



Response to the FCA's Consultation Paper CP26/9:

Modernising the Redress System

Submitted by the Transparency Task Force on 11th May 2026

<https://www.fca.org.uk/publications/consultation-papers/cp26-9-modernising-redress-system>

About the Transparency Task Force

The Transparency Task Force (TTF) is a UK-based Certified Social Enterprise with a formal mission to 'Promote reform of the financial sector so it serves society better.' We are UK-based but operate internationally, with various degrees of engagement in 20 countries.



We are committed to driving positive change through transparency, accountability and integrity across financial services.

We advocate for consumer protection, fair markets, and access to justice for those harmed by misconduct.

We believe that 'sunlight is the best disinfectant' and our 'North Star' question is always: "what's best for the consumer?"

The Transparency Task Force's purpose is to promote a financial system that is fair, transparent, accountable, and capable of delivering effective protection and redress. Its aims are to advocate for the victims of financial misconduct, crimes, scandals, frauds and regulatory failures, by driving positive, progressive and purposeful reforms that achieve a fair, trusted and just system,

where service providers, regulators and government agencies provide appropriate protection and deliver good outcomes, including redress for historical wrongs.

1. Introduction

The Transparency Task Force welcomes the opportunity to respond to Financial Conduct Authority (FCA) and Financial Ombudsman Service (FOS) Consultation Paper CP26/9 on Modernising the Redress System.

We are responding from the standpoint of:

- **Protecting consumers and victims of financial misconduct,**
- **Promoting transparency in regulatory decision-making,**
- **Challenging weaknesses in the regulatory framework that enable misconduct, and**
- **Ensuring that changes to the regulatory framework do not inadvertently harm consumers or restrict their access to justice.**

The redress system is the last line of defence for consumers who have been harmed by financial misconduct. When it works well, it provides justice, deters future misconduct, and rebuilds trust. When it works badly, it compounds harm, emboldens wrongdoing, and erodes confidence in financial regulation.

TTF therefore approaches this consultation in a constructive but vigilant spirit. We are genuinely supportive of reforms that make the redress system faster, more consistent, and more accessible. However, we are deeply concerned that several of the proposals in CP26/9, taken together or in their current form, risk tilting the system away from consumers and towards firms at precisely the moment when consumer trust in financial services is at its lowest ebb.

Our overarching position is this: Modernising The Redress system is a legitimate and important goal, but it must be achieved by making the system more effective at delivering justice to consumers - not by making it easier for firms to avoid or minimise their redress obligations.

This consultation appears to place greater emphasis on reducing complaint volumes and improving operational efficiency than on strengthening consumer protection and delivering fair outcomes, as required under the Consumer Duty. It is likely that relatively few responses will be submitted from a genuine consumer perspective. This submission is therefore informed by direct experience of systemic failures across the financial advice, firm, ombudsman and regulatory framework, including interactions with senior representatives of both the Financial Ombudsman Service and the Financial Conduct Authority.

We wish to draw attention to a significant concern that the questions in Appendix 1 do not always align clearly with the wider proposals discussed in the paper. For example, question 6 on

complaint dismissal has wider consumer protection implications than the wording alone may suggest. Similar concerns arose in the November 2024 Call for Input and CP25/22 proposals on modernising redress.

The planned changes to Financial Ombudsman Service independence are of particular concern because they do not appear adequately to consider how many complainants are inexperienced, stressed, elderly, digitally excluded, or otherwise vulnerable.

2. Executive Summary of TTF's Position

We support the following aspects of the consultation:

- The introduction of a registration stage at the Financial Ombudsman, provided it is genuinely designed to streamline well-founded complaints rather than filter them out;
- Improved operational efficiency measures in DISP and COMP that reduce friction without reducing access to justice;
- Enhanced guidance for firms on proactive identification and rectification of harm - early resolution is better for consumers than a long Ombudsman process;
- The improved SUP 15 guidance requiring earlier reporting of emerging redress issues to the FCA; and
- Formalised cooperation between the FCA and FOS on emerging Mass Redress Events (MREs).

We have significant concerns about the following:

- **The proposed changes to the fair and reasonable test:** Removing 'good industry practice' as a consideration is a material weakening of consumer protection and should not proceed without far greater justification and scrutiny. We are also very concerned about the proposal that FOS should accept a Firm's action as being 'fair and reasonable' if they comply with the relevant Regulations because this may mean that FOS cannot deliver a fair outcome in circumstances where strict compliance results in obvious unfairness to the consumer.
- **The expanded dismissal grounds:** Several proposed grounds, particularly those relating to complaints that 'exceed the award limit' and 'other compelling reasons,' carry serious risks of being used to deny access to justice to consumers with legitimate grievances.
- **The pre-registration stage as a potential barrier to access:** Without robust safeguards, the registration stage risks becoming a de facto filter that disproportionately disadvantages vulnerable, less financially literate, and unrepresented consumers.

- **The absence of consumer redress for historical harm:** This consultation, like others we have responded to, is entirely forward-looking. It does not address the position of millions of consumers already harmed under the current system.
- **The framing of the consultation around firm certainty and investment:** The foreword emphasises benefits of reform for firms and investors. The North Star question must always be: what is best for the consumer?

3. The Wider Context: Trust, Harm and the Pattern of Regulatory Inaction

3.1 Systemic Concerns Identified

The Transparency Task Force has, as expressed in our many consultation responses, presented evidence highlighting:

- unfair consumer treatment and inadequate consumer protection;
- lack of accountability;
- regulatory gaps that have emerged since FSMA was enacted;
- regulatory inaction in the face of known consumer harm; and
- barriers to justice and fair redress.

Members and contributors to the Transparency Task Force have described a failing financial system in which consumers and SMEs have suffered significant losses caused by unfair treatment, opaque practices and poor oversight. Cases have been brought to our attention involving individuals who took their own lives following financial harm that was followed by ineffective regulatory interventions and the lack of meaningful redress.

These are not isolated complaints. They point to systemic weakness.

3.2 The Redress System Exists to Serve Consumers

The Financial Ombudsman Service was created to provide consumers with a free, accessible, informal alternative to the courts when they have been wronged by a financial firm. Its foundational purpose is to deliver justice to individual consumers where firms have failed them.

Any modernisation of the redress system must be measured against that purpose. The FCA's own Financial Lives Survey data (May 2025) records that only 39% of adults have confidence in UK financial services, and only 36% believe most financial firms are honest and transparent. These figures are deeply troubling. That trust deficit can only be closed by demonstrating, through consistent action, that the regulatory framework genuinely protects consumers when things go wrong.

3.3 Evidence of Poor Redress System Performance

The poor performance of the Financial Ombudsman Service reinforces these concerns. According to the Independent Assessor's 2024/25 Annual Report:

- 29% of cases were judged satisfactory;
- 39% resulted in learning lessons or improvement recommendations; and
- these figures have deteriorated from previous years.

The Independent Assessor highlighted failures of impartiality, material errors of fact, and cases where material information was overlooked. Although the Independent Assessor can assess process rather than substantive outcomes, poor process quality strongly suggests that consumer outcomes are also adversely affected. This indicates a system that is not functioning effectively for consumers.

3.4 The Pattern We Have Seen Before

The TTF has consistently documented a pattern in UK financial services regulation: harm is identified, early warning signs are disregarded, and by the time reform occurs, the scale of consumer detriment has multiplied. This pattern is directly relevant to the redress system.

In each of the following cases, the redress system was called upon to provide justice to consumers who had suffered harm that earlier regulatory action could have prevented:

- London Capital & Finance: 11,600 bondholders lost £237 million;
- Woodford Investment Management: investors lost £3.7 billion;
- British Steel Pension Scheme: 7,700 people mis-sold;
- Car finance scandal: systematic wrongdoing affecting millions of consumers, with whistleblower evidence ignored by the FCA since 2016; and
- PPI: the largest retail financial mis-selling scandal in UK history, requiring a decade of redress activity.

In every case, a stronger, faster, more accessible redress system would have delivered justice sooner. The lesson is not that the system needs to be made more restrictive - it is that it needs to be made more effective at catching, escalating, and resolving harm.

3.5 Governance and Accountability Concerns

Consumer protection is also being eroded by planned changes to redress and regulatory oversight introduced ahead of Parliamentary approval through the 2025 Memorandum of Understanding. That document appears significantly less consumer-oriented than the 2015 version and is written in language that is not readily accessible to ordinary consumers.

Consumers cannot be guaranteed fair and reasonable treatment because:

- the Financial Ombudsman Service website is inadequate compared with the Parliamentary and Health Service Ombudsman and Local Government and Social Care Ombudsman, which provide practical guidance, clearer pathways and stronger recognition that many people benefit from support in bringing complaints;
- the FCA Consumer Panel is not an open route through which ordinary users can raise concerns directly;
- the FCA appears unable to provide evidence of substantive action taken over at least five years to ensure the Financial Ombudsman Service meets its legal obligations;
- the FCA does not appear to be taking all steps necessary to protect consumers, despite the powers available to it under FSMA;
- concerns previously raised with the FCA and FOS about the way the Call for Input misleadingly described the FCA's oversight role in para 3.30 do not appear to have been properly addressed in the sequence of consultations;
- responsibility for monitoring FOS appears in practice to have been delegated to an Oversight Committee that also covers the FSCS and PRA;
- the minutes of that Oversight Committee are not published, and it appears that they are not approved by the FCA Board;
- the FCA appears to allow the FOS Board to determine for itself whether its quality assurance system is sufficient;
- better quality control models exist elsewhere, including overseas, involving audits, external review and sampling of decisions;
- recent policy shifts that place greater emphasis on growth and competitiveness risk weakening the consumer protection principles Parliament was promised; and
- changes appear to be being implemented via Memoranda of Understanding before Parliament has approved the underlying legislative direction.

There are also concerns that the requirements of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 are not being met in relation to transparency, understandable information, and fairness in relation to the evidence and arguments put forward by each party.

These are serious governance, accountability and consumer protection concerns.

3.6 The Growth Agenda Must Not Drive Redress Reform

We note with concern that the foreword to CP26/9 explicitly frames the consultation around providing firms with 'greater certainty to invest and innovate.' The TTF wishes to register clearly:

the unpredictability that industry is seeking to reduce is, in many cases, the legitimate exercise of the Financial Ombudsman's jurisdiction to hold firms to account for consumer harm. A redress system that is entirely predictable from a firm's perspective is one in which consumer harm is foreseen and priced in - not one in which consumers are properly protected.

In keeping with our previous consultation responses, we strongly urge the FCA and Financial Ombudsman to reconsider any willingness to jeopardise consumer protection under pressure to succumb to industry lobbying for deregulation.

We see this bowing to pressure from industry as a fundamental flaw in the UK's financial regulatory approach - rather than standing firm it is caving in, again.

The pattern of prioritising firm convenience over consumer protection, followed by mis-selling with consequential consumer detriment and reputational damage for the sector, has been repeated many times, over many decades.

We respectfully urge the leadership team at the FCA and Financial Ombudsman to study the talk given by Federal Reserve Governor Michael Barr, entitled "Booms, busts, and financial regulation" delivered in July 2025 at the Brookings Institute, and then completely reconsider their approach by standing firm against lobbying by the industry. Please also see the excellent report by Positive Money: "The Power of Big Finance."

3.7 Why This Matters Now

If more consumers are to be encouraged to invest in capital markets and rely less on bank deposits and defined benefit pensions, they will need stronger consumer protection, clearer access to redress, and greater confidence in both the regulator and ombudsman. At present, financial advice is becoming less accessible, adviser numbers are shrinking, and many consumers are already excluded from affordable regulated advice.

Against this background, the proposals in CP26/9 must be assessed not on efficiency alone, but on whether they improve fairness, accountability and consumer outcomes and encourages new investors.

3.8 This consultation process is unfair to consumers

We have serious concerns that this consultation, as currently structured, does not provide a sufficiently transparent or accessible basis for meaningful consumer engagement because of reading age requirements and particularly in relation to the draft Handbook rules and Finalised Guidance that are part of the website

a) Overarching Concern: Consultation Structure and Accessibility

The consultation package comprises three distinct elements:

- Policy proposals (subject to consultation questions)
- Finalised guidance (FG26/2), not subject to consultation
- Draft Handbook amendments (approximately 33 pages), which are central to implementation

While the policy proposals are accompanied by some consultation questions, the Finalised Guidance has not been consulted upon and the draft Handbook—despite being the mechanism through which consumer rights will be operationalised—is not being systematically or transparently consulted upon especially looking for consumers views.

Key concern:

The consultation invites views on high-level principles, but not adequately on the binding rules that will govern outcomes in practice.

This creates a structural imbalance:

- with few Consumers likely to respond to complex narrative questions
- a majority of responses from Firms and legal specialists who are more likely to be able to scrutinise and influence the technical drafting

This risks undermining the FCA's stated objective of ensuring the system works effectively for all consumers.

b) The Status and Importance of Draft Handbook Rules

The draft Handbook provisions in CP 26/9 from p66- 99 are not ancillary; they are determinative but have no questions at all.

They will define:

- How firms interpret their obligations
- How complaints are handled and potentially dismissed
- The scope within which the Financial Ombudsman Service operates

In effect, these rules shape the practical availability of redress, not merely its theoretical framework.

It is therefore inappropriate for these provisions to be treated as secondary or technical material outside the main consultation focus.

c) Impact on Ombudsman Independence and Consumer Outcomes

The consultation signals a shift toward closer alignment between FCA rules and Ombudsman decision-making.

While consistency is a legitimate aim, there is a material risk that:

- The Ombudsman's "fair and reasonable" jurisdiction is constrained
- Outcomes become more closely tied to rule compliance rather than fairness in context
- Consumers lose an important safeguard where rules are incomplete or lag evolving risks

This represents a substantive change to the balance of the redress system and should be explicitly acknowledged and consulted upon. We expand on these in answers to the questions.

Many of the proposals risk making matters worse.

You requested examples so here are a few of the many case studies that we are aware of that relate to matters in Modernising Redress consultations.

4. TTF Case Studies Demonstrating Systemic Failure

Case Study A – Investment Consolidation and Misrepresentation

This case concerns a couple in their late seventies. In 2019, the FCA did not supervise appointed representative consolidations adequately, and a stockbroking agency was acquired by a private-equity-backed consolidator that did not itself have stockbroking permissions. The clients were led to believe that the service would remain unchanged. In reality, a consolidator without stockbroking permissions could not offer the same service. A centralised investment proposition was then implemented seven months later without proper explanation.

Relevant FCA guidance and principles concerning acquisition of new clients, suitability and fair treatment appear to have been ignored. The consumers argued they had been misled and that compensation should have reflected the service they were promised and lost, potentially amounting to a six-figure sum. The firm offered only £5,000 for poor service.

The Financial Ombudsman Service was asked to investigate the case on the basis of misleading conduct, breaches of FCA Principles, and potential wider implications affecting around 17,000 clients from 50 companies. FOS refused to raise these wider concerns with the FCA.

It then took 40 months for FOS to agree the firm's offer, while refusing to investigate the consolidation itself on the basis that it was irrelevant. An FOI request seeking company communications took nine months, and no such communications were disclosed. Letters to FOS senior leadership, including the Chair and Chief Executive, were not properly answered or escalated. A new ombudsman effectively restarted matters. Additional evidence that undermined earlier reasoning went uninvestigated.

This case illustrates the danger of a redress system that narrows complaints, avoids systemic issues, and prioritises procedural closure over substantive fairness.

Case Study B – SME Banking and Hidden Lending Risk

The Transparency Task Force has also heard cases involving SMEs who were provided with lending arrangements containing opaque or insufficiently explained credit features that significantly increased risk and cost. In these cases, business customers were not adequately informed of the implications of the structures into which they were drawn. Complaints often became narrowed to technical points, while broader concerns about transparency, pressure selling and unfair treatment were not fully investigated. This resulted in under-redress and reinforced the sense that institutions can avoid accountability if a complaint is framed narrowly enough.

Case Study C – Pension Transfer and Suitability Failure

The Transparency Task Force has encountered cases where consumers transferred pensions into higher-risk investments that were unsuitable for their needs, objectives or vulnerability profile. Documentation was often relied upon by firms and, later, by complaint handlers, even where it did not reflect the consumer's actual understanding. In several cases, redress discussions focused too heavily on paperwork and not enough on whether the consumer had truly understood the risk or whether the advice was genuinely suitable. This demonstrates the danger of relying on form over substance.

Case Study D – Complaint Fatigue and Procedural Attrition

A recurring feature of cases brought to our attention is complaint fatigue: repeated requests for information, unclear explanations, long periods of silence, and moving goalposts about what evidence is required. Some complainants simply give up. A system that reduces complaint numbers by exhausting complainants is not an effective redress system.

5. Responses to Consultation Questions

5.1 Question 1: Do you agree with the proposed rules to introduce a registration stage?

TTF Position: ONLY IF they are essential consumer safeguards that must be non-negotiable.

The TTF supports the principle of a registration stage. The current system, where poorly evidenced complaints proceed through full investigation - only to be dismissed or abandoned - wastes the FOS's resources and ultimately harms consumers by clogging the service with cases that delay properly evidenced complaints.

However, we have serious concerns about how the registration stage may operate in practice. Adding further process layers is likely to create more stress for complainants who are already distressed by the underlying financial harm and by the complexity of the complaints process. It appears more likely to reduce access than improve quality.

The risk is not theoretical: a registration stage that places the burden of evidential preparation on the complainant, without adequate support, will disproportionately exclude the very consumers who most need the FOS's help. These include:

- Consumers in vulnerable circumstances - those with mental health difficulties, cognitive impairment, low financial literacy, or communication challenges;
- Consumers who are elderly, digitally excluded, or who lack access to professional representatives;
- Consumers who are victims of firms that withheld, destroyed, or refused to provide documentation; and
- Consumers who have simply never had to navigate a formal complaints process before.

Paragraph 2.4 refers to claims management companies not agreeing with the proposal and to consumer groups agreeing only if plain language guidance and inclusive design were added. At present, FOS has too little consumer input to inspire confidence in the design of such a process. The 2025 Memorandum of Understanding is one example of inaccessible drafting. Another is the lack of practical guidance and worked examples on the FOS website to help consumers frame complaints effectively.

The FOS website compares poorly with ombudsman services that are more clearly consumer-focused, offer tips and examples, recognise that many people need guidance through the process, and signpost Citizens Advice or similar support.

A formal pre-registration and registration stage risks creating a larger barrier to justice for elderly, vulnerable, distressed or digitally excluded consumers who struggle to:

- understand how FOS and the FCA operate;
- use technology confidently;
- articulate complaints clearly;
- identify relevant evidence; and
- navigate unexplained procedural requirements.

Without adequate support, such a staged process is not fair or reasonable and risks valid complaints being filtered out prematurely, and firms benefiting from procedural complexity and consumer fatigue rather than substantive fairness.

The FOS website appears to provide more structured support to businesses than to consumers.

The Independent Assessor's evidence of poor performance in cases escalated to her also creates doubt about FOS's ability to perform these new tasks consistently and equitably.

For these consumers, the registration stage - however well-intentioned - risks becoming a barrier to the justice they are owed. The TTF therefore supports the registration stage only on the basis that the following safeguards are made mandatory and enforceable, not merely encouraged.

Recommendations on the Registration Stage

The FCA and Financial Ombudsman should:

- **Provide mandatory human support at pre-registration:** the FOS must offer, at no cost to the complainant, direct telephone and in-person assistance to any consumer unable to complete registration requirements in writing or digitally. This must be a clearly advertised first option, not a last resort;
- **Ensure active assistance for consumers in vulnerable circumstances:** the FOS must identify and flag potentially vulnerable consumers at the pre-registration stage and provide tailored, proactive support - including adjusted evidential expectations and extended deadlines;
- **Address firm-held evidence:** where the evidence required to proceed is held by the respondent firm, the FOS must have clear powers to require that evidence to be produced before the complaint is assessed for readiness. A consumer should not be denied registration because a firm has withheld relevant evidence;
- **Set a maximum pre-registration period:** the FOS must publish and adhere to a maximum timeframe - we recommend no more than 30 days - after which a complaint must either be registered or a formal written decision issued with a meaningful right of appeal;

- **Learn from best practice:** FOS should learn from the Parliamentary and Health Service Ombudsman and similar bodies about complaint process design and website support;
- **Ensure non-exclusionary design:** any registration stage should ensure that consumers receive support in articulating complaints and that complaints are not redefined without their informed agreement. The process should be assisted, incapable of rejecting complaints on technical grounds alone, and subject to reasonable timescales; and
- **Publish regular monitoring data:** the FOS must publish quarterly data on pre-registration outcomes disaggregated by complaint type, sector, and consumer vulnerability characteristics, so that any systemic filtering effect can be identified and challenged.

5.2 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?

TTF Position: – ONLY IF the readiness framework is developed with genuine consumer input.

Agree with Howard

We support the development of product-specific readiness guidance, provided that consumer organisations, free advice services (Citizens Advice, StepChange, and others), and consumer law specialists are fully involved in developing product-specific readiness requirements - not just industry and trade bodies. Readiness requirements must be communicated in genuinely plain language, tested with real consumers. The FOS must be empowered to proceed on available information if a consumer has genuinely tried to provide evidence but faces barriers outside their control.

Consumers need a process in which they understand how the system works, the ombudsman service actively helps them, and complaints can be made ready for assessment with minimal stress and without quasi-legal burdens. Consumers currently receive little or no help in producing a complaint and are not adequately signposted to support.

As seen in Case Study A, complainants may not initially present complete documentation, a full understanding of what occurred, or fully developed arguments - yet these are the very matters that should be refined during investigation.

Paragraph 2.18 refers to a **Case Readiness Framework** that will ensure only well-informed and appropriately evidenced complaints are registered. From a consumer perspective, this reads as a restrictive and consumer-unfriendly approach. The flow chart also suggests that dismissal may be prioritised ahead of registration, and that additional delay may result, despite ADR expectations around timely resolution.

Recommendation

- Readiness should not be used as a mechanism to exclude cases;
- consumers should be involved in designing processes that safeguard the interests of non-English speakers, digitally excluded users and vulnerable complainants; and
- the emphasis should be on helping consumers define and refine complaints and identify relevant evidence, not screening them out.

5.3 Question 3: Do you have any other comments regarding the proposed registration stage?

a) The proposed instrument appears heavily focused on creating mechanisms to dismiss complaints rather than refine them. The drafting repeatedly refers to “the ombudsman”, but in practice there are many ombudsmen, investigators, case handlers and others, and the quality control arrangements remain unclear.

b) The legislative proposals should contain visible consumer safeguards. Instead, they appear driven by efficiency, case management, broader dismissal powers, and increased scope for FCA influence over complaints where regulatory action or inaction may itself have contributed to losses.

Some cases brought to our attention show that FOS is unwilling or unable to investigate concerns about FCA actions or wider systemic implications. Others have experienced unreasonable timelines. In Case Study A, the timeline for responses included holiday periods and long inactivity.

c) There are also concerns about proposals allowing referral to another scheme or court without complainant consent, even where this may add cost or delay. The broader public impression that consumers can appeal to the Independent Assessor if dissatisfied is misleading, because she cannot review the substance of decisions, only aspects of service and process.

d) Given the Independent Assessor’s Reports findings, reform should prioritise improving investigation quality, not reducing case inflow. There is a real risk that the registration stage becomes a de facto rejection mechanism rather than an administrative step.

THE RIGHT TO DISMISS – CONSUMER RIGHTS AND NATURAL JUSTICE

In all cases where FOS is considering dismissing complaints, the intention to dismiss must lead to an ombudsman clearly explaining his or her reasons and intentions to dismiss the complaint, and allowing this to be challenged by the complainant, with any response reviewed by a different ombudsman. **THIS APPLIES TO ALL DISMISSAL GROUNDS (QUESTIONS 4 TO 19).**

5.4 Question 4: Do you agree that the Financial Ombudsman should retain the ability to dismiss complaints that are frivolous or vexatious?

TTF Position: PROVISIONAL SUPPORT.

Yes, in principle. The ability to dismiss genuinely frivolous or vexatious complaints is essential to the efficient operation of the service. We have no objection to retaining this ground, provided the FOS publishes clear, illustrative guidance on what constitutes 'frivolous or vexatious' so the power is not over-applied.

HOWEVER, THIS POWER MUST BE NARROWLY DEFINED AND APPLIED CAUTIOUSLY. Several cases brought to our attention have involved complainants being threatened with dismissal simply for being persistent. There is a significant risk that complex or poorly articulated complaints are wrongly labelled frivolous, or that consumers frustrated by poor customer service or dismissive treatment are characterised as vexatious.

Recommendation

- Clear definitions should be published;
- reasons for dismissal should be documented fully;
- there should be a right to challenge dismissal; and
- a second-opinion safeguard should be considered before such dismissals are finalised.

5.5 Question 5: Do you agree that the Financial Ombudsman should be able to dismiss complaints where complainants have acted vexatiously, abusively or otherwise unreasonably?

TTF Position: QUALIFIED SUPPORT IF THE FOLLOWING SAFEGUARDS APPLY.

SAFEGUARDS. The TTF accepts that FOS staff should be protected from abuse and that the service must have tools to manage genuinely serious unreasonable conduct. HOWEVER, WE INSIST ON THE FOLLOWING:

- 'Unreasonable behaviour' must be defined with great precision. Broad, subjective formulations risk being used to dismiss complaints from consumers who are frustrated or persistent - but who have legitimate grievances;
- Vulnerability must be a mandatory consideration before any dismissal on this ground. Many consumers who display behaviours that may appear unreasonable are doing so because of mental health conditions or the trauma of financial harm; and

- A first-stage warning and an opportunity to engage a representative or adjust behaviour must always precede any dismissal. Dismissal should be an absolute last resort.

A number of cases brought to our attention have involved threats to dismiss complaints without proper explanation of what conduct was said to justify that threat. In some cases, it is possible that ombudsman staff contributed to the conflict through poor communication. While genuinely abusive conduct should not be tolerated, without a clear policy, proper warnings and examples of what “otherwise unreasonably” means, this proposal risks giving ombudsman staff excessive unchecked power, misinterpreting frustration or persistence as unreasonableness, and silencing legitimate complainants.

Given the imbalance of power between firms, FOS and consumers, the complaint’s merits must remain distinct from the complainant’s conduct.

Recommendation

- Behaviour should be separated from the substantive merits of the complaint;
- complaints should still be assessed on substance wherever possible;
- there should be a formal warning process and an appeal mechanism; and
- guidance should include examples of conduct that does and does not justify dismissal.

5.6 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 regulatory standards?

TTF Position: NO STRONG CONCERN -

No. This is a fundamentally flawed proposal. It assumes that firms act fairly and reasonably if they have followed regulatory standards or guidance. But Case Study A and other cases brought to our attention show that consumers may suffer serious harm even where firms claim compliance, and in some cases, firms may have acted dishonestly, misleadingly, or in ways inconsistent with consumer protection principles.

Regulatory standards alone are not sufficient to ensure fairness, openness, honesty or reliability. Many consumer harms arise despite technical compliance, because of flawed industry-wide practices, or because firms redefine or downgrade serious complaints. Allowing dismissal on this basis would create a safe harbour for unscrupulous firms, undermine independent scrutiny, and cause further consumer harm.

This dismissal ground must be subject to mandatory conditions:

- The FOS must be satisfied - not merely told - that the firm's review was conducted genuinely and fully in accordance with the regulatory standard, not merely in procedural form;
- The FOS must retain full discretion to investigate where the consumer presents evidence that their particular circumstances were not adequately addressed; and
- The dismissal ground must not apply where the regulatory standard in question has itself been found inadequate, or where the FCA has subsequently indicated it did not fully capture the harm in question.

CRITICAL WARNING: This dismissal ground, if applied broadly, risks being weaponised by firms in Mass Redress Event scenarios to block complaints from consumers who were not properly compensated under firm-designed review frameworks. The motor finance scandal provides a live example: many lenders have issued 'final response' letters purporting to comply with FCA guidance while fundamentally denying consumers the redress they are owed. This ground must not become a tool to foreclose those consumers' access to the FOS.

Recommendation

- This proposal should be shelved unless and until there is a transparent mechanism for demonstrating to consumers that the firm has properly followed FCA requirements, considered all relevant laws, guidance and Consumer Duty obligations, and engaged fairly with the complaint;
- compliance should not be treated as equivalent to fairness;
- any such model would require accreditation, audit and clear explanation to consumers; and
- a standardised COMPLAINT HANDLING FORM (DRAFT BELOW) should be used by firms and adapted as necessary, by FOS to give to consumers with their decision to show the process was fair and open:

MODEL COMPLAINT HANDLING CHECKLIST

For firms operating under Financial Conduct Authority rules and subject to review by the Financial Ombudsman Service.

Section 1: Complaint Definition & Scope

- **1.1 Complaint Summary:** Clear, plain-English summary of the complaint.
- **1.2 Issues Identified:** List of each issue raised by the complainant, with confirmation that all issues have been addressed individually.

- **1.3 Scope Confirmation:** Any issues excluded from review, with justification for exclusion.

Section 2: Regulatory Framework Applied

- **2.1 FCA Rules & Principles Considered:** Specific rules cited (e.g. Principles for Businesses, COBS, Consumer Duty).
- **2.2 Application of Rules:** Explanation of how each rule was applied to the case.
- **2.3 Guidance & Standards:** Relevant FCA guidance considered and industry standards or best practice referenced.
- **2.4 Deviations:** Any rules or guidance not followed, with explanation and justification.

Section 3: Consumer Duty Assessment (Mandatory)

- **3.1 Good Outcomes:** Explanation of how the firm assessed customer outcomes.
- **3.2 Price & Value:** Assessment of whether the product/service represented fair value.
- **3.3 Consumer Understanding:** Evidence that communications were clear and not misleading.
- **3.4 Consumer Support:** Assessment of whether appropriate support was provided.
- **3.5 Outcome Conclusion:** Did the firm conclude the outcome was fair? Full reasoning required.

Section 4: Fact-Finding & Evidence Review

- **4.1 Evidence Considered:** Full list of documents reviewed.
- **4.2 Evidence Gaps:** Missing, incomplete, or unavailable records.
- **4.3 Assumptions Made:** Any assumptions used in the absence of evidence.
- **4.4 Consumer Input:** Evidence submitted by the complainant and how it was considered.

Section 5: Advice / Decision Assessment (if applicable)

- **5.1 Client Circumstances at the Time:** Objectives, needs, and priorities.
- **5.2 Risk Assessment:** Risk profile and how it was determined.
- **5.3 Options Considered:** Alternative recommendations or actions.
- **5.4 Suitability Conclusion:** Why the final decision or advice was considered appropriate.

Section 6: Counterfactual Analysis

- **6.1 Alternative Scenario:** What would likely have happened if appropriate action had been taken.
- **6.2 Financial Impact:** Estimated difference in outcome.

- **6.3 Supporting Evidence:** Basis for conclusions.

Section 7: Conflicts of Interest

- **7.1 Identified Conflicts:** Financial incentives, commissions, or internal pressures.
- **7.2 Mitigation Steps:** Actions taken to manage conflicts.
- **7.3 Residual Risk:** Whether any conflict remained.

Section 8: Redress Consideration

- **8.1 Compensation Assessment:** Was redress considered?
- **8.2 Calculation Methodology:** How compensation (if any) was calculated.
- **8.3 Decision Rationale:** Explanation for offering or rejecting redress.

Section 9: Internal Review & Quality Assurance

- **9.1 Reviewer Details:** Initials and Role of person(s) reviewing the complaint.
- **9.2 Independence Check:** Confirmation reviewer was independent of original decision.
- **9.3 Escalation:** Whether the case was escalated internally.
- **9.4 Audit Trail:** Record of review stages and outcomes.

Section 10: Transparency & Consumer Rights

- **10.1 Evidence Disclosure:** Confirmation full evidence pack has been provided.
- **10.2 Right to Challenge:** Instructions for disputing findings.
- **10.3 Missing Information Requests:** How to request additional documents.
- **10.4 Escalation Rights:** Clear explanation of rights to refer to the Financial Ombudsman Service.

Section 11: Final Determination

- **11.1 Outcome:** Complaint upheld / partially upheld / rejected.
- **11.2 Key Reasons:** Summary of the decision.
- **11.3 Certification Statement:** “We confirm this complaint has been assessed in line with FCA rules, with full consideration of Consumer Duty and all available evidence.”
- **11.4 Named Accountability:** Name and role of decision-maker.

Section 12: Independent Accreditation (if applicable)

- Accreditation body name; date of last audit; whether this case is subject to audit sampling.

5.7 Question 7: Do you agree that the Financial Ombudsman should be able to dismiss complaints where the respondent has reviewed the subject matter in accordance with a consumer redress scheme?

TTF Position:

NO. THIS IS ALSO A FUNDAMENTALLY FLAWED PROPOSAL.

It assumes that firm-led or scheme-led reviews are fair and reliable. In reality, consumer harms may arise despite technical compliance, through flawed industry-wide practices, or because firms reshape complaints to fit narrower categories. Allowing dismissal on this basis would create a safe harbour for poor practice, limit independent scrutiny, and risk under-redress.

There is also a danger that this could conceal fraudulent, illegal or non-compliant conduct and embed compensation frameworks that are standardised and not tailored to individual loss.

The TTF's concern here mirrors Question 6, with additional urgency given the forthcoming motor finance redress scheme. The legislation implementing this dismissal ground must include an explicit carve-out confirming that the FOS retains jurisdiction to consider whether a redress scheme determination was correctly applied to the specific consumer's circumstances. The ground must not apply where the consumer's specific harm falls outside the scope of the redress scheme, even if broadly related to the same subject matter.

Recommendation

- This proposal should be shelved unless and until there is a fair and transparent mechanism for demonstrating that the firm has properly followed DISP, all relevant legal and regulatory obligations, and Consumer Duty;
- consumers must retain the right to challenge the outcome;
- participation in a scheme must not prevent escalation to FOS; and
- compliance with a scheme must not be treated as automatically fair.

5.8 Question 8: Do you agree that the Financial Ombudsman should be able to bring finality by dismissing complaints where the subject matter has previously been considered by the FOS?

TTF Position:

ONLY WITH CAUTION.

Finality has value, but this proposal risks locking in wrong or incomplete decisions when new evidence may be found, or additional complaints arise.

Given concerns about service quality arising from the Independent Assessor's findings, it would be unjust to prevent reconsideration where significant new evidence emerges or where the earlier process was materially flawed. In case A an initial complaint took 4 years to resolve, and different issues arose until 2023, but the company ignored subsequent complaints.

We support the principle that there must be finality to FOS proceedings. However, where a court or regulatory finding subsequent to an FOS determination definitively establishes that the consumer was wronged in a way the FOS could not previously recognise, the consumer should not be permanently barred from seeking redress. Or the consumer should be allowed to bring a new complaint to consider the new evidence, but not new arguments that could and should have been presented in the original proceedings.

Recommendation

- Cases should be capable of reopening where new evidence emerges, procedural unfairness occurred, or there is reason to believe that the earlier review materially overlooked key issues; and
- the FOS should retain a residual discretion to re-examine previously decided cases where a subsequent definitive court or regulatory ruling fundamentally alters the legal landscape.

5.9 Question 9: Do you agree with the addition of 'factual' into the existing rule?

TTF Position WITH CAUTION.

Although this appears to be a small drafting change, it may narrow the scope of admissible complaints and exclude issues involving interpretation, judgement or fairness. Consumer harm often arises from suitability, advice quality, misleading presentation, and fairness of treatment - not just factual disputes. We have a reservation about the proposed amendment restricting the exception to 'factual' evidence only, excluding new legal arguments or changes in caselaw.

5.10 Question 10: Do you agree that the Financial Ombudsman should be able to dismiss complaints where the subject matter is being dealt with by a comparable complaints scheme or body?

TTF Position:

ONLY WITH SAFEGUARDS of JOINT AGREEMENTS between the organisations prevent redress gaps.

There is a real risk that consumers especially vulnerable ones will be passed from one body to another and that no organisation will take full responsibility. Comparable schemes do not always offer comparable powers, accessibility or remedies. We support the principle of avoiding parallel investigations.

However, where the FOS exercises this ground, the consumer must be kept informed at regular intervals of the status of other proceedings; maximum pause periods must be set; and the consumer must not lose their referral rights or be prejudiced by the pause.

Recommendation

- There must be clear accountability and no jurisdictional gaps;
- consumers must not be left without a practical route to resolution; and
- dismissal should not occur unless the alternative process is demonstrably suitable, accessible and capable of delivering equivalent fairness.

5.11 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?

TTF Position PARTIALLY.

There is a need for clarity on what counts as “court proceedings” in practice, for example whether related insolvency or fraud proceedings would trigger dismissal.

Recommendation

- FOS needs to clarify the question on the online Complaints Form which asks “Has there been any court action related to your complaint or is any planned?”

5.12 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?

TTF Position No.

This undermines the core purpose of the ombudsman, which is to provide accessible justice. Consumers often cannot afford legal action, withstand the stress and duration of formal litigation, manage complex procedures, or pursue arbitration effectively.

Directing complainants away from FOS on this basis risks excluding ordinary or vulnerable consumers from meaningful redress.

Recommendation

- FOS should retain jurisdiction unless the matter is clearly and demonstrably inappropriate for it; and
- cost, accessibility, health and vulnerability should be considered explicitly before any dismissal on this ground.

5.13 Question 13: Do you agree with reintroducing a dismissal ground for complaints about employment matters?

TTF Position:

YES, IN PRINCIPLE.

However, the exclusion should apply only where the matter is clearly an employment matter. Care must be taken not to exclude complaints involving financial harm linked to employment, such as pension issues, bonus-linked investments, or internal sales incentives that affected a consumer-facing financial decision.

Recommendation

- The scope of this dismissal ground should be tightly defined.

5.14 Question 14: Do you agree with reintroducing a dismissal ground for complaints purely about investment performance?

TTF Position

WITH CAUTION. THIS IS A HIGH-RISK EXCLUSION.

We support the reintroduction of this ground where investment performance is the SOLE issue - but the FOS must apply this ground narrowly and must not use it to dismiss complaints that are really about how a product was sold, explained, or managed. Many complaints framed as being about “investment performance” actually involve unsuitable advice, unsuitable consolidation, misrepresentation of risk, mis-selling, or conflicted recommendations made for firm benefit.

Case Study A shows how a consumer can be moved from one form of service to another under the guise of continuity, while the real issue is not mere performance but suitability, transparency and fairness.

Recommendation

- In order to dismiss a complaint, FOS must demonstrate that the only issue is investment performance and there are no other aspects to the complaint; and
- there must be a clear distinction between pure market performance and advice, suitability or disclosure failures.

5.15 Question 15: Do you agree with reintroducing a dismissal ground for complaints relating to a respondent's discretion under a will or private trust?

TTF Position:

PARTIALLY.

Some matters of trust or will discretion may indeed lie outside the most suitable scope of FOS. However, there are cases where financial advice, administration or communication causes avoidable harm to beneficiaries, trustees, executors or attorneys. A blanket exclusion would therefore be too broad.

Recommendation

- Avoid blanket exclusions; and
- consider how this interacts with powers of attorney, executor duties, and financial administration failures.

5.16 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?

TTF Position:

WITH CAUTION.

The wording proposed includes the phrase "or might involve" - FOS can only dismiss if they know there is more than one eligible complainant. This could create a procedural barrier capable of preventing valid complaints from progressing. In many family, trust or joint account situations, obtaining all parties' consent may be difficult, delayed or impossible, even where one complainant has a legitimate grievance. We support the retention of this ground with the carve-out proposed for vulnerability, domestic abuse, and coercion situations. The FOS must actively screen for these circumstances before applying the ground.

Recommendation

- Individual complainants should be able to proceed independently where their own rights or losses are the focus of the complaint.

5.17 Question 17: Do you agree that the Financial Ombudsman should be able to dismiss complaints for other compelling reasons?

TTF Position: NO - SERIOUS CONCERN - this requires fundamental reconsideration. This is too broad. It introduces significant discretion and a real risk of inconsistent or arbitrary application. In the current context, where service quality is already in doubt, this would give excessive power without adequate safeguards.

The ‘other compelling reasons’ ground is, in the TTF’s view, the most dangerous proposal in this chapter. It creates a broad, residual discretion to dismiss complaints for reasons only illustrated by non-exhaustive guidance.

CRITICAL CONCERN - Award Limit Example (DISP 3.3.4D G(6)): The proposal to dismiss complaints where ‘the compensation sought would significantly exceed the award limit’ is extremely troubling. Consumers with losses exceeding the FOS award limit are precisely those who have suffered the most serious harm. Many such consumers have no practical ability to pursue their losses through the courts.

Allowing the FOS to dismiss these complaints because the losses are ‘too large’ for the service would abandon the most seriously harmed consumers. This example should be removed entirely.

Recommendation

- “Other compelling reasons” should be narrowly defined; and
- An ombudsman should be required to clearly explain his or her reasons and intentions to dismiss the complaint and allow this to be challenged and reviewed by another ombudsman.

5.18 Question 18: Do you agree with the examples that are proposed for DISP 3.3.4D G?

TTF Position: NO.

The examples risk broadening dismissal powers beyond what is reasonable, without complainants having the opportunity to challenge them, and creating ambiguity. We reflect on

the concerns the independent assessor and variation that Warwick university identified. On the other compelling reasons guidance examples:

- **Example (1) - No material financial loss or distress:** we support this in narrow application, provided 'distress' is broadly defined to include non-financial harm and the ground is not used to dismiss complaints from consumers whose financial loss is modest but meaningful relative to their circumstances;
- **Example (2) - No reasonable prospect of success:** appropriate in principle but must be applied with great restraint. Many cases that appear hopeless at first glance involve misconduct that only becomes apparent on investigation;
- **Example (3) - Fair offer still available:** we support this in principle, provided the FOS independently assesses whether the offer is genuinely fair relative to the consumer's actual loss;
- **Example (4) - Full and final settlement already accepted:** appropriate in principle, with mandatory FOS discretion to investigate where there is any evidence the settlement was not freely and fully informed, including cases involving vulnerability or pressure;
- **Example (5) - Commercial judgment:** we have significant reservations. The boundary between legitimate commercial judgment and conduct breaching the Consumer Duty or other regulatory obligations is frequently contested. The FOS must apply this ground with great care; and
- **Example (6) - Award limit significantly exceeded:** this example should be removed entirely. If a joint complaint exceeded the award limit collectively but not individually it should not be rejected. Consumers with large losses must get the chance to accept an award below expectations but within limits without court action. This is especially important for those near the end of life or with resultant medical conditions or without the resources necessary.

Guidance examples can in practice become de facto rules without the same scrutiny.

Recommendation

- The examples should be converted into tightly defined rules with proper safeguards.

5.19 Question 19: Do you think the six examples should instead be separate rules in their own right?

TTF Position YES, IF THEY ARE RETAINED.

Separate rules would improve clarity, reduce arbitrary interpretation, and allow consultees and Parliament to scrutinise the grounds properly. The TTF's view is that any grounds capable of

being used to deny consumers access to justice should be rules, not guidance, and should be subject to the full rule-making process including public consultation.

5.20 Question 20: Do you agree with the Financial Ombudsman's proposed changes to DISP 3?

TTF Position NO.

Taken together, these changes significantly expand dismissal powers, introduce new procedural barriers, and reduce consumer access. They represent a systemic shift away from consumer protection and toward complaint reduction. At a time when only 29% of cases reviewed by the Independent Assessor were judged satisfactory, the priority should be improving quality control, accountability, fairness and transparency - not restricting access.

5.21 Question 21: Do you agree with the proposed changes to DISP 3.6.4R removing 'good industry practice' from the fair and reasonable test?

TTF Position: NO – we strongly oppose the removal of 'good industry practice' as a factor in the fair and reasonable test.

The proposed changes appear to strengthen procedural control and reduce flexibility. Given the current concerns about service quality this risks compounding systemic failure rather than addressing it.

This is, in the TTF's view, the most consequential and most concerning proposal in the entire consultation. We urge the FCA and FOS to withdraw this proposal and consult further before proceeding.

The 'fair and reasonable test' is the heart of the FOS's jurisdiction. The inclusion of 'good industry practice' as a factor gives the FOS the ability to hold firms to standards of conduct widely accepted in the industry even where they have not been codified in formal regulatory rules. This matters enormously:

- Where firm misconduct involves emerging practices that regulators have not yet formally addressed, 'good industry practice' allows the FOS to hold firms to the standard that competent, well-run firms would have applied;
- In principle-based areas of regulation, 'good industry practice' provides the standard against which the reasonableness of a firm's actions can be judged; and

- In novel or complex cases, it provides an anchor for the FOS's determination where precise rule-by-rule analysis would leave a consumer without a remedy even though the firm's conduct was clearly sub-standard.

Removing 'good industry practice' as a factor narrows the FOS's ability to act as a genuine adjudicator of fairness and converts it, in effect, into a rule-compliance body. This would represent a fundamental change to the FOS's role - not a clarification.

The FCA and FOS justify this proposal partly on the grounds of industry concern about 'retrospective' application of standards. The TTF acknowledges that genuine retrospectivity can cause unfairness to firms. However, the FOS has always been required to determine what was fair and reasonable at the time of the act or omission - including what was good industry practice at that time. This is not retrospective application of later standards; it is the application of the standards that existed when the conduct occurred.

CRITICAL WARNING: The removal of 'good industry practice' from the fair and reasonable test is not a technical tidying-up exercise. It is a substantive reduction in consumer protection that would, in our assessment, benefit firms at the direct expense of consumers. We call on the FCA and FOS to withdraw this proposal and consult more widely - including with consumer organisations - before proceeding. If the proposal is retained, it must be subject to a full cost-benefit analysis that quantifies the impact on consumers.

6. Responses to Chapter 3: Improved Predictability, Consistency and Outcomes

6.1 Mass Redress Event Definition and Criteria

The TTF broadly supports the finalised MRE definition and the amendments made in response to CP25/22 feedback. We are pleased to see that the revised criteria now explicitly include reference to the number of firms affected, complex legal issues, and complaints at both firm and FOS level. We make the following additional recommendations:

- The FCA must publish clear, illustrative examples of situations that would and would not constitute potential MREs, with sufficient detail to give consumer organisations, MPs, and whistleblowers a meaningful basis for alerting the FCA when they identify potential MRE situations;
- The route for consumer organisations, MPs, and whistleblowers to raise potential MRE concerns with the FCA must be made explicit, publicly accessible, and formally

acknowledged. The car finance scandal illustrates what happens when whistleblower evidence is ignored: nine years of avoidable harm for millions of consumers; and

- The MRE framework must include explicit, time-bound triggers for FCA action once a potential MRE is identified. A framework without deadlines is a framework without accountability.

6.2 Transparency Around FOS Decision-Making

The Form suggested in Q 6 has been modified for this purpose as follows

Financial Ombudsman Service – Decision Transparency & Fairness Record

Case Reference:

Consumer Name:

Firm Name:

Investigator / Ombudsman Name:

Date Issued:

Decision Type: Investigator View Provisional Decision Final Decision

Section 1 – Original Complaint to Firm (Verification)

1.1 Summary of Original Complaint(s) made to Firm:

(Provide a clear list of each issue raised by the consumer to the firm)

- Complaint 1:
- Complaint 2:
- Complaint 3:

1.2 Evidence Original Complaints Were Submitted:

(e.g. emails, letters, call logs)

1.3 Were ALL original complaint points investigated by the firm?

Yes No

If NO, specify which were not investigated and why:

- Uninvestigated Issue:
- Firm's explanation (if any):

Section 2 – Complaint Scope Accepted by FOS

2.1 Complaints Accepted for Investigation by FOS:

(List each issue considered)

2.2 Complaints NOT Accepted for Investigation:

(List each excluded issue)

2.3 Justification for Excluding Any Complaint Point:

(Must reference jurisdiction rules or reasoning)

Section 3 – Additional / Evolving Complaints

3.1 Additional Issues Raised by Consumer After Initial Complaint:

- Issue A:
- Issue B:

3.2 Were these investigated?

Yes No

If NO, provide full justification:

Section 4 – Firm’s Response

4.1 Summary of Firm’s Position on Each Complaint Point:

- Complaint 1 – Firm Response:
- Complaint 2 – Firm Response:

4.2 Evidence Provided by Firm:

(List documents, advice files, suitability reports, call recordings, etc.)

Section 5 – Evidence Considered

5.1 Consumer Evidence Considered:**5.2 Firm Evidence Considered:****5.3 Independent / Third-Party Evidence:****5.4 Evidence NOT Considered (if any):**

(Explain why any evidence was excluded)

Section 6 – Regulatory & Legal Framework Applied**6.1 Laws Considered:**

(e.g. Financial Services and Markets Act)

6.2 FCA Rules Considered:**6.3 FCA Principles Considered:**

(e.g. Principle 6 – Treating Customers Fairly)

6.4 Guidance / Industry Standards Considered:**6.5 Explanation of How These Were Applied to This Case:**

(Not just listed — must explain relevance)

Section 7 – Analysis & Findings**7.1 Findings on Each Complaint Point:**

- Complaint 1 – Finding: Upheld Not Upheld Partially Upheld
Reasoning:
- Complaint 2 – Finding: Upheld Not Upheld Partially Upheld
Reasoning:

7.2 Where Evidence Conflicted, Explain How It Was Weighed:**Section 8 – Provisional Decision Stage (if applicable)****8.1 Summary of Provisional Decision:**

8.2 Consumer Response to Provisional Decision:**8.3 Firm Response to Provisional Decision:****8.4 Changes Made Following Responses:**

(If none, explicitly state why)

Section 9 – Reasons for Final Decision**9.1 Clear Summary of Outcome:****9.2 Step-by-Step Justification:**

(Show logical path from evidence → rules → provisional – final decision and conclusion)

Section 10 – Fairness & Completeness Declaration**The decision-maker confirms that:**

- All complaint points raised by the consumer have been identified and addressed OR explicitly excluded with justification
- All relevant evidence has been considered
- Applicable laws, rules, principles, and guidance have been applied and explained
- The reasoning is complete, transparent, and capable of being understood by a reasonable consumer

Section 11 – Decision Authentication**Decision Maker Name:****Role:****Signature / Initials:****Date:****Section 12 – Quality Assurance Review****Quality Checker Name:****Role:**

- File reviewed for completeness
- Reasoning checked for consistency
- All complaint points accounted for

Comments:

Signature / Initials:

Date:

TTF also strongly supports the proposal for the FOS to publish quarterly thematic guidance on how particular types of case are investigated. This is precisely the kind of transparency that our ‘sunlight is the best disinfectant’ principle demands. We urge that this thematic guidance include anonymised case studies illustrating good and poor firm conduct; data on the proportion of complaints upheld by product and service category; and identification of firms with persistently high complaint and uphold rates.

6.3 Read-Across Rules

The TTF notes with concern the acknowledgement that firms are concerned about individual FOS decisions creating binding expectations. We urge the FCA and FOS to resist pressure from industry to fundamentally limit the FOS’s ability to develop consistent approaches to recurring issues through its casework. The solution is greater transparency - through thematic reporting, lead complaints, and published guidance - not a restriction on the FOS’s ability to be consistent.

7. Responses to Chapter 4: Firms Identifying, Reporting and Rectifying Harm Effectively

7.1 Non-Handbook Guidance on Identifying and Rectifying Harm

The TTF broadly welcomes the finalised non-Handbook guidance. We are particularly pleased to see the clear statement that best practice is to provide redress in all cases without a de minimis threshold. We recommend that the guidance explicitly require firms to consider the impact of redress timing on consumers in financial difficulty; that it includes specific direction on communications with vulnerable consumers; and that the FCA publish anonymised examples of good and poor proactive redress exercises, updated regularly.

7.2 SUP 15 Guidance on Reporting Emerging Redress Issues

The TTF strongly supports the finalised SUP 15 guidance. Earlier notification of potential MREs to the FCA is essential for preventing the escalation of consumer harm. However, we note two significant concerns:

- The guidance is framed primarily around firms self-reporting. Given the manifest incentive firms have to delay reporting, the FCA must supplement self-reporting with proactive supervisory monitoring - including thematic reviews and data analysis - to identify potential MREs that firms have not reported; and

- The proposed thresholds may be too high for small and mid-sized firms. The FCA should clearly state that failure to report below the threshold when reporting was appropriate will be treated as a supervisory failing.

8. Responses to Chapter 6: Other Changes to Improve Operational Efficiency

8.1 DISP Changes

The TTF supports the three finalised DISP changes: clarifying cooperation obligations, requiring firms to inform consumers of the Final Response Letter deadline in complaint acknowledgements, and clarifying applicability to Gibraltar-based firms. These are proportionate and consumer-friendly improvements. The FCA should monitor whether firms use the deadline information to delay legitimate complaint resolution by routinely issuing responses close to the '35-business day' or 8-week maximum.

8.2 COMP Changes

The TTF broadly supports the operational efficiency improvements to COMP. We register one concern: the proposal to allow the FSCS to rely on investigations by another regulatory body when assessing eligibility for compensation. Consumer organisations have raised the legitimate concern that this could, in some circumstances, result in consumers receiving less redress than they are entitled to. The FSCS must retain its own assessment function and must not use this discretion to reduce consumer entitlements below what an independent evaluation would have produced.

9. What Is Missing from This Consultation

9.1 No Adequate Treatment of Historical Consumer Harm

CP26/9 is almost entirely forward-looking. It does not address the position of the millions of consumers who have already been harmed under the current redress system, including most obviously the victims of the motor finance scandal, who face a redress scheme that - as TTF has argued elsewhere - risks systematically under-compensating them and restricting their access to further claims.

9.2 No Specific Treatment of Claims Management Companies

CP26/9 does not adequately address the role of Claims Management Companies (CMCs) in the redress system. The FCA should address CMC conduct in the context of the registration stage specifically - ensuring that the registration requirements are designed in a way that does not systematically advantage professionally represented complainants over self-represented ones.

Should the last part of this paragraph say: ‘does not systematically differentiate between professionally represented complainants and those who present their own complaint.

9.3 No Treatment of FOS Capacity and Resource

Many of the efficiency problems that motivate CP26/9 reflect, at least in part, resource constraints at the FOS. The FCA and the Government should be explicit about the resource envelope within which the reformed FOS is expected to operate and should commit to ensuring that the FOS has the capacity to fulfil its consumer protection function, including in the context of major MREs such as motor finance.

9.4 No Adequate Enforcement Framework for Firms That Systematically Fail Consumers

CP26/9 says relatively little about what happens to firms that systematically mishandle complaints, delay redress, or abuse the pre-registration stage to filter out legitimate claims. The FCA should make explicit that:

- Firms with persistently high FOS uphold rates, or firms identified as systematically abusing pausing and holding mechanisms, will face supervisory and enforcement consequences;
- Senior managers at those firms are individually accountable under the SM&CR for their firm’s complaints-handling culture; and
- Enforcement data relating to complaint-handling failures will be published to create reputational accountability.

10. COMPLIANCE WITH GOVERNMENT CONSULTATION PRINCIPLES?

There are significant concerns that this consultation does not fully align with the UK Government’s Consultation Principles 2018.

In particular:

Clarity and Scope

The consultation includes extensive draft Handbook changes and operates alongside Finalised Guidance and Memoranda of Understanding.

However, it is not clear:

- which elements are genuinely open to consultation, and
- which have already been implemented or decided.

Genuine Opportunity to Influence

There is a risk that:

- key policy positions have already been established, and
- consultation is being used to legitimise pre-determined outcomes

This is inconsistent with the principle that consultation must allow **real influence over policy development**.

Accessibility

The consultation materials are highly technical and not accessible to most consumers. This limits meaningful participation and risks bias toward industry respondents.

Impact Assessment

Annex 2 suggests limited or no material consumer impact.

This appears inconsistent with the significant changes proposed, including:

- expanded dismissal powers
- reduced access to redress
- narrowing of fairness considerations

A more robust and independent assessment of consumer impact is required.

Transparency of Responses

There is insufficient clarity on:

- the composition of respondents, and
- how consumer views are weighted relative to industry responses

Taken together, these issues raise concerns that the consultation:

- may not meet accepted standards of fairness and transparency, and
- may not provide a reliable basis for significant reform of the redress system.

11. Summary of TTF's Recommendations

11.1 Critical Recommendations

- **Withdraw the proposal to remove 'good industry practice' from the fair and reasonable test (DISP 3.6.4R).** This is a substantive reduction in consumer protection. If retrospectivity concerns must be addressed, less harmful means should be found.
- **Remove Example (6) from the proposed DISP 3.3.4D G guidance on compelling reasons.** Dismissing complaints because compensation sought significantly exceeds the award limit would abandon the most seriously harmed consumers who have no practical alternative route to redress.
- **Make the consumer safeguards for the registration stage mandatory and enforceable:** human support, vulnerability adjustments, firm-held evidence requirements, maximum timeframes, and right of appeal must be rules - not aspirations.
- **Ensure the dismissal ground for firm compliance with regulatory review standards (Ground 3) cannot be used to block motor finance and similar MRE-related complaints** where firm-designed review processes have not delivered full or fair redress.
- **Publish a full cost-benefit analysis, specifically assessing the impact on consumers, of the fair and reasonable test amendment** before any final policy statement.

11.2 Important Recommendations

- **Require the FOS to publish quarterly monitoring data on pre-registration outcomes,** disaggregated by vulnerability characteristics, complaint type, and sector.
- **Retain the FOS's residual discretion to re-examine previously decided cases** where a subsequent definitive court or regulatory ruling fundamentally alters the legal landscape.
- **Publish clear, publicly accessible routes for consumer organisations, MPs, and whistleblowers to raise potential MRE concerns with the FCA,** with formal acknowledgement requirements and time-bound triggers for FCA action.
- **Require the FCA to supplement firm self-reporting under SUP 15 with proactive supervisory monitoring** for potential MREs.
- **Publish enforcement data relating to complaint-handling failures** to create reputational accountability for firms with persistently poor records.

11.3 Process Recommendations

- **Consult consumer organisations directly on the product-specific readiness requirements** to be developed under the registration stage framework.
- **Conduct consumer research on the registration stage before finalising the supporting guidance**, testing whether the requirements are accessible and understood by real consumers, not just industry.
- **Commit to a formal review of the registration stage at 12 and 24 months post-implementation**, with published findings and a specific assessment of its impact on vulnerable consumers.
- **Address the resource envelope available to the FOS explicitly in the policy statement**, and commit to ensuring that efficiency reforms are accompanied by the resource needed to deliver them.

12. Closing Observations

The Transparency Task Force supports the principle of modernising the redress system. A faster, more consistent, and better-resourced Financial Ombudsman Service would be good for consumers, good for firms, and good for confidence in UK financial services.

However, modernisation must mean making the system more effective at delivering justice - not more convenient for firms seeking to limit their exposure. Several of the proposals in CP26/9, most particularly the removal of 'good industry practice' from the fair and reasonable test, the expanded dismissal grounds (including the award-limit example), and the registration stage without mandatory consumer safeguards, risk tilting the system away from its foundational purpose.

There are no direct Annex 1 questions about the "fair and reasonable" test, yet the paper suggests that aspects of the 2025 Memorandum of Understanding are already being implemented ahead of Parliamentary approval. This is concerning.

Paragraph 2.37 also refers to the Government removing FOS from the scope of the 2015 ADR Regulations. We would object to any removal of consumer rights relating to transparency, access to company responses, or the requirement for FOS to comply with fairness and openness expectations.

Across these proposals, the direction of travel is clear: FOS and firms would gain greater powers over consumers through increased filtering, broader dismissal grounds and reduced access. At a time when only 29% of FOS cases reviewed by the Independent Assessor are judged satisfactory, and learning outcomes are declining, the priority should be improving quality

control, strengthening accountability, and restoring natural justice - not restricting access to redress.

The history of UK financial services is, in part, a history of reforms that looked adequate on paper but failed in practice because the balance between consumer protection and firm convenience was struck in the wrong place. The TTF urges the FCA and FOS to ensure that this modernisation does not repeat that pattern.

The TTF's North Star question is always: "***what's best for the consumer?***" We urge the FCA and the Financial Ombudsman to ensure that question is asked and honestly answered at every stage of the design, implementation and review of these reforms.

Kind regards,

Andy

Andy Agathangelou FRSA

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