

Response to the Financial Ombudsman Service consultation *Our 2025/26 Plans and Budget*

About the Building Societies Association

The Building Societies Association (BSA) represents all 42 UK building societies, as well as 7 of the largest credit unions. Building societies have total assets of almost £525 billion and, together with their subsidiaries, hold residential mortgages of over £395 billion, 24% of the total outstanding in the UK. They also hold £399 billion of retail deposits, accounting for 19% of all such deposits in the UK. Building societies account for 40% of all cash ISA balances. With all their headquarters outside London, building societies employ around 52,300 full and part-time staff. In addition to digital services, they operate through approximately 1,300 branches, holding a 30% share of branches across the UK.

The BSA welcomes the opportunity to respond to the Financial Ombudsman Service (FOS) annual consultation on its plans and budget (2025/26 CP).

Executive summary

- The BSA welcomes the continued drive for operational efficiencies at the FOS.
- We support the proposals not to increase the case fee and levies.
- We argue that professional representatives (and claims management companies) should be liable for the same level of case fee as businesses rather than the budget assumption in the 2025/26 CP that they will only be liable for £250. We hope the FOS Board takes on board the points made in our response to their consultation *Charging claims management companies and other professional representatives* (May 2024 consultation) before making any final rules on this matter.

Our response

Our response focuses on the draft budget. We have not sought to answer all the consultation questions and are not able to comment on matters outside of our sector such as motor finance.

We welcome the continued drive for operational efficiencies at the FOS and the resulting ability to operate on lower relative funding levels.

We support the proposal to not increase the case fee or levies for firms.

The rest of our response relates to budget assumptions about professional representatives and case fees.

We note the draft budget for 2025/26 was prepared on the basis that professional representatives will be liable to pay case fees as set out in the May 2024 consultation and feedback statement from November 2024. The BSA responded to the May 2024 consultation and strongly supports the move to make professional representatives liable to pay case fees. While we are happy the proposal is going ahead, we are disappointed that the draft budget is based on the assumption professional

representatives will be liable to pay a smaller case fee than businesses. We are also concerned that the draft budget assumptions include permitting professional representatives ten free cases.

In the 2025/26 CP, you state your Board has not yet made any rules on professional representatives' liability to pay case fees and that you anticipate publishing a fuller policy statement, setting out your final decision, final rules and proposed implementation pathway as soon as you are able to. Therefore, we hope there is still time for the Board to take on board the points made in our response to the May 2024 consultation.

We do not agree that professional representatives should pay a lower case fee than businesses or that they should benefit from ten free cases. Just under 50% of the complaints the FOS received this financial year came from professional representatives on behalf of consumers. This is up significantly from previous years. The FOS state that the vast majority of the complaints it received from professional representatives were not upheld in the consumer's favour and that this position was worse when compared to consumers that complained directly to the FOS, without professional representation.

Given the level of complaints handled by professional representatives, if they were liable to pay the same case fee as businesses instead of a lower case fee of £250, it would have a significant impact on the assumptions and figures used in the 2025/26 budget. It would also encourage professional representatives to take greater care when handling complaints on behalf of consumers which would benefit all parties including the FOS.

For ease of reference, we have reiterated below the relevant points made in our response to the May 2024 consultation. Note that our use of the term "Claims Management Companies" or "CMC" in our response to the May 2024 consultation also means "professional representatives".

Key points from our response to the May 2024 consultation:

The proposed fee for CMCs should not be significantly less than that charged to firms. This is because:

- If FOS is keeping the flat fee model, the simplest thing to do would be to charge the fee to the business if the case is upheld and to the CMC if it is not. That would provide a significant incentive for CMCs to only send FOS cases which are likely to be upheld and will stop the "weaponisation" of case fees by CMCs threatening to send cases to FOS to incur the case fee for the business.
- It is not entirely clear why the FOS has chosen a fee of £250 as opposed to one equal to or more aligned with the amount charged to the firm in respect of which the complaint is made. The Consultation references the polluter pays principle. To only charge CMCs £250, and of that to reimburse only £175 to the firm being complained of, means that that firm is still effectively subsidising the activity of the CMC. We would encourage you to provide further information on this, including what alternative figures have been considered and your projections as to what additional income this will derive for FOS.

We do not agree that CMCs should get free cases. Firms, such as building societies, get three free cases on the basis they are already contributing via the levy. CMC's

do not contribute to the levy and yet it is proposed that they should get ten free cases. We do not believe this is equitable.

We would be happy to further discuss any of these points with the FOS and we look forward to reviewing the feedback to this consultation.