# Financial Dispute Resolution Service Annual Report 2016-2017



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Stronger relationships, stronger business

Fair Way

Lead · Resolve · Agre



# Highlights from 2016/17

- 100% of consumer respondents found Financial Dispute Resolution Service's (FDRS) process fair and independent
- Average number of days to resolve a complaint: 25 days (down from 55 in the previous year)
- 89% of FDRS scheme members found FDRS easy to work with and 83% found FDRS efficient in dealing with complaints
- 10 webinars, 9 member events, 29 sector engagement meetings and events, 4 sector training events
- 1543 scheme members
- 455 complaints completed;
  - 230 of which were resolved by scheme members before our formal process
- 236 new complaints were registered with FDRS.



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### Advisory Council Chair Foreword

# *It is my pleasure on behalf of the Advisory Council of the Financial Disputes Resolution Scheme to present to 2017 annual report.*

Financial Dispute Resolution Service has completed another successful year as an approved scheme under the Financial Service Providers (Registration and Dispute Resolution) Act 2010.

The scheme continued its commitment to be the leading conflict management service provider with values of professionalism, integrity, collaboration and fairness. Financial Dispute Resolution Service was excellently led by our Scheme Director, Jennifer Mahony. Jennifer is moving to a new role at Fairway and we wish her well with the change. On behalf of the Advisory Council I thank Jennifer for her service as Scheme Director.

I am pleased to welcome Trevor Slater as our new Client Director. Trevor brings a wealth of experience in the financial services sector and as a dispute resolution professional.

It is pleasing to see the continued high level of satisfaction with the scheme's service. I am confident that Financial Dispute Resolution Service will maintain this level of satisfaction in the 2017/18 year. The emphasis in the coming year will be on continuing to build relationships and connection points with all parties in the industry. This will contribute to achieving the scheme's vision of assisting people to move forward.

Jennifer and her team are to be commended for their efforts in providing an effective and independent service to our members and their clients. I thank the team for their contributes over the past year.

There was a change of ownership of Fairway Resolution Limited during the year. The change was seamless for Financial Dispute Resolution Service. I wish to acknowledge and thank the Board of Fairway Resolution for their continued oversight, support and management of the scheme.

Finally, I would like to thank my fellow Advisory Council Members: Pushpa Wood, Bill Bevan, David Whyte and Justin Kerr, for their continued support and guidance to me and the scheme over the past year.

Stephen Ward Chair of Advisory Council



## **Scheme Director's Report**

#### "Stronger relationships, stronger business."

Our theme for the 2016/17 financial year was "Stronger Relationships, Stronger Business." We focused on building and strengthening relationships across the financial service provider sector through educational programming, opportunities for members to meet and discuss issues affecting them, and working with consumer groups.

#### As a result of our focus, as well as sensible and smart changes, FDRS can report:

- A reduction in the number of days to complete a complaint (25 days as opposed to 55)
- An increase in consumer confidence in the FDRS
- An increase in scheme member satisfaction with how FDRS engages with them
- An increase in membership
- A hearty, financially stable organisation.

We have made submissions on a variety of proposed legislative changes, most significantly the Financial Services Legislation Amendment Bill. Our primary areas of focus, as reflected in our experience and that of our members, was on the territorial scope provision of the Bill.

We have engaged extensively with the community, our members, and other professional bodies and agencies in the financial services area. In the past year alone, we have attended 29 sector engagement meetings and events. We have also educated our members on a variety of topics over the course of regular webinar series, newsletters and member events. Financial Dispute Resolution Service has also been growing its online presence, with a dedicated Facebook page to help build consumer awareness.

In terms of complaints, there was a significant reduction in the number of complaints received in 2016-17 (236) versus those received in 2015/16 (609). This is reflective of the number of complaints relating to foreign exchange trading platforms dropping, consistent with the overall market. Complaints against lenders constituted 35% of the

number of complaints received by FDRS this year, which is much higher than previous years. We believe that this is partly reflected by increased awareness of consumer rights with respect to lending.

We were pleased to see that a percentage of complaints resolved as part of our scheme members' internal complaints processes continues to grow. We would like to see that number go up. The earlier the conflict is resolved, the better chance there is for continuation of the client relationship.

What can you expect from FDRS in the coming year? The biggest change for FDRS will be in its leadership. I have been proud to lead this service for the last year and half and have enjoyed heading an industry leading dispute resolution service. I am also proud to welcome our new leader, Trevor Slater. Trevor's experience as a dispute resolution professional and his involvement in the financial services sector makes him an excellent choice for leading FDRS through this strong period of growth and service excellence. It has been my pleasure to work with all of our members, and across the financial sector. I look forward to seeing what's next.

On behalf of the whole team, we look forward to working with you in the coming year, where our theme is "Connection is Key". We hope to help provide a connection point for scheme members, consumers, agencies and government so that everyone keeps moving forward.



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Jennifer Mahony Scheme Director of Financial Dispute Resolution Service

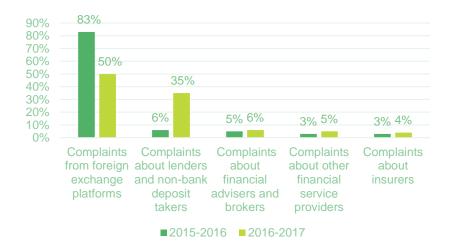


# THE YEAR IN REVIEW

# **Statistics at a glance**

#### 236 complaints registered with FDRS:

(609 in 2015-16; 475 complaints in 2014-15)



- 118 of complaints from foreign exchange trading platforms. 50% of complaints
- 83 complaints about lenders and non-bank deposit takers. 35% of complaints
- 14 complaints about financial advisers and brokers. 6% of complaints
- 11 complaints about other financial service providers, including QFEs. 5% of complaints
- 9 complaints about insurers. 4% of complaints
- 1 was not about any FDRS scheme member.

#### Of the total complaints:

- 180 were about failure to follow instructions. Specifically failing to reimburse investors funds when requested. Online trading platforms were over represented in this figure but there was a significant decline in online trading platform complaints in 2016-17 (510 in 2015-16)
- 14 were about the decision made by the financial service provider; primarily about denial of claims due to exclusions or conditions (29 in 2015-16)
- 11 related to service received (21 in 2015-16)
- 9 related to failure to give advice, or incorrect or inappropriate advice (5 in 2015-16)
- 7 related to dishonoured, incorrect, or unauthorized transactions (6 in 2015-16)
- 5 related to contract issues (6 in 2015-16)
- 5 related to misleading product or service information (4 in 2015-16)
- 3 related to incorrect contract fees, deductibles or incorrect commissions (10 in 2015-16)
- 1 related to financial difficulty requests, default notices or failure to respond to requests for assistance (11 in 2015-16)
- 1 related to a non-specific complaint about a financial service provider.



#### FDRS completed 455 complaints during the 2016/17 financial year:

(702 in 2015-16)



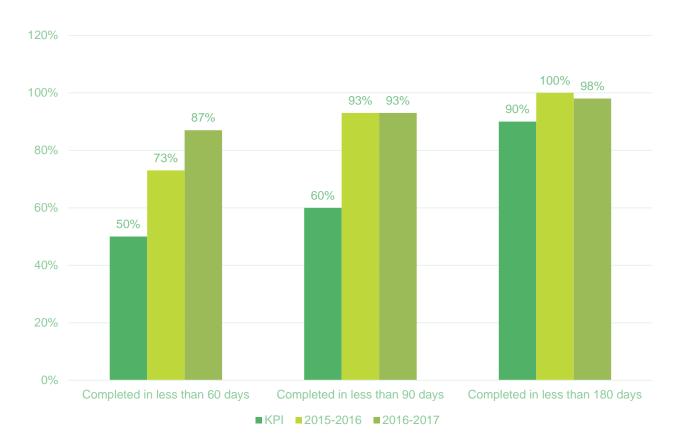
#### Of the 4 complaints resolved through adjudication in 2016-17:

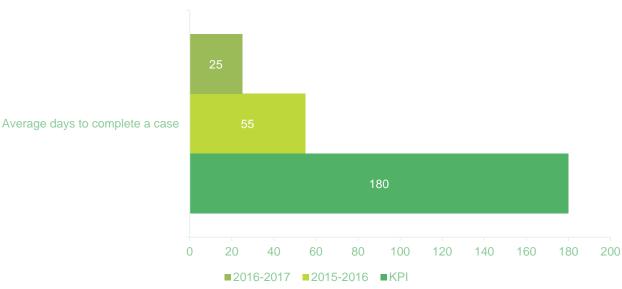
- 2 complaints were upheld
- 2 complaints were not upheld.



#### **Business Performance**

#### Complaint resolution timeframes

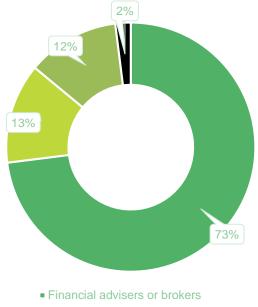




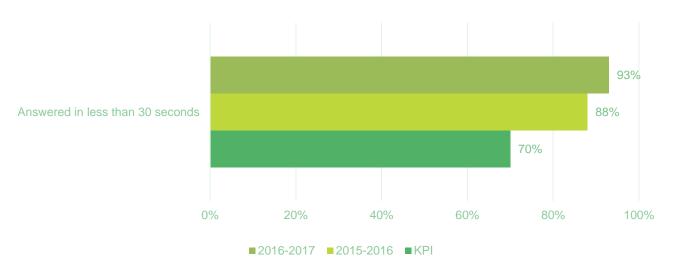
 Average time to complete a case in 2015-16: 25 days (55 days in 2015-16) (KPI: 180 days. 100% met in 2015-16).



- 73% are financial advisers or brokers (AFAs and RFAs) (Type 2)
- 13% are lenders or non-bank
- deposit takers (Type 4) 12% are other financial service providers (Type 5a)
- 2% are collectively foreign exchange platforms (Type 5b), Qualifying Financial Entities (Type 1), Banks (Type 3) or insurers (Type 3).



- Lenders or non-bank deposit takers
- Other financial service providers
- Collectively foreign exchange platforms



Only 4% of calls not answered (KPI: less than 10%) (4% in 2015-16).

# **Satisfaction with our service**

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

#### Highlights include:

When asked to rate FDRS out of 10, one respondent replied, "10 out of 10. Actually, probably 11 out of 10!"

"FDRS they sorted it out my issue in 3 days, whereas I had to wait 2-3 months for my financial service provider to come back to me! It was a very straightforward process."

"The process was pretty straightforward...Just had one person that I had to deal with which was better from my perspective. My complaint was quite complicated and it would be very messy if I had to deal with multiple people."

"Basically...we'd followed all the procedures and they hadn't paid the seller so this went on for a week and a half and no matter who we communicated with...no one [from the organisation] ever got back to us. So we thought, what do we do? And that's when we contacted FDRS. They were really useful. They made the initial contact and on the same day, we got payment! I don't think that was coincidental."

"I found the [FDRS Facilitator] was really clear in her communication...she explained things carefully, what she was doing was always backed up with an email."

The FDRS Facilitator was "inclusive and [made] us feel like this is not a silly little thing."

"Not only was it quick and painless, [the FDRS Facilitator] was just so understanding and really dealt with such a small little problem, she dealt with it in a personable way and made us feel important that she would look at it. The whole process was very professional and very warm and inviting."

"They had all the resources...They made contact with [the financial service provider] just to initiate the thing...they sent through the initial communication to the right person...they copied us in or sent us the email as well...and by initiating that, it seemed to have kicked things into gear. I just feel like it was all made really clear, they did it the right way, they were quite well organised."



#### Consumers and members found FDRS:

- Prompt
- Easy to use
- Accessible

- Helpful and friendly
- Fair and impartial

Our independent researcher BuzzChannel collects our customers feedback on a monthly basis. We also conduct a sample of qualitative telephone surveys throughout the year in order to get a deeper understanding of how complainants find FDRS. Scheme members are surveyed on an annual basis.

#### How consumers felt about their experience with FDRS:

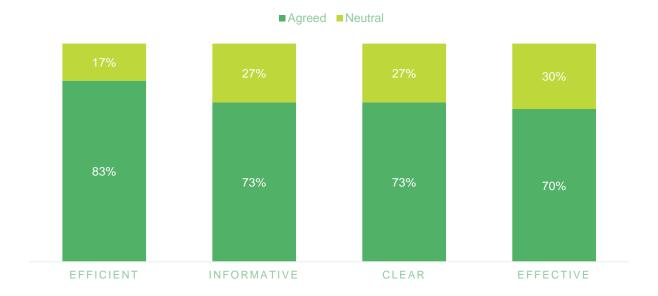
# 83% of respondents rated FDRS eight out of 10 (or above) in overall satisfaction.

#### Here are some of the key statistics:

- 100% of respondents agreed that FDRS's process was fair and impartial. The previous year's result was 72%.
- 82% of respondents agreed that:
  - » they were kept well-informed about what was going to happen; that their queries were handled efficiently;
  - » that their views were listened to and understood;
  - » and that they received all the information that they needed about the dispute resolution process. This is up from the previous year's result of 74%.
- 86% of respondents found FDRS staff friendly and courteous. This is up from the previous year's result of 74%.

#### How our scheme members rated us:

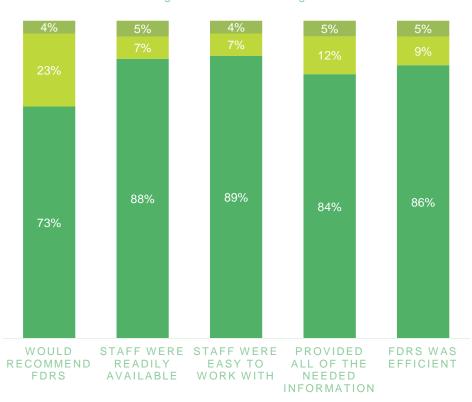
Our scheme members expressed a high level of satisfaction with FDRS which is largely unchanged from previous years.



In our annual survey, our scheme members found us to be:

#### In terms of overall satisfaction with FDRS:

- 73% of respondents were at least extremely likely or likely to recommend FDRS to colleagues looking for a dispute resolution service provider. 23% were neither likely to recommend or not recommend. 4% were unlikely to recommend
- 88% found FDRS staff available when they needed them. 7% were neutral and 5% disagreed
- 89% found FDRS easy to work with and helpful.
   7% were neutral and
   4% disagreed
- 84% found that FDRS provided all of the information needed.
   12% were neutral. 5% disagreed
- 86% found FDRS prompt and efficient in all dealings. 9% were neutral. 5% disagreed.



■ Agreed ■ Neutral ■ Disagreed



#### Highlights include:

One of the best ways for us to understand how our service works is through the written comments we receive about our people and our process from our scheme members.

"Staff were impartial and understood the issues."

*In scoring FDRS a 10 for overall satisfaction, one member noted that a complex decision had been required on a particularly difficult issue.* 

"I have always found organisation very good to deal with both at my time here and prior at [a different financial service provider]."

"I met with FDRS staff [facilitators and Scheme Director] at a morning tea session earlier this year. I found them approachable and knowledgeable."

"They are very helpful."

"Staff are lovely. [FDRS Facilitator] does a fantastic job and are awesome and easy to deal with."

"Staff are approachable, always available if needed—friendly."

In terms of FDRS's enhanced member engagement and education, one member commented, "The Morning Tea session went very well and the webinar was very informative."

"Good communication and feedback"

"The staff I have met demonstrate a high degree of competency."

Several members noted that the overall satisfaction with FDRS was high because of our processes and membership engagement.

For members who rated FDRS neutrally in any category, the most common reasons were:

- Members had not had to use FDRS's services yet
- Dispute resolution schemes are a cost of compliance, were not needed, and unlikely to be used
- Recommendations were not needed, as membership in a dispute resolution scheme was mandated.

#### When asked what FDRS could work on, the most common responses were:

- Members had not had to use FDRS's services and had nothing to judge it against
- No improvements needed.

#### What the Ratings Mean to Us:

The ratings tell us that we are doing well and that we are meeting the principles under section 52(2) of the Financial Service Provider Act:

- Accessibility easy to contact FDRS and easy to lodge a complaint
- Independent unaligned and not influenced by any party
- Fair providing all parties natural justice and ensuring consistent processes and decisions
- Accountable fully transparent operations and meeting requirements set by legislation
- Efficient working in a manner that is timely and cost efficient
- **Effective** able to provide full resolution or closure of complaints.



# **Community and industry engagement**

#### The following are some of the ways we engaged:

- **Participating in industry conferences.** Conferences are an invaluable way to understand what is happening in the financial services markets; the pressure points faced by financial service providers; and discuss how FDRS can assist consumers and scheme members in resolving disputes.
- Presenting at Consumer Rights days; to Budget Advisers; and regular meetings with Citizens Advice Bureaus. These are excellent ways to provide information to consumers about FDRS; the questions they should be asking as part of financial decision-making; and what to do if they have a complaint.
- Meeting with scheme members. We regularly meet with our scheme members to better understand what is happening for them. This year, FDRS hosted 9 morning and afternoon teas for FDRS members around the country. This allowed our members to get to know each other, share insight and skills, and discuss what's happening in the sector. It is also a good opportunity for us to assist with internal complaints handling process audits and training on complaints handling. Talking to scheme members also helps inform our submissions on proposed legislation and policy.
- **Monthly educational webinars.** FDRS hosted 10 monthly webinars in 2016-17 across a wide range of topics. We were joined by guest speakers from the Commerce Commission, Commission for Financial Capability, Financial Markets Authority, Independent Development Solutions, and other organisations. We also had speakers on specialist topics like complaints handling and continuous improvement and working with vulnerable consumers.

#### 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.
- **Bi-monthly Dispute Investigators' Group meetings.** Useful in understanding complaint trends across a variety of sectors.



# THE YEAR AHEAD



#### Shaping the future of FDRS

Financial Dispute Resolution Service is owned and operated by FairWay Resolution Limited. That makes Financial Dispute Resolution Service part of New Zealand's largest specialist conflict management and dispute resolution service.

FairWay Resolution have a team of over 200 people across the country and provide a range of services to help New Zealanders, both in the public and private sector. FairWay handles over 14,000 disputes, review and enquiries each year - of all kinds including complaints registered through Financial Dispute Resolution Service, reviews where a customer disagrees with a decision made by ACC, telecommunication disputes and mediation for child care arrangements.

In July 2017, FairWay transitioned from Crown-ownership to become privately owned by our employees. This was great news for FairWay and Financial Dispute Resolution Service as it reinforced our independence and over time, will better enable us to grow, to add more value for our customers and to enhance our services.

Employee-ownership is a common and successful business model in professional services firms, and is working well for FairWay and our customers. Our commitment to customer service, quality and privacy remain at the centre of our business, and our purpose remains unchanged. We will continue to provide the same great experience and support for our customers, including members and consumers of our Financial Dispute Resolution Service.



#### Sector Education and Engagement

We will continue to focus on engagement and education across the sector in the coming year.

• Building on the success of our Tuesdays at 10 webinars for FDRS members, FDRS will be hosting quarterly webinars for community groups to attend; such as CAB, Budget Advisors, Community Law, and others.



# We have a number of education initiatives for the coming year, including:

• Updating our website and other communications to make it easy for consumers and financial service providers to interact with FDRS and understand how we can help.

Minute August	MEMBERS COMPLAINTS RESOURCES CONTACT US Q
	مد 0508 337 337 ب
Welcome  Financia lance Rachida of Service (FDRG) helps resulte complaints between consumers, and their financia lance a pooline. FDRG is the for consumers and as are here to support you can't sep of the way.	ZA
Make a Complaint Join FDRS Search for Scheme N	Members
Making a complaint to FDRS is a simple and free. We will work with you and your financial service providers and approved dispute resolution scheme - we make it easy for both financial service providers and consumers. You can search by name or You can search by na	ovider a member of FDRS? All FDRS members are listed in this section. or location.
The Process More information Member Search More information Become a member	



- Targeted materials about FDRS in a variety of languages and about specific issues, such as credit fees and mobile truck shop transactions.
- Greater sector partnering so that consumers are aware of how FDRS can help, and how to raise issues with their financial service providers so that early resolution of complaints is more likely to occur.
- Providing opportunities for FDRS members, regulators, and consumers to prevent complaints by discussing broad issues and gaining insight and understanding.
- Continued membership engagement through our morning and afternoon tea engagement series, our Tuesdays at 10 webinar series, and informal discussions and meetings.
- Practicing our commitment to continuous improvement by always looking at our complaint management and ensuring that we provide enough options and tools for effective complaint resolution and management.

It is going to be another great year for FDRS and we are excited about working alongside you – resolving complaints and helping you move forward.



# COMPLAINTS, ISSUES, AND RESOLUTION



### **Issues at a glance**

Here is a summary of the issues that have affected the financial service sector in New Zealand in 2016-17 and how they have been reflected in FDRS's complaint statistics.

#### 1. Legislative framework for financial services in New Zealand

The primary legislative focus of 2016-17 was the Financial Services Legislation Amendment Bill. A draft was released by MBIE with submissions due in early 2017. FDRS, in consultation with its members, made a number of submissions on various aspects of the proposed changes, including;

- the territorial scope of the provisions;
- ensuring that consumers can access the advice they need;
- addressing proposed changes to regulation, compliance and liability of financial service providers; and
- ensuring that misuse of the Financial Service Providers Register (FSPR) is addressed.

This a significant overhaul of several existing pieces of financial legislation in New Zealand.

#### 2. Foreign exchange platforms

Most of the complaints we received were about foreign exchange platform providers failing to follow instructions; specifically, not responding to customer requests to reimburse investments. This has been a complaint trend for three years now, though the numbers of complaints we have seen over the last year are greatly reduced from previous years.

The vast majority of these complaints come from overseas and are about transactions that did not occur in New Zealand. However, because the foreign exchange platform provider is validly registered on the New Zealand Financial Services Provider Register, this triggers the requirement that it be part of a dispute resolution scheme.

The territorial scope of financial service has been a problematic aspect of the Financial Service Provider Act. As part of its review of the Act and the Financial Service

Provider Act, the Ministry for Business, Innovation and Employment (MBIE) identified that businesses should be required to have a stronger connection to New Zealand in order to register on the Financial Services Providers Register.

#### 3. Communication and lending

Communication is at the heart of most of the complaints received by FDRS and continues to be a key theme in complaints received by FDRS. In 2016-17, there was a higher degree of complaints about lenders than in previous years, many of which were about consumers understanding key terms and conditions. In some cases, information was not documented well or lending criteria was not adhered to. While consumers must take responsibility for their financial decisions, lenders must always be mindful of issues around communication, disclosure, and assessment of credit worthiness. These issues are further amplified when working with vulnerable consumer groups such as consumers with low levels of financial literacy.





The following are case studies that provide an insight into the work we do.

#### Case Study No 1

#### The One about the Apology

Bob\*, a customer of a financial adviser, came to FDRS with a complaint about his interactions with his adviser. Bob felt that his adviser had misled him about why he wasn't able to take up a special deal for a loan, and was angry that his adviser had incorrectly blamed someone else for the problem. Bob felt his adviser had lied and was very angry about it.

The adviser received Bob's complaint and offered a financial resolution to make up for any losses from the missed opportunity. But Bob felt that he could not trust anything that that his adviser said and couldn't move forward. He wanted the adviser to admit he had lied.

The adviser was similarly frustrated and couldn't understand why Bob wouldn't take the deal he'd offered when he was making Bob financially whole for any missed opportunity. Both felt they were going in circles.

When the complaint came through to FDRS, the facilitator made contact with both parties and explained the process. Bob carefully prepared a letter providing everything that had happened from his perspective, what had upset him, and what he felt would resolve the issue. Bob wanted both an apology and he wanted his adviser to take ownership of the issues Bob identified. He also wanted his complaint to be considered through a formal process, as he no longer trusted the adviser.

The adviser was provided a copy of the Bob's letter, which gave the adviser a better understanding of what Bob's concerns were and how to provide information in a way that Bob would understand. The facilitator continued to work with both parties and the resolution was that the adviser wrote a letter of apology. Bob was happy with that and the complaint was closed.

The facilitation process allowed Bob to process his feelings of distrust and hurt; to feel heard; and to work with his adviser in a neutral space. For the adviser, the resolution process allowed a chance to get at the real issue and to understand what Bob was really after.

\*Names have been changed to protect our customers' identities

#### **Case Study No 2**

#### The One about the Insurance Coverage Review

A family came to FDRS feeling that their insurance adviser had neglected to ensure that their medical insurance cover continued to be adequate, fit for purpose, and financially smart. They discovered that there had been missed opportunities for premium reduction and were upset with the adviser.

The adviser offered to pay for any losses that the family incurred. However, the family felt that they couldn't trust anything that that he now said and that the solution offered was insufficient.

The family was frustrated that the adviser wouldn't admit that he had been negligent as well as compensating for any loss. The adviser was similarly frustrated and couldn't understand why the family wouldn't accept the resolution he'd offered, which would fully reimburse them for their losses - (given it was, he thought, also up to them to review their policies annually).

Both had felt they were going around in circles.

FDRS thought that mediation might help them and the parties agreed. The mediator talked with the parties individually and they explained what had happened from their perspective. After that, the parties met jointly with the mediator. They were able to articulate their concerns face to face and the mediator was able to help them generate options for resolution. With the use of a whiteboard and calculators, exact figures were derived including some recently discovered "anticipated future benefits" in premium reductions. Both sides felt that they had more, and more accurate, information.

The mediation ended with a full agreement that included some financial compensation. The family withdrew their complaint and retained their policies with the insurance adviser. The family felt that the process had restored their trust in the adviser, as they had all been able to speak openly and really hear what was happening for each of them.



#### **Case Study No 3**

#### The One about KiwiSaver, a First Time Home Purchase, and the Difference Between Jurisdiction and Merit

Louie\* wanted to use his KiwiSaver funds to build a brand new home. The problem was whether he qualified as a first time homebuyer. The complaint to FDRS centred around a decision by the Scheme Member declining to release KiwiSaver funds on the basis that Louie did not meet the 'First Home' criteria.

Prior to starting his KiwiSaver account, Louie purchased a vacant section. After commencing with KiwiSaver, he requested a withdrawal of his KiwiSaver funds to assist toward the construction costs of his house on the already owned section. From Louie's perspective, he had always intended to build a home on the land he had purchased and did not consider the build to be separate and distinct from the land purchase.

In this case, FDRS decided that this needed to be adjudicated straight away. The Adjudicator determined that the Scheme Member was correct in declining to release the KiwiSaver funds. The 'KiwiSaver Scheme Rules' found in the KiwiSaver Act 2006 confirm that funds cannot be released under the 'first home' criteria when one already holds an estate in land prior to the application to withdraw the funds. The Adjudicator concluded that owning the vacant section was an estate in land as defined in law, and therefore KiwiSaver funds could not be released under the 'first home' criteria.

The Scheme Member's decision was confirmed, and the complaint to FDRS dismissed.

#### **FDRS Observation**

This case highlighted a tension that all dispute resolution schemes deal with, that is the question of jurisdiction versus merit. There will be times when a financial service provider determines that it cannot give the customer what they have requested, and the Scheme Member may consider the complaint is without merit. However, this does not automatically remove a complainant's right to seek independent consideration of their complaint.

We thought it would be helpful to provide some context around the difference between jurisdiction and merit. Jurisdiction is about whether the complaint is the kind of issue or circumstance that that FDRS can consider. Merit is about whether the complaint should be upheld or dismissed.

When FDRS considers a complaint, the first step is to make sure that the complaint is the type of complaint we can consider. As part of that process, we will engage with both parties and ask questions and seek comments on whether the complaint is something that FDRS can consider. Typical jurisdictional questions we ask are 'was the financial service provider a member of FDRS when the activity complained of occurred?' and 'has the complaint already been made in the Disputes Tribunal, or other forum?'

Sometimes, the complaint is likely meritorious but FDRS cannot consider it because it does not fall within the Scheme's jurisdiction. Consider someone who has used an online trading account for currency exchange. They put money into an account, legitimately requested it back, and did not get it. On its face, the complaint has merit. However, if the complaint is about a transaction that did not occur in New Zealand or did not involve a resident or citizen of New Zealand, FDRS wouldn't be able to consider the complaint—regardless of how meritorious it may be. The complaint would not be the kind of issue or circumstance that we could consider.

Once jurisdiction is confirmed and the complaint is accepted into our dispute resolution process, it is only then that the merits of a complaint can be considered. It is at this point that the process of determining whether a complaint should be dismissed or upheld begins. Sometimes, the answer will be fairly clear—either in favour of the complaint or against it. But that clarity on the merits does not negate whether the complaint is the kind of issue or circumstance that FDRS can consider.

Once jurisdiction is confirmed, our dispute resolution process focuses on providing an independent and unbiased environment that provides an equal opportunity to be heard and to fully present relevant information.

\*Names have been changed to protect our customers' identities



#### Case Study No 4

#### The One about the Horse Cover

Tegan\* took out an insurance policy for a newly purchased horse through an insurer's online application. The application was made during a holiday weekend in which Tegan intended to collect and float his horse home. However, there was a problem with the completion of the online application, which required the Tegan and the insurance company to finalise the details during the following week.

Unfortunately, the horse suffered an injury while in transit during the same long weekend. This left Tegan with some very large bills and a lack of clarity about whether he had insurance cover for his horse.

A dispute was registered with FDRS and an FDRS facilitator worked with both parties to determine what the issues were. Essentially, what was not clear was whether Tegan had insurance for his horse, with just the details to be finalised; or whether the insurance did not begin until the details were finalised. Both parties had different understandings as to the state of Tegan's insurance cover and were not able to resolve on their own.

The facilitator thought there was an opportunity to resolve the matter through mediation. There were several factors that led her to this conclusion. First, the issue between Tegan and the insurer was what each other understood was happening. Perspective issues are good mediation issues. Second, both had expressed a desire to maintain a relationship. The issue occurred at the very start and both were interested in keeping the relationship going. Third, both parties expressed a desire to figure out an answer together quickly in a flexible environment.

The parties agreed to mediation. The FDRS mediator helped them understand each other's perspectives, to recognise and acknowledge deficiencies of process on both sides, and find areas where they agreed. While the parties agreed to disagree on some crucial points, they reached a mediated settlement that reduced some of Tegan's expenses while maintaining a good working relationship (and insurance policy) into the future.

\*Names have been changed to protect our customers' identities

#### **Case Study No 5**

#### The One about the Flash Crash

Mika\* loved playing the market and her specialty was online foreign currency exchange trading. While trading one day and carefully monitoring the price of a particular currency, there was a brief crash in the currency's market price. However, this brief crash was not reflected in the market price on the trading platform's website. Because of this, Mika felt that she had unfairly lost the opportunity to make a substantial profit. When she couldn't resolve the issue with the trading platform, she made a complaint to FDRS.

One of FDRS's facilitators got involved straight away and began by clarifying the issues with both Mika and the trading platform. The trading platform addressed two issues. First, whether a "flash crash" had occurred, and second, why the price on its tradition platform had not reflected the crash. The trading platform confirmed that there had a been a "flash crash" in the particular currency market Mika was monitoring, but that it lasted a maximum of five seconds before reverting upward again. It also advised price filtering software was applied, which automatically adjusted the available price to "prevent undue losses and safeguard client's interests". That meant that while there was a sudden decrease in market price as described by Mika, Mika could not capitalise on the price drop.

The parties agreed that in this case, they needed an adjudicator to determine the outcome.

One of FDRS's adjudicators began by reviewing the trading platform's terms and conditions. The adjudicator concluded that there was no provision in the contract that allowed for price filtering to be applied, and concluded that:

"The scheme member is expected to set prices on the platform that are materially consistent with prevailing market prices, or provide guidance in their client agreements on conditions and circumstances where and when they are not."

The adjudicator accepted that price filtering may protect the interests of some customers who may incur significant losses from a market crash, but that it would otherwise be contrary to the interests of some customers who may benefit from sudden market movement. Finding that there was no contractual ability to apply price filtering as had been done, the adjudicator determined that Mika was due compensation.



Given it would be impossible to accurately determine what Mika's loss would have been (given that it was impossible to determine what Mika would have been able to do during the crash), the parties were invited to provide submissions as to what would be a fair level of compensation. The trading platform provided a figure which the adjudicator accepted and applied. Mika was happy and accepted the decision.

#### **FDRS Observation**

This case highlights the need for financial service providers to be transparent in their dealings with customers. In this case the adjudicator determined that given there was no provision in the contract for price filtering to be applied, that the price offered by the trading platform should have been consistent with the prevailing market price. The outcome from this complaint may have been different if the trading platform's terms and conditions were clear that price filtering may be applied.

\*Names have been changed to protect our customers' identities



# **Financial Performance**

	2017	2016
Income		
Membership fees	510	501
Complaint fees	31	24
Total income	541	525
Expenditure		
Advisory council	23	26
Personnel costs	131	256
Marketing	6	8
Other (travel, phones, printing, internet hosting)	29	22
Office and corporate support	233	298
Total expenditure	422	610
Profit / (Deficit)	119	-85



### **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, <u>www.fdrs.org.nz</u>



# **About our Advisory Council**

#### Advisory Council

FDRS is fortunate to have a strong Advisory Council and the Board of FairWay to help guide and support the work we do. Council members are; Independent Chair, Stephen Ward; Consumer Representatives, Dr. Pushpa Wood and Bill Bevan; Industry Representatives, Justin Kerr and David Whyte.

#### **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 a 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.

#### Justin Kerr

Justin was CEO of the Retail Credit Association of New Zealand Inc from 2011 to 2015. Previously he had been the Executive Director of the Financial Services Federation Inc from 1988 to 2010. Prior to this he had been Executive Officer and Director with the Commerce Commission for ten years following his time working for a sharebroking firm and for a major finance company.

Justin has a Bachelor of Commerce and Administration from his economics studies at Victoria University Wellington, has a Postgraduate Diploma in Banking from Massey University and is a Senior Fellow Financial Services Institute of Australasia.

#### **Consumer Representatives**

#### Dr Pushpa Wood

Dr Pushpa Wood has been 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.



# COMPANY INFORMATION

### **About FairWay Resolution**



#### Who we are and what we can do for you

FDRS is part of FairWay Resolution, New Zealand's largest specialist conflict management company, with over 210 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 mission**

Helping people in conflict move forward.

#### **Our vision**

To be the leading conflict management services provider by:

- Protecting consumers' rights.
- Assisting people to resolve disputes themselves.
- Strengthening organisations' reputations by improving their conflict capability.

#### **Our values**

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

- Professionalism Providing a high quality service that meets customer expectations and professional standards, ensuring customers have trust in the fairness of our services.
- **Integrity** 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 Seeking opportunities to work in teams towards shared objectives, knowledge and success.
- **Fairness** Abiding by objective standards, allowing full participation in our processes, and giving all voices an opportunity to be heard.
- Empathy 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.



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FDRS website: <u>www.fdrs.org.nz</u> Fairway website: <u>www.fairwayresolution.com</u>