

# Issues paper – Independent review of Financial Services Complaints Limited

Financial Services Complaints Limited – A Financial Ombudsman Service (FSCL) is undergoing its third independent review.

The reviewer will examine and make recommendations about how effectively and efficiently FSCL operates to resolve and prevent complaints. The reviewer will consider and report on whether FSCL is meeting the six principles of accessibility, accountability, effectiveness, efficiency, fairness, and independence. The specific focus of this review is on the principles of accessibility, effectiveness, and fairness.

The six principles are set out below, with the questions the reviewer will address about each principle.

## Principle 1 – Accessibility

FSCL makes itself readily available to consumers by promoting knowledge of its existence, being easy to use, and having no cost barriers.

### Questions

1. Does FSCL produce readily available material for consumers in plain language to explain:
  - > how to access the scheme
  - > how the scheme works
  - > information about and guides to common complaints to the scheme
  - > any restrictions on the scheme's powers
  - > timelines for the scheme's processes?
2. FSCL has increased the awareness activities it undertakes since the 2020 review, particularly with consumer groups. Is there any further awareness work that FSCL can undertake?
3. Is there more FSCL could be doing to ensure its participants (FSCL's members) tell their customers about their own internal complaints processes, and FSCL, at the time the customer makes a complaint?

4. Is there more the Government, including regulators, could be doing to ensure FSCL participants tell their customers about their own internal complaints processes, and FSCL, at the time their customer makes a complaint?

## Principle 2 – Effectiveness

FSCL is effective by having an appropriate and comprehensive terms of reference and periodic independent reviews of its performance.

### Questions

1. Are FSCL's scope and the Financial Ombudsman's powers clear?
2. Does the Financial Ombudsman have the power to make monetary awards of sufficient size and other awards (but not punitive compensation) as appropriate?
3. Does FSCL have a policy for dealing with systemic issues?
4. Does FSCL require participants to set up internal complaints processes? Does FSCL have the capacity to advise participants about their internal complaints processes?
5. In light of the introduction of section 67 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008 in 2021, and FSCL's Systemic Issues policy, should FSCL be reporting more in-depth information about its systemic issue and material breach work?
6. Could FSCL be more effective when submitting on relevant legislative update consultations?
7. Should FSCL be more proactive in suggesting legislative changes where data and insights gained from complaints highlight regulatory gaps?

## Principle 3 – Fairness

FSCL produces dispute outcomes that are fair and are seen to be fair by:

- > observing the principles of procedural fairness and natural justice
- > making decisions on the information before it
- > having specific criteria upon which its decisions are based.

### Questions

1. Are both parties given sufficient opportunity to put their case to the Financial Ombudsman?
2. Does FSCL observe the principles of natural justice and adopt a rigorous, credible approach to reaching decisions?

3. Does FSCL make decisions having regard to the law, relevant codes of practice, and good industry practice?
4. Does FSCL treat the parties to complaints with empathy?
5. Are both parties told of the reasons for any preliminary or final decision?
6. Are complainants informed of the reasons for why a complaint is outside jurisdiction?
7. What feedback could be provided on FSCL's fairness project? Is there anything more, or different, that could be done to improve fairness?

### Principle 4 – Accountability

FSCL publicly accounts for its operations by producing:

- > an annual report
- > case notes
- > information about complaints, such as consumer guides and media releases.

#### Questions

1. Does FSCL provide sufficient statistical and other data about its performance including:
  - > the numbers and types of complaints it receives and the outcomes
  - > the time taken to resolve complaints
  - > complaint trends and case studies
  - > consumer and participant feedback on FSCL's complaint resolution processes?
2. Does FSCL have appropriate processes for managing complaints about itself?

### Principle 5 – Efficiency

FSCL operates efficiently by:

- > keeping track of complaints
- > ensuring complaints are dealt with by the appropriate process or forum
- > regularly reviewing its performance.

#### Questions

1. Does FSCL have reasonable time limits set for each of its processes that facilitate speedy resolution of complaints without compromising quality decision making?

2. Do FSCL's staff keep the parties adequately informed about the progress of the complaint?
3. Does FSCL keep records of all complaints, their progress, and outcomes?
4. Does FSCL seek feedback from the parties about their views of FSCL's performance?
5. Does FSCL have mechanisms in place to fast track or prioritise complaints where the consumer has particular vulnerabilities, or in complaints where time is of the essence?
6. Does FSCL have sufficient resources to enable the efficient management of its case load and to meet its legal requirements, including consumer and industry education, complaint prevention, and work to raise industry standards?

### Principle 6 – Independence

FSCL's decision making process and its administration are independent from scheme participants.

#### Questions

1. Are FSCL's operations and processes sufficient to ensure its independence and the public's perception of independence?
2. Is FSCL's Board composition appropriate to ensure both its independence and the public's perception of its independence?

#### More information

See our website for:

- > the [terms of reference for the review](#)
- > information about [how to make a submission to the reviewer](#)