
Consultation Paper 12 **2018 Fee Schemes**

Issued: 29 January 2018

A: This consultation

The Channel Islands Financial Ombudsman (CIFO) is funded by a system of case fees and levies payable by financial services providers.

CIFO is currently carrying out and consulting on a broad review of the whole system of CIFO's funding. Any changes to the funding approach developed by the review would become effective from 1 January 2019. A separate consultation paper, CP11: CIFO Future Funding Structure Options¹, closes on 07 February 2018.

This consultation is in respect of the current funding model and proposes a modest increase in case fees to come into effect in April 2018. This would increase the proportion of CIFO's funding that is provided by case fees. This proposal follows a previous increase in case fees in 2017 and reflects a step towards the approach proposed in CP11 to place a greater funding responsibility upon financial services providers who generate complaints, thereby reducing the proportion of cost borne by the industry as a whole through levies. Decisions about further planned increases to case fees will be considered as part of the separate consultation, CP11.

This is not a consultation about CIFO's total budget for 2018 or about levy schemes for 2018.

Interested parties – including representative bodies of financial services providers and the Financial Services Commissions – are invited to respond on the proposed Financial Services Ombudsman Fee Scheme (Jersey) 2018 [‘the 2018 Jersey Fee Scheme’] and the proposed Financial Services Ombudsman Fee Scheme (Bailiwick of Guernsey) 2018 [‘the 2018 Guernsey Fee Scheme’]. Consideration of responses will also be informed by submissions in respect of CP11 that relate to case fee increases.

Section B explains how to respond. Section C explains the role of CIFO. Section D explains the legal background. Section E explains the issue covered by this consultation. The proposed 2018 Jersey Fee Scheme and the proposed 2018 Guernsey Fee Scheme are shown in the annex.

¹ www.ci-fo.org/wp-content/uploads/2017/12/171205-CIFO-CP11-Final-1.pdf

B: How to respond

Please send any response in writing by email to consultations@ci-fo.org or by post to Channel Islands Financial Ombudsman, P O Box 114, Jersey, JE4 4QG.

Responses may be published. Any sections that respondents consider to be confidential (for example, because they relate to security systems or provide commercially-confidential data) should be clearly marked as such, indicating the reason why they are considered to be confidential. The reason will be taken into account by the Principal Ombudsman in deciding what to publish.

Responses must reach us by no later than Wednesday 28 February 2018.

C: The Channel Islands Financial Ombudsman

CIFO is the joint operation of the statutory bodies established by the Financial Services Ombudsman (Jersey) Law 2014 [‘the Jersey Ombudsman Law’]² and the Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 [‘the Guernsey Ombudsman Law’].³

CIFO is independent of the States. The joint operation – working from a shared office in Jersey, with the same board, ombudsman and staff – covers complaints about financial services provided in and from Jersey, Guernsey, Alderney and Sark. It opened for business on 16 November 2015.

CIFO resolves complaints against financial services providers – independently, fairly, effectively, promptly, with minimum formality and so as to offer a more accessible alternative to court proceedings.

D: Legal background

The current funding structure for CIFO is set out in various pieces of legislation in each Bailiwick, including:

- The Financial Services Ombudsman (Case-fee and Levy) (Jersey) Regulations 2015⁴ as amended by the Financial Services Ombudsman (Case-Fee and Levy) (Amendment) (Jersey) Regulations 2016⁵ [‘the Jersey Funding Regulations’] and
- the Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) Order 2015⁶ as amended by the Financial Services Ombudsman (Bailiwick of

² <https://www.jerseylaw.ie/laws/revise/PDFs/13.255.pdf>

³ www.guernseylegalresources.gg/article/115617/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014

⁴ <http://www.jerseylaw.ie/law/display.aspx?url=LawsInForce\htm\ROFiles%5cR%26OYear2015%2fR%26O-009-2015.htm>

⁵ www.jerseylaw.ie/laws/enacted/Pages/RO-117-2016.aspx

⁶ <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=95899&p=0>

Guernsey) Law, 2014 (Amendment) Ordinance, 2016⁷ and the Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) (Amendment) Order, 2016⁸. [the Guernsey Funding Order]

These provide for CIFO to prescribe schemes for case fees and levies to be paid by certain financial services providers in respect of the expenses of CIFO. The detail of the funding mechanism for CIFO in the form of case fees and levies payable by financial services providers is set out in the following current schemes⁹:

- the Financial Services Ombudsman Levy Scheme (Bailiwick of Guernsey) 2017 [the 2017 Guernsey Levy Scheme];
- the Financial Services Ombudsman Levy Scheme (Jersey) 2017 [the 2017 Jersey Levy Scheme].
- the Financial Services Ombudsman Fee Scheme (Bailiwick of Guernsey) 2017 [the Guernsey Fee Scheme]; and
- the Financial Services Ombudsman Fee Scheme (Jersey) 2017 [the Jersey Fee Scheme].

CIFO is carrying out a multi-stage review of its funding. Any resulting changes to the funding structure would apply from 01 January 2019. A separate consultation paper, CP11: CIFO Future Funding Structure Options¹⁰, sets out the latest options for the funding structure and invites responses by 07 February 2018.

E: Issues covered by this consultation

The cost of CIFO's operations is met by the financial services industry falling within its scope, through annual levies and case fees.

Levies are payable per sector of activity for which a financial services provider is registered with or holds a licence, permit or certificate from the Financial Services Commissions in Jersey and Guernsey. Further details can be found in the 2017 Explanatory notes for financial services providers¹¹.

Each provider must pay to CIFO a case fee for each chargeable complaint against them referred to CIFO. A chargeable complaint means a complaint against a provider that is referred to CIFO, unless, in the opinion of an ombudsman on receipt of the complaint, it is apparent that it is not eligible or should be rejected; or at any time, the complaint is rejected as frivolous or vexatious.

CIFO previously increased the amount of the case fees in 2017 so that a larger proportion of its funding was provided by case fees, see the Feedback Paper on Consultation Paper 9¹².

⁷ www.guernseylegalresources.gg/article/156922/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014-Amendment-Ordinance-2016

⁸ www.guernseylegalresources.gg/article/156055/No-44---The-Financial-Services-Ombudsman-Case-Fee-and-Levies-Bailiwick-of-Guernsey-Amendment-Order-2016

⁹ www.ci-fo.org/resource-room/funding/current-schemes-notes/

¹⁰ www.ci-fo.org/wp-content/uploads/2017/12/171205-CIFO-CP11-Final-1.pdf

¹¹ www.ci-fo.org/wp-content/uploads/2017/06/2017-Explanatory-Notes-For-Financial-Services-Providers.pdf

¹² www.ci-fo.org/wp-content/uploads/2016/12/CP9-Feedback-paper-final.pdf

This approach seeks to place a greater funding responsibility upon financial services providers who generate complaints thereby reducing the proportion of cost borne by the industry as a whole through levies. All additional revenue generated from the increased case fees is used to reduce the level of levies required to fund CIFO's operations.

The case fees are currently -

- i) £300 for a complaint received after 1 January 2017 for a provider that is liable to pay the levy; and
- ii) £750 for a complaint received after 1 January 2017 for any other provider.

Case fees for complaints received prior to 1 January 2017 were £200 for a levy-paying provider and £600 for other providers.

One of the themes identified in CP11, the concurrent funding review consultation paper, relates to enhancing the workload-related component to the funding structure and states that CIFO is minded to increase case fees for 2018 to £400 for a provider liable to pay the levy and £900 for other providers. Assuming similar complaint volumes and fee collectability, this would almost double the proportion of CIFO's funding directly derived from complaint volumes since CIFO commenced operation in November 2015. CP11 goes on to set out how case fees could be further increased incrementally over the next few years to 2021.

This consultation concerns increasing case fees in 2018.

Proposed case fee increase

In this consultation, CIFO proposes to amend case fees in both Guernsey and Jersey as follows:

- i) £400 for a provider that is liable to pay the levy; and
- ii) £900 for any other provider.

Planned timing

It is proposed the 2018 Jersey Fee Scheme and 2018 Guernsey Fee Scheme will come into effect on 1 April 2018 and the revised case fee rates will apply to complaints received on or after that date.

Stakeholders are invited to comment as to whether the proposed amendments should be made to the 2018 Guernsey Fee Scheme and the 2018 Jersey Fee Scheme, see Annex A.

Q1: Do you have any comments on the proposed fee schemes?

Annex A: Draft fee schemes

Bailiwick of Guernsey

Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 [the Law]¹³

Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) Order 2015 [the Order]¹⁴

Financial Services Ombudsman

Draft Fee Scheme (Bailiwick of Guernsey) 2018

- 1 This fee scheme is made:
- on xx March 2018;
 - by the Office of the Financial Services Ombudsman (OFSO) established by the Law; and
 - in accordance with Article 1 of the Order.

- 2 This scheme:
- is for 2018 and subsequent years (until any subsequent fee scheme is made);
 - will be published on xx March 2018; and
 - will come into effect on 1 April 2018 for all chargeable complaints.

It will be published at www.ci-fo.org – the website of the Channel Islands Financial Ombudsman (CIFO), which is the joint operation of OFSO and the equivalent financial services ombudsman in the Bailiwick of Jersey.

- 3 In this scheme:
- 'providers' means financial services providers within OFSO's jurisdiction;
 - 'registered providers' has the same meaning as defined in the Order;
 - 'ombudsman' means any CIFO ombudsmen;
 - 'levy' means the levy payable under the relevant levy scheme made by OFSO under the Order; and
 - 'chargeable complaint' means a complaint for which a case fee is payable as shown in paragraph 4.

- 4 Each provider must pay to OFSO a case fee for each complaint against the provider that is referred to OFSO, unless, in the opinion of an ombudsman:
- on receipt of the complaint, it is apparent that it is not eligible or should be rejected; or
 - at any time, the complaint is rejected as frivolous or vexatious.

- 5 The amount of the case fee for each complaint received on or after 1 April 2018 will be:
- £400 for any registered provider that is liable to pay a levy; and
 - £900 for any other provider.

- 6 The amount of the case fee for each complaint received in the period 1 January 2017 to 31 March 2018 will be:
- £300 for any registered provider that is liable to pay a levy; and
 - £750 for any other provider.

¹³ <http://www.guernseylegalresources.gg/article/115617/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014>

¹⁴ <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=95899&p=0>

- 7 The amount of the case fee for each complaint received prior to 1 January 2017 will be:
 - £200 for any registered provider that is liable to pay a levy; and
 - £600 for any other provider.
- 8 Ordinarily, OFSO will invoice any case fees annually in arrears. For registered providers that are subject to the annual levy, OFSO will invoice any case fees in conjunction with the levy.
- 9 But if any provider accumulates 10 or more chargeable complaints OFSO may issue an interim case fee invoice.
- 10 Any case fee invoice (including any interim case fee invoice) is due and payable within 28 days of the date of the invoice. If it remains unpaid, OFSO may add interest at 6% per annum from the due date until paid plus any debt collection costs incurred by OFSO.
- 11 This scheme may be cited as the Financial Services Ombudsman Fee Scheme (Bailiwick of Guernsey) 2018.

David Thomas
Chairman of the Board of OFSO

Jersey

Financial Services Ombudsman (Jersey) Law 2014 [the Law]¹⁵

Financial Services Ombudsman (Case-Fee and Levy) (Jersey) Regulations 2015 [the Regulations]¹⁶

Financial Services Ombudsman ***Draft Fee Scheme (Jersey) 2018***

- 1 This fee scheme is made:
- on xx March 2018;
 - by the Office of the Financial Services Ombudsman (OFSO) established by the Law; and
 - in accordance with regulation 2 of the Regulations.

- 2 This scheme:
- is for 2018 and subsequent years (until any subsequent fee scheme is made);
 - will be published on xx March 2018; and
 - will come into effect on 1 April 2018 for all chargeable complaints.

It will be published at www.ci-fo.org – the website of the Channel Islands Financial Ombudsman (CIFO), which is the joint operation of OFSO and the equivalent financial services ombudsman in the Bailiwick of Guernsey.

- 3 In this scheme:
- 'providers' means financial services providers within OFSO's jurisdiction;
 - 'registered providers' has the same meaning as defined in the Regulations;
 - 'ombudsman' means any CIFO ombudsmen;
 - 'levy' means the levy payable under the relevant levy scheme made by OFSO under the Regulations; and
 - 'chargeable complaint' means a complaint for which a case fee is payable as shown in paragraph 4.

- 4 Each provider must pay to OFSO a case fee for each complaint against the provider that is referred to OFSO, unless, in the opinion of an ombudsman:
- on receipt of the complaint, it is apparent that it is not eligible or should be rejected; or
 - at any time, the complaint is rejected as frivolous or vexatious.

- 5 The amount of the case fee for each complaint received on or after 1 April 2018 will be:
- nil for Community Savings Limited;
 - £400 for any registered provider that is liable to pay a levy; and
 - £900 for any other provider.

- 6 The amount of the case fee for each complaint received in the period 1 January 2017 to 31 March 2018 will be:
- nil for Community Savings Limited;
 - £300 for any registered provider that is liable to pay a levy; and
 - £750 for any other provider.

¹⁵ www.jerseylaw.ie/Law/Display.aspx?url=LawsInForce%2fhtm%2fflawfiles%2f2014%2fl-14-2014.htm

¹⁶ www.jerseylaw.ie/Law/display.aspx?url=lawsinforce%5chtm%5cROFiles%5cR%26OYear2015%2fr%26O-009-2015.htm

- 7 The amount of the case fee for each complaint received prior to 1 January 2017 will be:
- nil for Community Savings Limited;
 - £200 for any registered provider that is liable to pay a levy; and
 - £600 for any other provider.
- 8 Ordinarily, OFSO will invoice any case fees annually in arrears. For registered providers that are subject to the annual levy, OFSO will invoice any case fees in conjunction with the levy.
- 9 But if any provider accumulates 10 or more chargeable complaints OFSO may issue an interim case fee invoice.
- 10 Any case fee invoice (including any interim case fee invoice) is due and payable within 28 days of the date of the invoice. If it remains unpaid, OFSO may add interest at 6% per annum from the due date until paid plus any debt collection costs incurred by OFSO.
- 11 This scheme may be cited as the Financial Services Ombudsman Fee Scheme (Jersey) 2018.

David Thomas
Chairman of the Board of OFSO
