Date: 8 October 2025

Author: Andrew Hopkins

Response to the Financial Ombudsman consultation: Evolving Our Funding Model

About the Building Societies Association

The Building Societies Association (BSA) represents all 42 UK building societies, including both mutual-owned banks, as well as 7 of the largest credit unions. Building societies and mutual-owned banks have total assets of almost £650 billion. They hold residential mortgages of over £485 billion, 29% of the total outstanding in the UK. They are also helping 23 million people build their financial resilience, holding over £485 billion of retail deposits, accounting for 23% of all such deposits in the UK. Building societies and mutual-owned banks account for 47% 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.

Executive summary

We welcome the opportunity to respond to the Financial Ombudsman Service (FOS) consultation on evolving its funding model.

The proposals for introducing differentiated case fees have merit and should be explored further, but now is not the right time to consult on the changes. We should await the outcome of FOS/FCA CP25/22 on modernising the redress system and HM Treasury's Review of the FOS. The FOS/FCA and HMT proposals could introduce profound changes to the way the FOS operates and handles cases. This, in turn, may impact FOS resources and funding. Until these wider changes to the FOS and the redress system have been finalised, it is difficult to determine the best option for evolving the FOS funding model.

We have responded to CP25/22 and HMT's Review of the FOS separately.

Response

Question 1: What do you think of the proposal to differentiate case fees based on case stage, where cases closed earlier in our complaint journey would attract lower fees than those closed later in our complaint journey?

We think the proposal has merit and should be explored further. However, discussion on implementing differentiated case fees is premature for a couple of reasons.

Firstly, there has not been enough time to assess the impact of introducing differentiated case fees for professional representatives in April this year. The consultation paper mentions the April change, but does not say if it has had a positive impact on reducing poorly evidenced complaints reaching the FOS or led to fairer outcomes for complainants and respondent firms. The decision to introduce further differentiated case fees should look at evidence of the impact of differentiated fees for professional representatives. This would help identify any unintended consequences, so that these can be addressed in future case fee proposals.

Secondly, FOS/FCA CP25/22 and HMT's Review of the Financial Ombudsman Service contain proposals that could have a profound impact on how the FOS operates, handles cases and how it is funded. For example, one of the proposals explored in HMT's consultation is the merger of the FOS with the FCA. If that proposal were to go ahead, one would expect the way the FOS is funded (including potentially case fees) to change. Other proposals, such as the introduction of a registration stage and the ability to pause complaints may also impact the cost of processing complaints and have a knock-on impact on case fees.

The deadline for CP25/22 and HMT's Review of the FOS is 8 October 2025 and the outcomes from the consultations are not expected until H1 2026. Given the potential impact of the proposals on the FOS, we think it would make more sense to consult on introducing differentiated cases fees, and other funding matters, after the FOS/FCA and HMT have published the feedback from their consultations.

Question 2: What risks do you foresee with the introduction of differentiated case fees based on case stage? Do you feel these risks can be sufficiently mitigated?

We note the two risks set out on page 11 of the consultation paper. We agree these risks would need to be monitored and mitigated. In addition, there is the risk that firms may feel compelled to settle cases at an earlier stage in favour of the complainant, even though the firm strongly believes it is in the right and done nothing wrong, so as to avoid the cost of arguing the case further. This would not be a fair outcome for the firm or its wider members/customers and may set a precedent for similar cases.

Question 3: What do you think of the proposal to differentiate case fees based on case outcome where cases that are not upheld would attract lower fees than those cases which are upheld?

We think the proposal has merit and should be explored further. We strongly support the concept of "polluter pays" that differentiating on case outcome seeks to promote. However, we believe discussion on implementing differentiated case fees is premature for the reasons set out in our response to question 1.

Question 4: What risks do you foresee with the introduction of differentiated case fees based on case outcome? Do you feel these risks can be sufficiently mitigated?

We note the risks identified on page 12 of the consultation paper. We agree these risks would need to be monitored and mitigated. We have not identified any additional risks. However, with regard to mitigating the perception of bias, the FOS's reference to proposed changes in delegated authority set out in CP25/22 and HMT Review of the FOS illustrates why it is so important to wait for the outcome of these consultations before consulting further on introducing differentiated case fees. Until we know the proposal on delegated authority will be adopted, we cannot truly assess the impact on mitigating the risks associated with differentiated cases based on outcome.

Question 5: If in favour of differentiation, do you think we should differentiate by case stage, case outcome or both?

As noted earlier, while we agree the options for differentiated case fees all have merit and should be explored further, now is not the right time to consult on the changes. We should await the outcome of the FOS/FCA and HMT consultations.

Question 6: Do you agree with the change from a free case count allowance to a monetary allowance? If you prefer an alternative approach, why do you consider that proposed alternative approach to be simpler and fairer than the current or proposed approach?

Members prefer the simplicity of having three free cases rather than a monetary amount. However, if the FOS were to introduce differentiated case fees at a later stage it would make sense to move to a monetary allowance.

Question 7: Do you think the indicative monetary allowance level of £2,000 for both respondent businesses and professional representatives is a reasonable equivalent to the current free case count?

As noted in the consultation paper, three free cases amount to £1950. Therefore, we consider a £2,000 monetary allowance a reasonable equivalent to three free cases. The allowance should be reviewed periodically to ensure it remains appropriate.

In our response to the previous consultation on charging Claims Management Companies (CMCs) and other professional representatives (PRs), we argued that CMCs/PRs should be charged the same as firms and should not receive more free cases. Having the same monetary allowance for both firms and CMCs/PRs is a step in the right direction, but we still believe CMCs/PRs should not pay a lower-case fee than firms.

Question 8: Are you in favour of moving to quarterly billing in advance for respondent businesses and professional representatives with higher volumes of complaints?

We do not support advance quarterly billing over monthly billing. There is no clear benefit for organisations in paying in advance, and it would require them to adjust their existing budgeting processes.

Additionally, complaint volumes are subject to fluctuations, meaning the FOS could issue advance invoices that exceed actual complaint levels. This would necessitate the prompt issuance of credit notes, requiring organisations to implement reconciliation processes — adding unnecessary administrative complexity.

Question 9: Do you agree that a forecast of 25 cases to be closed per year is the right threshold to trigger quarterly billing in advance?

See our response to Question 8. The 25 case threshold should be monitored and adjusted periodically to ensure it does not disproportionately impact smaller businesses.

Question 10: Do you agree with the proposal to remove the 5% tolerance for firms currently in the group fee arrangement and substituting with the free case monetary allowance?

Yes, provided the monetary allowance is in fact the equivalent of the 5% tolerance.

Question 11: What do you think of our proposal to reduce the time limit for disputing case fees to six months if we introduced billing quarterly in advance for more firms?

We would be comfortable with reducing the dispute window to six months, provided this is supported by monthly statements and clear, accessible case tracking. These measures would help ensure transparency and enable firms to monitor cases more effectively.

However, we would seek assurance that the shorter timeframe will not compromise the ability to raise and resolve disputes promptly and fairly.