



Response to the Financial Conduct Authority's CP25/22 Modernising the Redress System

From the Transparency Task Force

<https://www.fca.org.uk/publication/consultation/cp25-22.pdf>

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About the Transparency Task Force



Transparency Task Force (TTF) campaigns for consumer interests in financial services. Our work includes holding the regulatory framework to account. TTF aims to constructively influence regulation and redress organizations, while holding them to account for delivering fair outcomes for consumers.

Executive Summary

TTF welcomes this consultation as an opportunity to modernise the redress system. However, we have significant concerns that several proposals risk prioritizing industry efficiency over consumer protection. While we support measures to identify mass redress events earlier and improve operational efficiency, we strongly oppose any changes that could restrict consumer access to justice or weaken the Financial Ombudsman's independence.

Our key positions:

- Support early identification of mass redress events through clear criteria
- Support improved guidance for firms to identify and rectify harm proactively
- Strong concerns about the proposed changes to the "fair and reasonable" test
- Strong concerns about the registration stage limiting access to redress
- Support with safeguards the lead complaints process
- Oppose measures that could unfairly disadvantage consumers using professional representatives

Detailed Responses to Consultation Questions

Q1: Mass Redress Event Criteria

Do you agree with the proposed criteria for considering whether an issue is an MRE?

Response: Yes, with reservations

We support the establishment of clear criteria to identify mass redress events earlier. The six proposed criteria provide a reasonable framework:

- a. Affects a high number of consumers
- b. Has significant impact on individual consumers, including vulnerable consumers
- c. Likely to lead to high redress bill
- d. Results in firms unable to meet redress liabilities
- e. Leads to high number of Financial Ombudsman complaints
- f. Driven by systemic/repeatable failing damaging confidence

However, we have the following concerns:

No rigid thresholds: While flexibility is important, the absence of specific thresholds creates ambiguity. We recommend the FCA publish indicative thresholds as guidance, even if these are not binding.

Vulnerable consumers must be prioritized: Criterion (b) mentions vulnerable consumers, but this needs stronger emphasis. An issue affecting 1,000 vulnerable consumers in serious financial difficulty should carry more weight than one affecting 10,000 affluent consumers with minimal impact.

Early-stage identification: The criteria appear focused on issues that have already developed. We recommend additional criteria for "potential MREs" to enable even earlier intervention.

Consumer group input: The framework should include a formal mechanism for consumer groups to nominate potential MREs for FCA consideration.

Transparency: The FCA should publish an annual report on issues considered against these criteria, even where they did not meet the MRE threshold, to maintain public confidence.

Independent triggers: Consumers cannot trust the FCA to declare an MRE when the FCA itself may have failed to act. There is no independent trigger mechanism. We recommend allowing consumer groups, MPs, or whistleblowers to trigger an MRE review. The FCA/FOS must publish their reasoning for refusing an MRE designation.

Q2: Guidance on Identifying and Rectifying Harm

Do you agree with the guidance provided in Annex 4 of this consultation paper, for how firms can proactively identify and rectify potential issues?

Response: Yes, this is valuable guidance

The good and poor practice examples in Annex 4 are helpful and should support firms in identifying harm earlier. We particularly welcome:

- Clear expectations on root cause analysis
- Emphasis on monitoring complaint trends
- Requirements for senior management oversight
- Focus on vulnerable consumers

Recommendations for improvement:

Mandatory status: This guidance should be elevated to mandatory requirements, not merely good practice examples. Consumer protection is too important to be optional.

Regular reporting: Firms should be required to report annually to the FCA on their complaint analysis processes and findings, demonstrating compliance with this guidance.

Consumer involvement: The guidance should explicitly require firms to involve consumer representatives or panels in reviewing complaint trends and identifying systemic issues.

Whistleblower protection: Strengthen provisions for staff who identify potential harm to raise concerns without fear of retaliation.

Publication requirements: Firms should be required to publish summary data on complaints, root causes identified, and remedial actions taken. Reports must be published in anonymised form, and the FCA must be held accountable if it fails to act on reports.

Q3: SUP 15 Notification Requirements

Do you agree with the additional guidance proposed at SUP 15.3.8G for when firms are expected to report serious redress risks or issues to the FCA?

Response: Yes, with recommendations for strengthening

We strongly support clearer notification requirements. Early reporting is critical to protecting consumers and managing potential MREs effectively.

The proposed thresholds are reasonable:

- 40% of consumers from affected product line
- £10m or 50% of annual revenue from affected product/service
- Significant spike in complaints
- Concerns about capital adequacy/solvency
- £10k average loss per consumer

However, we recommend:

Lower thresholds for vulnerable consumers: Where vulnerable consumers are affected, thresholds should be halved to ensure earlier intervention.

Mandatory not guidance: These notification requirements should be rules, not guidance, with clear sanctions for non-compliance.

Timeframes: Specify that notifications must be made within 5 business days of the firm becoming aware of the issue.

Whistleblower channel: Establish a parallel reporting channel for employees who believe their firm should have made a notification but has not.

Public accountability: The FCA should publish annual statistics on notifications received and actions taken (in anonymized form where appropriate).

No "cliff-edge" interpretation: Firms should err on the side of reporting. The guidance should explicitly state that the FCA welcomes precautionary notifications even where thresholds are not definitively met. Firms already have incentives to under-report. If FCA oversight remains weak, earlier reporting rules will not protect consumers in practice.

Q4: Lead Complaints Process

Do you support the introduction of a 'lead complaints' process to address novel and significant complaint issues?

Response: Qualified support, with significant safeguards required

In principle, a structured approach to handling novel and significant issues could benefit consumers by providing clarity more quickly. However, we have substantial concerns about implementation.

Potential benefits:

- Earlier clarity on regulatory interpretation
- More consistent outcomes
- Potentially faster resolution for affected consumers

Critical concerns and required safeguards:

Access to justice: This process must not become a barrier to individual consumers pursuing their complaints. The Financial Ombudsman must continue to process individual cases in parallel where consumers wish. This risks delaying outcomes for individuals and allowing the FCA to steer systemic issues away from scrutiny. Consumers in "non-lead" cases may be treated unfairly.

Selection of lead cases: The process for selecting lead complaints must be transparent and include consumer group input. Firms should not have unilateral control over which cases are selected. Lead cases must be selected transparently with consumer input. Decisions must not be used to delay other complaints unnecessarily.

Representation: Lead complainants must have access to free, independent legal representation to ensure their cases are properly argued.

Timeframes: Strict time limits must apply (maximum 6 months) to prevent this becoming a delaying tactic.

Consumer consent: Individual consumers must explicitly consent to their case being used as a lead case and must be able to withdraw at any time.

Communication: Clear, regular communication must be provided to all consumers with related paused complaints about progress and expected timelines.

Q5: Lead Complaints Process Benefits

Do you think that the lead complaints process will achieve its intended benefits?

Response: Only if properly safeguarded

The lead complaints process could achieve benefits for consumers, but only if:

Genuinely faster: It must demonstrably reduce overall time to resolution compared to the current system. If it simply adds an extra layer of process, it fails consumers.

Better outcomes: The detailed investigation must produce genuinely clearer guidance that leads to higher uphold rates for legitimate complaints.

No firm abuse: Strong monitoring is needed to prevent firms using this as a delaying tactic or to "test the waters" with a weak lead case.

Accessible decisions: Lead case decisions must be published in full and in plain English, enabling consumers and their representatives to understand them.

Follow-through: There must be a clear, simple process for consumers with paused cases to receive redress once the lead case is decided, without having to resubmit evidence.

We recommend a pilot period of 12 months with independent evaluation before full implementation.

Q6: Pausing Related Complaints

Do you agree that firms should be allowed to pause related complaints at the Financial Ombudsman while lead cases are under investigation in the lead complaints process?

Response: Qualified yes, with strict conditions

Pausing can be appropriate to avoid inconsistent outcomes, but only with the following safeguards:

Consumer choice: Individual consumers must be able to opt out of the pause and have their case continue if they wish.

Time limits: Maximum pause of 6 months, with automatic resumption thereafter regardless of lead case status.

No fee advantage: Firms must not receive reduced Financial Ombudsman fees for paused cases unless those cases are resolved in the consumer's favor following the lead case.

Compensation for delay: If the pause exceeds 6 months or the lead case is upheld, consumers should receive additional compensation for the delay (suggested: 8% interest from the point of pause).

Regular review: Paused cases must be reviewed monthly to ensure the pause remains appropriate.

Clear communication: Consumers with paused complaints must receive monthly updates in plain English.

Vulnerable consumers: Cases involving consumers in financial hardship or with serious vulnerability characteristics should not be paused.

Q7: Safeguards for Lead Complaints Process

What safeguards should there be to ensure the lead complaints process is not used to delay or avoid complaint resolution?

Response: Comprehensive safeguards are essential

We propose the following mandatory safeguards:

Eligibility criteria:

- Clear, published criteria for what constitutes a "novel" and "significant" issue
- Independent panel (including consumer representatives) to approve lead case designation
- Automatic rejection if the firm has previously raised similar issues without resolution

Time limits:

- Maximum 6 months from lead case acceptance to decision
- If exceeded, all paused cases automatically resume
- No firm may apply for more than 2 lead cases per year

Consumer protections:

- Lead complainants receive free legal representation funded by the firm
- All consumers with paused cases can opt out at any time
- Vulnerable consumers' cases cannot be paused without their explicit informed consent

Financial incentives:

- Firms pay full Financial Ombudsman fees for all paused cases if lead case is upheld
- Additional penalty fee if the process exceeds time limits
- Lead complainants receive enhanced compensation (minimum 25% uplift) if their case is upheld

Transparency:

- All lead cases published in real-time on FCA/FOS websites
- Monthly progress reports publicly available
- Annual review of the process published with consumer group input

Monitoring:

- Independent monitoring of whether the process reduces overall resolution times
- FCA to track and publish statistics on outcomes for consumers in paused cases
- Automatic suspension of the process if it increases average resolution times

Sanctions:

- Clear penalties for firms found to be abusing the process
- Ability for the Financial Ombudsman to reject future lead case applications from repeat offenders

Q8: Registration Stage

Do you agree in principle with the introduction of a new registration stage before a complaint is investigated by the Financial Ombudsman?

Response: No – we have serious concerns

While we understand the Financial Ombudsman's operational challenges, we oppose the registration stage as currently proposed because it risks creating a new barrier to justice.

Our concerns:

Additional hurdle: This creates another stage consumers must navigate, which could deter legitimate complaints, particularly from vulnerable consumers or those without professional representation.

Evidential burden: The "minimum evidential standards" are undefined and could be set too high, particularly disadvantaging consumers who lack financial sophistication or access to documents.

Delay: Rather than speeding up resolution, this could simply add processing time before complaints are properly investigated.

Disproportionate impact: Vulnerable consumers, elderly consumers, and those with limited literacy or digital access will be disproportionately affected.

Mission creep: Over time, the standards for "registration" could become increasingly stringent, gradually restricting access to the Financial Ombudsman. More dismissal powers risk shutting out valid but complex complaints (e.g. involving regulatory breaches).

If implemented despite our objections, minimum safeguards must include:

- Very low evidential threshold: Simply requiring a clear statement of what went wrong and basic supporting information
- Free assistance: Mandatory, free support service to help consumers meet registration requirements
- No fees: Absolutely no fees at registration stage
- Quick turnaround: Maximum 10 working days for registration decision
- Right to appeal: Simple appeals process for rejected registrations
- Vulnerable consumer exemption: Automatic registration for vulnerable consumers
- Transparency: Published statistics on registration rates by demographic group

Q9: Registration Stage Impact on Complainants

Do you agree that the registration stage will help complainants preparing and submitting complaints to the Financial Ombudsman?

Response: No

We fundamentally disagree with this assertion. The registration stage will not help complainants – it will hinder them.

Why this claim is misleading:

Additional burden: Complainants must now navigate an additional bureaucratic stage, with undefined "minimum evidential standards."

No value-add for consumers: This stage benefits the Financial Ombudsman's case management, not consumers. Consumers gain nothing from having their complaint held at a registration stage rather than proceeding to investigation.

Disadvantages unrepresented consumers: Those without professional representation will struggle more with registration requirements, creating a two-tier system.

False promise: The suggestion that this provides "greater clarity" is specious – consumers need their complaints resolved, not held in a new queue. Fee adjustments designed to deter representatives could harm consumers.

The real purpose appears to be:

- Managing Financial Ombudsman caseload
- Enabling differential charging
- Filtering out cases before investigation costs are incurred

These are institutional priorities, not consumer benefits. We are not opposed to operational efficiency, but it should not be dressed up as a consumer benefit. Maintain consumer access as the primary objective. Do not use fee structures to deter complaints.

If the goal is to help consumers prepare better complaints, the Financial Ombudsman should instead:

- Provide free online tools and templates
- Offer pre-submission advice service
- Create simple checklists for different complaint types
- Provide translation services and accessibility support

Q10: Safeguards for Registration Stage

What safeguards should there be to ensure the registration stage does not limit access to justice, particularly for vulnerable consumers?

Response: Extensive safeguards are essential

If the registration stage proceeds despite our opposition, the following safeguards are mandatory, not optional:

Vulnerable Consumer Protections:

- Automatic fast-track registration for anyone with vulnerability characteristics
- Free support worker assigned to help with registration
- Acceptance of verbal complaints for those unable to write
- Extended timeframes for vulnerable consumers to provide information

Evidential Standards:

- Published, clear standards for each product type
- Presumption in favor of acceptance where evidence is unclear
- Firms must provide all relevant documents to consumers free of charge
- No rejections based on formatting or administrative errors

Support Services:

- Free national helpline to help consumers with registration
- Network of in-person support centers
- Video guidance in multiple languages
- Plain English guide to registration requirements

Right to Review:

- Automatic human review of any rejection
- Simple appeals process
- Free advocacy service for appealed rejections
- Ability to add evidence during review period

Time Limits:

- Maximum 5 working days for registration decision
- Maximum 5 working days for review of rejection
- Compensation for delays beyond these periods

Transparency and Monitoring:

Monthly publication of registration rates by:

- Demographic groups
- Product types
- Represented vs unrepresented
- Vulnerability characteristics
- Independent annual review by consumer groups
- Automatic suspension if registration rates fall below 85%

No Fee Barriers:

- Absolutely no fees charged at or related to registration stage
- Costs of providing required evidence must be borne by firms
- No charging of paused cases at registration stage

Clear Communication:

- All registration decisions in plain English
- Explanation of rejection reasons
- Clear guidance on remedying deficiencies
- Automatic provision of information in accessible formats

Exemptions:

- Automatic registration for complaints under £1,000
- Automatic registration for pension complaints
- Automatic registration where firm has failed to respond
- Automatic registration where complaint relates to previously upheld issue

Q11: Registration Stage and MREs

Do you agree that the Financial Ombudsman being able to pause or pass back cases at the new registration stage would improve respondent firms' ability to manage mass redress events or emerging regulatory issues?

Response: This question reveals the true priority

This question inadvertently reveals that the registration stage is designed primarily to benefit firms, not consumers. The question explicitly asks whether it improves firms' ability to manage MREs.

Our position:

The purpose of the redress system is to protect consumers and provide them with timely access to justice. The system should not be redesigned primarily to make life easier for firms that have caused harm.

That said, we recognize that in true MRE situations:

- Coordinated resolution may benefit consumers
- Individual case-by-case handling may not be optimal
- Regulatory intervention may be appropriate

However, this can be achieved without a registration stage through:

- Existing FCA powers to implement redress schemes
- Voluntary firm schemes with FCA oversight
- Time-limited pauses under existing dismissal grounds
- Treasury's proposed new MRE tools

If the registration stage proceeds, specific MRE safeguards must include:

- Consumer choice: Consumers can opt out of pauses and proceed individually
- Time limits: Maximum 3-month pause for MRE assessment
- Compensation: Enhanced compensation if pause exceeds time limit
- Regular updates: Fortnightly communication to affected consumers
- Priority resolution: Once MRE approach decided, paused cases prioritized for resolution

- No firm advantage: Firms receive no fee reductions for paused MRE cases
- Vulnerable consumer exemption: Financial hardship cases proceed regardless

Q12: Differential Case Fees at Registration

Do you agree that the Financial Ombudsman should consider differential case fees for cases in the registration stage?

Response: No – strongly oppose

We strongly oppose any case fees being charged for cases at the registration stage. Many consumers cannot navigate FOS alone. Restricting PRs risks cutting off access to redress. Poor practice should be regulated, not punished by denying consumers representation.

Our reasoning:

No service provided: At registration, no substantive work has been done on the complaint. Charging fees at this stage is charging for triage, not resolution.

Perverse incentives: This creates an incentive for the Financial Ombudsman to keep cases at registration stage longer to generate more fees, or to reject registrations to avoid work.

Barrier to justice: Any fees at registration stage will deter complaints, particularly lower-value but legitimate ones.

Disproportionate impact: Smaller firms facing one or two complaints will be hit harder proportionally than large firms with thousands of complaints.

Double-charging risk: Firms could end up paying registration fees for cases that are ultimately dismissed or withdrawn.

The current case fee model (after free cases, upon investigation commencement) is appropriate and should be retained. Introduce accreditation and minimum standards for PRs, but preserve consumer choice and access.

If differential fees are introduced:

We reluctantly accept that where cases are:

- Paused for lead complaints process
- Dismissed at registration without investigation
- Passed back to firms for scheme resolution

Reduced or waived fees may be appropriate.

However:

- Full fees must apply if cases paused for >6 months
- No fees for consumer-initiated withdrawals
- Additional fees if registration process is unnecessarily prolonged

Q13: DISP Changes

Do you agree with the proposed changes to DISP to improve the Financial Ombudsman's operational efficiency?

Response: Yes to most, with reservations on one

We support most of the proposed DISP changes as they improve clarity and efficiency without harming consumer protection.

Specifically:

DISP 1.4.4AG (Cooperation obligations) – Support

Adding guidance on firms' obligation to cooperate fully is helpful. We recommend strengthening this to make clear that:

- "Cooperation" includes proactive disclosure of relevant documents
- Firms cannot hide behind data protection or commercial confidentiality inappropriately
- Sanctions for non-cooperation should be meaningful

DISP 1.6.1R (Acknowledgment requirements) – Support

Requiring firms to explain timeframes in acknowledgment letters is sensible and will reduce premature referrals. We recommend also requiring firms to:

- Explain the complaints process clearly
- Provide signposting to free advice services
- Identify if the complainant appears vulnerable and offer additional support

Scope clarification for Gibraltar-based firms – Support

Extending rules to Gibraltar-based firms passporting into the UK ensures consistent consumer protection.

Overall assessment: These changes are sensible housekeeping that improve efficiency without reducing consumer protection. They should proceed.

Q14: COMP 4 and 12A Simplification

Do you agree with the proposed amendments to COMP 4 and COMP 12A to simplify the list setting out who is and is not eligible to make a claim to the FSCS?

Response: Yes, with strong monitoring

We support simplification of the eligibility rules, provided this is genuine simplification that maintains the scope of protection, not disguised restriction of eligibility.

Our support is conditional on:

No change to perimeter: As stated in the consultation, the regulatory perimeter must not change, and the level of consumer protection must not decrease.

Clear communication: The FSCS must clearly communicate the changes to ensure consumers understand their rights.

Transition support: During implementation, any ambiguous cases should be resolved in favor of eligibility.

Monitoring: The FCA should monitor eligibility claim rates for 2 years post-implementation and publish data to ensure no groups have been inadvertently excluded.

Review mechanism: If claim rates fall by more than 5% in any protected category, automatic review should be triggered.

We strongly support:

- Consolidating similar categories
- Relocating COMP 12A content to COMP 4A for clarity
- Clearer look-through rules

These changes should reduce complexity for FSCS, Insolvency Practitioners, and consumers, supporting faster claims resolution.

Q15: COMP 6.3.4R - Default Determination

Do you agree with the proposed amendments to COMP 6.3.4R to enable the FSCS to determine a relevant person in default, where they are not co-operating with the FSCS, or where personal circumstances prevent them from co-operating?

Response: Yes, with safeguards

We support enabling FSCS to declare a firm in default where directors are not cooperating or are unable to cooperate due to personal circumstances. This will speed up compensation for consumers.

However, safeguards are necessary:

Clear evidence required: FSCS must demonstrate clear evidence of non-cooperation or incapacity, not simply slow responses.

Reasonable attempts: FSCS must make multiple documented attempts to contact the relevant person through various channels.

Personal circumstances: Where personal circumstances (illness, bankruptcy) prevent cooperation, FSCS should seek alternative sources of information rather than immediately declaring default.

Right to respond: The relevant person must be given clear notice and a final opportunity to respond (minimum 14 days) before default declaration.

Consumer protection: This power must not be used to rush declarations where proper investigation could identify firm assets to meet claims.

Transparency: FSCS should publish annual statistics on use of this power and outcomes.

This change appropriately balances consumer interests (faster compensation) with fairness to relevant persons.

Q16: COMP 11.2 - Payment Flexibility

Do you agree with the proposed amendments to COMP 11.2 to give the FSCS greater discretion over where compensation is paid under specific circumstances as described in that provision?

Response: Yes, with consumer protection safeguards

We support greater flexibility in payment arrangements where this genuinely serves consumers' best interests, such as:

- Paying into a scheme of arrangement
- Paying an administrator in a special administration
- Paying into a trust for an incapacitated person

This must be subject to strict safeguards:

Consumer best interests test: FSCS must demonstrate that alternative payment serves the consumer's best interests, not just administrative convenience.

Consumer consent: Where possible, consumers should consent to alternative payment arrangements.

Clear explanation: Consumers must receive clear explanation in plain English of why payment is being made to a different person/entity and what this means for them.

Tracking: Alternative payments must be clearly tracked to ensure they reach the intended consumer.

Time limits: Alternative payment arrangements should not delay final distribution to consumers.

No loss: Consumers must not lose out financially due to alternative payment arrangements (e.g., through administrator fees).

Vulnerable consumer protection: Extra care must be taken with vulnerable consumers to ensure they understand and benefit from arrangements.

Transparency: FSCS should publish annual data on use of this power and consumer outcomes.

Subject to these safeguards, this change should improve efficiency in complex situations without harming consumers.

Q17: COMP 12.2.10R and 12.2.11R - Settlement Discretion

Do you agree with the proposed amendments to COMP 12.2.10R and the additional factors listed in COMP 12.2.11R that FSCS must take into account, when considering if a claimant is eligible?

Response: Qualified support, with concerns

We understand the intention to enable FSCS to settle claims efficiently where investigation costs are disproportionate. This could benefit consumers through faster payment.

However, we have concerns:

Reduced scrutiny: This could lead to lower standards of evidence and investigation, potentially resulting in:

- Legitimate claims being under-compensated
- Invalid claims being paid
- Reduced deterrent effect on poor firm behavior

Moral hazard: Firms may become less careful about record-keeping if they know FSCS will settle without full investigation.

Precedent risk: Settling without investigation could set problematic precedents for similar future cases.

For this change to be acceptable, the following safeguards are essential:

High bar for use: This discretion should be used sparingly, only in clear cases where:

- Evidence from another credible investigation (s.166, FCA, FOS) strongly indicates valid claims
- Individual claim values are low relative to investigation costs
- Delay would cause significant consumer harm

Consumer benefit test: FSCS must demonstrate that settlement without investigation benefits consumers through faster payment and that this outweighs risks of inaccurate assessment.

No reduction in compensation: Claims settled under this discretion must not receive lower compensation than if fully investigated.

Transparency: FSCS must:

- Explain to claimants why settlement without investigation is being used
- Publish annual statistics on use of this power
- Report on accuracy of settlements (through sample reviews)

Right to full investigation: Claimants should have the right to request full investigation if they disagree with the settlement approach or amount.

External review: Independent review of use of this discretion every 2 years, with consumer group involvement.

Limitation: This discretion should not apply to high-value claims (suggest threshold: >£10,000) where full investigation is proportionate.

Subject to these safeguards, cautious use of this discretion could benefit consumers in appropriate cases.

Q18: Cost Assumptions

Do you agree with our assumptions about the sizes of the compliance and legal teams involved in familiarisation and gap analysis, and with our treatment of costs associated with changes to firms' complaint acknowledgment letters?

Response: The assumptions appear reasonable but may underestimate impacts on smaller firms

The FCA's cost assumptions (£727 per firm average) appear reasonable for larger firms with dedicated compliance teams. However:

Concerns:

Smaller firms: Firms with fewer than 10 employees may face disproportionate costs relative to their size, potentially reaching 0.1-0.2% of revenue for micro-firms.

Complexity: Some of these changes (particularly around MRE criteria and notification thresholds) are conceptually complex and may require external legal advice for accurate gap analysis.

System changes: Costs of updating acknowledgment letter templates may be minimal, but firms using older complaint management systems may face higher costs.

Training: Beyond familiarisation, firms will need to train staff on new processes, particularly around:

- MRE identification and notification
- Registration stage requirements (if implemented)
- Lead complaints process

Recommendations:

Tiered implementation: Consider phased implementation with larger firms first, giving smaller firms more time to prepare.

Support materials: Provide extensive free support materials, templates, and flowcharts to minimize interpretation costs.

SME support: Consider webinars and helpline specifically for smaller firms.

Impact monitoring: Monitor actual costs and adjust estimates for future similar consultations.

Overall, we accept the cost estimates as reasonable for consultation purposes, while noting that actual costs for smaller firms may be higher than estimated.

Q19: Cost-Benefit Analysis

Do you agree with our analysis of the costs and benefits of these proposals?

Response: The analysis significantly understates risks to consumers

The FCA's cost-benefit analysis focuses heavily on industry costs and efficiency benefits, but significantly understates or omits critical consumer impacts.

Understated or missing consumer costs:

Access to justice: No quantification of how many consumers may be deterred from complaining due to:

- Registration stage complexity
- Additional evidential requirements
- Longer processes (lead complaints)
- Psychological burden of additional hurdles

Delayed redress: No analysis of the cost to consumers of delays caused by:

- Lead complaints process
- Registration stage processing time
- Paused cases

Inconsistent outcomes: No assessment of the risk that changes to the "fair and reasonable" test could lead to reduced compensation amounts or lower uphold rates.

Vulnerable consumers: No specific analysis of disproportionate impacts on vulnerable consumers, despite repeated references to protecting them.

Professional representative costs: No analysis of how changes may affect PR fees or consumer access to representation.

Overstated or uncertain benefits:

MRE benefits: The analysis correctly notes that MRE benefits are uncertain and depend on future events. However, it then proceeds as if these benefits are certain, which skews the analysis.

"Efficiency" benefits: Many claimed efficiency benefits are for firms and the Financial Ombudsman, not consumers. These should not be weighted equally with consumer protection.

Reduced uncertainty: The claimed benefit of "reduced uncertainty" for firms is speculative and may not materialize if the new system proves equally or more unpredictable.

Our assessment:

The proposals create certain and immediate costs to consumers in the form of:

- Additional barriers to accessing redress
- Longer resolution times
- Increased complexity

Against uncertain and distant benefits primarily accruing to:

- Firms (through reduced Financial Ombudsman fees and operational costs)
- The Financial Ombudsman (through operational efficiency)
- The FCA (through earlier MRE identification)

This is not an acceptable cost-benefit balance for a consumer protection regulator.

Recommendations:

Consumer impact assessment: Conduct a full consumer impact assessment quantifying:

- Expected reduction in complaint volumes
- Expected increase in resolution times
- Impacts on vulnerable consumers
- Changes in uphold rates and compensation amounts

Pilot studies: Pilot the registration stage and lead complaints process for 12 months with:

Independent evaluation

Consumer satisfaction surveys

Analysis of demographic impacts

Assessment of actual vs. projected time savings

Revision: Revise the cost-benefit analysis to properly weight consumer protection against industry efficiency.

Monitoring: Commit to publishing annual data on:

- Complaint volumes
- Resolution times
- Uphold rates
- Consumer satisfaction
- Demographic breakdowns

If these indicators worsen post-implementation, the FCA should commit to reversing the changes.

Critical Concerns About Changes to "Fair and Reasonable" Test

While not a specific consultation question, we must address the Treasury's proposed changes to the "fair and reasonable" test, which are central to this consultation. The FCA proposes closer alignment between the FOS "fair and reasonable" test and FCA rules.

The Treasury proposes: Where FCA rules are material to a complaint, compliance with those rules "in a manner consistent with the FCA's intent" means a firm has acted fairly and reasonably.

We are deeply concerned this will:

1. Reduce consumer protection: The current test allows the Financial Ombudsman to consider individual circumstances and deliver outcomes that are fair and reasonable beyond strict rule compliance. This flexibility is essential for consumer protection. Alignment without transparency risks narrowing the scope of Ombudsman decisions and embedding FCA regulatory failures into FOS judgments. If the FCA has failed to enforce its rules (e.g. permitting unlawful firm consolidations), consumers will be doubly disadvantaged.
2. Create a compliance mentality: Firms will focus on meeting minimum regulatory standards rather than treating customers fairly.
3. Eliminate flexibility: Many financial services situations involve complex, individual circumstances that prescriptive rules cannot anticipate. The fair and reasonable test provides necessary flexibility.
4. Increase litigation: By making the test more legalistic and focused on rule interpretation, this change will increase legal disputes and reduce the informal, accessible nature of the Financial Ombudsman.
5. Undermine Consumer Duty: The Consumer Duty requires firms to deliver good outcomes for customers, not merely comply with rules. This change risks undermining that principle.
6. Regulatory capture: By requiring the Financial Ombudsman to align with "FCA's intent," this reduces the Financial Ombudsman's independence and risks regulatory capture.

Example of the problem:

A firm's sales process complies with all specific FCA rules, but nonetheless results in an elderly, vulnerable customer purchasing an unsuitable product they cannot afford. Under the current test, the Financial Ombudsman can uphold the complaint as unfair and unreasonable.

Under the proposed test, if the process was "consistent with FCA's intent," the complaint might be rejected, leaving the consumer without redress despite clear harm. This would not only fail the individual consumer but also erode the systemic protections that encourage firms to go beyond minimum compliance.

Further risks include:

7. Chilling effect on FOS decisions: Ombudsmen may become overly cautious, leading to lower uphold rates and reduced consumer trust in the service.
8. Inconsistency with international standards: Many jurisdictions (e.g., Australia's AFCA) maintain broad fairness tests to protect consumers; aligning too closely with rule-based compliance could weaken the UK's position.
9. Data gaps: There is no evidence that the current test leads to inconsistent or unpredictable outcomes; the FCA should commission independent research before proceeding.

Consumer Ask: The FCA must require that any advice given to FOS is published, transparent, and subject to challenge, to avoid conflicts of interest and cover-ups. All advice from FCA to FOS should be published in full, with consumer parties given a right to comment before it is relied upon in a determination.

We urge the FCA to:

- Publicly oppose the Treasury's proposal or seek significant amendments to preserve FOS flexibility
- Conduct a full impact assessment on uphold rates, compensation levels, and consumer satisfaction under the proposed test
- Engage consumer groups in any further development of this aspect
- Commit to maintaining the "fair and reasonable" test in its current form, with enhancements to ensure transparency in how it is applied (e.g., anonymized case studies published quarterly)

Concerns About the Proposed 10-Year Longstop Date for Complaints

The Treasury proposes a 10-year absolute limit on complaints. Many harms (e.g. unsuitable pension transfers, illegal consolidations, hidden conflicts) only come to light long after 10 years. Vulnerable or less financially literate consumers will be denied redress entirely.

Consumer Concern: This would exempt systemic failures, fraud, concealment, or cases where FCA oversight failed, effectively immunising the FCA's own failings and those of firms.

Consumer Ask: Exempt systemic failures, fraud, concealment, or cases where FCA oversight failed, from the longstop. Otherwise, protect late-discovered harm (no absolute longstop in systemic or concealed cases).

Additional Consumer Issues Omitted from Consultation

FCA Accountability and Consumer Redress

Problem: When the FCA fails to regulate effectively — for example, permitting unlawful consolidations, failing to supervise firms, or not acting on SUP15 notifications — consumers

suffer direct financial losses. Currently, there is no meaningful route for consumers to obtain redress for FCA negligence. The FOS cannot investigate FCA errors and the FSM Act prevents legal action against both the FCA and the FOS, and the FCA does not meet its obligation to ensure the FOS meets its legal obligations. With the FCA focused on promoting growth, its consumer protection role is in conflict. An FCA error cannot be investigated; consumers have no redress mechanism. They can't take court action against either the company, nor can they complain to the FCA about FOS. The roles of stimulating growth and consumer protection need to be undertaken by different organisations.

Consumer Ask:

- Establish a statutory duty of care on the FCA, enforceable through the Financial
 - Regulators Complaints Commission (FRCC), with powers to award compensation where FCA failings have caused consumer harm
 - Require all FCA complaint investigations to be published in anonymised but detailed form, so consumers can see how the FCA has dealt with allegations of negligence
 - Introduce an independent appeal mechanism for complaints about FCA actions, separate from the Treasury or FCA itself, to ensure genuine accountability
- Split roles of growth and consumer protection into two organisations of equal stature

Transparency of FCA Advice to FOS

Problem: Under s.234A FSMA the FCA must advise the FOS, but this advice is not disclosed to consumers. This secrecy undermines fairness and creates the perception of cover-ups.

Consumer Ask: All advice from FCA to FOS should be published in full, with consumer parties given a right to comment before it is relied upon in a determination. Make FCA advice to FOS fully transparent and subject to consumer scrutiny.

Consumer Duty Applied to Regulators

Problem: The FCA imposes a Consumer Duty on firms, yet exempts itself from similar obligations.

Consumer Ask: The Consumer Duty principles should apply equally to the FCA and FOS. Regulators must act to avoid foreseeable harm, deliver good outcomes, and be held accountable when they fail. Apply the Consumer Duty to regulators as well as firms.

MOU Changes Reducing Consumer Protection

Problem: The 2015 version of the Memorandum of Understanding (MOU) between the FCA and FOS was consumer-facing. After a complainant used paragraph 11f, the 2024 version has changed with no consumer input and reduces consumer protection by removing para 11f that requires the FCA to take any other steps necessary to ensure FOS is at all times capable

of meeting its legal obligations. It is now a regulatory-facing document. The MOU was intended to inform the public and changes must involve consumers.

Consumer Ask: Revert to a consumer-facing MOU with full consumer input on future changes. Restore protections like para 11f to ensure the FCA upholds its obligations to the FOS.

Regulatory Gap

Problem: With FCA focussed on promoting growth its consumer protection role is in conflict. An FCA error cannot be investigated; consumers have no redress mechanism. They can't take court action against either company, nor can they complaint to the FCA about FOS. The roles of stimulating growth and consumer protection need to be undertaken by different organisations.

Consumer Ask: Split roles of growth and consumer protection into two organisations of equal stature.

Conclusion and Recommendations

CP25/22 risks prioritising firm certainty and regulator convenience over consumer protection. Unless exemptions and transparency safeguards are built in, the reforms will reduce access to justice, embed FCA failings into redress, and erode public trust.

The Transparency Task Force appreciates the FCA's efforts to modernise the redress system and recognises the potential for positive change in areas like early harm identification and operational clarity. However, our overriding priority is consumer protection: any reforms must enhance, not erode, access to timely and fair redress, particularly for vulnerable individuals.

In summary, we support:

- Clear criteria and proactive guidance for mass redress events and firm notifications (Qs 1-3)
- The lead complaints process and operational efficiencies, subject to robust safeguards (Qs 4-7, 13-17)

We oppose or seek major revisions to:

- The registration stage, due to its risk as a barrier to justice (Qs 8-12)
- Changes to the "fair and reasonable" test, which threaten FOS independence and consumer outcomes
- The proposed 10-year longstop, which would deny redress for late-discovered harms

Broader recommendations:

Consumer Impact Review: Mandate an independent, consumer-led review of all proposals 12 months post-implementation, with powers to recommend reversals if access to redress declines.

Enhanced Funding: Increase FOS and FSCS funding to support free consumer advice lines, vulnerability assessments, and pilot programs for new processes.

Transparency Commitments: Publish disaggregated data on complaint outcomes, including by vulnerability, representation status, and process stage, to enable ongoing scrutiny.

Stakeholder Engagement: Form a permanent Consumer Redress Advisory Panel, with TTF representation, to advise on future changes.

Holistic Approach: Align these reforms with broader initiatives, such as the Consumer Duty and potential new MRE powers, to create a truly integrated pro-consumer framework.

We urge the FCA and FOS to revise their proposals to:

- Protect late-discovered harm (no absolute longstop in systemic or concealed cases)
- Make FCA advice to FOS fully transparent and subject to consumer scrutiny
- Allow independent triggers for Mass Redress Events
- Ensure professional representatives remain accessible to consumers
- Hold FCA itself accountable, through the FRComplaints Commission, with powers to award compensation for regulatory negligence
- Apply the Consumer Duty to regulators as well as firms
- Split roles of growth and consumer protection into two organisations of equal stature

We are committed to constructive dialogue and would welcome a meeting with FCA officials to discuss these points further. Thank you for considering our response—delivering fair outcomes for consumers must remain at the heart of the redress system.

For and on behalf of the Transparency Task Force.

Andy Agathangelou FRSA

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