
Feedback on Consultation Paper 23 **2024 Levy & Case Fee Schemes**

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A: Summary and overview

The Channel Islands Financial Ombudsman (CIFO) published Consultation Paper 23: 2024 Levy and Case Fee Schemes on 13 December 2023, with a closing date of 31 January 2024. Notifications of the consultation paper were sent to stakeholder representatives.

The consultation paper sought views on the proposed Financial Services Ombudsman Levy Scheme (Jersey) 2024 [the 2024 Jersey Levy Scheme], the proposed Financial Services Ombudsman Levy Scheme (Bailiwick of Guernsey) 2024 [the 2024 Guernsey Levy Scheme], the proposed Financial Services Ombudsman Fee Scheme (Jersey) 2024 [the 2024 Jersey Fee Scheme], and the proposed Financial Services Ombudsman Fee Scheme (Bailiwick of Guernsey) 2024 [the 2024 Guernsey Fee Scheme]. These include the levy amounts that will be payable by registered providers for 2024.

Registered providers are providers that, in relation to them carrying out 'relevant financial services business'¹, are required to register with the Jersey and Guernsey Financial Services Commissions ("the Commissions") or are licensed or hold a certificate or permit under the regulatory laws as specified. The levy amounts are shown in table 1 below in section C.

¹ As defined in article 9 of the Financial Services Ombudsman (Jersey) Law 2014 and section 9 of the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014.

B: Summary of responses

Three submissions were received in response to the consultation.

1. One response was received from a financial service provider (FSP) that did not wish for its identity to be disclosed but was content to have its response made public. The FSP said:

"it continues to support the mission of CIFO and recognises the importance of appropriate and sustainable funding. The FSP welcomes the single consultation on fees addressing any interdependencies between the sources of income to ensure CIFO maintains a sustainable funding model. The FSP supports the intention to increase the individual levy amounts and the proposed increase from £15,415 to £16,861 for 2024. The FSP also supports the intention to increase the user-pays element of CIFO's funding and the proposal to increase fees from £850 to £975 for cases received from 1 January 2024, with case fees projected to increase volume-driven revenue as a proportion of funding of CIFO's operating expense (excluding contributions to reserves) from 20.8% to about 24% in 2024, in line with consultation 20 [and the FSP's response to previous CIFO requests for stakeholder input]. The FSP noted that CIFO intends to announce a separate broader consultation process on CIFO's overall funding structure in the summer of 2024 and will await that consultation before providing any further response."

2. One response was received from Islands Insurance who wished to have its response made public and was content for its identity to be revealed.

"Accepting that all institutions and markets have been hit by, in cases unprecedented, levels of inflationary pressure, the consultation paper fails to explain "why" CIFO requires or should receive the proposed increase – beyond stating some very broad objectives in section E. I would refer you to the [same consultation as posed by the UK Financial Ombudsman Service \(FOS\)](#) as a comparator in terms of detail and explanation (appreciating the differences in the organisations and that they propose to reduce their levies and fees, it is more the methodology and business case versus what you propose).

It would be useful to be provided with greater detail as to the following:

- The financial position of CIFO as of 2023 (outgoings, planned expenditure, single large expenditures etc.);
- Details of high-level staffing issues, costs and broad salary bandings;
- Current position with regards to financial reserves;
- Variance of complaint volumes against anticipated/planned volumes;
- Average cost of legal challenges and volumes in 2023 YTD and YoY from 2022.

Without the above the consultation simply tells industry that it is the Board of CIFO that has set a desired target of 15.5% to achieve £160K in additional revenue, but with no business case or transparency to provide confidence that this sum is properly arrived at and the funds will be managed and disposed of effectively to achieve the stated aims.

With regards to objective b), the proposed levy and charges with respect to insurance intermediation or other sectors does not fit with this objective with an 18.8% increase in levies with a disproportionately lower increase to banking. Accepting their significant contributions there is no mention that other sectors are now contributing more to CIFO operations and so should contribute to a higher degree in percentage terms.

Fundamentally we are supportive of objective c) and that those who generate complaints that require escalation should be liable for the lion share, if not the entirety, of CIFO's funding both in recognition of the efforts of those who have little or no complaints requiring escalation and to deter those who are not providing the requisite standard of customer care.

It is accepted that there has to be increases and ultimately it is detrimental to the customer by not having a properly funded and managed ombudsman, which we are entirely supportive of. However, appreciating the likely passing on of all or part of this operating cost to customers is also something we are conscious against a backdrop of various such requests from suppliers and regulators to do the same. This is why we must question the veracity of such increases without sight of more qualified evidence.

In light of the FOS proposal, and that CIFO relies on the FOS to deliver its own service at times, regrettably this feels to be an unjustified (although presumably capable of being justified if the above detail was shared transparently) request being imposed rather than consulted on."

CIFO response

Under CIFO's legislation in Jersey and Guernsey, it is the CIFO Board of Directors' responsibility to ensure that CIFO has the resources required to perform its statutory mandate. It is also the Board's responsibility to preserve the independence of CIFO to enable it to effectively perform its impartial function free from external influence.

In developing the budget for the subsequent calendar year in Q3 of each year, CIFO's Board of Directors takes into account most of the issues raised by Islands Insurance in its response to the consultation above. These include:

- The projected financial position of CIFO at the end of the year;
- Details of high-level staffing issues and staff-related costs including any management proposed adjustments to staff compensation;
- Current and projected position with regard to financial reserves and the perceived risks that warrant that level of reserves;
- Projected complaint volumes for the coming year and projected year-end inventory of complaints resolution work-in-progress;

- Projected cost increase/decrease for each non-staff expense-related operating expense line.

For 2024, more specifically, the key considerations that underpinned the development of the annual budget, which is mostly composed of staff-related costs, were:

- The impact of the competitive job market in Jersey affecting CIFO's ability to recruit and retain staff;
- Replenishing the reserves consumed in the elimination of the complaints backlog that had accumulated in previous years as CIFO's complaints handling capacity chased an ever-increasing volume of complaints to review;
- Keeping the increase in total levies on industry at or below inflation; and,
- Continuing to increase the case fee element of our income so that the 'user pays' proportion of CIFO's funding continues to increase in line with expressed industry stakeholder aspirations.

The overall year-over-year increase in the budget was 15.5%.

In addition, while not relevant to the budget itself, a projection of bank and other sector levies is calculated based on the proposed budget and the amount to be raised by levies to meet it. This, coupled with estimates of licence counts for bank and non-bank providers from the Jersey Financial Services Commission and Guernsey Financial Services Commission enables CIFO to calculate projected individual levy amounts. This provides a clear picture for CIFO's Board and for each of the Government of Jersey and States of Guernsey of the impact on individual financial services providers at the time that CIFO's proposed budget is reviewed and approved. For 2024, the increase in total levy paid by the banks was 9.4% in Jersey and 9.4% in Guernsey. For non-banks, the increase in total levy paid by the non-banks was 8.9% in Jersey and 9.8% in Guernsey. All four of these figures were below the Jersey rate of inflation of 10.1%.

Once the budget is approved by CIFO's Board of Directors, it is then presented to each of the Government of Jersey and States of Guernsey for their review and approval. To support a review of CIFO's proposed budget by officials in both islands, a detailed analysis of the operational situation and costs underpinning the proposed budget is provided to demonstrate that CIFO's proposed budget is appropriate and fulfils the Board's statutory responsibility to ensure adequate resourcing to meet the operational requirements as well as evidence that there has been appropriate oversight and challenge to management on budgetary and operational matters. Representatives of CIFO's Board and management have been called upon to present and explain the proposed budget where desired by either government. Once approved by each of the Government of Jersey and States of Guernsey, the budget is formally adopted by CIFO's Board of Directors prior to the commencement of the budget year.

As required by our laws, CIFO provides its annual report for the preceding year to each of the Government of Jersey and the States of Guernsey by the end of April of the following year, and the report is published. This report includes detailed audited financial statements and extensive operating commentary which addresses all of the issues identified by Islands Insurance above, and many more. CIFO's annual report is the primary channel to provide transparency of CIFO's annual expenditures and issues associated with the performance of its statutory mandate. The annual report

provides details of operational loads and financial resources and seeks to provide assurance to all stakeholders, including industry stakeholders that fund CIFO through annual levies and case fees, that the resources are necessary and are managed appropriately and effectively to ensure CIFO's performance of its statutory mandate.

Islands Insurance makes reference to the business plan and budget consultation issued by the UK Financial Ombudsman Service (UK FOS) each year and notes that CIFO is not consulting in advance of its annual budget process. Islands Insurance is correct in its assessment of the different frameworks governing CIFO and UK FOS. CIFO's Board notes that UK FOS is required under UK law to consult in this manner whereas CIFO was established by the Government of Jersey and States of Guernsey with a different governance and budgeting process which requires CIFO to conduct an annual consultation on levies and, as required, when case fees are proposed to be changed. The suggestion that "CIFO relies on the FOS to deliver its own service at times" is incorrect. CIFO has a contractual arrangement with certain experienced individuals who are current or past Ombudsmen with UK FOS and who are engaged on an as-needed basis to supplement CIFO's case handling capacity and support capacity building activities for CIFO's Jersey-based staff. It has no contractual arrangement with UK FOS. This is a cost-effective manner for providing supplementary capacity in an environment characterised by high and increasing staff costs. Complaints referred by CIFO that are determined to fall within the remit of UK FOS are forwarded on to UK FOS for their review and the complainants informed accordingly.

Islands Insurance's comment with respect to the relative increase or decrease in levy amounts paid by insurance and other non-bank providers relative to banks is accurate but fails to note that the starting position for the determination of the individual levy each year is the same for both bank and non-bank providers. The year-over-year increase in revenue to be raised by levy is currently divided equally between banks and non-banks. The difference in the individual levy amount paid by each of banks and non-banks arises due to year-over-year changes in the number of licences in each group across which the total amount to be raised by levy is shared. A decrease in the year-over-year number of licensed non-bank providers would create an increase in individual levies for that group even if the total amount to be raised were flat year-over-year. This same year-over-year licence effect holds true for banks as well.

Islands Insurance's comment with respect to the appropriateness of the relative proportions of CIFO's funding provided by different sub-sectors is not a matter which can be addressed in the annual levy consultation. CIFO has communicated to industry stakeholders and to the Government of Jersey and States of Guernsey its intention to commence a consultation on CIFO's funding structure in the second half of 2024. This will enable any concerns of relative fairness as between financial sub-sectors to be addressed with a view to establishing a new funding structure for CIFO going forward. The consultation will also address the introduction of new levy payers as a result of government proposed extensions to CIFO's mandate expected in 2024 and 2025. This will enable all industry stakeholders to discuss with CIFO and other industry stakeholders a fair approach to providing CIFO with the required resources.

3. One response was received from an individual who had previously referred a complaint to CIFO. The complainant raised issues regarding the scope and clarity of CIFO's statutory mandate that were not connected to the subject matter of the consultation. CIFO ensured that the concerns raised were shared with the appropriate financial sector regulator.

C: Next steps

Industry stakeholders should note that individual levy amounts will remain sensitive to the number of payees in the banking and non-banking sectors. These figures are determined from licence data obtained from the Commissions in both Jersey and Guernsey and are therefore a variable in the calculation of individual levies over which CIFO has no control.

During the consultation period, CIFO received and reviewed data from the Financial Services Commissions on registered providers as at 8 January 2024 and reviewed certifications received from new registered providers on their liability for CIFO levies. The individual levies are dependent on the number of licences. In 2023 there were 34 banking licences certified as liable for the levy, for 2024 there are 35. Therefore, the individual amount is lower than the amount set out in consultation paper 23 and due to an increase in the number of licences. The other sectors' individual levy amount is also less than was originally set out in consultation paper 23, and for the same reason.

Table 1: Levy Amounts by Sector for 2024

2024 Levy Amounts	Bank Sector	Other Sectors
Levies as proposed in Consultation Paper 23	£16,861	£1,635
2024 levies	£16,392	£1,446

The 2024 Jersey Levy Scheme and 2024 Guernsey Levy Scheme will be published on 29 February 2024 and come into effect on 1 March 2024. The collection of 2024 levies will be in a staged process, commencing in March with levy notices sent to banks in both islands. Levy notices to other registered providers will be sent sometime in July.

The CIFO Board has decided that, for cases received by CIFO from 1 January 2024, the case fees will be as proposed in consultation paper 23.

Table 2: Case Fee Amounts for 2024

2024 Case Fee Amounts	Levy Payers	Non-levy Payers
Case Fees as proposed in Consultation Paper 23	£975	£1,550
2024 Case Fees	£975	£1,550

The 2024 Jersey Fee Scheme and 2024 Guernsey Fee Scheme will be published on 29 February 2024 and will be for complaints received on or after 1 January 2024. Case fees are collected quarterly in arrears. The first quarter for 2024 is 31 March 2024 and the fees will be billed one month after the quarter end.
