

Jamie Kerr  
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Financial Services Authority  
25 The North Colonnade  
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London

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Dear Jamie

**DP10/1: Consumer Complaints (emerging risks and mass claims)**

On behalf of ILAG, I have pleasure in submitting the following comments on the above consultation.

ILAG is a trade body representing members from the Life Assurance and Wealth Management industries. ILAG members share and develop their practical experiences and expertise, applying this practitioner knowledge to the development of their businesses, both individually and collectively, for the benefit of members and their customers.

Our specific comments in relation to the questions for discussion in the paper are noted below. On a more general note we believe that the Ministry of Justice should be involved at an appropriate level.

If you would wish to discuss our response in more detail we would be happy to do so.

Yours sincerely

**Mark Searle**  
**Administration Team**

## **Questions**

### ***Q1. What more can be done to encourage firms to recognize that it is in their long-term interests to handle consumer complaints promptly and fairly?***

We would hope that firms understand the commercial and regulatory importance of dealing efficiently with complaints, particularly as a result of the increased focus on Customer Outcomes under FSA's TCF requirements.

FSA's continued emphasis on the role of senior management in the oversight of all aspects of a firm's operations, including effectively complaint handling, should have altered, or reminded Boards of Directors of the need to review and monitor their complaint handling processes.

The increasing number of dissatisfied complainants referring to FOS might look alarming on first sight, but when we consider the growth in scope of FOS, heightened awareness of FOS, a general increase in the tendency of consumers to pursue complaints, and the fact that over half the cases referred relate to firms in 'just four or five large groups', there is evidence that a large number of firms do have effective complaint handling procedures and satisfied complainants.

Additionally Claims Management firms can have a significant impact in the 'gaming' of complaints, actively seeking opportunities to create business for themselves on the back of perceived mis-selling (e.g. PPI, technical or contractual errors, and potential CCA drafting mistakes possibly 'invalidating' certain personal loans and therefore no need to repay). One of the direct impacts of such activity has been the huge increase in FOS workloads.

As regards additional encouragement to firms, it might be helpful for firms to learn of the beneficial commercial impact of effective complaint handling in financial services firms, as set out in the Leadership Factor research.

The DP outlines the issues and ongoing work on the complaint handling processes of the major banking groups; the report outlining the findings and the inclusion of examples of good and bad practices will provide additional guidance to all firms.

### ***Q2. Do you have any analysis or evidence which suggests that the effectiveness of Chapter 1 of DISP could be improved? If so, which elements might be reviewed?***

We do not have any analysis or evidence suggesting that the effectiveness of DISP 1 could be improved, although the procedures have been in force for several years now, and in our view are by and large well understood, and operate effectively. We are not aware that FSA have produced any evidence to the contrary.

However, we do have concerns that its effectiveness would be impaired by the removal of the ability for firms to have a two-stage complaints procedure. A number of our members are able to provide a high standard of complaint resolution using this process, and feel that the extra costs that would be incurred if they had to re-structure departments, and possibly re-locate customer service personnel into existing complaints team, would not result in any obvious consumer benefit. Such changes could be an unintended consequence of a proposal to remove the two-stage process and we would urge FSA to reconsider any such plans.

**Q3. Do you consider that improvements could be made to how information is exchanged and used between the regulators and the ombudsman?**

This is difficult to assess from the information provided in the DP. We note that FOS provides monthly data to FSA and the OFT on the numbers and type of cases it receives, and their outcomes, and it would seem that this information together with the complaint returns made by firms helps FSA meet the objectives set out in section 3.36 of the DP.

In our view it is essential that FSA, FOS and OFT advise each other of problems identified or risks emerging, whether these are at firm or sector level, and we hope that this would be achieved by ongoing dialogue between the parties.

**Q4. Are there additional cost-effective steps that the FSA, OFT or the ombudsman service could take in order to identify new and emerging risks?**

We feel that it would help FSA's understanding of industry issues if they were able to send representatives to such fora as ILAG seminars. In the past both FSA and FOS representatives have commented on how useful they have found interaction with practitioners, so we have been particularly disappointed at the apparent change in stance of the FSA.

The Ministry of Justice might also be invited to participate in the proposed Co-ordination Committee. As regulator of Claims Management Companies, they should be able to bring to the table significant information about emerging complaint trends.

Furthermore greater granular complaints reporting to FSA would help it identify trends. The current categories are, perhaps too broad to provide meaningful insight into emerging trends e.g. single premium investments covers a wide spectrum of investment products.

**Q5. What more could be done to encourage firms to identify new and emerging risks to the FSA and OFT?**

Firms are aware of their obligations under Principle 11. Section 4.16 mentions that notifications to the FSA are easier where a firm has established a frank relationship with its supervisor but the vast majority of firms are not relationship managed and might find such a discussion more difficult with the Contact Centre. It is also important that FSA is proportionate in its response as the threat of enforcement action could sway a firm's decision to raise a potential emerging issue.

**Q6. What further role might consumers play in identifying new and emerging risks?**

We have not identified any such role.

**Q7. What more could be done to encourage firms themselves to proactively deal with new and emerging risks before they turn into widespread issues?**

Please see our response to Q1.

**Q8. Would such a committee process improve the handling of emerging issues and mass claims?**

Yes, we believe that it would.

**Q9. What are the factors that should be taken into account when identifying mass claims?**

We have nothing to add to the outline suggested in the DP and our comments above.

Ends