

Financial Dispute Resolution Service

# Annual Report

# 2018-2019



Tā te Hinengaro  
Tōkeke Whakatau



*Let's Resolve and Build Together*

# Highlights from 2018/19



Our membership has grown by a

**quarter**



**2351**

Scheme members



**773**

enquiries received



19 webinars and  
17 presentations



Only **33** complaints required formal dispute resolution assistance



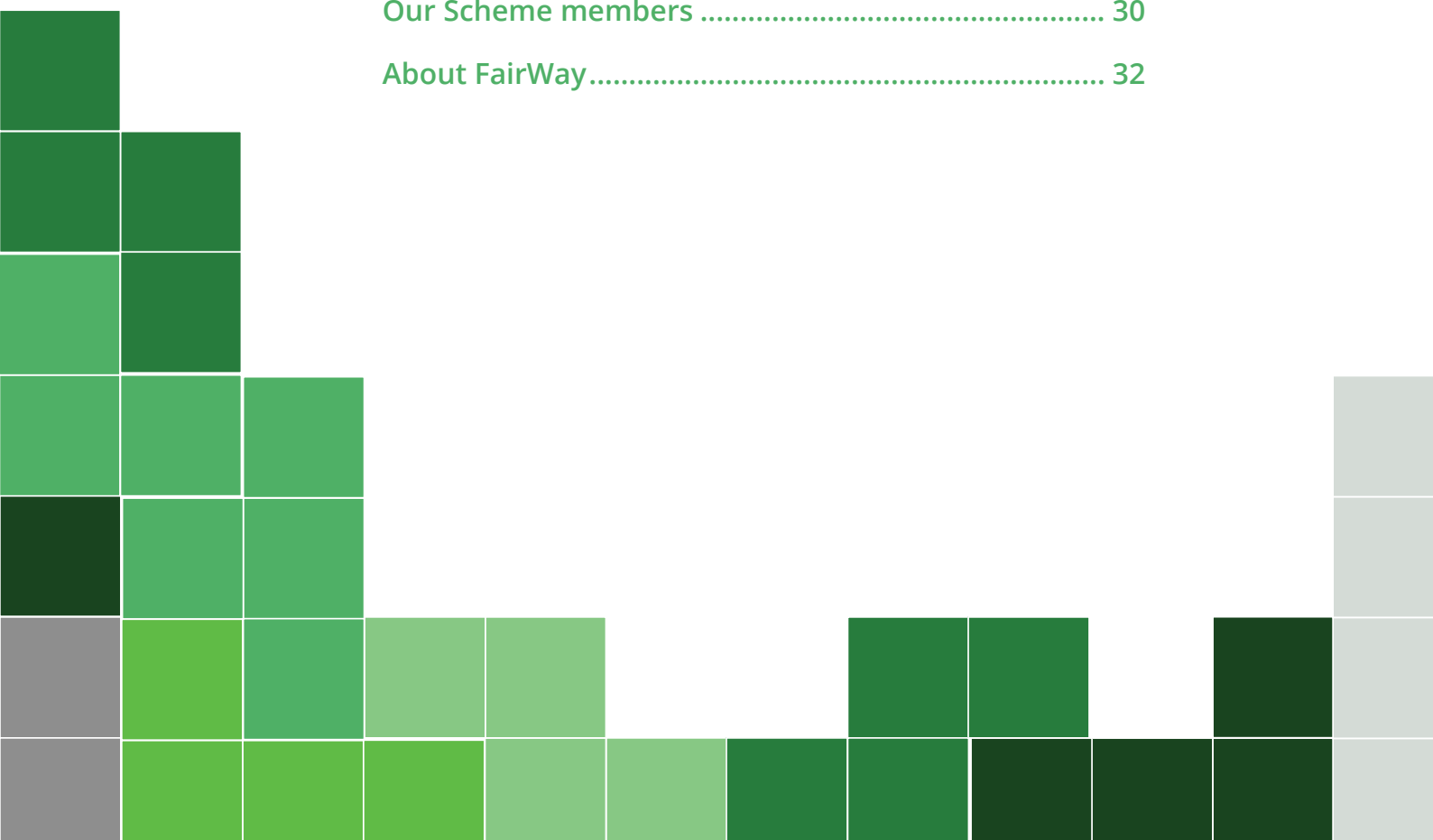
Over **95%**

of all enquiries were closed or resolved in our initial phase



# Contents

Highlights.....	2
Advisory Council Chair foreword.....	4
Scheme report.....	5
Who we are.....	8
What we do.....	9
About our team.....	11
About our Advisory Council.....	12
Statistics at a glance.....	15
Satisfaction with our service.....	17
Community and industry engagement.....	19
The year ahead.....	21
Trends.....	22
Case studies.....	24
Financial performance.....	29
Our Scheme members.....	30
About FairWay.....	32



# Advisory Council Chair foreword

It is my pleasure on behalf of the Advisory Council of the Financial Dispute Resolution Service to present the 2018/2019 annual report.

Financial Dispute Resolution Service (Service) has had another successful year with a continued focus on providing a quality and professional service to members and their clients. The Service has been focused on positioning itself for the future and making sure the services offered are easily accessible, independent and are backed by quality practitioners and process.

The Service is well positioned to respond to the changes to the financial services sector particularly the new licensing regime and to continue its focus on providing as much opportunity as possible for early resolution of complaints.

Over the course of the year we have said farewell to Bill Bevan (Consumer Representative) on the Advisory Council and to Trevor Slater our Client Director. Bill and Trevor have served with passion and enthusiasm and I thank them for their respective contributions. The Service has welcomed Liz Hogan (Head of Commercial at FairWay) into the fold and I am sure she will continue to build on the good work of Trevor.

It is pleasing to see the membership grow and respond to the changes we have seen over the year. We are also looking forward to finalising a review of the Rules following receipt of the independent review report.

The emphasis in the coming year for the Service remains on resolving complaints in a timely and effective manner. We will continue our focus on supporting and growing membership numbers and assisting our members to improve their own internal complaints capability. I would like to thank all the team for providing a quality independent service to members and their clients.

I wish to acknowledge and thank the Board of FairWay for their continued oversight, support and management of the Service.

Finally, I would like to thank my fellow Advisory Council Members: Pushpa Wood, David Whyte and Toni Dodds, for their continued support and guidance to me and the Service over the past year.



A handwritten signature in blue ink, appearing to read 'S. Ward', positioned above the printed name.

**Stephen Ward**  
Chair of Advisory Council

# Scheme Report

## “Let’s Resolve and Build Together.”

The past year has been a busy one for Financial Dispute Resolution Service and FairWay Resolution Limited.

The theme for 2018/19 was ‘lets resolve and build together’ and we have seen this theme take place in both our membership and enquiries to the scheme.

Our membership has continued to grow, which is always encouraging. We have seen an increase of a quarter and we look forward to meeting many of those new members at industry events this year. With the upcoming transitional licensing process and full licensing process on the horizon, supporting our members to meet their obligations as financial advice providers and financial advisors will remain a priority.

As a dispute resolution scheme, our focus is on ensuring that our members have the best chance of reaching an early resolution. Compared to last year, we have seen a reduction in the number of enquiries coming through to Financial Dispute Resolution Service. However, of those 773 enquiries over 95 percent were resolved or closed in our initial phase. We also have expert assistance available for resolving those trickier complaints. Of the 33 complaints that required more formal dispute resolution assistance, the biggest proportion were resolved through consensual approaches, such as facilitation and conciliation, with only seven complaints proceeding to adjudication within the financial year.

Throughout the year, the team have been engaging with our members, professional bodies and consumer groups around the country. Highlights include attending the SHARE Conference in Auckland and National Advisor’s Conference in Rotorua, presenting to the Professional IQ College (PIQ) and ‘Meet the Managers’ roadshows amongst many others, and hosting 19 webinars for our members throughout the year.

We were delighted to welcome Toni Dodds to Financial Dispute Resolution Service Advisory Council during the year. The Advisory Council provides guidance and support to Financial Dispute Resolution Service, and Toni brings a great deal of sector know-how to the table in her role as Industry Representative. Toni replaced Justin Kerr, who retired from the Advisory Council in October and has been missed by the team, having been a member of the Advisory Council since the inception of Financial Dispute Resolution Service.

At the end of this Financial Year we said a fond farewell to Trevor Slater as Client Director of Financial Dispute Resolution Service. Trevor has taken on a new role as General Manager of Resolution Institute which is a professional membership and accreditation body for dispute resolution professionals. We wish him all the best in this role and we will certainly be keeping in touch with him.

This year, the team will have guidance from Richard Binner – Chief Client Officer of FairWay who brings over 20 years experience in the financial services industry to the role and also from myself as Head of Commercial Services at FairWay. My focus is on continuing to build our high-performance team, innovation and enhancing our service excellence.

I would like to thank the small, but dedicated Financial Dispute Resolution Service team for their ongoing commitment to our customers and members. Each day, they lead the prevention and resolution of disputes around New Zealand. I would also like to thank the members of the Advisory Council who have welcomed me into the fold. I am looking forward to fresh challenges and further growth in the year ahead.

Our theme for 2019/20 is ***stabilise, standardise and optimise.***



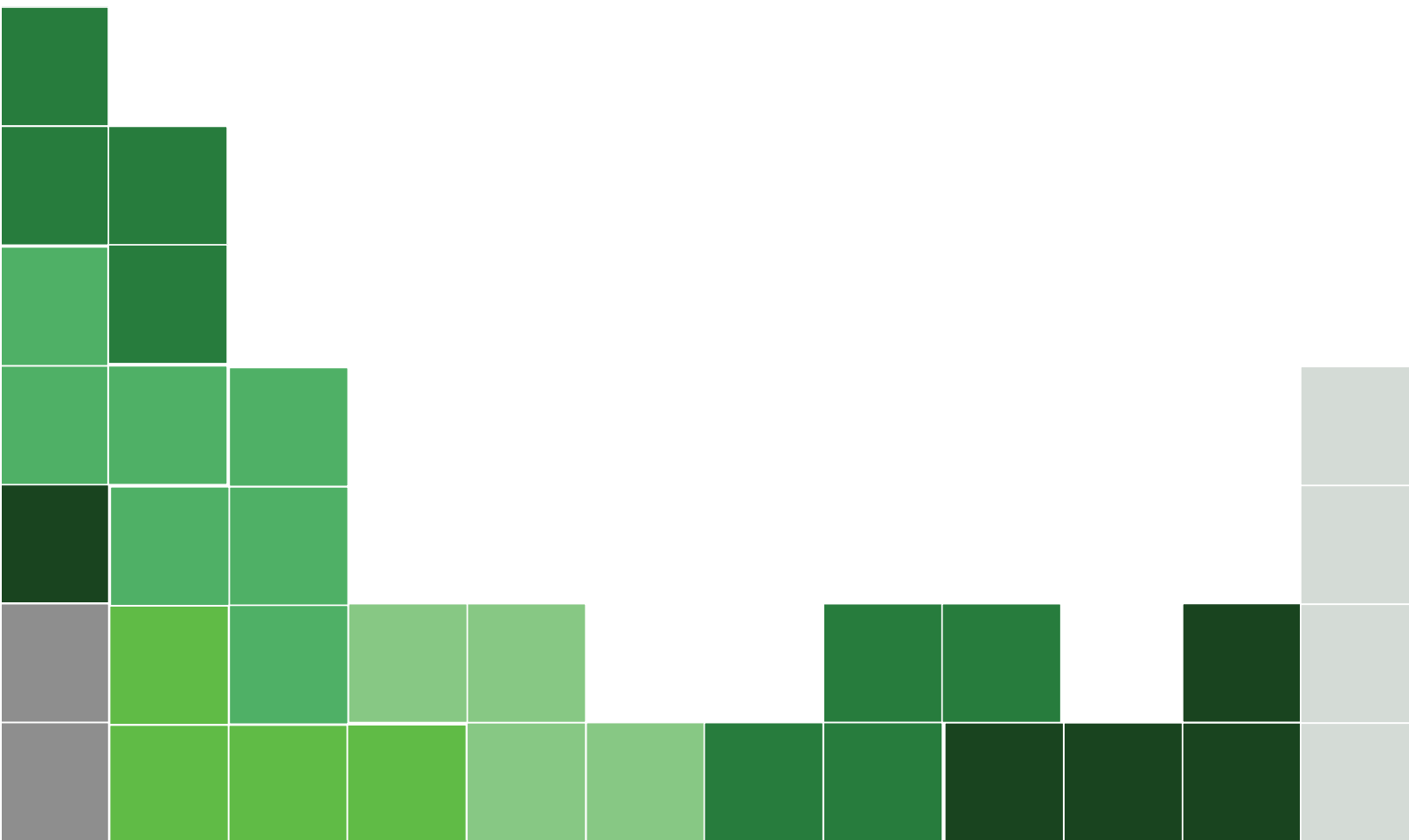
A handwritten signature of Liz Hogan in black ink.

**Liz Hogan**

Financial Dispute Resolution Service



# About Us



# Who we are

## Here are some of our features



### Early Resolution

Financial Dispute Resolution Service is focussed on the early resolution of complaints. Our independent experts support financial service providers and their customers to reach an agreement. We only use adjudication as a last resort.



### Financial Experts

We have a combination of both practical experience of working with financial service providers and their clients, and expertise in dispute resolution. This makes us experts at resolving financial complaints.



### Here to Help

We provide members with free internal complaint process information to ensure they are compliant with legislative requirements for complaint handling. We also have a dedicated helpline.



### Industry Leaders

Financial Dispute Resolution Service is part of FairWay Resolution Limited, New Zealand's largest specialist dispute resolution organisation. With our wide range of experience in handling complaints, you can trust that we have the expertise to help.



### Free Services

We offer a range of free services to help you prevent and manage complaints, including our monthly webinar which is tailored for the wider financial industry.



# What we do

**Financial Dispute Resolution Service has a layered process which aims to resolve disputes as early as possible.**

Financial Dispute Resolution Service is an approved financial dispute resolution scheme in New Zealand, established and approved under the Financial Service Providers (Registration and Dispute Resolution) Act 2008.

Financial service providers must be on the Financial Service Providers Register, operated by the Companies Office, and be a member of an external dispute resolution scheme.

If you have a complaint about a financial service provider who is a member of our service, then we will work with you and your financial service provider to reach agreement on your complaint.

The first step is an opportunity for you and your financial service provider to work out the issue together.

If that does not work, Financial Dispute Resolution Service will actively work with both you and your financial service provider to settle the matter as quickly as possible.

If no agreement can be reached, Financial Dispute Resolution Service may make a decision which is binding on the financial service provider.

The phases are:

## **1. Initial Complaint and Early Resolution**

When a consumer contacts us, our first step is ensuring that the Scheme Member has been made aware of the complaint and has an opportunity to resolve it.

If the consumer has already made a complaint to the Scheme Member and is not satisfied with their response, or two months have passed since they made the complaint, we will open a complaint file.

This information is sent to the Scheme Member, who is asked to provide their version of events or agreement to resolve the complaint. The Scheme Member has 21 days to do either of the above.

## **2. Investigation, Facilitation and Resolution**

If the Scheme Member does not wish to resolve the complaint and once their response is received, an assessment is undertaken by our expert team to decide the most suitable way to deal with the complaint. The choices are:

- a. Facilitation
- b. Conciliation
- c. Adjudication.

## Facilitation

The Facilitation phase is used to try and guide the parties to an agreement in an informal but assisted manner.

## Conciliation

The Conciliation phase is mediation where the conciliator is permitted to have input into the content of the complaint as well as the process. This stage is undertaken by a Resolution Practitioner who has completed formal mediation training.

If the complaint cannot be resolved through facilitation or mediation, it may move into the Adjudication stage.

## 3. Formal Adjudication

In situations where resolution cannot be reached, one of our specialist adjudicators will investigate and make a formal decision on the complaint. This is binding on the Scheme Member and is also binding on their client if they accept the Adjudicator's decision.



# About our team

## Here are some of the Financial Dispute Resolution Service team members

### **Rex Woodhouse, Resolution Practitioner**

Rex is an experienced dispute resolution practitioner, having joined FairWay Resolution Limited (formerly DRSL) in 2007. Rex is currently an adjudicator with FairWay, adjudicating ACC, telecommunications and financial disputes.

Rex also sits independently from FairWay, as a judicial officer in the Tenancy Tribunal and as a District Licensing Commissioner.

Rex holds a Master of Laws degree (LLM), and was admitted as a Barrister and Solicitor in 2004. Before taking up the law, Rex worked as a Registered Nurse, qualifying in 1992.

### **Nicole Seminiuk, Resolution Coordinator**

Nicole manages any enquiries and complaints that come through Financial Dispute Resolution Service.

Nicole is the Scheme's main complaint facilitator. She is the first point of call for consumers who wish to make a complaint and for guiding scheme members through our complaints process. Nicole also investigates complaints, helps the parties find mutual resolutions and assists the adjudicator in the preparation of complaints that need a formal decision.

Before joining the team at Financial Dispute Resolution Service, Nicole was a Profiling Analyst and Identity Resolver for the Compliance, Risk and Intelligence division of Immigration New Zealand.

### **Bruce Reid, Membership Coordinator**

Bruce looks after the membership of Financial Dispute Resolution Service. He is responsible for new members joining, responding to member enquiries and ensuring the smooth running of our membership operations.

Bruce joined FairWay Resolution Limited in 2017 as a Resolution Coordinator. As part of this role, Bruce guides parties in conflict through the dispute resolution process.

Bruce has a range of experience, including working for Datacom and Veterans Affairs (previously War Pensions Services).

# About our Advisory Council

## Advisory Council

Financial Dispute Resolution Service is fortunate to have a strong Advisory Council and the Board of FairWay to help guide and support the work we do. Here is an overview of our Advisory Council members.

### Independent Chair

#### Stephen Ward

Stephen is a consultant in the corporate and commercial department of Simpson Grierson. He advises corporations and crown entities on all aspects of corporate governance, statutory compliance, companies law, mergers and acquisitions, overseas investment in New Zealand and related issues.

Stephen also has more than 25 years' experience establishing, managing, amalgamating and winding up life and general insurance companies, superannuation schemes, KiwiSaver schemes, and other investment vehicles.

Stephen is an independent non-executive director of ASX-listed Sydney Airport, Sovereign Assurance Company Limited, SecureFuture Wiri Limited, SecureFuture Wiri Holdings Limited and Central Emergency Communications Limited.

Stephen is a trustee and Deputy Chair of the LifeFlight Trust, a member of the Governance Board of Wellington Free Ambulance, a member of the Investment Management Committee of Wellington Free Ambulance, and a member of the National Provident Trust Board.

Stephen has a background in law, having trained as a solicitor in the UK, and is also a Chartered Member of the Institute of Directors

### Industry Representatives

#### David Whyte

David has served at senior management and director level in a number of prominent organisations, including the Insurance & Savings Ombudsman Scheme (ISO), the Insurance, Savings & Investments Association (ISI — now called the Financial Services Council – FSC), and Southern Response Earthquake Services Ltd. He is currently the managing director for DCW Management Limited.

David served as General Manager of AIA in New Zealand, and as Managing Director of AIG Life in Australia before returning to New Zealand.

In addition to a Master of Arts (Honours) degree, David has a post-graduate Masters Degree in Management and has completed a post-graduate course at Waikato University in Corporate Governance & Leadership. He is also a Chartered Member of the NZ Institute of Company Directors.

## **Toni Dodds**

Toni is currently the Quality and Assurance Manager for Lifetime Group.

She has over ten years' experience in the financial advice industry and holds Level 5 qualifications, as well as degrees in Business and Supervision Management.

## **Consumer Representatives**

### **Dr Pushpa Wood**

Dr Pushpa Wood was appointed as an Officer of the New Zealand Order of Merit in the Queen's 90th Birthday Honours List for 2016 for her services to financial literacy and interfaith relations.

She was previously the Education Manager at the Commission for Financial Capability. She has worked across the school, tertiary, NGO and industry sectors to improve adult literacy and financial literacy, and was a member of the New Zealand Qualifications Authority's project advisory group reviewing financial literacy unit standards.

Dr Wood has extensive experience in developing teaching and learning resources, training and development, strategic planning and stakeholder relationship. Her research interests include identifying trigger points that motivate people to change their financial behaviour, preparedness of women in planning for their future and testing culturally appropriate evaluation tools. She has been involved in many national and international consultancy projects in financial literacy and capability building.

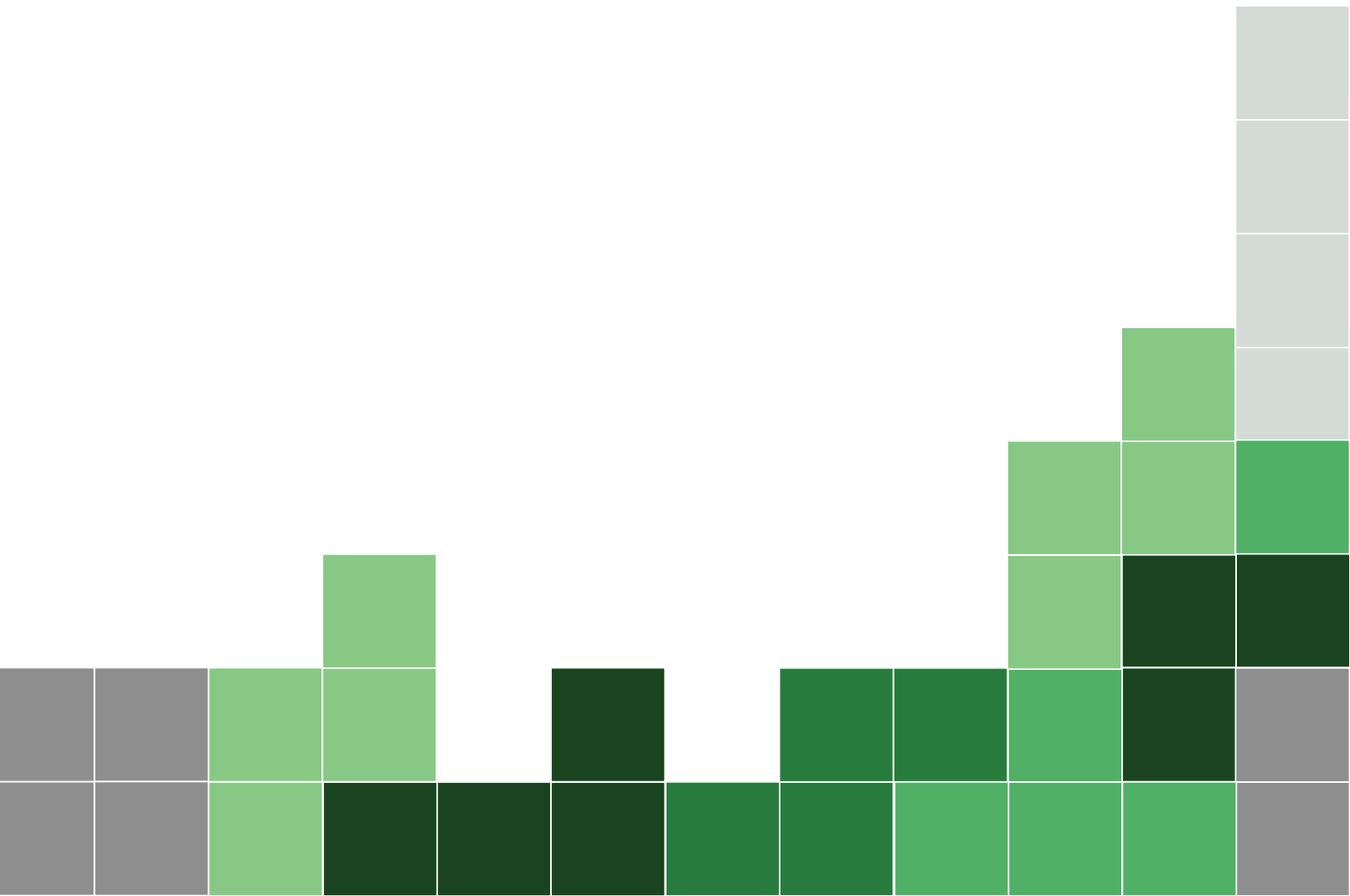
### **Bill Bevan**

Bill is a founding director of Kapimana Legal Services Ltd trading as Gault Bevan Law. He was also a founding Managing Solicitor at Whitireia Community Law Centre, Porirua. He was previously a consumer representative and chair of the Telecommunications Disputes Resolution Council.

In 2011, Bill received a QSM for services to the community.



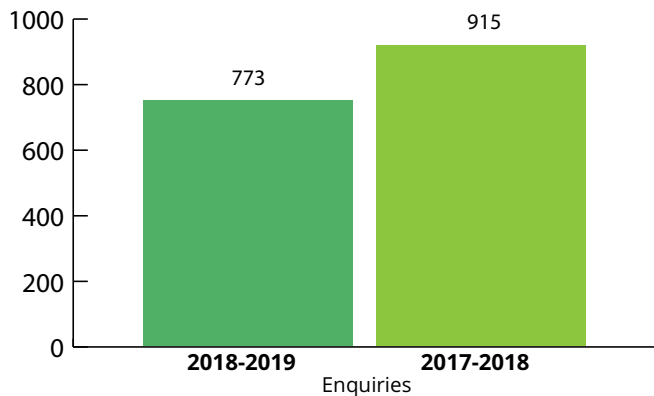
# The Year in Review



# Statistics at a glance

We had 773 enquiries in 2018/19

(Down from 915 in 2017/18)

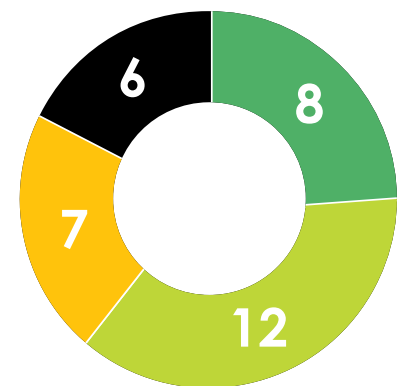


*Over 95% of all enquiries were closed or resolved in our initial phase*

Only 33 complaints required more formal dispute resolution assistance

In 2018/19, 33 complaints were resolved or closed which required formal dispute resolution assistance (including complaints received in 2017/18 which rolled over to 2018/19).

*'Other' includes complaints where we had no jurisdiction or where we had to cease consideration, for example if a provider was de-registered from the FSPR.*



8	Early dispute resolution
12	Facilitation/conciliation
7	Adjudication
6	Other

Average time to complete a case

<b>2018/19</b> 123.9 days	<b>2017/18</b> 150.9 days
------------------------------	------------------------------

Cases completed – 180 days or less

<b>2018/19</b> 100%	<b>2017/18</b> 100%
------------------------	------------------------

Timeliness – we work hard to resolve all complaints in a timely manner

*100% of all cases were completed within the accepted benchmark of 180 days.*

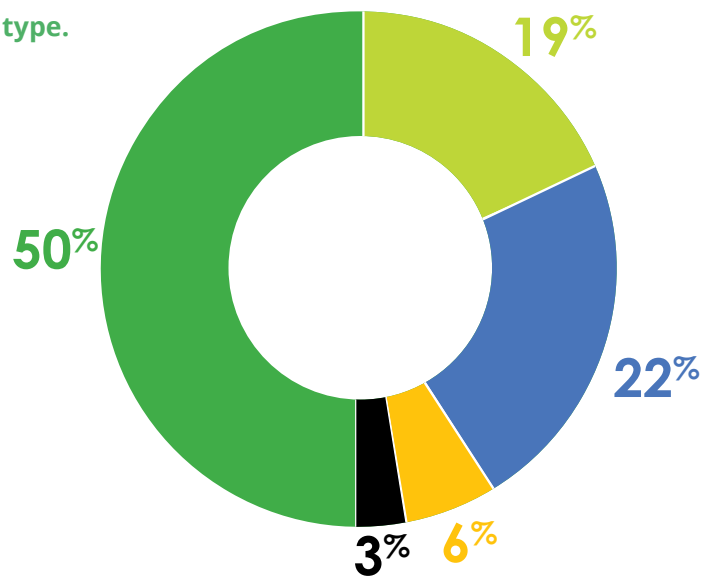
*Our average time to complete a case improved by 27 days in 2018/19*

## Complaints by member type

Of the 32 complaints that were accepted into our process, here is the breakdown by specific member type.

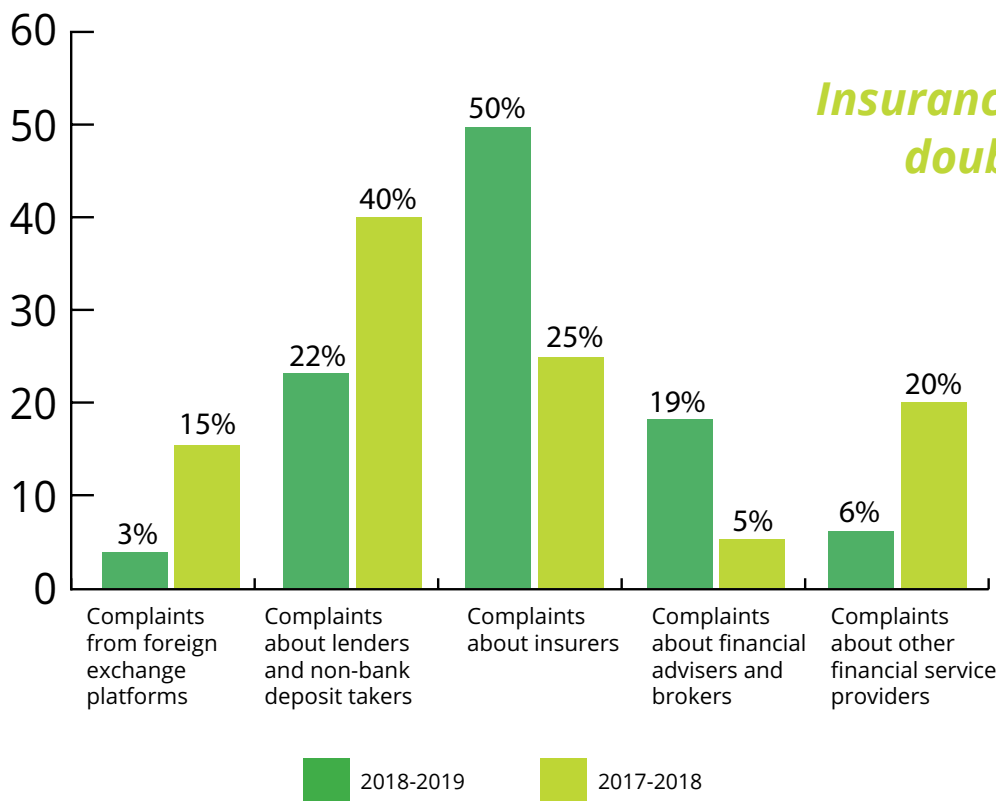
**Complaints about insurers have risen from 10% in 2017/18 to 50% in 2018/19**

50%	Insurer
19%	Financial advisers or brokers
22%	Lenders or non-bank deposit takers
6%	Other financial service providers
3%	Collectively foreign exchange platforms



## Top five complaint themes

Of the 32 accepted complaints, here are the five most common complaint themes





# Satisfaction with our service

One of the best ways for us to understand how we are performing is through the comments and responses we receive about our people and our process.

## Our Members

At Financial Dispute Resolution Service, we are committed to delivering a quality service for our members. We invited all our members to participate in our annual membership survey to help us to see if we are achieving our aims and to improve our service where needed.

We asked our members to rank statements on a scale of one to five, where one is the lowest and five is the highest. Here are some of our results:



Here are a selection of comments we received from our members during this year:

//  
*Thanks for explaining it all... They are very fortunate to have you.*  
//

//  
*This is a much shorter way to add new employees – thank you.*  
//

//  
*Thanks for your help – you have always answered my emails immediately and I have appreciated the quick and clear responses from you.*  
//

## Our Customers

In July 2018 we introduced a new method to survey all our users and stakeholders. This provides quality feedback that we will use to continue to improve our services.

Here are some of the written comments we received about our people and our process from people who used our service to help resolve their complaint.

//  
*[The person I spoke to] was incredibly helpful about how I needed to go about trying to resolve my issue and immediately forwarded information on how to structure my complaint.*  
//

//  
*I was given information regarding my query which was helpful in advancing the issue to be resolved.*  
//

//  
*The response from our request was quick and we got good result.*  
//

//  
*Your staff were very helpful, friendly and informative.*  
//

//  
*...even though she couldn't help me as the complaint was against a company not apart of your scheme, she pointed me in the right direction and responded in a timely manner.*  
//

# Community and industry engagement

## Here are some of the ways we engaged:

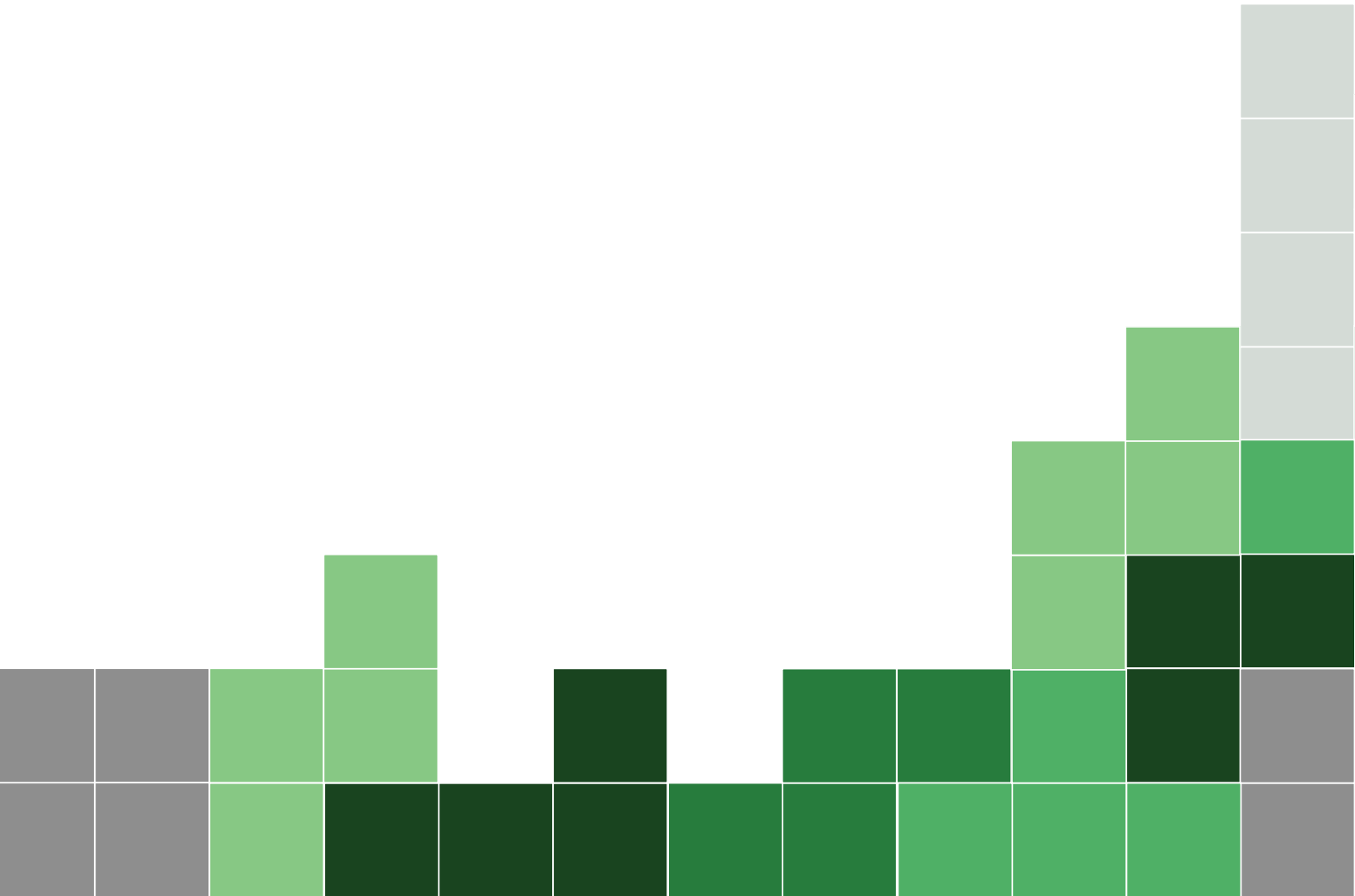
- **Participating in industry conferences.** Conferences are an invaluable way to increase understanding of what is happening in the financial services sector and to engage directly with our members. We have undertaken numerous presentations at industry conferences on complaint handling and other skills to help members improve their internal complaint processes.
- **Presenting at Consumer Rights days; to Budget Advisers; and regular meetings with the Citizens Advice Bureau.** These are excellent ways to provide information to consumers about our service. Getting the message about the availability of financial dispute resolution to consumers, especially vulnerable ones is a big challenge and the assistance provided by these consumer agencies is invaluable.
- **Meeting with scheme members. In the past year, one of our main focuses was to meet regularly with our scheme members.** This is not only to better understand their concerns and issues but to also build trust in our process. Having their trust in what we do creates better cooperation when a complaint arises which in turn benefits the consumer by creating better complaint resolutions.
- **Monthly educational webinars.** FDRS hosted 19 webinars in 2018-19 across a wide range of topics. We were joined by guest speakers from all areas of the financial sector. Along with the complaint handling sessions we also had speakers on specialist topics like the upcoming financial services legislation, cryptocurrency, KiwiSaver and more.

## Groups we regularly participate in:

- **Quarterly meetings with other financial dispute resolution schemes.** A useful forum for discussion on particular cases, internal processes, trends and systemic issues, raising consumer awareness and managing relationships with other agencies.



# The Year Ahead



# The Year Ahead

Here are some of the activities planned for the coming year

## Review and update the scheme rules

Financial services in New Zealand have evolved, and so should our scheme rules. With new financial legislation coming into effect in 2020, now is a good time to review and refresh our current scheme rules.

This review will reference details of the legislative change (licensing), together with incorporating some of the recommendations from last year's Independent Review and it will ensure we are up to date with the current financial landscape. The review will also include consultation with members and other stakeholders.

## Internal Complaints Guide

With the upcoming transitional regime, the regulator requires all financial advice providers to meet record keeping and complaints standards as part of the transitional licensing requirements. Standard advisers must have in place an internal process for resolving complaints from clients.

We are preparing an updated Internal Complaints Guide for scheme members to support them in meeting these requirements. Following the outcome of the Financial Markets Authority's consultation, we will distribute the updated guide and suite of resources to all members of our scheme.

## Engaging with members

Engaging with our members remains a priority for us in 2019/2020. As a dispute resolution scheme, it is important to us that our members have the best chance of reaching an early resolution, as well as the confidence that expert assistance is available for resolving those trickier complaints.

In the coming year, we will continue to provide our monthly educational webinar series to build our member's capability as financial service providers. We are also looking forward to meeting our members at industry events, such as the Financial Advice New Zealand Conference.

# Trends

Here are some of the trends and issues we can expect to see more of in 2019/20.

## Cryptocurrency

Cryptocurrency continues to be an emerging area, and one which has prompted many complaints.

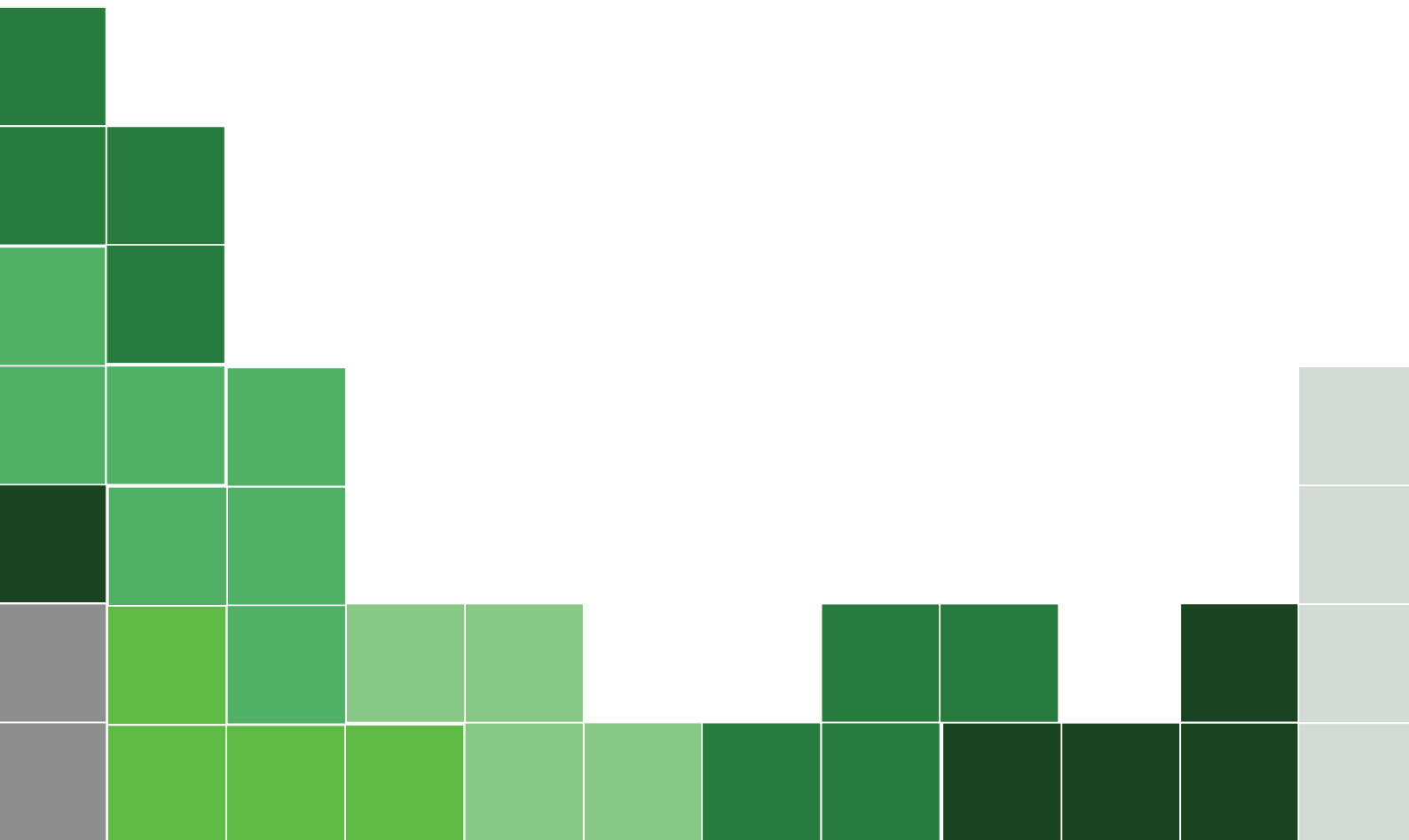
In 2018/19 cryptocurrency complaints remained high. We saw an influx of complaints following the suspension of trade at a high-profile cryptocurrency exchange during the year. We have also encountered phishing scams, where individuals unwittingly enter the details needed to access their cryptocurrency wallets into fraudulent websites that masquerade as other organisations.

## Legislative change

The Financial Services Legislative Amendment Act 2019 will continue to be a prominent feature through 2020 and beyond. The transitional licensing process will be available from November 2019 to June 2020, followed by the full licensing process sometime thereafter. Financial Dispute Resolution Service will need to stay abreast of these requirements and to support our members to meet their obligations as financial advice providers and financial advisors.



# Case Studies



## Case study no. 1

### Disclosure on both sides is important

A single-parent needed to borrow funds for several expenses and Christmas gifts. Unfortunately, the normal avenues of lending were not available to her and so she approached a more flexible non-bank lender. The borrower completed a loan application which included questions about income, current debts and expenses. After conducting checks, the lender agreed to grant a \$5,000 loan.

Over the next few months the borrower regularly paid the monthly repayments and both parties were happy with the arrangements. After 4 months the borrower decided she needed another \$5,000 loan and approached the same lender. She was again asked to complete an application form, which she did.

This time there was additional income declared from a new job that was not listed on the original application. The lender was presented with bank statements which showed the new income source. After undertaking an analysis of all the information provided, the lender granted a further \$5,000 loan. This was added to the existing loan so that the monthly payments did not increase.

All was well for a few months, but then the borrower fell behind with the payments and the lender started to demand repayment. Through a budget adviser, the borrower raised a complaint with the lender. Unfortunately, the complaint was unable to be resolved and was referred to Financial Dispute Resolution Service.

We obtained all the information from the borrower and met with her and her budget advisers. A budget was provided which indicated that the loan should not have been granted as there was insufficient income to service the loan.

The lender declined to resolve the case and asserted it had followed correct procedures in the lending process. It was decided the matter was best dealt with by way of formal adjudication and in this case, a hearing was undertaken with all parties present.

At the hearing two very important things happened. Firstly, the lender produced documents that had not been previously provided to FDRS which showed a far more rigorous process had been undertaken than had been previously presented. This supported the lender's process as being compliant and in line with the responsible lending code.

Secondly, the borrower admitted to the adjudicator that she had lied to the borrower about her employment status. The full-time work disclosed in the second application was in fact only a part-time role that concluded after a few weeks (and only covered the period in the provided bank statements).

In this case the adjudicator found in favour of the lender.



*It is important when making a complaint or being subject of a complaint, that all information is disclosed and is truthful.*





## Case study no. 2

### Expert v Expert

A newly wed couple were the owners of a young puppy and they took out pet insurance. At four months of age, the puppy developed a condition which required a trip to the vet. The examination revealed their young dog needed a costly examination.

They contacted the pet insurer and lodged a claim. The insurer assessed the claim and denied it. The insurer pointed out that the policy had an exclusion which said if an animal contracted an illness that was congenital and before it turned six months old, then no cover would be provided. The insurer provided general information about the breed of dog and the condition that supported its position.

The couple disagreed with the insurer, as did their veterinary surgeon. He asserted the information provided by the insurer was of a generic nature and not specific to the insured animal.

The insurer reviewed the claim but maintained the decision to decline it, and the matter was referred to Financial Dispute Resolution Service.

When we received the complaint, we asked for further information from both parties. It was clear in the insurance contract that a claim could be denied if the insured animal fell within the exclusion clause.

However, the couple's veterinary surgeon provided a comprehensive statement that asserted the information provided by the insurer was not peer reviewed and was only downloaded from the internet. Whereas he specialised in small animals and was qualified to express an expert opinion.

This was put to the insurer, who initially rejected it and provided further information from the internet to support its position.

We then undertook research into the veterinary surgeon's qualifications and compared these to the information provided by the insurer.

This revealed the qualifications of the vet were not only of the highest order in New Zealand, but he also had international qualifications in small animal veterinary science that made him qualified as an expert in his field.

The information provided by the insurer, whilst produced by a veterinary practice, was not in the view of Financial Dispute Resolution Service, as authoritative as the insured's evidence.

This was put to the insurer who did not agree. However, it decided that rather than test this at adjudication it would make a settlement offer. The offer was accepted by the couple.



*This was a good example of evidence testing when two parties produce supporting facts. In such circumstances the credibility of the evidence provider needs to be examined.*



## Case study no. 3

### Friendship tested

An older couple had been clients of an authorised financial adviser for over 20 years. They had become quite good friends and the adviser had handled all of their insurance and investment requirements.

Both of them were nearing retirement and felt their current home would not be suitable in the long term. It was a great property but on a hilly section and a long way away from any shops.

They asked the adviser what they should do. He suggested they should sell their current property and buy a home better suited to their long-term needs. They started looking at other properties but could not find one that met all their requirements. The adviser then suggested building a new home that would be designed especially for them.

However, this meant the couple would need to sell their current property and live somewhere whilst their new home was being built. They did not like that idea. Fortunately, the adviser had built and sold homes in the past and knew the process very well. He offered to purchase the land and put them in touch with a house designer and builder, both of which the adviser had worked with previously.

A partnership was established between the couple and the adviser. They paid the adviser \$20,000 as a 'deposit'. The adviser used these funds to engage the designer, quantity surveyors and to cover other out of pocket expenses. However, none of this was documented. The adviser purchased the section and the build planning started.

As time went on, the couple started to doubt their decision to build. The cost for the home had increased to quite a high level and the husband became concerned they would be in too much debt in their retirement. The couple decided to withdraw from the home build and asked the adviser to return the \$20,000 deposit. The adviser declined, claiming it had been spent on out of pocket expenses and to cover the loss of the sale of the land.

The complaint was referred to Financial Dispute Resolution Service.

Unfortunately, despite the adviser's best intentions he had placed himself in a poor position.

Firstly, there was no doubt the service he had provided his friends and clients was 'advice'. This meant as an Authorised Financial Adviser he had a high level of duty of care. He should have followed a compliant advice process including documenting each step in the process. He had not done this.

Secondly, in relation to the deposit there was no disclosure of what it would be used for and that it was non-refundable. When spoken to, the adviser stated that he was simply trying to help his friends find a new home that would suit their retirements needs. Whilst this was commendable, the adviser needed to still follow all the compliance requirements of providing financial advice.

Through mediation and negotiation, the couple came to a private agreement with the adviser and the matter was resolved.



*Never cut corners just because your client is a friend.  
It's important that you always follow best practice.*



## Case study no. 4

### Keeping good records

Max and Alice\* were approached by a financial adviser about their insurance needs. The couple had very little insurance and having just purchased a new home, needed financial advice. The adviser met with them and gathered all the information he needed to provide them with suitable financial advice. After undertaking research, the adviser presented his recommendations to his new clients.

An application form was completed by both of them. It contained questions about their health and medical conditions. Max declared he had seen a doctor in recent times for an injured elbow and increased blood pressure. Max asked the adviser what this would do to his application and the adviser responded by saying it could result in an exclusion or an increased premium or could be accepted on standard terms. This conversation was confirmed in a file note on the clients' file. Max also provided an authority to the insurance company for it to look at all his medical records.

Alice also completed an application form. In her medical questions she referred to having had the flu and nothing else. She declined to provide her full medical records. Both applications were submitted and cover for life and disability was provided.

Some months later, Alice was diagnosed with a failing eye condition which required costly surgery. This was covered by the disability insurance and a claim was lodged. Unfortunately, the claim was denied because Alice had an existing eye condition that she had not disclosed in her application for cover. They blamed the adviser for not providing good financial advice and made a complaint to Financial Dispute Resolution Service.

An examination of the adviser's client file revealed a very good level of client information being captured and recorded in the file. The advice process he had undertaken with the couple was excellent and followed the recognised seven step financial advice process. The advice provided appeared to be very sound. However, there was the question of non-disclosure and Max had inferred the adviser had discouraged Alice from disclosing the pre-existing eye condition.

A further examination of the client file revealed that the couple had confirmed they understood the need for full medical disclosure. This was evident by the information disclosed by Max and his agreement for the release of his full medical information. On the other hand, Alice had not agreed to the release of medical information and only disclosed that she had had the flu. Her medical records not only showed her eye condition but also high blood pressure and other illnesses. There was no evidence to support the client's allegations.

Another key issue here was looking at the situation if the problem had not arose – the 'turn back the clock' method. If Alice's medical history had been revealed, a prudent insurer would not have accepted the proposal and would more than likely rejected it outright or delayed acceptance for some months to see if the illnesses improved.

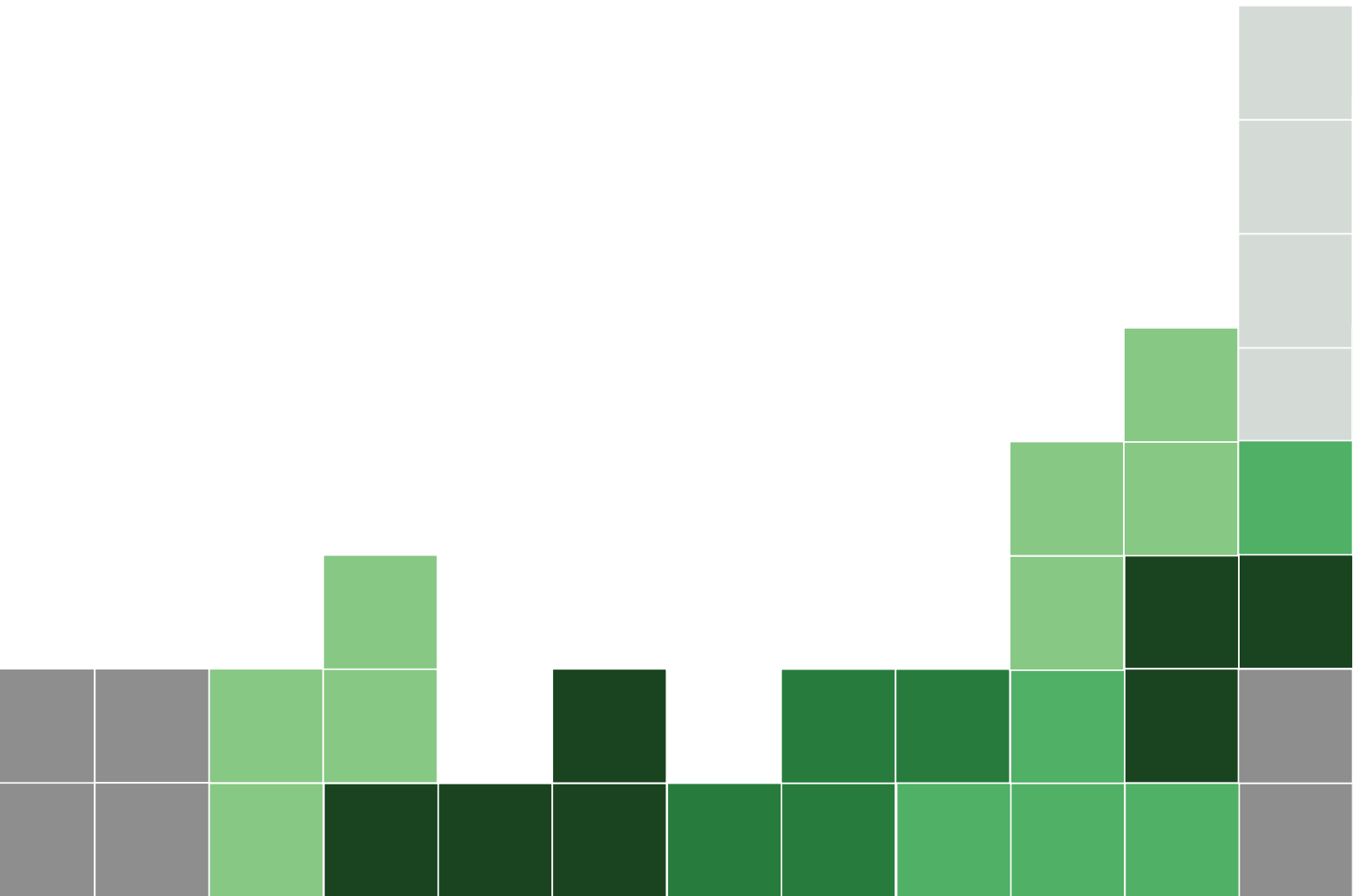
So even if the adviser had not discouraged full medical disclosure (which there was no evidence to show he had) and the insurer had been made aware of Alice's full medical history, cover would not have been provided.

The couple decided to withdraw their complaint.

**//**  
*This case shows the importance of the adviser keeping good file notes and following a proper advice process. In the end, it was these two things that protected the adviser from a complaint clearly lacking merit.*  
**//**



# The Details



# Financial performance

	<b>2019</b> \$000	<b>2018</b> \$000
Income		
Membership Fees	484	542
Complaint and other Fees	49	28
<b>Total Income</b>	<b>533</b>	<b>570</b>
Expenditure		
Advisory council	22	22
Independent Review	-	42
Travel and marketing	35	61
Personnel	263	229
Computer systems	51	54
Other (premises, systems, support, etc.)	388	268
<b>Total expenditure</b>	<b>759</b>	<b>676</b>
<b>Profit/ (Deficit)</b>	<b>(226)</b>	<b>(106)</b>

# Our Scheme members

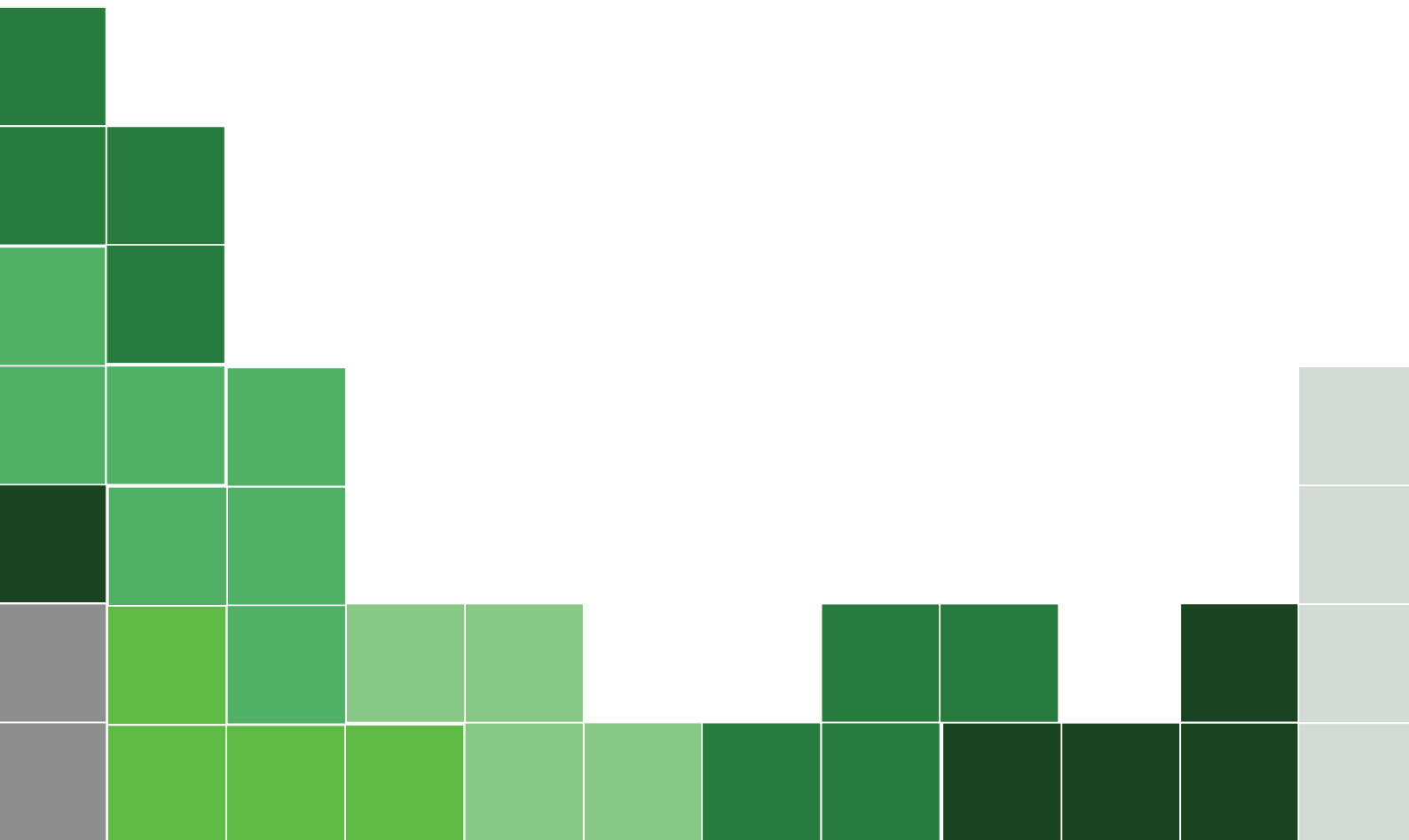
All financial service providers registered in New Zealand who provide services to retail customers must be a member of an approved external dispute resolution scheme.

**A full list of financial service providers who have nominated FDRS as their dispute resolution scheme can be found in the 'search for scheme members' section of our website, [www.fdrs.org.nz](http://www.fdrs.org.nz)**





# Company Information



# About FairWay



## Who We Are and What We Can Do For You

Financial Dispute Resolution Service is part of FairWay Resolution Limited, New Zealand's largest specialist conflict management company, with over 200 people working with us across the country.

From complaints and conflict, to issues and disagreements, FairWay can help resolve your dispute. There are lots of different ways that we can help people move forward– such as mediation, facilitation, adjudication and specialist coaching.

We offer a wide range of services to help New Zealanders in conflict move forward, working across a wide range of industries both in the public and private sector. We have extensive experience in dispute resolution and conflict management across a wide range of sectors from financial services, insurance and telecommunications to education, local government, construction and family.



## OUR MISSION, VISION AND VALUES

Every aspect of our work is guided by our commitment to our core mission, vision and values. These are simple, straight-forward, effective and designed to empower those we work with.

### Our Purpose

Leading the prevention and resolution of disputes

### Our Values

Our fundamental values are to pursue excellence in all we do through:

- **Professionalism – doing what is *tika***  
Providing a high-quality service that meets customer expectations and professional standards, ensuring customers have trust in the fairness of our services.
- **Integrity – doing what is *pono***  
Upholding ethical standards and communicating in an open, honest and transparent way. Always focused on the health and safety of our people and customers.
- **Collaboration - to do *mahi tahi***  
Seeking opportunities to work in teams towards shared objectives, knowledge and success.
- **Fairness – doing what is *tōkeke***  
Abiding by objective standards, allowing full participation in our processes, and giving all voices an opportunity to be heard.
- **Empathy – doing what we do with *aroha***  
Acknowledging where people are coming from and identifying their needs by asking, listening and clarifying. Demonstrating respect to one and another and our customers, acknowledging difference, and encouraging diversity.



**FINANCIAL  
DISPUTE  
RESOLUTION  
SERVICE**

Level 4, 142 Lambton Quay, Wellington 6011

Free phone: 0508 337 337

FDRS website: [www.fdrs.org.nz](http://www.fdrs.org.nz)

FairWay website: [www.fairwayresolution.com](http://www.fairwayresolution.com)