



Complaints Commissioner

Reviewing how the financial services regulators consider complaints

Annual Report
2023/24

The Commissioner

Annual Report and Accounts 2023-2024
(for the year ended 31 March 2024)

Presented to Parliament pursuant to section 87 of the Financial Services Act 2012
(as amended by the Small Business, Enterprise and Employment Act 2015 and the Financial
Services and Markets Act 2023).



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ANNUAL REPORT 2023-2024

This is the Annual Report of the Commissioner.

It covers the period from 1st April 2023 to 31st March 2024.

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Introduction by the Commissioner

Foreword by the Commissioner

This is my first report as the Commissioner. Having been appointed in January 2024, I have only been in post for the last three months of the period covered by this report. The majority of the work in this period was undertaken by my predecessor, Amerdeep Somal. I would like to take this opportunity to thank Amerdeep for all that she did and, in particular, for highlighting some of the important issues inherent in the operation of the Complaints Scheme (“the Scheme”). We wish her well in her new endeavours.



Given the increased responsibility placed on Regulators post the EU exit, and as we seek to embed the Smarter Regulatory Framework, the issue of regulatory accountability is a hot topic. The role of the Commissioner is a very important part of the arrangements aimed at ensuring we have a regulatory regime that is fit for purpose in the new environment. As the Economic Secretary to the Treasury, Bim Afolami said “this role is fundamental in ensuring that the Regulators are accountable for their actions and that complaints about them are independently investigated.” I am very pleased to be taking on the role of the Commissioner at this critical time.

My appointment to this role is provided for by Parliament and is set out in the Financial Services Act 2012 (as amended by the Financial Services and Markets Act 2023). Previous commissioners were appointed by the financial services Regulators but, following changes made by the Financial Services and Markets Act 2023, this is the first time that the Treasury has appointed the Commissioner. This change was designed to provide a further layer of independence to the role and support the effectiveness of the Commissioner. The appointment is now for a five-year non-renewable term.

The past year was an important one. Casework doubled (from 421 to 861 cases dealt with by my office). In addition, the number of complex and group investigations increased. Overarching this, I inherited a number of complex policy issues that I am progressing but which have had an impact on our ability to determine affected cases as quickly as we would have liked. Looking forward, we are expecting an influx of large group complaints during the first quarter of the next financial year. Against this backdrop, I am continuing discussions with the Regulators seeking to reach agreement on the remaining policy matters (see the Policy Considerations section of this report) and restructuring the organisation so that it has the capacity to provide an efficient service, given the increase in demand by both consumers and businesses.

Increasing the scale of our operations has been key. I have looked at what is necessary to achieve this, and consequently doubled the size of my team to ten staff. This has included establishing new posts, for example, with a focus on policy and legal as well as administration. We also now have physical office space. Not all of our new colleagues have started yet, but we have already been able to start reducing the backlog which built up last year.

In the coming year, I will be pursuing a focussed operations plan and strategy. My goal is to ensure that consumers and businesses are fully able to benefit from the Scheme. In this respect, awareness of the Scheme is key: my initial view is that awareness is currently low among both industry and consumers. Consumers, for their part, express concern that they did not become aware of the Scheme in sufficient time to make a complaint. I am addressing these issues through the development of an 'outreach programme' which will aim to raise awareness of the Scheme, as well as to seek feedback about what complainants want from the Scheme and how it can be improved. To that end, I have had preliminary discussions with trade bodies and other organisations. I will continue to develop my outreach strategy in the coming year, engaging with relevant stakeholders.

Preliminary conversations with industry participants suggest that their major concerns regarding the potential for them to be affected by the decisions of Regulators are in connection with issues such as the implementation of the Secondary Competitiveness Objective and the Consumer Duty. Whenever these points are raised with me I have to explain that they are outside the scope of the Scheme. The Regulators' "legislative functions" including rule making, are exempted from the scope of the Scheme by section 85 of the Financial Services Act 2012. I understand that this is because rule making is regarded as a delegation of power by Parliament which should not be undermined by the Scheme for obvious reasons.

In view of the fact that the Commissioner only has a power to make recommendations, I do not see that the Commissioner taking a view on such issues undermines the Regulators' legislative functions. This is because whilst the Commissioner's recommendations are made public and responded to by the Regulators, ultimately the Regulators have the power to change or decline to act on them. There appears to be interest in the industry and consumers for the Regulators to be held to account. It seems to me that this would be likely to require legislative change and would therefore be a matter for Parliament to consider.

Finally, I wish to thank the Regulators for helping me to transition into the role and particularly for the comprehensive induction programme. I also wish to thank them for their open and collaborative approach to the issues we both face. I know that they share my view that the Complaints Scheme is important in ensuring that businesses and consumers have confidence in our regulatory system.

Operationally, I have begun a programme of process driven changes to enable us to deal with the anticipated influx of complaints in good time next year. I am committed to issuing a Preliminary Report on 75% of complaints within twelve weeks, although we anticipate that this may be more challenging in respect of complex cases. At the end of next year, I will be in a position to report on the number of highly complex cases we have reviewed as a percentage of the total caseload and refine service level targets to take into account the complexity of cases. I will also be refreshing the service levels for satisfaction of complaints to better capture the experience of complainants through feedback.

I am extremely grateful for the efforts of the whole team in delivering these achievements. We are all very aware that we have much to do. I want to thank all my colleagues in my office for their unwavering support and hard work during a challenging year of change. I am very much looking forward to the year ahead.

Rachel Kent
Complaints Commissioner

Complaints against the Financial Services Regulators

This annual report covers the period from 1st April 2023 to 31st March 2024.

The role of ‘investigator’ (Financial Regulators Commissioner) was established by Parliament to provide an independent review of complaints against the Financial Conduct Authority (FCA), the Prudential Regulation Authority (PRA) and in the case of the Bank of England (BoE), its oversight of clearing houses, central securities depositories, inter-bank payment systems and wholesale cash distribution (the “Regulators”). Although not covered by the statutory scheme, there is a voluntary scheme in place with the Payment Systems Regulator (PSR) which mirrors the main scheme, but as that is not part of the parliamentary process we have not included details in this report.

If complainants are not able to resolve their complaint directly with the relevant Regulators and choose to refer it, the Commissioner considers the complaint and, if she upholds it, can make recommendations. The recommendations the Commissioner can make include issuing an apology, putting things right, or paying compensation.

Although the Scheme is open to anyone affected by the decisions of the Regulators, including small and large regulated businesses, most complainants received by the scheme are made by individual consumers, with approximately 90% of all complainants being received from individual consumers, the remainder were made by small regulated businesses.

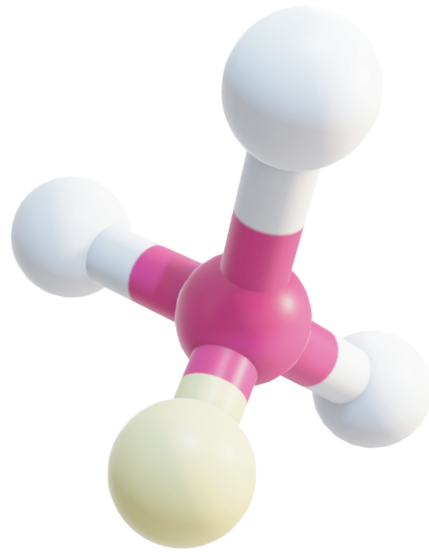
The Commissioner is committed to working openly and being accountable. Her office is committed to working in accordance with the principles of good complaints handling set by the Ombudsman Association.

Having previously consulted on changes to the Scheme, last year the Regulators changed the Scheme which came into effect on 1 November 2023. Changes brought in under this Scheme include changes under which compensation is payable (see section 6).

2

The Year at a Glance

861 CASES DEALT WITH



IN 18% OF CONCLUDED CASES,
THE COMMISSIONER DISAGREED
WITH AT LEAST SOME ELEMENT
OF THE FCA'S DECISION



79% OF COMPLAINTS
WERE ISSUED A
PRELIMINARY REPORT
WITHIN OUR AGREED
SERVICE LEVEL



204 RECOMMENDATIONS,
SUGGESTIONS OR
CRITICISMS MADE

3

Overall Scheme Statistics for 2023-2024

The Commissioner dealt with 861 cases during the year, compared to 421 the previous year. Not all complaints progressed to a formal investigation under the Scheme. During the period, the Commissioner issued decisions on 284 complaints compared to 185 last year. 98 complaints and enquiries are in progress and will be reported on next year.

3.1

Table 1: Total complaints and enquiries dealt with

Complaints and enquiries dealt with	2023-2024	2022-2023
Complaints in progress at start of period	40	47
New enquiries and complaints received	821	374
Total number of complaints dealt with	861	421
Complaints and enquiries closed during the year	763	381
Of which		
FCA complaints	283	
FCA enquiries ^[1]	295	
General enquiries	175	
BoE complaints/enquiries	2	
DSAR	8	
JR	1	
PSR	1	
Complaints and enquiries in progress at end of period	98	40

Note 1 See page 11

Of the 763 concluded complaints, 578 complaints were about the FCA and two were about the BoE (comprising one joint concluded complaint with the FCA and one concluded enquiry which did not progress to an investigation).

175 complaints and enquiries were about financial services providers or other bodies, rather than the Regulators, and in those cases, they were directed to the appropriate organisations.

The number of complaints and enquiries were significantly higher this year for a number of reasons, including an increase in group complaints.

The Office of the Complaints Commissioner (the OCC) processed 8 subject access requests under the Data Protection Act 2018 (related to complaints against the FCA).

Additionally, one complainant sought leave for judicial review of the Commissioner's decision on their complaint which the court refused.

4

Bank of England and Prudential Regulation Authority Statistics from 1st April 2023 to 31st March 2024

The Scheme covers complaints about the BoE's functions in relation to clearing houses, central securities depositories and inter-bank payment systems, and about the PRA (which is part of the BoE) and in the case of the Bank of England (BoE), its oversight of clearing houses, central securities depositories, inter-bank payment systems and wholesale cash distribution (the "Regulators").

4.1

Complaints against the Prudential Regulation Authority

Four PRA complaints were received this year and are still being investigated by the Commissioner at the end of the period. They will be included in next year's statistics.

4.2

Complaints against the Bank of England

The Commissioner dealt with one enquiry and one joint complaint against the BoE and FCA between 1st April 2023 and 31st March 2024, which was carried over from the previous year. This complaint was about a family losing money in a FTSE 250 listed firm, which had operated gold mines in Russia. Both Regulators excluded the complaint as it did not fall within the remit of the Scheme. The Commissioner agreed with the Regulators.

5

Financial Conduct Authority Statistics from 1st April 2023 to 31st March 2024

The Commissioner dealt with 670 complaints and enquiries against the FCA compared to 285 in the preceding year. Not all complaints received progressed to a formal investigation under the Scheme.

5.1

Table 2: Complaints dealt with during the year

Complaints and enquiries dealt with	2023-2024	2022-2023
Complaints and enquiries at start of period	38	46
New complaints/enquiries received	632	239
Total enquiries and complaints	670	285
Total enquiries and complaints	670	285
Of which		
Concluded with a substantive decision	283	
Enquiries	295	
Open cases	93	
JR ^{note 1}	1	

Note 1 The JR case is included in the total open cases figure

This year the Commissioner reviewed 3 group complaints. These consisted of 33 complaints about the FCA in connection with Premier FX Limited (PFX), 129 complaints about the FCA in connection with Future Renewable Energy (FRE) and 25 complaints about the FCA in connection with Safe Hands. All of these are included in the 283 concluded complaints.

Of the 670 complaints and enquiries which related to the FCA, 283 were concluded with a decision, compared to 183 the previous year. A further 295 were enquiries, which were closed without a formal investigation (although some did later go on to be logged as a complaint and formally investigated). 93 FCA related cases are currently under review and will be included in the figures for next year when they are concluded as either enquiries or concluded complaints.

The Commissioner receives a large number of enquiries each year, these can include but are not limited to:

- complaints which have not yet been considered by the FCA;
- complaints that are currently being considered by the FCA and where the Commissioner declines to intervene until the FCA investigation concludes;
- enquiries that relate to matters not within the remit of the Scheme;
- complaints which have been deferred pending the outcome of continuing regulatory action.

5.2

Table 3: Decisions in concluded complaints

Concluded cases	2023-2024	2022-2023
Case decisions issued by the Commissioner		
Complaint reviewed without formal report ^{note 1}	41	21
Complaints reviewed with formal report	242	116
Of which		
Complaint excluded ^{note 2}	14	16
Complaint deferred by FCA ^{note 3}	2	29
Total	283	183

Notes to Table

- Note 1** When considering a complaint, the Commissioner sometimes decides to issue a decision without a formal report. The Commissioner considered 41 complaints without issuing a formal report.
- Note 2** Certain complaints cannot be considered under the Scheme because they are excluded. Generally, this means complaints about the Regulators' rule making, the guidance they have issued, the Regulators' general policies. The FSCS and FOS. It also includes complaints which should be dealt with through other formal processes (such as disciplinary cases through the Upper Tribunal). The Commissioner considered 14 complaints and issued a decision explaining why the complaint was excluded.
- Note 3** Complainants submitted complaints which were deferred by the FCA due to ongoing regulatory action, and the Commissioner agreed the FCA were right to defer these complaints, 1 of these was closed as an informal decision.

5.3

Table 4: Concluded allegations against the FCA

	2023-2024	2022-2023
FCA	953	319
Failure to authorise firms/individuals ^{note 1 and 2}	33	4
Failure to resolve personal dispute with firm	5	8
Failure to treat regulated Firm/individual properly	14	56
Failure to regulate a firm/group of firms/industry/activity:	580	76
of which failure to regulate a firm	155	52
of which failure to regulate an industry/activity/scheme ^{note 2}	424	32
of which failure to oversee the Financial Ombudsman Service (FOS) and Financial Services Compensation Scheme (FSCS)	1	13
FCA's decision not to investigate: ^{note 3}	157	
due to Regulator deferral of complaint	2	
due to Regulator exclusion of complaint	10	
due to Regulator non-investigation of complaint	11	
due to Regulator time bar of complaint	134	
FCA Internal:	87	
Complaints Team handling of complaint	24	44
Confidentiality/Information Sharing	1	5
FCA Register	33	3
Customer Service FCA (excluding Complaints Team) ^{note 4}	17	49
Other (internal)	6	4
Whistleblowing	6	7
Regulated firm (or previously regulated firm) or individual complaining the FCA did not treat them correctly in relation to authorisations	5	2
General Data Protection Regulations (GDPR) Data Protection Act (DPA)	1	1
Other	36	46
Enquiry	31	0

Notes to Table

Note 1 This category relates to matters where the complainant has been unsatisfied with the FCA's authorisation process for various reasons.

Note 2 Due to a large volume of group complainants in relation to two Firms (PFX and FRE), there is a noticeable increase in figures this year.

The group complainants have impacted figures on the following subject matters:

Failure to authorise firms/individuals

Failure to regulate a firm/group of firms/industry/activity:

 of which failure to regulate a firm

 of which failure to regulate an industry/activity/scheme

 due to Regulator time bar of complaint

Register

Note 3 This category is being monitored for the first time this year and there are no comparative figures for last year.

Note 4 This category has changed this year to exclude complaints about the FCA Complaints Team, which is now captured separately.

This year there are a number of notable differences to the trends from last year:

1. Allegations about the FCA's failure to regulate a firm/group of firms/industry/activity have significantly increased by 663%.
2. There is an increase in complaints about the FCA's failure to authorise firms/individuals.
3. As with last year there is a significant number of complaints about the FCA's customer service and about the failings of the Regulator's own complaints team.
4. There were a number of complaints about the FCA's Register, all of which are connected to one case (PFX).
5. Complaints about the FCA's decision not to investigate a complaint, e.g. cases not being investigated due to the FCA time barring the complaint are notably higher in volume.

There are more allegations reviewed than number of complaints. This is because many cases have multiple elements which are not limited to one point. Each year the OCC reviews its approach to capturing the trends and themes in the complaints it handles in order to identify new trends (which means we do not always have equivalent data for the previous year). This year the OCC has further broken down individual elements within complaints to provide a clearer picture, as demonstrated by including data about the FCA's decision not to investigate a complaint.

The increase in complaints about the alleged failure of the FCA to regulate a firm/group of firms/industry/activity arises out of the large volume of group complaints received this year.

17 complaints were made about the FCA's customer service (unrelated to the complaints team). This year we continued to have a number of complaint handling complaints although this number has reduced from last year. 24 allegations were made about the FCA's Complaints Team. Of the 24 allegations, 9 were upheld and 3 were not investigated.

There was one instance where the Commissioner's findings included maladministration ([20230003](#)).

There is an increase in the number of complaints not being investigated by the FCA due to their application of a time bar. The increase is attributable to 129 complainants raising the same complaint about a firm. The FCA's decision was that it would not investigate the complaints. It relied on paragraph 3.3 of the Complaints Scheme (2016) which provides that complaints should be made within 12 months from the date on which the complainant first becomes aware of the circumstances giving rise to the complaint. The Commissioner agreed with the FCA in this instance and did not investigate the complaint: a copy of the Final Report can be read here: [FCA14-07-2023-Issued-14-July-2023.-Published-14-July-2023.pdf \(frccommissioner.org.uk\)](#).

5.4

Table 5: The Commissioner’s decisions in cases which were investigated and concluded

The Commissioner’s decision	Number of complaints
Agreed with FCA decision	193
Agreed with FCA decision – with some criticism of the FCA (policies/processes/procedures/remedies)	5
Disagreed with FCA decision	5
Partly disagreed with FCA decision; agreed with some elements but disagreed with others	39
N/A ^{note 1}	41
Total	283
Number of complaints with multiple element outcomes:	45
of these 45 complaints, total amount of multiple elements	157
of the total amount of multiple elements, the elements upheld	107

Note 1 This includes the complaints the Commissioner issued a decision on but did not make any assessment of an FCA decision outcome. In a further 41 instances the Commissioner issued a decision on matters the FCA had not considered, therefore in these instances the Commissioner neither agreed nor disagreed with the FCA decision.

The Commissioner concluded 283 complaints with a substantive decision. Of these, the Commissioner fully disagreed with the FCA’s decision in 5 complaints and partly disagreed (the Commissioner agreed with some elements and disagreed with other elements) with the FCA’s decision in another 39 complaints. In 5 cases the Commissioner agreed with the FCA decision but criticised aspects of the FCA processes and/or procedures.

Complaints can have multiple elements: 45 complaints this year had a total of 157 elements of which 107 were upheld by the Commissioner.

The Commissioner has agreed with the majority of the FCA’s decisions. However, in some of these cases, she has still considered that she should highlight criticisms of the FCA policies/processes/procedures/remedies, make suggestions and recommendations for process improvements within the FCA. The FCA has accepted most of the recommendations the Commissioner has made and provided updates to the Commissioner on the progress it has made in actioning them.

5.5

Table 6: Remedies recommended by the Commissioner

Remedies recommended for concluded cases	2032-2024	2022-2023
Apology	9	8
FCA investigation needed	2	1
Improvements	70	22
Compensation and increase in compensation	39	13
Other	–	8
Suggestions for improvements within the FCA or criticism	7	10
Put things right for the complainant	1	
Provide an update to the complainant	36	
Answer the complainants' question(s)	4	
Provide an update to the Commissioner	35	
Invitation to FCA to provide information	1	
Total	204	62

Note: in some cases, there were multiple recommendations and/or suggestions on individual elements within a single complaint.

The FCA itself had recommended payments for delays in complaint handling on a few cases which she agreed with and did not recommend the FCA to do anything further.

Out of the 204 remedies identified, the FCA did not accept 66. The 66 recommendations not accepted by the FCA were in relation to two recommendations made to the 33 Premier FX Limited (PFX) complainants.

The Commissioner asked the FCA to offer or increase compensation to 39 complainants. Compensation was recommended for two main reasons: issues with delays in the complaints handling and/or poor communication from the FCA. The FCA disagreed with 33 of the Commissioner's compensation recommendations (albeit in relation to a case about one firm PFX).

The Commissioner recommended the FCA make a payment to the complainants and recommended the FCA should hyperlink the FCA's Handbook Glossary to the relevant entries of the FS Register in order that consumers could better understand it, the FCA did not accept these recommendations. The Commissioner's Final Report and the FCA's response can be read here: [The Commissioner's Final Report into the Financial Conduct Authority's Oversight of Premier FX Limited \(PFX\) – Issued 14 December 2023. Published 18 December 2023 / FCA Response / Commonly asked questions about the Commissioner's Final Report](#)

The Commissioner continues to monitor progress of the recommendations the FCA has accepted to ensure that agreed changes are implemented.

5.6

Table 7: Type of complainant

Type of complainant	Deferred by FCA	Enquiry only	Excluded	Multiple allegation outcomes	Not investigated	Not upheld	Regulator re-opened s1 following OCC information request	Upheld	Withdrawn	2023-2024
Total	2	293	14	44	153	37	27	6	2	578
Firm/Group	0	19	2	4	5	13	0	0	1	44
IFA	0	2	0	0	0	0	0	0	0	2
Individual	2	264	12	37	148	24	26	6	1	520
MP	0	1	0	0	0	0	1	0	0	2
Solicitor on behalf of individual or group	0	0	0	1	0	0	0	0	0	1
Third party	0	5	0	2	0	0	0	0	0	7

46 complaints were received from firms/Groups and individual financial advisers (IFAs).

The Commissioner issued a decision on 24 of those complaints, one was withdrawn and 21 were enquiries.

13 of the 24 complaints related to fees. The complainants, all small firms, disputed invoices or fees related to late submission of regulatory returns or where they were invoiced after submitting an application for cancellation of permissions. The latter is a common theme among small firms, often individual advisors, who apply to cancel their permissions but are required to continue to submit regulatory returns and pay annual fees for the upcoming year if the firm was still authorised on a particular date. Failure to submit returns then resulted in administrative fees of £250 being issued, in accordance with the FCA rules. The Commissioner partially upheld one of these complaints in respect of the time the FCA took to rectify a technical issue with its system "RegData" and recommended the FCA make a payment to the complainant of £250. The FCA accepted this recommendation. The report is published here: [202201739-Issued-11-May-2023.-Published-01-June-2023.pdf \(frccommissioner.org.uk\)](https://www.frc.commissioner.org.uk/202201739-Issued-11-May-2023.-Published-01-June-2023.pdf)

Two complaints contained allegations that the FCA had failed to deal with both regulated and non-regulated firms. Both allegations were not investigated by the Commissioner, one did not fall within the remit of the Scheme and the other was sent back to the FCA as the allegation brought to the Commissioner differed to that which the FCA investigated.

Five complaints contained allegations about the FCA's customer service, two of these allegations were upheld by the FCA and the Commissioner agreed with these outcomes. The Commissioner made a recommendation that the FCA should write and apologise to one of these complainants and the FCA accepted this recommendation.

Two complaints were from firms who had sought to apply for authorisation, one had not been granted it and the other was unhappy with the process and lack of support. The Commissioner did not investigate one complaint and did not uphold the other.

Two complainants asked the Commissioner to review a FOS decision against their firm which the Commissioner excluded as being out of scope of the Scheme.

6

Policy Considerations

I have reviewed the following matters related to the application and scope of the Scheme.

Compensation

There is a complicated history regarding compensation under the Scheme and my predecessor's input into policy in this area. The final report on the FCA's oversight of PFX was issued on 14 December 2023, in which the Commissioner made a recommendation that the FCA pay compensation to a group of PFX consumers in respect of its contributory role in relation to their losses. The FCA declined to do so even though it had accepted its own supervisory failings. This represents another example where the FCA has played a contributory role in consumer losses through supervisory failings with respect to regulated firms yet has declined to pay compensation. Other instances include its oversight of Keydata, Connaught Income Fund, and LCF.

In the brief period in which I have been in position, the point has been made to me that the powers afforded to the Regulators under the Financial Services Act 2012 to set the parameters of the Scheme appear to have been used so as to render any meaningful compensatory payments for financial loss in respect of successful complaints under the Scheme in the circumstances above highly unlikely. This was a point put forward clearly and forcefully by my predecessor.

In my view, the consequence of the approach to compensation that has been adopted by the Regulators (first as a matter of policy, and subsequently incorporated expressly in the 2023 Scheme) is that it will rarely, if ever, make any compensatory payment for financial loss in cases where there has been a supervisory failure. An example is the inclusion of the principle that compensation for financial loss will only be payable if the Regulator is the "sole or primary cause of the loss." Commentators have pointed out that there is often a regulated firm involved and that the better approach is to pay compensation by reference to the relevant contributions. Again, this view was shared by my predecessor.

It is, therefore, likely that I will be making recommendations for compensatory payments for financial loss in the knowledge that such an outcome is not consistent with the factors set out in the Scheme which apply to the Regulators.

This situation seems to have arisen principally as a result of the fact that the Regulators and the Commissioner are each applying different factors when making their respective decisions under the Scheme and neither is required to have regard to the factors taken into account by the other.

My statutory function as the Commissioner is to recommend compensation if I consider it "appropriate" irrespective of the constraints that the Regulators have adopted in respect of their own deliberations. In practice, it appears from the experience of my predecessors that I will be making such recommendations in the expectation that they will (in almost all cases) not be followed.

I am concerned that this will, in many cases, result in me being required to make recommendations as to what is, in my view, the appropriate outcome in a given case, thereby raising the hopes of consumers that they might receive a compensation, only for the Regulators subsequently to decide not to follow the recommendation, in accordance with their established practice.

My view and, I believe, the view of my predecessor is that such an outcome is likely to add to the distress and confusion for consumers who bring complaints under the Scheme, and risks

undermining confidence in the function of the Commissioner and the Scheme, rather than improving due process and transparency.

I will continue to liaise with both the Regulators and relevant government bodies as appropriate on this matter.

Time Bar

A number of complainants made representations to the Commissioner prior to my appointment about the interpretation of paragraph 3.3 of the (2016) Scheme which says:

“Complaints should be made within 12 months of the date on which the complainant first became aware of the circumstances giving rise to the complaint. Complaints made later than this will be investigated under the Scheme only if the complainant can show reasonable grounds for the delay.”

It appears that in some cases, in applying the 3.3 test to determine when the time limit starts running, the FCA concluded that the publicity of high profile events led to the actual knowledge by the complainants of the issues giving rise to the complaints.

Complainants, in turn, argued either that they had not been aware of the publicity and/or that the publicity of the events had not necessarily alerted them to the FCA’s involvement in the matter. This issue was not fully resolved when I was appointed, and six cases were suspended pending my review of the matter.

I have discussed the matter with the regulator and we are agreed that the time limit starts running when the complainant becomes aware of action or inaction by one of the Regulators which may not coincide with the publicity of high profile events.

The Regulator should consider when the complainant became aware of its actions or inactions. This is a question of fact which the Regulator must determine on the basis of relevant evidence.

The test is based on actual knowledge (the person knew) rather than constructive knowledge (a reasonable person would have known). Although actual knowledge is a fact which may for this purpose be determined from evidence on the balance of probabilities, it is much more difficult to establish than constructive knowledge. The wording of the Scheme is clear that the Regulators must consider when the complainant themselves actually first became aware of the issues (or circumstances).

The Regulator and I must decide on the basis of the available evidence when, on the balance of probabilities, the complainant became aware that there was a basis to complain to the Regulator about some action or inaction by the Regulator.

7

Resources and Performance

Resources

Under the Scheme, the Commissioner must be provided by the Regulators with “sufficient financial and other resources to allow her to fulfil her role under the Scheme properly.” The Commissioner confirms that she has had the resources she requires.

Performance

The OCC is committed to meeting the standards of the Ombudsman Association Service Standards Framework and performance is monitored according to the service standards which we publish:

<https://frccommissioner.org.uk/wp-content/uploads/Quality-and-Service-Standards-October-2023.pdf>

Performance is measured based on the timeliness of investigations, the speed with which correspondence is dealt with and the outcomes from complaints about service.

The OCC acknowledges complaints within three working days, indicates the usual timescales for completion of investigations, and updates complainants every four weeks.

The OCC aimed to complete complaint investigations (Preliminary Report issued) within eight weeks at the end of the previous year. This timescale was increased to twelve weeks during the past year as case numbers doubled. Although additional staff have been recruited in 2024, there is anticipation of an influx of large group complaints in 2024/5, in view of which the service level target of 12 weeks will remain. 76% of cases received a Preliminary Report within 12 weeks during the past year. This is in part due to cases being held up pending my appointment due to policy issues or issues of complexity.

We are monitoring service complaint levels: we have received one service complaint, which was about a delay in the complainant receiving a Preliminary Report on their complaint.

We continue to review how feedback from complainants is obtained, and how this feedback can help inform internal systems and processes and general improvements in the transparency and accountability of the Scheme.

Appendix

Expenditure

Profit and Loss Account

For the year ended 31st March 2024

	2023/24 £	2022/23 £
Administrative expenses	(766,126)	(523,832)
Other operating income	–	–
Operating loss	–	–
Interest receivable	–	–
Profit on ordinary activities before taxation	–	–
Tax on profit on ordinary activities	–	–
Profit on ordinary activities after taxation	–	–

All amounts relate to continuing operations.

There were no recognised gains and losses for 2024 nor 2023, other than those included in the profit and loss account.

Expenditure during the year compared to the previous period.

The audited accounts for the period ended 31st March 2024 are available from the Registrar of Companies, Companies House, Crown Way, Maindy, Cardiff, CF14 3UZ. The company's auditors are Price Bailey.



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