
Consultation Paper 20

Case Fee Schemes



Issued: 14 September 2022

A: This consultation

The cost of the Channel Islands Financial Ombudsman [CIFO] is funded by case fees and levies payable by financial services providers [FSPs].

CIFO is consulting on a proposed increase in the case fees payable by FSPs for cases received from 1 January 2023.

This would increase the proportion of CIFO's costs payable through case fees and so reduce the proportion payable through levies.

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 parts of a response that a respondent considers to be confidential (for example, because they disclose security systems or commercially confidential data) should be clearly marked as such, indicating why they are considered to be confidential. This will be considered by the Principal Ombudsman in deciding what to publish.

Responses must reach us by no later than Thursday 20 October 2022.

C: Channel Islands Financial Ombudsman

CIFO is the joint operation of the statutory bodies established by the Financial Services Ombudsman (Jersey) Law 2014¹ and the Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014.²

CIFO is independent of the States. It 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.

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

¹ <https://www.jerseylaw.je/laws/revised/PDFs/13.255.pdf>

² www.guernseylegalresources.gg/article/115617/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014

D: Background

Legal

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

- In Jersey: The Financial Services Ombudsman (Case-fee and Levy) (Jersey) Regulations 2015³ as amended by the Financial Services Ombudsman (Case-Fee and Levy) (Amendment) (Jersey) Regulations 2016.⁴
- In Guernsey: The Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) Order 2015⁵ as amended by the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 (Amendment) Ordinance, 2016⁶ and the Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) (Amendment) Order, 2016.⁷

These provide for CIFO to prescribe schemes for case fees and levies to be paid by certain FSPs in respect of the costs of CIFO. The current case fee schemes, which have been in place for more than 4 years, are:

- The Financial Services Ombudsman (Bailiwick of Guernsey) Fee Scheme 2018.
- The Financial Services Ombudsman Fee Scheme (Jersey) 2018.

Copies of the fee schemes and details of the funding mechanism for CIFO are available on our website – [Funding - Channel Islands Financial Ombudsman \(ci-fo.org\)](https://www.ci-fo.org/funding).

Financial

The cost of CIFO's operations is met through annual levies and case fees payable by the FSPs within its jurisdiction.

- FSPs that are regulated by, or registered with, the relevant Financial Services Commission must pay a yearly levy, unless they do not do business with retail customers. The levies are based on the sectors of activity for which an FSP is regulated/registered. Further details can be found in the 2022 Explanatory notes for financial services providers – [2022 Explanatory notes for financial services providers \(ci-fo.org\)](https://www.ci-fo.org/2022-explanatory-notes-for-financial-services-providers).
- All FSPs, whether or not regulated/registered must pay a case fee for each complaint against the FSP 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.

Because some FSPs pay the levy and some do not, there are two levels of case fee:

- FSPs that have already contributed to CIFO's costs by paying the levy are charged a lower case fee (currently £400).
- FSPs that do not pay the levy are charged a higher case fee (currently £900).

³ <http://www.jerseylaw.je/law/display.aspx?url=LawsInForce\htm\ROFiles%5cR%26OYear2015%2fR%26O-009-2015.htm>

⁴ www.jerseylaw.je/laws/enacted/Pages/RO-117-2016.aspx

⁵ <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=95899&p=0>

⁶ www.guernseylegalresources.gg/article/156922/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014-Amendment-Ordinance-2016

⁷ www.guernseylegalresources.gg/article/156055/No-44---The-Financial-Services-Ombudsman-Case-Fee-and-Levies-Bailiwick-of-Guernsey-Amendment-Order-2016

Currently:

- About 90 per cent of cases are against levy-paying FSPs, and the lower case fee produces about 80 per cent of the total case-fee income.
- About 10 per cent of cases are against other FSPs, and the higher case fee produces about 20 per cent of the total case-fee income.

Previous consultation

We last consulted about case fees in 2018. We noted previously-expressed stakeholder views that the user-pays element of CIFO's funding should be increased. In response, case fees had been increased over time –

Date case received	Lower case fee (levy payers)	Higher case fee (other FSPs)
Before 1 January 2016	£200	£600
1 January 2017 to 31 March 2018	£300	£750
From 1 April 2018	£400	£900

One possibility considered was to increase the proportion of revenue raised from case fees to 20-25 per cent of total revenue by 2021 – which contemplated a case fee in the region of £850 for FSPs that paid the levy and £1,350 for other FSPs.

Stakeholder responses were mixed. Some continued to favour increasing the user-pays element of CIFO's funding. But some feared the case-fee impact on an individual FSP of a sudden surge in unmeritorious cases – perhaps fostered by some sort of campaign.

At that time, we said that we would: keep case fees at the existing level; keep the position under review in the light of developing circumstances; and welcome receiving ongoing stakeholder views.

E: Issues covered by this consultation

Amount of case fees

Case fees have not been increased since 2018. Inflation in Jersey since then is about 17 per cent. Any increases in the cost of CIFO have been borne by all levy payers. Currently, case fees produce about 10 per cent of CIFO's income and the levy produces about 90 per cent.

We consider that the time is now right to increase the user-pays element of CIFO's funding by increasing the proportion that comes from case fees, and reducing the proportion that comes from levies.

We are, therefore, seeking views on an increase in case fees. Additionally, we will keep the level of case fees, and the proportion raised by them, under review each year in the light of inflation and other factors.

We would welcome comments on the following options, which would apply to cases received from 1 January 2023 (the percentages quoted assume the current level of case numbers) –

Option number	Proportion of CIFO's income that comes from case fees	Lower case fee (levy payers)	Higher case fee (other FSPs)
1	about 15 per cent	£600	£1,100
2	about 20 per cent	£850	£1,350
3	about 25 per cent	£1,100	£1,600

We will be consulting on the 2023 levies early in 2023, once CIFO's budget has been approved by Guernsey's Committee for Economic Development and Jersey's Minister for Economic Development, Tourism, Sport and Culture.

Waiver of case fees

We are conscious that an increase in case fees may revive the previously-expressed fears about the case-fee impact on an individual FSP of a sudden surge in unmeritorious cases – perhaps fostered by some sort of campaign.

We have not seen such a phenomenon since CIFO opened for business. But, to allay anxieties, we are minded to include in the case fee scheme a power that could be used to waive case fees in exceptional circumstances.

Those exceptional circumstances might include a sudden surge of unmeritorious cases against one FSP. They would be unlikely to include single cases or small numbers.

The proposed power would allow the board of CIFO to reduce, cancel or refund all or part of a case fee if:

- the FSP by which it is payable applies to the Principal Ombudsman in writing, with its reasons, before paying the case fee or within 1 month after paying it; and
- in the opinion of the board it would be inequitable to charge or retain the case fee because of exceptional circumstances.

Community Savings

Because of the special nature of the services that it provides, Jersey Community Savings Ltd has always been exempt from CIFO case fees.

Jersey Community Savings Ltd is a Jersey-registered charity (number 094) that helps those who are experiencing financial difficulties. It aims to promote financial inclusion in Jersey by providing free and confidential services, guidance and practical assistance to those in need.

Because of the special nature of the services that it now provides, we will exempt Guernsey Community Savings LBG from CIFO case fees as proposed previously in Consultation Paper 16 which consulted stakeholders on the 2020 levy schemes.

Guernsey Community Savings LBG is a Guernsey-registered charity (number CH574) largely staffed by volunteers that provides access to basic financial services for the financially or socially disadvantaged in Guernsey, as well as mentoring and emergency financial support.

F: Summary of questions

Q1: What are your views on options 1, 2 and 3 for increasing the cases fees?

Q2: Do you agree with the proposed power to waive case fees in exceptional circumstances?

Q3: Do you have any comments on the attached draft Guernsey and Jersey fee schemes?

Bailiwick of Guernsey

Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 [the Law]⁸

Financial Services Ombudsman (Case Fee and Levies) (Bailiwick of Guernsey) Order 2015 [the Order]⁹

Financial Services Ombudsman

[Draft] Fee Scheme (Bailiwick of Guernsey) 2023

- 1 This fee scheme is made:
 - on 23 December 2022;
 - 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 2023 and subsequent years (until any subsequent fee scheme is made);
 - will be published on 23 December 2022; and
 - will come into effect on 1 January 2023 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 January 2023 will be:
 - Nil for Guernsey Community Savings LBG;
 - [£600/£850/£1,100] for any registered provider that is liable to pay a levy; and
 - [£1,100/£1,350/£1,600] for any other provider.
- 6 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.
- 7 But if any provider accumulates 10 or more chargeable complaints, OFSO may issue an interim case fee invoice.
- 8 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.

⁸ <http://www.guernseylegalresources.gg/article/115617/Financial-Services-Ombudsman-Bailiwick-of-Guernsey-Law-2014>

⁹ <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=95899&p=0>

- 9 The board of OFSO may reduce, remit or refund all or part of a case fee if:
- the provider by which it is payable applies to the Principal Ombudsman in writing, with its reasons, before paying the case fee or within 1 month after paying it; and
 - in the opinion of the board of OFSO it would be inequitable to charge or retain the case fee because of exceptional circumstances.
- 10 This scheme may be cited as the Financial Services Ombudsman Fee Scheme (Bailiwick of Guernsey) 2023.

David Thomas
Chairman of the Board of OFSO

Jersey

Financial Services Ombudsman (Jersey) Law 2014 [the Law]¹⁰

Financial Services Ombudsman (Case-Fee and Levy) (Jersey) Regulations 2015 [the Regulations]¹¹

Financial Services Ombudsman [Draft] Fee Scheme (Jersey) 2023

- 1 This fee scheme is made:
 - on 23 December 2022;
 - 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 2023 and subsequent years (until any subsequent fee scheme is made);
 - will be published on 23 December 2022; and
 - will come into effect on 1 January 2023 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 January 2023 will be:
 - nil for Community Savings Limited;
 - [£600/£850/£1,100] for any registered provider that is liable to pay a levy; and
 - [£1,100/£1,350/£1,600] for any other provider.
- 6 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.
- 7 But if any provider accumulates 10 or more chargeable complaints OFSO may issue an interim case fee invoice.
- 8 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.

¹⁰ www.jerseylaw.ie/Law/Display.aspx?url=LawsInForce%2fhtm%2fawfiles%2f2014%2fL-14-2014.htm

¹¹ www.jerseylaw.ie/Law/display.aspx?url=lawsinforce%5chtm%5cROFiles%5cR%26OYear2015%2fR%26O-009-2015.htm

- 9 The board of OFSO may reduce, remit or refund all or part of a case fee if:
- the provider by which it is payable applies to the Principal Ombudsman in writing, with its reasons, before paying the case fee or within 1 month after paying it; and
 - in the opinion of the board of OFSO it would be inequitable to charge or retain the case fee because of exceptional circumstances.
- 10 This scheme may be cited as the Financial Services Ombudsman Fee Scheme (Jersey) 2023.

David Thomas
Chairman of the Board of OFSO
