



Financial Dispute Resolution Service
Annual Report
2023–2024



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Year in review

1 July 2023 – 30 June 2024

Our Scheme Members

A full list of members can be found in the 'member search' section of our website, www.fdrs.org.nz



Haere mai

The Advisory Council is pleased to present the 2024 Annual Report

The Financial Dispute Resolution Service (**FDRS**) has had another busy year highlighted by excellent resolution rates and service satisfaction, capped off by a very positive independent review completed during the first half of the 2023/24 financial year.

The Financial Service Providers (Rules for Approved Dispute Resolution Schemes) Regulations 2024 commenced on 18 July 2024. These changes align the Rules for all financial dispute resolution schemes. FDRS was pleased to introduce higher financial limits for complaints and standardise the approach between schemes. We anticipate these changes will enable more consumers to access free and independent services.

In addition to enacting the legislative amendments, we have taken this opportunity to review and enhance our Rules to ensure we remain aligned with best practice and standards in dispute resolution. This work is progressing well and we look forward to sharing this with our members soon.

The Government is reviewing several pieces of legislation in the financial services area with the stated aim of ensuring the legislation does not impose too great a burden on financial advisers.

The Commerce and Consumer Affairs Minister, Andrew Bayly, has expressed his view that the legislative and regulatory changes that have occurred over the past decade have contributed to a reduction in clarity and increased the regulatory burden for financial market participants. He has also stated the existing regulatory environment needs simplification to help promote fair, efficient and transparent markets, and improved outcomes for consumers. The Ministry of Business, Innovation and Employment (**MBIE**) has been consulting on its “fit for purpose” financial services reform. FDRS made submissions to MBIE on these proposed reforms.

MBIE sought feedback on proposed changes to how financial products and services are regulated in the consumer credit, financial services conduct and financial dispute resolution space. The key objectives are to:

- simplify and streamline regulation of financial services (including reducing duplication);
- remove undue compliance costs for financial markets participants; and
- improve outcomes for consumers.

The ambit of the consultation documents is broad and covers proposed reforms to the Credit Contracts and Consumer Finance Act 2003, the Financial Markets (Conduct of Financial Institutions) Amendment Act 2022; and will streamline New Zealand’s financial dispute resolution system.

As advised in last year’s annual report, FDRS engaged Richard Kirkland of RiskIQ to undertake an independent review of the service. What was unique about this independent review was our inclusion of Government Centre for Dispute Resolution (GCDR) framework for best practice dispute resolution in Aotearoa New Zealand within the scope. The review found no systemic issues with the service and made some recommendations for improvement. These recommendations have been considered by FDRS. The FDRS team now have a structured programme of work over the next 18 months to implement some of the recommendations. The review was provided to the Minister as required by the Act and can be found **here**.

FDRS supported 1152 scheme members during the year. The FDRS membership has continued to evolve following implementation of the licensing requirements of the financial advice regime, the conduct regime for banks and

insurers, and the changing legislative landscape.

Trevor Slater resigned from the Advisory Council during the year. On behalf of the Advisory Council, Fair Way and all the FDRS team I would like to acknowledge and thank Trevor for his significant contribution to FDRS first as Client Director and then as a member of the Advisory Council. We wish him well for the future.

I would also like to acknowledge the continued work of Jeanie Robinson, Richard Binner, Samantha Brennan, and the wider team in delivering FDRS. Thank you to the Board of Fair Way for their continued oversight and support of FDRS. I have greatly appreciated the commitment and work of my fellow Advisory Council Members – David Whyte, Toni Dodds and Simon Roughton. I look forward to continuing to work with FDRS and the Advisory Council in the 2025 year.

Stephen Ward
Chair of Advisory Council



Kia ora

Me mahi tahi tatou mo te orange o te katoa

We should work together for the wellbeing of everyone. While our primary purpose is to assist in resolving complaints, we also play a preventative role by providing our members with resources and training, reducing the amount and severity of complaints that may arise. It's important that people have access to free and independent dispute resolution services when needed. Equally it's essential to lift the capability of our members to achieve the best outcomes and experience for their customers.

This year, 438 people reached out to us for assistance. We are pleased to see the benefits of our preventative approach with volumes decreasing by 2.9%, however the number remains high when compared with the pandemic years. We have seen great results from our early resolution approach, with 96% complaints resolved or closed during our initial, informal process. Only 18 complaints progressed through to our formal process, with only 9 of these complaints requiring facilitation, conciliation or adjudication.

One of the core principles of best practice dispute resolution is efficiency and effectiveness. We have been building our team of Resolution Coordinators and Resolution Practitioners, which not

only provides a broader coverage of support and expertise in-house but has also enabled us to improve resolution timeframes. Many jurisdiction decisions are now issued within mere days and overall timeliness increasing by 11.5 days. Our team are able to focus more on awareness and access, and we have been delighted to meet so many financial mentors and community workers across the year at events both in person and online.

While the licencing regime is well and truly in place, we continued to observe some changes in our membership. We have seen some who are no longer providing retail services to consumers. As the financial reforms have embedded in, we have also seen a change in membership types, with former individual financial advisors now being part of group membership as financial advice providers. The most significant trend involved members deregistering as they step away from the industry, observed in 43% of the memberships that were closed in this reporting period.

A key milestone from the past year has been our continued cultural capability journey. Highlights included our successful delivery of a te reo Māori language programme for our people and

the appointment of Hinemoa Dixon as Cultural Capability Lead. FDRS actively seeks to understand the needs of people who engage with our service, including any cultural needs, so we can provide appropriate support and design dispute resolution processes that meet those needs. We are committed to developing our cultural capability, to Te Tiriti o Waitangi and to the diverse people of Aotearoa. This will remain a key focus for our service.

In recent years there have been many changes in the legislative, regulatory and service requirements for the sector. To make it easier for FDRS members to be aware of their obligations and where they can find out more about each, we introduced a brief guide. We will be refreshing this resource regularly as the landscape evolves. In addition, we take an informative approach through our educational webinar series. With the cost-of-living crisis, we highlighted topics such as unaffordable debt and investment scams, along with sessions centred on our core purpose of supporting members to prevent complaints and to better manage conflict when disputes do arise.

The Board and Senior Management Team of Fair Way have expressed

their ongoing commitment to FDRS. Our plans for the year ahead include focusing on continuous improvement and innovation, enhancing the experience of our members and their consumers, and deepening our relationships with the sector. In addition, we have a workstream dedicated to progressing some of the recommendations from the independent review last year.

We will also be closely monitoring any developments in the financial services sector, including in the dispute resolution space. It's important that we listen to feedback from consumers in particular around awareness and access, balanced with feedback from members around the importance of choice and what they value in their membership.

I would like to thank the FDRS team and our wider Fair Way whānau for all the work you do to support this important service. We make a big difference for the people who use our services. I'm looking forward to another promising year ahead.

Jeanie Robinson
Financial Dispute Resolution Service



About us

We aim to resolve disputes as early as possible.

If you have a complaint about a financial service provider who is a member of our scheme, then we will work with you and your financial service provider to achieve resolution of your complaint. The phases are:

Informal process

1. Initial complaint and informal resolution

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

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.

Our Scheme Officers work with all parties involved to resolve the complaint, through an informal facilitative approach.

Formal process

2. Investigation, facilitation, and early settlement

FDRS actively works with you and your financial service provider to settle the matter as quickly as possible.

If the complaint has not been resolved through informal resolution, an assessment is undertaken by our expert team who recommend ways to deal with the complaint. If both sides agree, facilitation and/or conciliation can be used to help them find a mutual agreement.

Facilitation

The formal facilitation phase is used to try and guide the parties to an agreement in an informal but assisted manner. This phase can be completed by the Scheme Officer.

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.

Formal process

3. Formal adjudication

If needed, we make a decision.

In situations where resolution cannot be reached, or where the consumer or Scheme Member do not wish to participate in facilitation or conciliation, 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.

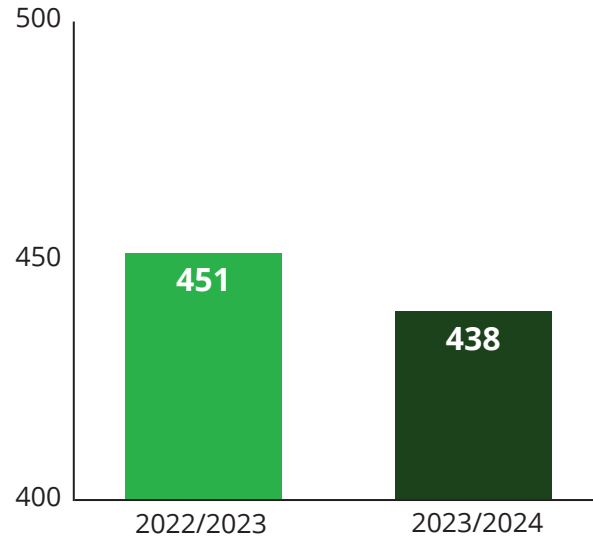


The year in review

Complaints decreased 2.9%

FDRS received **438** complaints in 2023/2024, which is a decrease of 2.9% from last year, but remains 9.2% higher than volumes in 2021/2022.

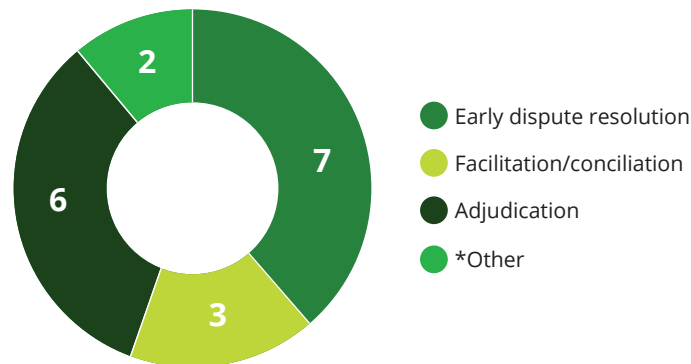
96% were resolved or closed during the informal process. **18** complaints progressed through to our formal process.



How complaints were resolved

4% of complaints this year entered our formal process (down from 5% last year).

Of the 18 complaints resolved during this process, **only 9** required assistance through facilitation, conciliation and adjudication. This has reduced by **41%** from last year.



* Other includes complaints where FDRS had no jurisdiction, or the complaints were withdrawn

Timeliness

2023/2024
100%

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

2022/2023
91%

The average time to complete a case was **56.6 days**, which has decreased from 68.1 days last year.

Feedback

“ FDRS accepted the complaint and appointed a capable mediator with the necessary legal background to investigate and respond to the issues raised. ”

“ The process is well documented. ”

“ The team are very professional throughout the complaint resolution process. ”

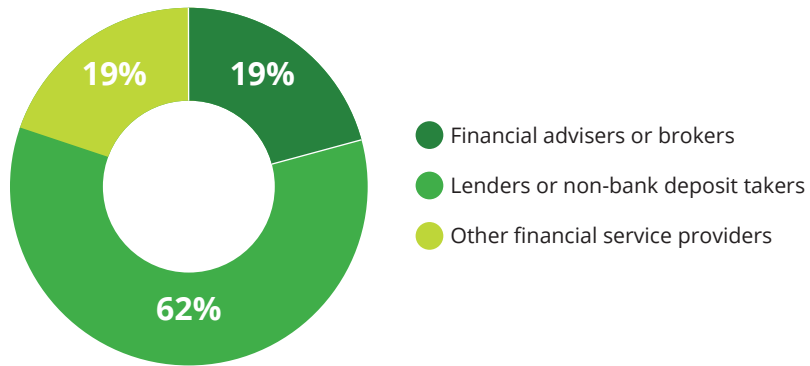
“ FDRS webinars are really informative and provide really good value for my membership investment. ”



Complaints by member type

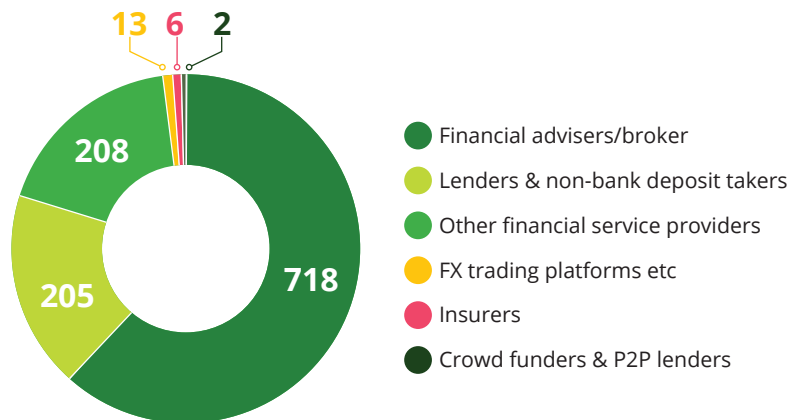
Of the **18** complaints that were accepted into our process, here is the breakdown by specific member type.

Formal complaints about financial advisors or brokers comprised of 19% of the total complaints received this year, decreasing from 32% last year.



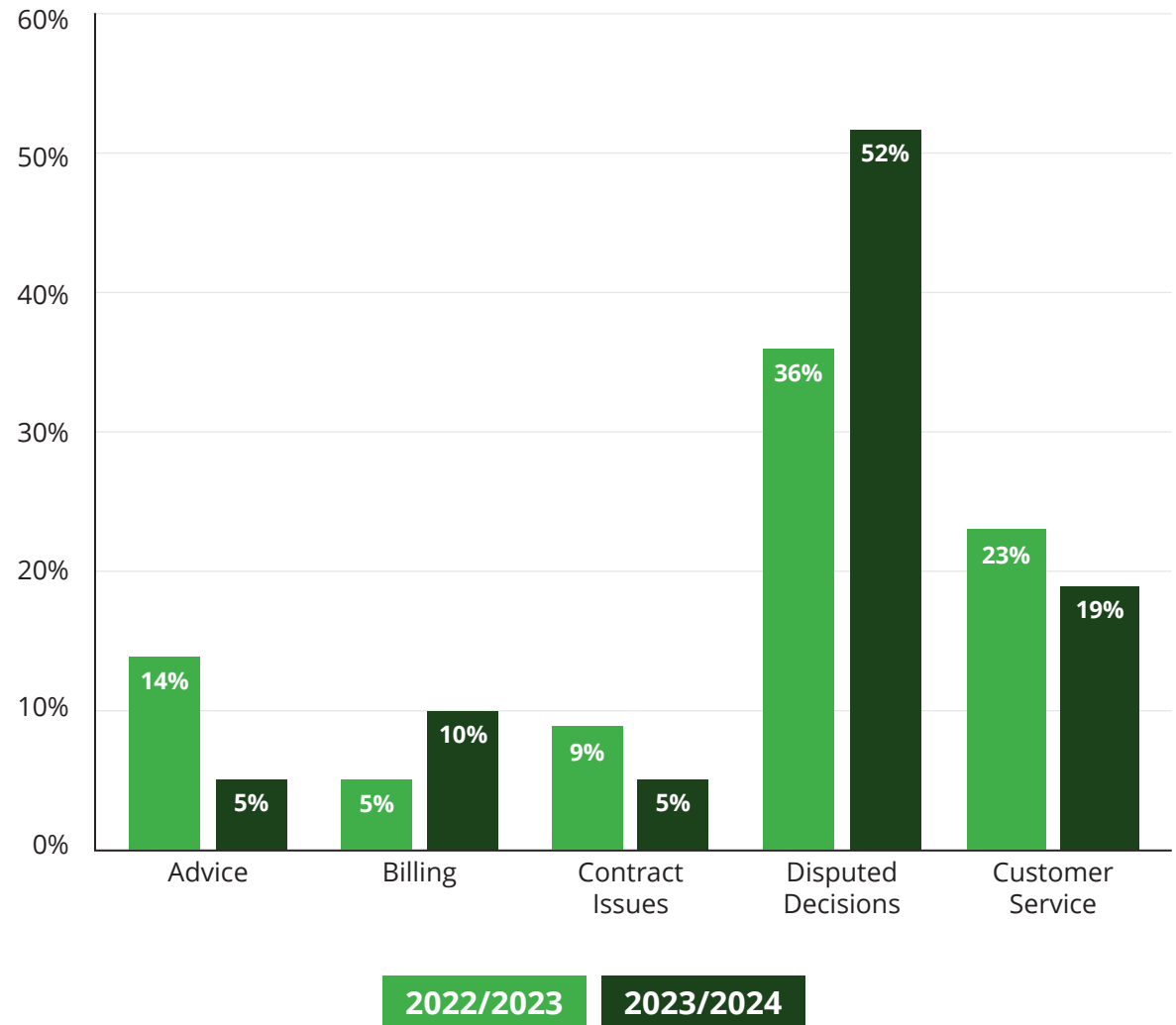
Membership overview

Here is an overview of our 1152 members.



Top five complaint themes

Of the **18** formal complaints resolved, the majority were about **disputed decisions** made by financial service providers. The biggest increase in this category related to **maladministration in lending**.





Member survey results

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:

“ *FDRS respond promptly to member enquiries.* ”

100% of respondents scored us as a three or higher. Average rating **4.30**

“ *FDRS provides a professional complaint resolution service.* ”

100% of respondents scored us as a three or higher. Average rating **4.80**

“ *I feel I can call FDRS and get help with a complaint.* ”

100% of respondents scored us as a three or higher. Average rating **4.65**





Case Studies

Holiday home

Background

Andrew and Ben* decided to buy a holiday home that was being built in a tourist hotspot. The Agreement for Sale and Purchase allowed them 10 days to undertake due diligence and finance before confirming the purchase. During this period, they engaged a mortgage broker as well as an accountant and a lawyer. Each of the three advisors were sent information about the property and the couple's intention to live their part-time along with renting it out at other times.

The Agreement for Sale and Purchase contained a clause which limited its use to short-term visitor accommodation. This important clause changed it from being a residential property to a commercial one and it was missed by Andrew and Ben, as well as their mortgage broker, lawyer and accountant. Everyone knew that the couple intended to live in the property themselves at least some of the time.

The mortgage broker obtained residential finance and so Andrew and Ben duly confirmed the purchase. The true classification of the property was eventually discovered by the valuer after the purchase had been confirmed and the deposit paid.

When the lender learned of the correct zoning classification of the property, they changed the terms of the proposed lending from residential to commercial resulting in a significantly higher interest rate. As a result, the couple withdrew from the property purchase and lost their deposit along with extra costs they had incurred during the build.

Next steps

Andrew and Ben contacted FDRS to raise a dispute about their mortgage broker. The parties were unable to reach an agreement together and so it proceeded to adjudication, where we make an independent decision on the matter.

Outcome

FDRS considered the broker's obligations to Andrew and Ben. In particular, her legal duties of care, competence, diligence, knowledge and skill. It was determined that, in missing the fact that the zoning of the property would not allow Andrew and Ben to use it as she knew they wished, the broker had breached these obligations.

The adjudicator then turned their attention to contribution – whether there were factors which mitigated the extent of responsibility owed by the broker. In this case there were contributing factors which should have protected Andrew and Ben - in particular that they were experienced property owners who were professionally advised by both a lawyer and an accountant.

After considerable analysis it was determined that the broker was responsible for one third of Andrew and Ben's lost deposit, one third of the additional costs they had paid to fit out the property while under construction and also liable to pay \$3,000 to the couple as a contribution towards their legal costs.

Lessons learned

This complaint highlights the integrated reliance that service providers have on each other. Andrew and Ben may also have claims against other professionals involved in this matter, and if so, these will be pursued through other dispute resolution processes.

This complaint also shows the responsibility that customers, who are capable of doing so, have to protect themselves – that they cannot absolve themselves of all responsibility simply because they engaged with professional service providers.

* Names have been changed to protect our customers' identities



Case Studies

Small loans can cause big problems

Background

Dorothy* had taken out a series of small cash advance loans from a lender over a period of 12 years. She contacted FDRS as she had fallen behind in her payments and the loan was sent to a debt collector.

The customer alleged that the lender had improperly considered her loan applications, offered unsolicited credit increases, and wrongly taken her husband's income into account when assessing the affordability of repayments. She also alleged that fees and interest had been incorrectly calculated and charged on her account, and that the lender had failed to adequately communicate with her throughout the term of the loan. Across the life of the loans, Dorothy calculated that she had repaid more than three times the amounts loaned to her.

Dorothy asked for the matter to be investigated and that she be compensated for the alleged breaches. She also asked that the debt be transferred back from the debt collection agency to the lender and that the associated costs imposed by the debt collector be refunded to her.

Next steps

FDRS referred the matter to the lender, requesting their response. The lender contacted Dorothy directly to attempt to reach a resolution. They then responded to FDRS stating that Dorothy was confused and asserting that they had complied with all their obligations.

In response to the complaint, they pointed out that their client had not met her repayment obligations, that she had gone on to borrow two further sums from the lender since raising her complaint and that she had now requested that they cease contact with her. The lender alleged that they had made multiple offers to assist Dorothy but that these had been declined and they denied that they had failed to communicate with her.

Dorothy did not accept the lender's version of events and the matter remained unresolved.

FDRS deemed that the matter was within the jurisdiction of the scheme and a Resolution Practitioner was appointed. The Resolution Practitioner contacted the parties to explain our process and how we can assist. A conciliation was arranged so they could explore the issues and solutions together.

Outcome

With the help of the FDRS Resolution Practitioner the parties were able to communicate and negotiate. During the conciliation, together they reached a settlement which was formally recorded and agreed to by Dorothy and the lender. The terms included a revised debt collection fee and debt repayment schedule. The amount of the debt remained unchanged.

Lessons learned

This complaint highlights the ability of alternative dispute resolution processes to bring parties together, even when they appear to have opposed and entrenched positions. The assistance of an independent and skilled practitioner can make a big difference.

This complaint also shows the need for both borrowers and lenders to document and retain records. Whenever conversations are had in person or over the phone, we advise lenders to follow up with written communication summarising the conversation shortly afterwards. This can help prevent misunderstandings at the time and saved copies of correspondence can also be useful down the track if a dispute arises.

* Names have been changed to protect our customers' identities



Case Studies

Claiming clawback costs

Background

Michaela* used the services of a financial service provider (FSP) to assist her in restructuring her personal lending. She later sold some significant assets and repaid her lending earlier than expected. She was aware that this would incur an early repayment fee (clawback) to her bank but was not aware that her FSP would also charge her a clawback fee for their services if she repaid the loan early.

The FSP claimed that the existence of the early repayment fee had been disclosed to Michaela and that she had signed a document which included this clause. Michaela agreed that she had signed a form about the clawback for the lender but says that it did not include information about a clawback for the FSP. She asserted that she would never have agreed to such a clause and that the signature applied to the document was not hers.

Michaela agreed that the FSP's services had been of value to her, and she was willing to pay something for the service but not the amount sought by the FSP. Attempts by the parties to settle the matter between themselves had not been successful and the relationship between them had broken down so Michaela lodged a complaint with FDRS.

Next steps

FDRS referred the complaint to the FSP who did not accept that FDRS had jurisdiction to consider the matter because they had made an application to have the matter heard in the Disputes Tribunal. FDRS issued a jurisdiction decision that, under the Scheme Rules, the scheme member having made an application in the Disputes Tribunal did not impact on FDRS jurisdiction when the customer chose to use the FDRS forum.

Despite the FSP continuing to strenuously object to FDRS having jurisdiction in this matter, our Resolution Practitioner contacted both parties to see if there was a prospect of a mediated resolution before the matter proceeded to adjudication. The practitioner explained the various options and the parties engaged in a 'shuttle mediation' whereby our practitioner moved between the two, conveying information to each from the other.

Outcome

With the assistance of FDRS the parties were able to reach a mediated settlement which was formally recorded, and the matter closed. The terms included a part payment of the FSP's fee in two instalments.

Because the matter was mutually resolved through mediation there was no need to proceed to adjudication and the Disputes Tribunal hearing was vacated by the parties.

Lessons learned

This complaint highlights the ability of alternative dispute resolution to reach flexible settlement arrangements without further damaging relationships.

This complaint also shows the need for scheme members to be aware of the jurisdiction of FDRS and to engage with our service when a matter is within our jurisdiction.

* Names have been changed to protect our customers' identities



Case Studies

Unaffordable car loan

Background

FDRS was approached by a financial mentor on behalf of their client. The client purchased a vehicle from a dealership in 2022. The purchase price was over \$10,000.00. The client paid a deposit, and the balance was funded by way of a financial arrangement with a financial provider.

The loan contract included several additional items that were added to the principal sum:

- A loan establishment fee
- A brokerage fee
- A “Guaranteed Finance Protection” policy (issued as a separate document) with a premium
- Mechanical Breakdown Insurance
- The annual interest rate was fixed for the whole of the contract period at 21.95%
- The loan amount was to be repaid in 130 weekly installments.

The total amount to be paid over the life of the loan was approximately \$17,500.00.

Unfortunately, the vehicle was unreliable and was returned to the dealership within the first month for repair or replacement. The car remained with the dealer for 8 months before the dealership decided to settle with the client by clearing the outstanding balance and refunding the cash deposit.

The customer then engaged a financial mentor to assist them with budgeting. The mentor requested that the financial provider suspend the current loan repayments due to financial hardship. The mentor also requested a copy of the clients’ affordability statement. While the request for a suspension was denied, the financial provider did supply an assessment which appeared to show the clients.

- weekly income
- expenses including the loan repayment and
- a final statement on the assessment that concluded a surplus of \$20.00 a week after expenses.

However not all weekly payments were included in the affordability assessment. Bank statements showed several negative account balances in the 3-month period before the loan was approved. These expenses were not considered in the affordability assessment.

The financial mentor therefore claimed that the loan was unaffordable. Consequently, the loan placed their client in “further financial hardship”.

The financial provider claimed it had made “reasonable inquiries when assessing the affordability” of the loan through the car dealership. However, even a cursory examination of the loan application showed that it was incomplete.

The financial provider acknowledged that other weekly payments disclosed were omitted from the loan application, meaning that the “uncommitted weekly income” of \$20.00 per week was too low a figure to justify a loan plus interest.

Next steps

The complaint was found to be within the jurisdiction of FDRS and required further investigation.

FDRS was concerned about the size of the interest rate and the additional costs including the loan establishment fee and brokerage fee. The Guaranteed Finance Protection and Mechanical Breakdown Insurance caused serious concerns. FDRS questioned what value these insurances provided given the client’s tight financial circumstances and the limited use of the vehicle. FDRS looked at whether key features of the credit related insurance were fully explained to the client and if the insurance met the borrower’s needs. The principles of fairness also requires FDRS to consider the apparent vulnerability of borrowers.

The financial provider faced a potential risk of breaching the principles in part 1A of CCCFA and the guidelines provided by the Lending Code. On the surface this loan was unaffordable once the additional payments were added to the affordability calculation. There were also doubts about the value provided by the additional insurances and concerns about the level of interest and fees being charged. It was our view that the loan payments potentially caused the client substantial hardship.



Finances

Outcome

Once jurisdiction was issued, and prior to any formal investigation from FDRS, the parties reached a settlement and the financial provider agreed to refund the required amount to clear the loan.

Lessons learned

This complaint highlights the potential problems created by “add-on” insurances included in financing packages for vehicle or household purchases. Finance companies must fully explain the key features of these policies to their clients and have a genuine conversation about whether these additional items are affordable and needed by the client. This complaint also shows that all finance companies must carefully conduct their own assessments of affordability based on interviews and discussions with clients. Great care must be taken to ensure that any automated assessments of affordability are accurate and that key information is not missed. This is especially important where the clients are vulnerable and the margin between the costs of the borrowing and the income are tight.

	2023 \$000	2024 \$000
Income		
Membership Fees	526	529
Complaint and other Fees	15	31
Total Income	541	560
Expenditure		
Advisory Council	22	28
Travel and Marketing	5	2
Personnel	107	150
Other	2	1
Office and Corporate Support	406	383
Total Expenditure	542	564
Profit / (Deficit)	(1)	(4)



kia tau
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