



## **Association of Mortgage Intermediaries' Response to FCA's Consultation Paper – CP14/30 Improving complaints handling**

This response is submitted on behalf of the Association of Mortgage Intermediaries (AMI). AMI is the trade association representing over 80% of UK mortgage intermediaries.

Intermediaries active in this market act on behalf of the consumer in selecting an appropriate lender and product to meet the individual consumer's mortgage requirements. Our members also provide access to associated protection products.

Our members are authorised by the Financial Conduct Authority (FCA) to carry out mortgage and insurance mediation activities. Firms range from sole traders through to national firms and networks, with thousands of advisers.

### **Introduction**

In responding we consider that mortgage intermediary firms generally do not have a significant issue with the volumes of complaints received or their competence in handling these to the satisfaction of their customers and the Financial Ombudsman Service (FOS). We agree with the improvements suggested by the introduction of some of the complaints handling measures alone, however we do not agree with the combination that the FCA proposes, which we do not believe will resolve the core problems in firms' handling of complaints. We are concerned that these proposals have been made on the basis of a review of 15 large retail firms which in general have service quality issues, have a history of handling complaints poorly and have high over-turn rates at FOS. This is not indicative of the mortgage intermediary industry and we believe the FCA should focus on the root cause behind the high volume of complaints in these larger firms, rather than gathering irrelevant data from all firms (most of which the FCA already holds). We believe the FCA needs to focus on preventative measures rather than adding administrative burdens to this area. The proposals, as drafted, risk causing medium-sized and smaller firms to suffer an unnecessary administrative burden because of the problems found in these few large firms.

We believe it would be helpful if there was further clarification on how the proposed measures would work together and further consideration of their combined impact on firms and consumers. For example, it would assist smaller firms if the definition of an informal complaint could be clarified, particularly if there are types of complaints that the FCA would rather not see dealt with under the three day process. Under the proposals, firms would have to inform all consumers about their right to refer a complaint to FOS and firms would have to report and publish all complaints. We are concerned that as there would be few differences between the two processes from a firm's perspective, it may no longer see an incentive to resolve complaints quickly.

Whilst the FCA and FOS have briefly explained these proposals to us, we would urge the FCA to provide detailed written guidance for firms on how these would work in practice, such as the timing of the summary resolution communication with any redress.

Whilst we support giving all complainants details of their right to use the Financial Ombudsman Service, we hope that consumers who have accepted a resolution from the firm should have to specify to FOS why they now consider the need for further review. This should not be an “open ticket”.

Finally, we are disappointed that the FCA is not collaborating within its organisation as it appears to be requesting duplicate data from firms. We do not believe it is acceptable for the FCA to impose unnecessary requirements on firms so it can reduce its own administrative burden.

## **Responses to Questions**

### **Q1: Do you agree that the time period for firms to resolve complaints informally should be extended from the close of the next business day to three business days (following receipt)?**

While we generally support the extension of the ‘informal’ complaint time period from one to three business days, we believe in practice this will have little impact. A complex complaint would not be expected to be resolved within this extended period, and we would ask if a firm is unable to obtain consumer satisfaction at the time, how beneficial will an extra two days be to resolving the complaint ‘informally’?

Some member firms have indicated that it may be more difficult to track a complaint over three business days rather than one. It should not be underestimated the time and cost that firms would have to spend on systems and procedures to accommodate this extension.

### **Q2: Do you agree that firms should report to us, and publish, all complaints that they receive?**

We believe what firms should report depends on the number of complaints they receive (see Q4).

Firms receiving less than 500 complaints should not be required to publish their data. Whilst we understand this threshold for publishing complaints data remains unchanged, we would like the FCA to make this clear in its policy statement.

We note one of the FCA’s reasons for this proposal is because “some serious issues remain unreported”. In these cases this will be because there are core issues with the firm’s governance framework and we don’t believe requiring firms to publish all complaints will solve that. Whilst contextualised data may aid the FCA identify such cases, this is not a preventative measure and as it is too late in the process, we also consider that it will not help consumers.

Requiring all firms to report and publish all complaints adds to the uncertainty of what constitutes an informal and formal complaint and we would like the FCA to clarify this for firms. Most of our member firms see all complaints as formal, it is just the response timescales that determine which category they will fall in. Accordingly, we wonder if this differentiation is historic and can be removed? We believe this would help firms understand the various changes that the FCA is proposing to the complaints process.

**Q3: Do you have any comments on our proposals to improve consumer awareness by requiring firms to send a summary resolution communication in respect of complaints handled within three business days?**

We support these proposals and the change to advise consumers, whose complaints are resolved within one, two or three days, details of FOS in the resolution letter.

Whilst we understand that FOS's ability to dismiss a complaint that is frivolous or vexatious will also apply to those resolved within three business days, we would welcome clarification from FOS on how it will deal with a complaint where the consumer has accepted the resolution offered by the firm. This is a different situation to a complaint referred to FOS after eight weeks, where the firm has not obtained consumer satisfaction when communicating its final response. We believe it would be reasonable for FOS to require a consumer to specify why it has decided it is no longer satisfied, and if a sound reasoning is not given then FOS should dismiss the complaint. Our firms would welcome assurance from FCA and FOS in this area.

We also request further guidance for firms to address their concerns on how the proposals will work in line with the extended time period, and how this compares with the current process.

**Q4: Do you have any comments on the proposed new complaints return?**

The FCA seems to have underestimated how significant an impact the proposed return would have on many firms, both small and large. The key change is that information on 'informal' complaints would now be required, and data currently held by firms on these can be minimal. For example, one member firm simply has a tick box for whether a complaint was resolved within one business day (with correspondence recorded separately). So in this respect, a 'simplified' return is irrelevant as all firms will have to now record and categorise informal complaints. We would also question the FCA's use of the term 'simplified' in this paper, as the proposed return for firms with less than 500 complaints requires more data than the current return.

We agree with the complaints return for firms with more than 500 complaints. We propose the return for firms with less than 500 complaints should be split and include:

Firms with less than 10 complaints in any 6 months:

- Number of complaints in period
- Number of complaints resolved in period
- Amount of money paid

Firms with a very small number of complaints (e.g. 10) should give only one line of reporting, i.e. no data contextualisation or granularity. Not only does this reduce an unnecessary burden for the smallest of firms, but the FCA is still able to capture the relevant data considering the minimal risk these firms present to consumers.

We are very concerned that the FCA decided to exclude a threshold for providing contextualised data on the basis that it would be "an additional burden on the FCA", instead passing an unnecessary burden to firms. Firms receiving between 10 and 500 complaints should not have to include any contextualised data, i.e. Table 3 from Part A-1, DISP1 Annex 1R should be removed.

Our primary issue, however, is that firms should not have to provide any contextualised data at all, which we explain below.

**Q5: Do you agree with our proposed approach to data contextualisation?**

Data contextualisation needs to be clear and understandable, particularly if it is going to be published for use by consumers rather than to assist say the regulator. The number of 'sales' in a reporting period compared with complaints in the same period is unlikely to be accurate for long-term products or advice, as the complaint can relate to a product sold or advice given before the reporting period. We do not believe this data adds any value and publishing this data could be misleading for consumers, and the press. This is particularly the case for smaller firms and those responsible for advice.

This data would also not be readily available for firms to collect, and we believe this is because it is not relevant to the complaint. We believe the FCA needs to ultimately aim to reduce the number of complaints and we are concerned that its focus on metrics will not help this. It should instead try to be working to change firms' behaviours in the first place.

Providing context on advice is problematic. As an example, advice given three years ago may be different to advice given now. Complaints can also relate to products that are no longer sold or advised on (such as packaged bank accounts and PPI).

Contextualisation of any complaints data is not a simple matter and we do not believe what the FCA has proposed is appropriate. We believe the reasons discussed previously amongst the industry with the FCA and FOS for not providing any context still stand.

In addition to the unsuitable comparison between sales (or advice) and complaints, we are very concerned that the FCA is proposing to request data which it already holds within its organisation, at the expense of firms. This does not align with the statements made by the FCA in its December 2014 strategy acknowledging it needs to tackle inefficiency and remove duplication by making better use of the significant amounts of data it collects and by sharing resources within the organisation.

**Q6: Do you have any comments on the new complaints publication report?**

As above.

**Q7: Do you have any comments on [changes to the complaints data reporting form and guidance proposed in CP14/4]?**

No comment.

**Q8: Do you agree that all post-contract telephone calls to financial services firms should be charged at no more than a 'basic rate'?**

We agree with this proposal.

**Q9: Do you agree with our proposed amendments to DISP 2.8.1?**

We agree that FOS should only consider a complaint which has not been investigated by a firm subject to consent from both the firm and consumer.

**Q10: Do you agree with our proposal to retain the existing six month and six and three year time limits for complaints made to the ombudsman service?**

We agree.

**Q11: Do you agree that once a firm has consented to the ombudsman service considering a complaint it should not be permitted to withdraw consent?**

We agree.

**Q12: Do you have any comments on the proposed wording firms will be required to include in final response letters?**

No.

**Q13: Do you agree with our proposal to extend the definition of eligible complainant so it is consistent with the ADR Directive?**

We agree with this proposal however we would welcome clarification that commercial buy to let complaints sit outside the scheme and consumer buy to let will be included within the scheme.

**Q14: Do you have any comments on the new rules in DISP 5 that apply to the ombudsman service's annual reports?**

No.

**Q15: Do you agree with our proposed revision of the dismissal grounds in order to bring them in line with the Directive?**

We agree.

**Q16: Do you agree with the proposal to amend the test case rules in this way?**

We agree that consumer consent should be required before a complaint is referred as a test case.

**Q17: Do you have any comments on the proposed wording for this rule?**

No.

**Q18: Do you agree with our proposed amendment to DISP on the timing of complaints procedure disclosure for intermediaries within the scope of the MCD?**

We agree.

**Q19: Do you have any comments on the possible impact of this proposal on vulnerable consumers?**

No.

**Q20: Do you have any comments on our cost benefit analysis?**

No.