



Treasury Committee

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Dear Ms Wayman

Thank you for your letter dated 25 September which outlined the proposed framework for reviewing cases made during the early stages of the Financial Ombudsman Service (FOS) reorganisation. The Committee has some concerns about the review, particularly whether there is undue emphasis on process rather than reviewing whether cases were correctly decided.

We are grateful for your engagement with the Committee and since the session with the FOS in July 2018 the Committee has continued to take a keen interest in this review. We are keen to ensure that this review is simply not a 'case work audit' which focuses on processes and procedures alone but a full 'outcome review' which consumers can have full confidence in.

In order to restore public confidence, it is essential that an assessment of outcomes is given due attention during this review. For example, during the first stage of the review cases should not only be validated against the relevant controls and standards but also, the Committee feels, against whether correct case decisions were made. This is not to say that procedure should not be reviewed to ensure that the right conditions were in place at the time of the restructure but this should not be at the expense of a proper review of case outcomes.

In addition, during the second stage of the review the FOS have proposed that cases should be tested against the 'Wednesbury reasonableness' test. The Committee feels that this is an extremely high bar to set for consumer cases referred to the FOS, considering that this would mean that the decision would not only have to be judged unreasonable but also irrational. Again, for the avoidance of doubt, decisions can be poor, or even systematically biased, without necessarily being Wednesbury unreasonable.

The third concern relates to the sample, which may be appropriate for deriving a statistically robust estimate of the proportion of mishandled or poorly-decided cases, but may not be suitable for identifying systematic problems with particular types of case.

The Committee continues to receive a large amount of correspondence from consumers who feel that the FOS has failed to act with due diligence in their cases. As such the Committee feels it is imperative that this review properly assesses case outcomes as well as case procedures.

I intend to place this letter, and any response, into the public domain.

Yours sincerely
Nicky

Rt Hon Nicky Morgan MP
Chair of the Treasury Committee