

# Fed Up of Complaining

A Plan to Reform the  
Financial Ombudsman Service

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STARTUP  
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## About Startup Coalition

Startup Coalition, formerly the Coalition for a Digital Economy (Coadec), is an independent advocacy group that serves as the policy voice for Britain's technology-led startups and scaleups. Startup Coalition was founded in 2010 by Mike Butcher, Editor-at-Large of technology news publisher TechCrunch, and Jeff Lynn, Chairman and Co-Founder of online investment platform Seedrs. Startup Coalition works across a broad range of policy areas that matter the most to startups and scaleups: Access to Talent, Access to Finance & Regulation.

# Executive Summary

The Financial Ombudsman Service (FOS) stands at a crossroads. What should be a pillar of consistency, certainty and robust consumer protection in the UK's financial services sector has become a source of frustration, hindering innovation and letting consumers down. Unless urgent action is taken, both consumers and businesses will continue to bear the mounting costs of a dysfunctional system set up to fail.

Refereeing disputes in a constantly changing sector with high stakes is a formidable challenge, but evidence from the sector suggests that today its processes are not fit for purpose, particularly when the UK is chasing sustainable economic growth. Ensuring that consumers are protected while ensuring innovation can thrive is the core challenge, but today both consumers and businesses are fed up with complaining about the FOS. Over the past two decades of outcomes-based regulation, the FOS has gradually expanded beyond its role into a de facto regulator, effectively creating new industry standards through its decisions. Recent changes to the Consumer Duty and case studies from the sector prove that something isn't working.

These issues create a cascading effect of negative outcomes across the financial ecosystem. For consumers, prolonged waiting periods cause financial and emotional stress, while inconsistent judgments undermine faith in the system's fairness. Businesses face unpredictable decisions and disproportionate case fees that lead to overly cautious behavior, stifling innovation and potentially raising costs for all consumers. The broader economy also suffers, as the UK's position as a global financial center depends partly on effective regulatory and dispute resolution mechanisms—a reputation that a dysfunctional FOS threatens to undermine.

This report presents a comprehensive set of reforms designed to transform the FOS into a more efficient, transparent, and effective organisation, grounded in the delicate balance of maximising consumer protection and economic growth through innovation. Our three steps for change are:

- 1. Multi-track Case Categorisation:** Differentiating between simple and complex cases to enable more efficient resource allocation and processing in the style of the Australian AFCA, enabling tiered case fees and SLAs.
- 2. Formal Precedent System for Complex Cases:** As a consequence of the tiered approach, establish consistent decision-making across similar cases to provide greater predictability for all stakeholders and formalize coordination to ensure FOS decisions complement rather than contradict outcomes-based regulation.
- 3. Digital Transformation:** Rapidly implementing a customer-facing portal for real-time case tracking, automated updates, and streamlined communication.

Implementing these reforms requires significant effort and investment from all stakeholders in the financial ecosystem. However, the cost of inaction is far greater. A reformed FOS would not only better serve its direct stakeholders but would strengthen trust in the UK's financial system as a whole.

The FOS plays a vital role in maintaining trust and fairness in the financial system, and with bold, decisive reform, it can once again fulfill this mission effectively. The time for half-measures has passed—comprehensive transformation is now essential to secure the future of fair and effective financial dispute resolution in the UK.

# Introduction

## What is the FOS?

Established in 2000 and granted statutory powers in 2001 under the Financial Services and Markets Act 2000, the Financial Ombudsman Services (FOS) serves as an independent arbiter, helping to settle disputes between consumers and UK financial service providers. Its remit extends across a broad spectrum of financial products and services, including banking, insurance, mortgages, pensions, investments, credit cards, loans, and financial advice.

The FOS plays a crucial role in maintaining trust and fairness in the financial system. Unlike the court system, which primarily focuses on legal compliance, the FOS operates under the regulatory 'treating customers fairly' principles. This allows the ombudsman to make decisions based not only on the law and regulatory rules but also on good industry practice and what is fair and reasonable in the circumstances of each case. This approach theoretically provides a more holistic and consumer-friendly avenue for dispute resolution compared to traditional legal channels.

The service is free for consumers by design, with its funding derived from the financial services sector through a combination of statutory levies and case fees paid by the businesses it covers. This funding model aims to ensure the FOS's independence and accessibility to all consumers, regardless of their financial means.

## The State of Play

In the financial year 2023-2024, the FOS received 198,798 complaints.<sup>1</sup> Its decisions range from financial compensation to correcting credit files or requiring companies to offer apologies, always with the goal of restoring consumers to the position they would have been in had the company acted correctly. But today it seems to be falling short.

By design, the FOS has a steep challenge. Firstly, inherently within a system that focuses on good industry practice there is ambiguity within decisions. The arbiter of any given case may well define good industry practice differently from the next, and while there are guidelines provided, many businesses feel that they have limited ability to predict the likely outcome of a FOS case, and many consumers feel that there is inconsistency and a lack of transparency judgements. Secondly, and more profoundly, the FOS is charged with reaching definitive outcomes for disputes in a regulatory ecosystem that is ambiguous by design.

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<https://www.financial-ombudsman.org.uk/files/324537/Financial-Ombudsman-Service-Annual-Report-and-Accounts-2023-24.pdf>

**Balancing innovation and consumer protection is not easy, but we should not settle for what we have today.**

Resource constraints, inconsistent expertise, lengthy complaint resolution timelines, and issues with transparency and communication all blight the FOS. This report aims to provide a comprehensive analysis of the current state of play, examining the strengths of the FOS, the challenges it faces, and the impact of these issues on both consumers and businesses. Most importantly, it will propose a series of reforms designed to transform the FOS into a more efficient, transparent, and effective organisation capable of meeting the evolving needs of the UK's financial services sector and the consumers it serves.

As we delve into the details of the FOS's operations and the issues it faces, it is crucial to remember the vital role this organisation plays in maintaining fairness and trust in the UK's financial system. Due to this important function, when the FOS is seen as ineffective, arbitrary or inefficient, it has the potential to undermine consumers' trust in financial services, and businesses' trust in both the FOS and the wider regulatory environment. This uncertainty can impact investor confidence, and undermine growth of the UK's flagship financial services sector.

The reforms proposed in this report are designed to end this unpredictability. They are not merely administrative changes, but essential steps towards ensuring that the FOS can fulfil its critical mission in the years to come.

# The List of Complaints

## The Consumer Experience

The Financial Ombudsman Service (FOS) plays a crucial role in resolving disputes between consumers and financial institutions in the UK. However, two significant issues have emerged that threaten to undermine consumer trust in the Ombudsman: excessively long complaint resolution timelines and a concerning lack of transparency and communication.

The issue of lengthy complaint timelines has become a persistent thorn in the side of the FOS. While the organisation was established to provide a quicker and more accessible alternative to the courts, the reality often falls short of this ideal. According to recent data, the FOS's performance in resolving complaints promptly has been disappointing: in the 2023-2024 period, the FOS claimed that over 80% of complaints were closed within 6 months. However, this statistic pales in comparison to international benchmarks, with similar services in Singapore and Australia resolving 89% and 92% of cases within the same timeframe, respectively. While the Australian Financial Complaints Authority (AFCA) handles fewer complaints on average, with 104,000 over the last year, they manage to resolve **60% of these complaints within 60 days**.<sup>2</sup>

The situation becomes even more concerning when we look at the long tail of unresolved complaints. As of May 2021, at least 2% of open cases had been languishing for more than two years, 10% for more than a year, and a staggering 37% for more than six months (this data has not been re-released by the FOS since 2021).<sup>3</sup> Perhaps most troublingly, two-thirds of all open cases had been in the system for longer than three months.

The impact of these delays is far-reaching. For consumers, prolonged waiting periods can cause significant financial and emotional stress. Many complainants are dealing with pressing financial issues that require timely resolution. The uncertainty and frustration of waiting months or even years for a decision can erode trust in the financial system and the mechanisms designed to protect consumers. For businesses, lengthy complaint processes tie up resources, create ongoing liabilities, and can damage customer relationships even in cases where the complaint is ultimately not upheld.

Compounding the problem of lengthy timelines is a troubling lack of transparency and communication throughout the complaint process. Despite living in an age of digital communication and real-time updates, the FOS has been slow to adopt modern communication practices. Perhaps the most glaring example of this is the absence of a customer-facing portal that would allow complainants to track the status of their cases. These portals exist in many other nations, including the US, Canada, and Australia. This lack of visibility leaves consumers in the dark about the progress of their complaints, forcing them to rely on sporadic updates or to chase the FOS for information.

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<sup>2</sup> <https://www.afca.org.au/annual-review-year-at-a-glance>

<sup>3</sup>

<https://committees.parliament.uk/committee/158/treasury-committee/news/138821/treasury-committee-has-concerns-with-financial-ombudsman-service/>

The opacity of the process is further exacerbated by the FOS's communication methods. The organisation primarily relies on communication by phone, a mode that may not meet the needs or preferences of many consumers, particularly younger generations who are accustomed to digital interfaces and instant updates. This reliance on traditional communication channels not only frustrates users but also raises questions about the FOS's ability to adapt to changing consumer expectations and technological advancements.

The lack of transparency extends beyond just case status updates. Many consumers and businesses report difficulty in understanding the reasoning behind FOS decisions or the criteria used to assess complaints. This opacity can lead to perceptions of arbitrariness or unfairness, even in cases where the FOS has followed its guidelines correctly. Without clear communication about the decision-making process, it becomes challenging for both consumers and financial institutions to learn from past cases or to adjust their practices accordingly.

The traditional communication channels often fuel the claims management sector. Unfortunately, the CMCs necessarily sell the upside chance of a successful claim because of their financial incentive to do so, but can further undermine confidence in the redress system when they often fail.

The issues of lengthy complaint timelines and lack of transparency pose significant challenges to the effectiveness and credibility of the Financial Ombudsman Service. Addressing these problems is not just a matter of improving customer satisfaction; it's crucial for ensuring that the FOS can fulfill its vital role in maintaining fairness and trust in the UK's financial system. As the financial landscape continues to evolve and become more complex, having a robust, efficient, and transparent ombudsman service becomes ever more critical. The FOS must rise to this challenge to remain a relevant and trusted pillar of consumer protection in the financial sector.

## The Fintech Experience

Many fintechs that we interact with will echo the above complaints. It is not in their interests to be kept in purgatory, uncertain of the outcome of a complaint for months on end either. This jeopardises cashflow, undermines trust in the brand, and harms their relationships with customers. They too tell us of concerns over the black box of decision making, which is particularly pernicious when they are operating in a regulatory system that is built to encourage innovation: outcome-based, rather than prescriptive in process. However, we have heard from dozens of Fintechs that today, the FOS is often not acting in line with this foundational regulatory spirit.

Firstly, FOS decisions can set precedents. In cases of ambiguity, where whether a firm has acted in line with an outcome is subjective, by design the FOS decides. Crucially, this is the paradox of a redress system in an outcome-based system, and is inevitable. But today, there is limited visibility of how such critical decisions are made, no clear view of the role of the FCA in providing input or consent to such 'proxy regulation' and no way for the firm to appeal.

The scope creep issue is particularly evident in the FOS's handling of new financial products and services. As innovative offerings enter the market, they often occupy grey areas in existing regulations. In such cases, the FOS finds itself in the position of making decisions that effectively create new



standards or expectations for these products. While this can fill regulatory gaps in the short term, it raises questions about the relative role of the FOS vis-à-vis the FCA.

Two further challenges to consistency and transparency are the FOS's 'fair and reasonable' mandate and the introduction of the updated Consumer Duty. The fair and reasonable mandate fundamentally differs from courts' adherence to legal precedents. While this flexibility was designed to ensure equitable consumer outcomes, it has created significant unpredictability in rulings. Financial institutions regularly encounter different judgments for similar cases, making it impossible to establish consistent internal policies. Further, under the updated Consumer Duty, "firms should be open and honest, avoid causing foreseeable harm, and support you to pursue your financial goals."<sup>4</sup> What does this mean? To date, the FCA has promised updated guidelines and consultations on the applicability of the updated requirements for certain products, but not fast enough.

Secondly, concerns over consistency and transparency of judgements for fintechs has become even more high-stakes since the introduction of the new authorised push payment fraud shared mandatory reimbursement scheme. The 50/50 liability split between sending and receiving banks means that larger sending banks may be incentivised to settle cases directly—even when customer gross negligence is possible—simply because reimbursing 50% of the disputed amount is financially preferable to risking 100% liability plus 8% interest if the case goes to the FOS. This approach disproportionately impacts smaller receiving firms who have less negotiating power and fewer resources to contest these settlements, effectively forcing them to absorb losses in cases where they may have legitimate defenses. This not only creates an inequitable burden on smaller financial institutions but also potentially enables some fraudulent claims to succeed, undermining the integrity of the entire system.

## A Wicked Problem

This inconsistency harms consumers and businesses, with the overall ecosystem losing. It stems from structural issues within the FOS. With numerous case handlers and ombudsmen working independently without a formal precedent system, uniformity becomes nearly impossible. The resulting uncertainty creates a challenging environment that produces several negative effects:

- Financial institutions become overly cautious, potentially stifling innovation
- Consumer products and services become limited or more expensive
- Low-cost, high-volume financial products face disproportionate risks from complaint costs
- Institutions increasingly bypass the FOS by settling complaints directly or using courts
- The FOS's role as a free, accessible dispute resolution service becomes undermined

## Case Study: Gross Negligence

The concept of 'gross negligence' further exemplifies the FOS's inconsistent application of standards and its tendency toward scope creep. With the introduction of new reimbursement requirement rules for Authorised Push Payment (APP) fraud, gross negligence has become a critical exception that payment service providers can use to deny reimbursement. However, the term lacks a concrete definition, creating significant ambiguity. The PSR describes it as requiring "a very significant degree of carelessness," while

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<sup>4</sup> <https://www.fca.org.uk/news/news-stories/consumer-duty-higher-standards-financial-services>



the FOS typically assesses it on a case-by-case basis according to the Consumer Standard of Caution—the idea that ordinary consumers are expected to exercise a basic, reasonable level of care when managing their financial affairs, but they are not expected to act like experts or professionals. Caroline Wayman, former Chief Ombudsman, asserted that gross negligence must be "more than just being careless or negligent," yet provided no firm criteria. Even in common law, as noted in *Federal Republic of Nigeria v JP Morgan Chase*, it remains a "notoriously slippery concept." This ambiguity creates substantial uncertainty for financial institutions, many of which are now operating on the assumption that virtually no cases will qualify as gross negligence.

The FOS's inconsistent interpretation of this concept—typically setting an extremely high bar that favors consumers regardless of their level of carelessness—further illustrates how the organisation effectively creates its own standards rather than applying clear, predictable criteria. The impossibly high bar for gross negligence has created an effectively new set of standards on Financial Institutions for what they must do to protect consumers from the consumer themselves. Rather than simply attempting to prevent fraud via bad actors, now fraud has gone beyond to the products themselves, with the Financial Institutions being on the hook for reimbursement regardless of the behaviour or negligence of the consumer. This approach leaves financial institutions unable to reliably predict outcomes, reinforcing the perception that the FOS acts more as a consumer advocate than a truly impartial arbiter.

## Rising Costs

Today, the FOS is funded through a combination of:

- Statutory levies on financial businesses
- Case fees charged to businesses for complaints handled
- A general levy on all firms authorised by the Financial Conduct Authority (FCA)

This model was designed to ensure the FOS's independence and accessibility, but it has increasingly shown signs of strain in recent years. Currently, the FOS charges £650 per case (after the first 4 cases for each firm annually), yet the average cost to process a case stands at £1,116 based on data from the FOS's 23/24 accounts.<sup>5</sup> This £170 deficit per case creates a significant funding gap that must be bridged through other means, placing additional pressure on the organisation's already stretched resources. It's important to note that these case costs apply *regardless* of the outcome of the case.

Cases are attempted to be solved quickly, in order to reduce overall fees, and there is an incentive to attempt to solve cases in bulk in order to reduce costs.

This cost imbalance becomes even more apparent when contrasted with the forthcoming fee structure for Case Management Companies, which have grown in popularity in recent years. These firms encourage consumers to submit complaints as part of groups of complainants. They handle the administrative burden in exchange for a cut of the compensation down the line (if it comes). From April 2025, the FOS will implement a new charging regime that requires CMCs to pay a maximum of £250 per

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<sup>5</sup>

<https://www.financial-ombudsman.org.uk/files/324537/Financial-Ombudsman-Service-Annual-Report-and-Accounts-2023-24.pdf> page 21

case after their first ten free cases annually, with this fee reduced to just £75 if a complaint is upheld in favor of the consumer.<sup>6</sup> Even if a case brought by the CMC is found in favour of the business, the business **is required to still pay £475 of the case fee**. This differential fee structure—where financial institutions are still required to pay £475 even when the case is found in their favor, while CMCs pay significantly less and only for successful cases—further highlights the disproportionate funding approach. While the new CMC fee structure represents progress toward more equitable cost distribution, it still leaves respondent firms bearing the substantially greater burden, particularly for low-value financial products where the £650 case fee often exceeds the profit margin of the product itself. This creates a perverse incentive for firms to settle even dubious complaints rather than risk a potentially greater financial hit through the FOS process.

To add insult to injury, there has been a significant rise in the case fee in recent years, with no corresponding improvement in the quality of service. In 2020, the fee jumped from £550 to £650, an 18% increase. The following year saw another hike to £750, representing a further 15% rise. Despite these substantial increases, there has been no corresponding improvement in service quality, leading to growing frustration among both consumers and financial institutions. Even with the overall cost of case fees having reduced back down to £650, this still represents a significant cost to most businesses, especially given the ever increasing total number of complaints.

The FOS's funding woes are further exacerbated by the volatile nature of its workload. Major industry-wide issues, such as the PPI scandal, can lead to significant fluctuations in complaint volumes. This unpredictability makes it challenging for the FOS to maintain consistent staffing levels, often resulting in backlogs during high-volume periods and potential overstaffing during lulls.

### **Case Study: Motor Finance – A Clear Example of Regulatory Overreach**

The Motor Finance case highlights significant challenges in the relationship between the Financial Ombudsman Service (FOS) and formal regulatory frameworks.

In 2019, the Financial Conduct Authority (FCA) banned Discretionary Commission Arrangements (DCAs) in motor finance, where brokers could adjust customer interest rates to increase their commissions. Importantly, the FCA explicitly stated this ban would not be retrospective, recognising the potential market disruption of applying new standards to past conduct.

However, the FOS subsequently began upholding consumer complaints about historical DCAs, determining that these arrangements were "unfair" even when they had complied with regulations in force at the time. This created a situation where practices that were permitted under the regulatory framework when implemented were later deemed problematic through application of newer standards.

The Barclays Partner Finance case illustrates the implications of this approach. In December 2024, the High Court ruled in favor of the FOS in a judicial review brought by Barclays challenging a FOS decision regarding commission disclosure, with potentially significant consequences across financial services.

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<https://www.financial-ombudsman.org.uk/news/financial-ombudsman-service-start-charging-professional-representatives-refer-cases>

This situation creates challenges for financial institutions, who must navigate between formal regulatory compliance and the possibility that the FOS may apply different standards retrospectively. Financial institutions may find that compliance with FCA rules at the time of activity does not necessarily protect against future liability.

As one industry expert noted, "There's a deep lack of political understanding of the impact this decision could have on the wider credit market, and credit broking. Including Energy credit broking, investment, pensions. Any kind of financial broking."

This case suggests the need for greater alignment between the FCA as regulator and the FOS as dispute resolver. A more coordinated approach between these bodies would provide greater clarity and consistency for the financial services sector while still protecting consumers from unfair treatment.

## Fed up with Complaining

The challenges facing the Financial Ombudsman Service (FOS)—including inconsistent judgments, scope creep, lengthy complaint timelines, and lack of transparency—have far-reaching consequences that reverberate throughout the UK's financial landscape. These issues don't exist in a vacuum; they have tangible, often severe impacts on both consumers and businesses, shaping behaviours, influencing financial decisions, and potentially altering the very nature of the UK's financial services sector.

## Impact on Consumers

For consumers, the FOS represents a crucial safeguard against unfair treatment by financial institutions. However, the service's current issues are eroding this protection and creating new challenges for those seeking redress.

The problem of lengthy complaint timelines perhaps impacts consumers most directly. What was intended to be a swift alternative to the courts has, in many cases, become a drawn-out process that can stretch for months or even years. This delay can have severe consequences for consumers, particularly those facing financial hardship. A consumer waiting for a decision on a disputed insurance claim, for instance, might face significant out-of-pocket expenses or even debt while awaiting resolution. The emotional toll of this prolonged uncertainty cannot be understated, potentially causing stress, anxiety, and a sense of powerlessness.

The lack of transparency and communication compounds this stress. Without a clear understanding of where their complaint stands in the process or when they might expect a resolution, consumers are left in a state of limbo. This opacity can lead to a sense of disconnection from the process and may even cause some consumers to abandon their complaints altogether, effectively denying them the justice they seek.

Inconsistent judgments from the FOS create another layer of frustration for consumers. When similar cases result in different outcomes, it undermines faith in the fairness of the system. Consumers may feel that the resolution of their complaint depends more on chance which ombudsman handles their case than on the merits of their argument. This perceived lack of fairness can discourage consumers from bringing legitimate complaints forward, potentially allowing unfair practices by financial institutions to go unchallenged.

Moreover, the FOS's issues may be indirectly impacting consumers through their effect on the financial services market. If financial institutions become overly cautious due to unpredictable FOS decisions, it could lead to reduced innovation and fewer choices for consumers. Similarly, if the cost of dealing with FOS complaints is seen as too high or too unpredictable, some providers might exit certain markets or increase their prices, ultimately limiting consumer options and potentially raising the cost of financial services.

The cumulative effect of these issues risks creating a two-tier system of consumer protection. Those with the resources, knowledge, and persistence to navigate the FOS's complex and opaque process may eventually receive redress. However, vulnerable consumers—those who may need the FOS's protection the most might find themselves effectively shut out of the complaint process, either due to its complexity, the long wait times, or a lack of faith in the system.

## Impact on Businesses

For businesses in the financial services sector, the FOS's issues create a different but equally challenging set of problems.

The inconsistency in FOS judgments poses a significant challenge for businesses trying to operate within the rules. When similar cases result in different outcomes, it becomes difficult for firms to establish consistent internal policies and practices. This uncertainty can lead to overly cautious behaviour, potentially stifling innovation and limiting the range of products and services offered to consumers. In particular smaller firms have an incentive to simply reject potentially 'risky' consumers from accessing their services if they fear that they may attempt to utilise the FOS in the future, or if they have utilised the FOS in the past.

The issue of scope creep adds another layer of complexity. As the FOS seemingly expands its remit, particularly in areas of new financial products or principle-based regulations like the Consumer Duty, businesses find themselves navigating an increasingly uncertain regulatory landscape. What was compliant yesterday might be deemed unfair today, based on a new FOS decision. This unpredictability makes long-term planning challenging and can discourage investment in new products or services.

The financial burden of the FOS's current system is also significant for businesses. The flat fee structure of £650 per case (after the first four cases annually) fails to reflect the vast differences in complexity, time investment, and resource requirements across different complaint types. This undifferentiated approach disproportionately affects smaller firms and those offering low-cost financial products, as the same fee applies whether the complaint involves a simple administrative error or a complex investment decision spanning years. This imbalance creates a perverse incentive for firms to settle complaints directly, even

if unfounded, simply to avoid FOS involvement and the associated fees that bear no relation to the actual cost of handling their particular type of case.

It's important to note that firms predominantly preferring to settle cases outside of the FOS is built into the system of the FOS, it helps reduce the overall burden and fees associated with the FOS. However, while firms should, in some cases, look to settle cases outside of the FOS this has significant consequences for businesses and consumers alike. Firstly it benefits big firms that can afford consistent compliance and resolution teams, as opposed to smaller firms that often lack these resources. This, furthered by both the potential for vexatious claims and the FOS's consistent scope creep means that many firms follow a rigid set of customer guidelines, reducing the potential for innovation or even 'best customer care'.

Lengthy complaint timelines also impact businesses, tying up resources and creating ongoing liabilities that can affect financial planning and reporting. The lack of transparency in the FOS process makes it difficult for businesses to manage these ongoing cases effectively or to learn from past decisions to improve their practices.

Furthermore, the reputational risk associated with FOS complaints should not be underestimated. In an age of social media and instant communication, a poorly handled complaint can quickly escalate into a public relations crisis. The long wait times and lack of transparency from the FOS can exacerbate these situations, leaving businesses unable to resolve issues quickly and decisively.

The cumulative effect of these challenges is creating an environment of uncertainty and frustration for businesses in the financial services sector. Some firms may choose to limit their exposure to certain markets or customer segments to avoid FOS-related risks. Others might pass on the costs and uncertainties associated with FOS complaints to consumers through higher prices or more restrictive terms of service. In extreme cases, some businesses, particularly smaller or innovative firms, might decide that the UK market is too risky or costly to operate in, potentially reducing competition and choice for consumers.

## Impact on the Government's Missions

The issues facing the FOS have repercussions that extend beyond individual consumers and businesses. This is a prime example of a quango undermining the Government's agenda and reducing business confidence in the UK. If consumers lose faith in their ability to seek fair redress for grievances, it could lead to decreased engagement with financial services, potentially impacting financial inclusion and wellbeing on a societal level.

For the UK to maintain its position as a global financial center, effective and fair regulatory and dispute resolution mechanisms are essential. A Financial Ombudsman Service (FOS) that is perceived as slow, inconsistent, or ineffective directly undermines the **growth mission** by creating a hostile environment for fintech innovation and investment.

Fintechs—especially early-stage companies with limited resources—rely on regulatory predictability to develop sustainable business models. The current FOS system creates significant uncertainty through unpredictable timelines and inconsistent rulings, forcing Fintech companies to implement overly cautious



practices that stifle product development. Many innovative financial products operate on thin margins and high volumes, making them particularly vulnerable to the disproportionate costs of FOS complaints. When each case costs a standard £650 regardless of transaction value, fintechs offering low-cost products face existential risks from even a modest volume of complaints.

The unpredictability of FOS rulings has broader implications for the UK fintech investment landscape as well. Investors have explicitly identified regulatory uncertainty, particularly around interpretations of concepts like 'gross negligence', as a significant risk factor when evaluating UK Fintech opportunities. When smaller firms can potentially face bankruptcy from a single adverse FOS ruling that requires high-value reimbursements, despite having followed reasonable procedures, the risk profile of UK Fintechs increases dramatically compared to their EU or US counterparts operating under more predictable regulatory frameworks. This creates a tangible competitive disadvantage in attracting global capital, with venture investors increasingly factoring in this 'FOS risk premium' when making allocation decisions. As investment naturally flows toward jurisdictions with more predictable regulatory outcomes, the UK risks losing its position as Europe's premier fintech hub, not because its companies are less innovative, but because the uncertain regulatory environment makes them comparatively riskier investments. As other financial centers develop more efficient dispute resolution systems, the UK risks losing its leadership position in financial innovation if the FOS remains unreformed.

Beyond business impacts, an ineffective FOS fundamentally undermines the **opportunity mission** by failing to support financial inclusion and consumer empowerment. The FOS was designed to democratize access to financial redress, yet its lengthy resolution timelines—often stretching beyond a year—leave vulnerable consumers without timely resolutions to urgent financial matters. Those living paycheck-to-paycheck cannot afford to wait months for the return of disputed funds, forcing them to accept unfavorable settlements or abandon legitimate complaints altogether.

This dynamic creates a two-tier system of financial redress: one for those with the resources and patience to navigate the FOS process, and another for vulnerable consumers who effectively lose access to meaningful dispute resolution. The resulting erosion of trust in financial services discourages engagement with formal financial products, particularly among underserved communities who might benefit most from financial innovation.

If the FOS continues to underperform, more consumers and businesses will inevitably turn to the courts, increasing legal costs for all parties and placing additional burden on an already strained judicial system. This outcome would negate the very purpose for which the FOS was established—to provide an accessible alternative to lengthy and expensive litigation.

Addressing these systemic issues is not merely about organisational efficiency—it represents a critical investment in the UK's financial future. A reformed FOS would support fintech growth by providing the regulatory certainty needed for innovation while simultaneously empowering consumers through swift, transparent, and consistent dispute resolution. By strengthening this vital institution, the UK can reinforce its position as a leader in financial services that truly works for all stakeholders in the digital economy.

To optimise the FOS, it is important to recognise other comparable markets are dealing with the same dynamics as we are. There are opportunities to learn from international best practice as we chart a course to modernising our own FOS.

# How to Fix It

The challenges facing the FOS are significant, but not insurmountable. Drawing from our analysis of the issues surrounding inconsistent judgments, scope creep, lengthy complaint timelines, lack of transparency, and the impacts on both consumers and businesses, we propose a comprehensive set of reforms. These recommendations aim to transform the FOS into a more efficient, transparent, and effective organisation capable of meeting the evolving needs of the UK's financial services sector and the consumers it serves.

**We propose the following recommendations to reform the FOS:**

- 1. Multi-track Case Categorisation:** Differentiating between simple and complex cases to enable more efficient resource allocation and processing in the style of the Australian AFCA, enabling tiered case fees and SLAs.
- 2. Formal Precedent System for Complex Cases:** As a consequence of the tiered approach, establish consistent decision-making across similar cases to provide greater predictability for all stakeholders and formalize coordination to ensure FOS decisions complement rather than contradict outcomes-based regulation.
- 3. Digital Transformation:** Rapidly implementing a customer-facing portal for real-time case tracking, automated updates, and streamlined communication.

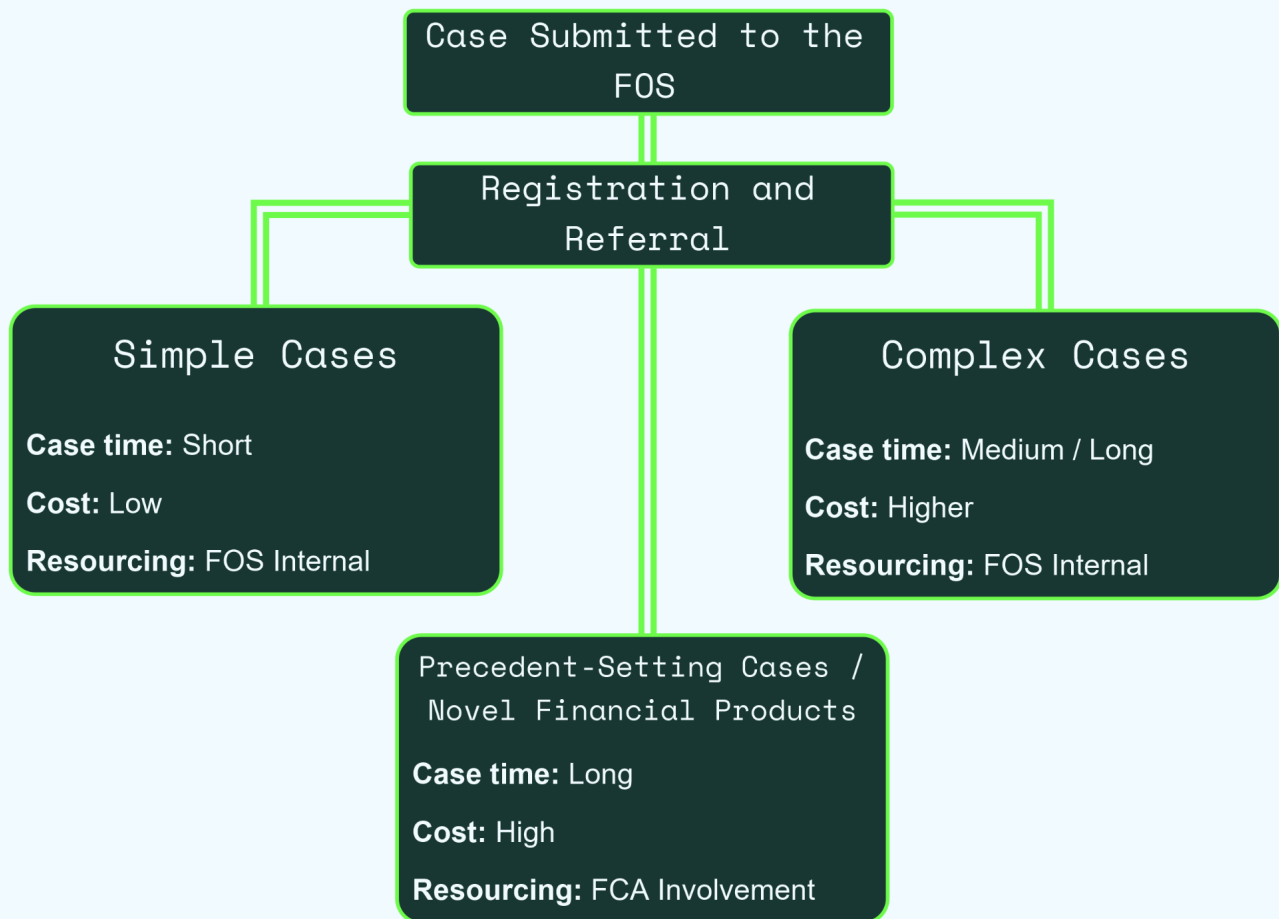
## Introduce Multi-track Case Categorisation

In an era of heterogenous complaints, financial services innovation, and vibrant fintech growth, it is time for the FOS to modernise and reflect that no two complaints are the same. Instead of the blunt edge of a one-size-fits-all approach, we must have a multi-track case categorisation system. This approach, similar to that used by Australia's equivalent ombudsman, the Australian Financial Complaints Authority (AFCA), would allow the FOS to differentiate between simple and complex cases, enabling more efficient resource allocation and processing.

### Operational Rationalisation

Under this system, cases would be categorised upon receipt based on their complexity and potential impact. Simple, straightforward cases could be fast-tracked, potentially with a lower case fee, allowing for quicker resolution of routine complaints. More complex cases, particularly those that might set precedents or involve novel financial products, would be allocated more resources and potentially involve input from the FCA.





#### This categorisation would serve multiple purposes:

1. Improve efficiency by matching resources to case complexity
2. Provide clearer expectations for both consumers and businesses about likely timelines
3. Allow for a more nuanced fee structure that better reflects the resources required for each case
4. Facilitate better coordination with the FCA on cases that might have broader regulatory implications

Implementing this system would require initial investment in case assessment capabilities. However, the long-term benefits in terms of improved efficiency and stakeholder satisfaction could be substantial.

#### Proportional Case Fees

The current funding model, with its flat case fee structure, is creating perverse incentives and disproportionately impacting smaller firms and those offering low-cost financial products. We propose a comprehensive overhaul of this model to create a fairer, more sustainable funding structure, enabled by

the introduction of multi-track categorisation. The simple case track should cost less, the normal case track more, and the complex case most.

This reformed funding model would aim to more fairly distribute the costs of the FOS across the financial services sector while also creating incentives for good behaviour and efficient complaint handling. Vitally we believe that firms would be more willing to fund the FOS via a statutory model if, and only if, the FOS was proved to be a more valuable asset to the Financial Services sector.

## Establish a Formal Precedent System for Complex Cases

The most complicated cases deserve a clearer process. To address the issue of inconsistent judgments, we propose the establishment of a formal system for creating and following precedents. This system should:

1. Identify key decisions that should serve as precedents for future similar cases
2. Provide clear rationales for these precedent-setting decisions
3. Make precedents easily accessible to both FOS staff and external stakeholders including the FCA

This system would help ensure more consistent decision-making across similar cases, providing greater predictability for both consumers and businesses. It would also help clarify the FOS's interpretation of rules and principles, reducing uncertainty in the financial services sector via the FCA approving of precedent.

Further, to address concerns about scope creep and ensure that the FOS's decisions align with broader regulatory goals, we propose a more formalised and transparent process of collaboration between the FOS and the FCA for these complex cases, involving:

1. Regular meetings between FOS and FCA leadership to discuss emerging trends and issues
2. A clear process for escalating cases that may have broader regulatory implications to the FCA
3. Joint publications clarifying the interpretation of principle-based regulations like the Consumer Duty
4. Secondments between the two organisations to foster better understanding and alignment
5. Annual reports to either HMT or the Treasury Committee

This enhanced collaboration would help ensure that the FOS's decisions complement rather than conflict with the FCA's regulatory approach, providing greater clarity and consistency for the financial services sector.

## Appeals Process

To address concerns about the finality and potential inconsistency of these precedent setting cases, we propose the introduction of a formal appeals process. This process should involve:

1. A panel of senior ombudsmen to review appealed decisions, alongside representation from the FCA
2. Clear criteria for which cases are eligible for appeal
3. Transparency in the appeals process, with published decisions and rationale.

## Digital Transformation

To address the lack of transparency and communication, we recommend the rapid implementation of a customer-facing digital portal. This portal would allow consumers to:

1. Submit complaints online
2. Track the status of their case in real-time
3. Receive automated updates at key stages of the complaint process
4. Access relevant documents and correspondence
5. Communicate directly with case handlers through secure messaging

For businesses, a similar portal could provide real-time updates on cases, facilitate document submission, and offer analytics on complaint trends. Ideally, for both portals, the FOS should aspire to emulate the simplicity and accessibility of the pizza-slice style progress dashboard.

While the FOS is planning to roll out a portal for businesses, their Business Connect, which is a positive step, it will be vital that a business portal is able to interact with either existing or standardised reporting structures for these businesses. This, if done well, will allow businesses to quickly upload evidence and customer details in a way that ultimately reduces overall compliance costs and leads to quicker resolutions to cases.

This digital transformation would not only improve transparency but could also significantly enhance efficiency by reducing the need for manual status updates and streamlining communication. Further, better online guidance, guidelines and precedent systems would allow both businesses and customers to know what to expect from cases well before they are submitted or responded to.

## Reforming the FOS

These proposed reforms represent a comprehensive overhaul of the Financial Ombudsman Service. While implementing these changes would require significant effort and investment, they have the potential to transform the FOS into a more efficient, consistent, and trusted organisation. By addressing the core issues of inconsistent judgments, lengthy timelines, lack of transparency, and funding challenges, these reforms aim to create a FOS that better serves both consumers and businesses, ultimately strengthening trust in the UK's financial services sector.

The implementation of these reforms should be phased, with priority given to those that can most quickly improve efficiency and transparency, such as the digital portal and the multi-track case categorisation system. However, all of these reforms are interconnected and should be viewed as part of a holistic transformation of the FOS.

Crucially, the process of implementing these reforms should be transparent and consultative, involving input from consumers, businesses, regulatory bodies, and other stakeholders. Regular reviews and adjustments may be necessary as the reforms are implemented to ensure they are achieving their intended outcomes.

By undertaking these ambitious but necessary reforms, the FOS can reaffirm its crucial role in the UK's financial landscape, ensuring fair outcomes for consumers while providing clarity and consistency for businesses. In doing so, it can help maintain the UK's position as a leading global financial centre with a robust and trusted regulatory framework.

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