy organisations.

We also consider it essential that the Financial Ombudsman monitors and publishes data on outcomes at the registration stage, including the volume of complaints that do not proceed, the reasons why, and whether particular demographic groups are disproportionately affected. This will be key to demonstrating that the registration stage is improving system efficiency without limiting access to redress.

Question 4: Do you agree that the Financial Ombudsman should retain the ability to dismiss complaints that are frivolous or vexatious? If not, please give evidence or reasons as to why not.

Question 5: Do you agree that the Financial Ombudsman should be able to dismiss complaints where complainants have acted vexatiously, abusively or otherwise unreasonably? If not, please give evidence or reasons as to why not.

Yes. We agree that the Financial Ombudsman should retain the ability to dismiss complaints that are genuinely frivolous or vexatious, and to take action where complainants act vexatiously, abusively or otherwise unreasonably. These powers play an important role in protecting the integrity of the service, safeguarding staff, and ensuring that resources are focused on resolving substantive disputes.

However, it is essential that these powers are exercised cautiously, transparently, and proportionately, and only as a last resort. The threshold for dismissal should remain high, with clear safeguards to ensure that access to the service is preserved for all consumers, particularly those who are vulnerable. There is a real risk that behaviours arising from distress, illness, misunderstanding or communication barriers could be misinterpreted as unreasonable or abusive.

We would therefore also welcome a strong emphasis on staff training, to ensure that Financial Ombudsman staff are highly skilled in identifying when behaviours may relate to vulnerability, including mental health conditions, learning difficulties, neurodivergence, or other cognitive or communication impairments. This training should support staff to respond appropriately and proportionately.

In this context, it is also important that policies are applied with nuance. For example, while the Unreasonable Behaviour Policy refers to offensive language, there is a material difference between a consumer directing offensive language at a member of staff, and a consumer using offensive language more generally in frustration about the matter being complained about or their experience of navigating systems they find stressful or difficult. These distinctions matter and should be clearly reflected in guidance and practice.

Before any complaint is dismissed on these grounds, the Financial Ombudsman should be required to consider reasonable adjustments, alternative methods of engagement, and opportunities for communication through a representative or dedicated channel.

We therefore support the retention of these powers in principle, but stress that dismissal should only occur after proportionate attempts to manage engagement difficulties have been made, and where abusive or persistently vexatious conduct cannot be addressed through other means.

Question 6: Do you agree that the Financial Ombudsman should be able to dismiss complaints where the respondent has reviewed the subject matter of the complaint in accordance with (a) the regulatory standards for the review of such transactions prevailing at the time of the review; or (b) any formal regulatory requirement, standard or guidance published by the FCA or other regulator in respect of that type of complaint? If not, please give evidence or reasons as to why not.

Yes, allowing dismissal where a firm has already conducted a review in line with prevailing regulatory standards or a formal regulatory requirement can reduce duplication and provide greater certainty, particularly in large-scale or systemic issues.

However, dismissal should only be appropriate where the Financial Ombudsman is satisfied that the firm's review was robust, consumer-focused, and properly implemented in practice. This ground should not prevent the Ombudsman from intervening where there is evidence that compliance with standards did not translate into fair outcomes for affected consumers. As such we would advise retaining the wording 'unless the Ombudsman considers that they did not address the particular circumstances of the case' as proposed.

Question 7: Do you agree that the Financial Ombudsman should be able to dismiss complaints where, the Financial Ombudsman is satisfied, having considered its responsibilities under s. 404B FSMA, the respondent has reviewed the subject matter of the complaint in accordance with a consumer redress scheme? If not, please give evidence or reasons as to why not.

Yes. We agree that where a complaint has already been addressed through a formal consumer redress scheme, such as one established under section 404 FSMA, it is reasonable for the Financial Ombudsman to be able to bring finality by dismissing further complaints on the same matter.

This should depend on confidence that the redress scheme has been applied correctly and delivered fair outcomes. Clear communication to consumers about why a complaint has been dismissed, and what redress they have already received, will be important to maintaining trust.

Question 8: Do you agree that the Financial Ombudsman should be able to bring finality by dismissing complaints where the subject matter of the complaint has previously been considered or excluded under the Financial Ombudsman Service? If not, please give evidence or reasons as to why not.

Yes, we support the importance of finality and recognise that repeated consideration of the same issues can undermine efficiency and delay resolution for others.

That said, it is important that this ground allows for exceptions where genuinely new material factual evidence emerges, especially in cases involving vulnerability.

Question 9: Do you agree with the addition of 'factual' into the existing rule? If not, please give evidence or reasons as to why not.

We agree with the underlying aim of this dismissal ground - to prevent repeated referrals where a complaint has already been considered and no genuinely new information has emerged. Finality and efficiency are important for the effective functioning of the redress system.

However, we do not consider it necessary to specify that new evidence must be explicitly 'factual'. The existing requirement that new evidence be material and relevant already provides the Financial Ombudsman with sufficient discretion to distinguish between genuinely new information and re-argument or reinterpretation. Adding a narrow definition risks excluding circumstances where new insight, context or expert clarification materially alters understanding of a consumer's experience, particularly in complex or vulnerability-related cases.

We are concerned that explicitly limiting reconsideration to 'factual' evidence could unintentionally disadvantage consumers who may only later be able to articulate the relevance or significance of information they previously struggled to present.

Question 10: Do you agree that the Financial Ombudsman should be able to dismiss complaints where the subject matter of the complaint has been dealt with, or is being dealt with, by a comparable complaints scheme, regulatory or law enforcement body or dispute resolution process? If not, please give evidence or reasons as to why not.

Yes. We agree that duplication across different dispute-resolution or enforcement bodies should be avoided, and that it is appropriate for complaints to be handled by the body best placed to address them.

Consumers should, however, be clearly informed why the Financial Ombudsman cannot consider their complaint and be clearly signposted to the appropriate alternative route, and be informed that they can return to the Fiancial Ombudsman at a later date if things change (for example a successful prosecution) with information about relevant time limits.

Question 11: Do you agree that the Financial Ombudsman should be able to dismiss complaints where the complaint has been or is the subject of court proceedings? If not, please give evidence or reasons as to why not.

Yes. We agree that it is appropriate for complaints that are, or have been, subject to court proceedings to be dismissed, given the risk of conflicting outcomes and the courts' role as the appropriate forum.

Signposting and clear communications will again be important, particularly for vulnerable consumers.

Question 12: Do you agree that the Financial Ombudsman should be able to dismiss complaints that are more appropriate for court, arbitration or another complaint scheme or dispute resolution process? If not, please give evidence or reasons as to why not.

Question 13: Do you agree with reintroducing a dismissal ground for complaints about employment matters from an employee, or employees, of a respondent? If not, please give evidence or reasons as to why not.

Question 14: Do you agree with reintroducing a dismissal ground for complaints purely about investment performance? If not, please give evidence or reasons as to why not.

Question 15: Do you agree with reintroducing a dismissal ground for complaints relating to a respondent's discretion under a will or private trust? If not, please give evidence or reasons as to why not.

We broadly agree with the proposed dismissal grounds set out in Questions 12 to 15. Restoring the Financial Ombudsman as a simple, impartial and quick dispute resolution service includes allowing it to dismiss complaints that are better suited to other forums, such as the courts, arbitration, or specialist dispute resolution schemes.

We agree that employment-related disputes are generally more appropriately handled by employment tribunals or other specialist forums, and that complaints purely about investment performance, or relating to a respondent's legitimate discretion under a will or private trust, typically fall outside the core consumer redress role of the Financial Ombudsman. Where relevant and appropriate, the Financial Ombudsman should seek to cooperate with other bodies to support effective resolution.

However, it is essential that the use of these dismissal grounds is accompanied by clear explanations and effective signposting. Consumers should be supported to understand why the Financial Ombudsman cannot consider their complaint and what alternative routes are available to them. Where appropriate, this should include cooperation and information-sharing with other relevant bodies to minimise friction for consumers navigating the system.

Used proportionately and transparently, these dismissal grounds can improve efficiency and certainty without undermining access to redress, helping to focus the Financial Ombudsman's resources on cases where it can add the greatest value for consumers.

Question 16: Do you agree that the Financial Ombudsman should be able to dismiss complaints where there is more than one eligible complainant, but they have not all consented to the complaint? If not, please give evidence or reasons as to why not.

We have concerns about how this proposed dismissal ground might operate in practice for victim-survivors of economic abuse. While the consultation paper notes that discretion could be applied in cases

of economic abuse, this places the burden on victim-survivors to become aware of such exceptions and to understand and articulate their experience in a way that aligns with how the Financial Ombudsman may frame and define such abuse. It is possible that many victim-survivors may not identify their experience using the language of 'economic abuse'. They may also fear contact with their abuser.

We would therefore recommend clear guidance for both staff and consumers, robust training for staff, and a general principle of presumption in favour of taking cases forward if there is any indicator of coercion or economic abuse - working closely with advocates for victim-survivors to define these indicators. This will be necessary in order to ensure that victim-survivors are not denied access to redress solely because they are unable to obtain the consent of another complainant.

Another option to consider could be a caveat to the overall dismissal ground, that it should not be used in circumstances where another complainant cannot be safely contacted by the individual bringing the complaint. This could be reflected clearly in the complaint form architecture in order to make sure cases are captured, for example:

- Q: does the complaint refer to a product you held jointly with someone else (such as joint mortgage, credit card or insurance product)?
- Q: Is that person in support of your complaint?
- Q: If it unsafe for you to contact that person for any reason?

Question 17: Do you agree that the Financial Ombudsman should be able to dismiss complaints for other compelling reasons? If not, please give evidence or reasons as to why not.

Yes, provided this power is exercised with restraint and transparency. A residual category of 'other compelling reasons' allows the Financial Ombudsman to respond flexibly to circumstances that cannot be exhaustively defined. We consider it important that this ground is used sparingly and supported by published data and examples, to ensure consistency and accountability.

Question 18: Do you agree with the examples that are proposed for DISP 3.3.4D G? If not, please give evidence or reasons as to why not.

We broadly agree that the proposed examples are helpful in illustrating how the 'other compelling reasons' dismissal ground may be applied and can support greater clarity and transparency in decision-making.

However, we would encourage a cautious approach to applying examples relating to complaints where the alleged financial loss or compensation sought is described as immaterial, such as cases involving 'only a few pence or pounds'. For consumers on very restricted budgets, even small amounts can be significant, and there is a risk that dismissing complaints primarily on the basis of low monetary value could disproportionately affect those on lower incomes.

In addition, relatively small individual losses may still point to wider or systemic harm where a firm has

benefited from small sums taken from a large number of consumers. Care should also be taken to avoid creating an implicit minimum threshold for consumer harm. If this example is retained, it would be helpful to make clear that it is intended to apply only to genuinely trivial sums and should not be interpreted as establishing a general de minimis standard that could increase over time.

Question 19: Do you think the six examples that are proposed as guidance for other compelling reasons in DISP 3.3.4D G should instead be separate rules in their own right?

We consider it appropriate for these examples to remain as guidance rather than hard rules. This allows flexibility and reduces the risk of overly rigid application in complex or unusual cases.

Question 20: Do you agree with the Financial Ombudsman's proposed changes to DISP 3 (as set out in the Appendix)? If not, please give evidence or reasons as to why not.

We broadly agree with the proposed changes to DISP 3. Taken together, the proposed changes have the potential to improve efficiency, clarity and predictability within the redress system. Our support remains contingent on careful implementation, strong safeguards for vulnerable consumers, and ongoing monitoring of impacts.

Question 21: Do you agree with the proposed changes to DISP 3.6.4R? If not, please give reasons or evidence as to why not.

We consider there to be merit in avoiding regulatory changes at this stage that could pre-empt, or cut across, forthcoming legislative developments. As Parliament is expected to consider more substantive reforms to the 'fair and reasonable' test, there is a risk that amendments introduced now could need to be revisited or adjusted once the legislative position is settled. Proceeding cautiously may help to avoid unnecessary complexity or transitional uncertainty for both consumers and firms.

Within that context, we support aspects of the proposed changes to DISP 3.6.4R, insofar as they provide greater clarity while retaining the fair and reasonable test as the core framework for the Financial Ombudsman's decision-making. We do support the proposed clarification that the Ombudsman should apply the standards in force at the time of the act or omission, as this appropriately addresses concerns about retrospective interpretation. We also support the removal of the explicit reference to 'good industry practice', which has been felt to introduce ambiguity.

More broadly, we believe that grounding determinations in the regulatory framework applicable at the relevant time can improve predictability and transparency, while still allowing the Financial Ombudsman to make an overall judgment about what is fair and reasonable in the individual circumstances of a complaint. It is important that any amendments continue to preserve the Ombudsman's ability to consider complaints in the round, particularly where FCA rules are high-level or do not address every aspect of consumer harm.

Our remaining concern is that future changes which could bring in a more fundamental reshaping of the fair and reasonable test may narrow its practical application. In particular, changes should not limit the Financial Ombudsman's ability to assess complaints in the round or to take proper account of the individual circumstances of each case.

We would be very pleased to provide any additional information that may be helpful, and would welcome ongoing engagement as these proposals are developed and implemented.