

Financial Dispute Resolution Service

Annual Report **2021–2022**





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Year in review

1 July 2021 – 30 June 2022

Our Scheme Members

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



Welcome

On behalf of the Advisory Council, it is my pleasure to present the 2022 Annual Report.

It has been another very busy year for the Financial Dispute Resolution Service (FDRS). Like all of New Zealand, Covid has continued to have a major impact on the team at FDRS, its members and their customers. There has been a significant number of event cancellations and postponements, and the need to think of new ways of working.

FDRS has continued with its successful webinars and members are encouraged to suggest topics to FDRS for future webinars. A key milestone of the year was the FDRS rules being updated, approved by the Minister, and coming into effect.

This year, FDRS supported 1661 members, and received 401 enquiries from consumers requiring assistance in resolving their complaints. This was an 8.7% increase in enquiries from last year and is 31% higher than 2019/20. 92% of enquiries

were resolved or closed in the initial phase. It is pleasing to see the continued effectiveness of our early dispute resolution approach. The remaining complaints that required a more formal intervention were either resolved through facilitation and conciliation or decided through adjudication.

FDRS members have had to understand and implement the licensing requirements under the new financial advice regime, and the many changes these requirements have meant for financial advisers and financial service providers. FDRS is pleased to have assisted our members through this process to facilitate this change.

I would like to recognise Jeanie Robinson, Richard Binner, Samantha Brennan, and all the other team members for their continued efforts in delivering

FDRS services. I would also like to thank the Board of Fair Way for their continued oversight and support. I have also greatly appreciated the work and commitment of my fellow Advisory Council Members – David Whyte, Toni Dodds, Trevor Slater, and Simon Roughton.

FDRS and the Advisory Council looks forward to continuing our work in 2023.



Stephen Ward
Chair of Advisory Council



Scheme report

Tē tōia, tē haumatia. Nothing can be achieved without a plan, workforce, and way of doing things.

Reflecting on the year that has passed, this whakataukī resonated with me. We began the year with some goals in mind, and with a clear plan of action we have been able to make progress.

The first key initiative delivered in late 2021 was the introduction of our updated scheme rules. The financial landscape has changed significantly since 2015 when our previous rules were created, so it was time for our rules to move with the times. We were able to make these changes as a result of feedback from our members, advice from the FDRS Advisory Council, approval by the Fair Way Board, together with external legal review and approval from the Minister of Commerce and Consumer Affairs.

Another key workstream involved automating some of our manual administrative activities, building on the capability of our case management system and how we manage our membership. We have a fantastic team here at FDRS who are dedicated to

supporting consumers and their financial service providers to work through disputes, and I'd like to thank them for all their efforts as part of these changes.

Across the year, we have been supporting our members to navigate changes to the Credit Contracts and Consumer Finance Act 2003. A highlight was presenting with the other dispute schemes at the training sessions arranged by the Commerce Commission. In the coming year, further changes will come into effect, and we will be watching these developments closely.

We have seen a 21% increase in the volume of complaints relating to financial advisers and brokers this year, however the largest proportion of complaints received were about lenders or non-bank deposit takers (425). Pleasingly, we have seen a significant decrease in complaints involving financial difficulty from 22% in 2020/21 to 6% in 2021/22.

We rounded out the financial year by saying a fond farewell to Hoani Te Pou and wishing him the best of luck in his new role. Fair Way's Samantha Brennan has stepped into the Client Manager role for FDRS, bringing her extensive subject matter knowledge built over the past five years providing operational support in our Commercial Services team. Samantha's motto is "together we can achieve more" and I am looking forward to rising to this challenge over the coming year.



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 service, then we will work with you and your financial service provider to reach agreement on your complaint. The phases are:

1. Initial complaint and early resolution

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.

2. Investigation, facilitation and resolution

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 early 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 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.

3. Formal adjudication

If needed, we make a decision.

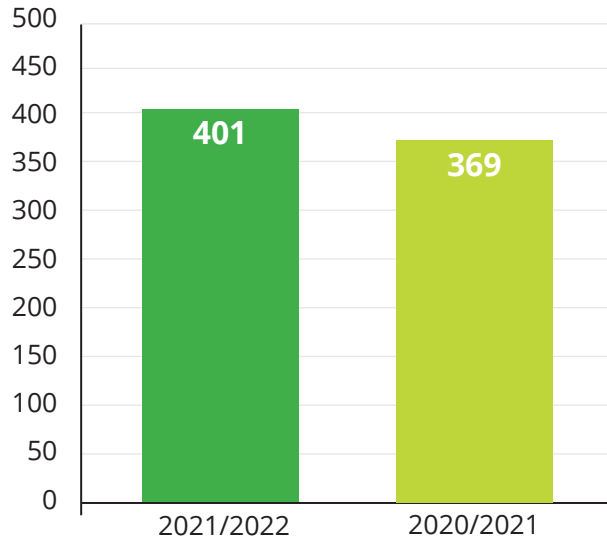
In situations where resolution cannot be reached, or where the consumer or Scheme Member do not wish to participate in facilitation or conciliation, one of our specialist adjudicators will investigate and make a formal decision on the complaint.

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

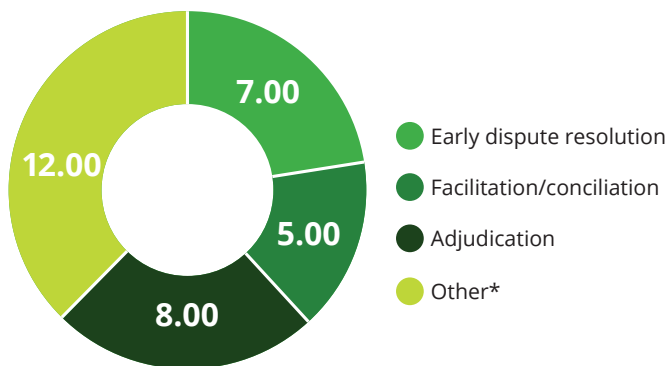
Enquiries increased 8.7%



FDRS received **401** enquiries in 2021/2022, which is up **8.7%** from last year and is **31%** higher than 2019/2020.

92% were resolved or closed in our initial phase. **33** enquiries progressed through to complaints.

How complaints were resolved



32 complaints required formal dispute resolution assistance, excluding one complaint that was abandoned by the complainant.

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

Timeliness

2021/2022
97%

97% were completed within the benchmark of 180 days.

2020/2021
100%

The average time to complete a case was **68.1 days**, which has significantly decreased from **102** days last year.

Feedback

"Very responsive and helpful. I was transferring my client base from one FAP to another in September, which was new territory for me."

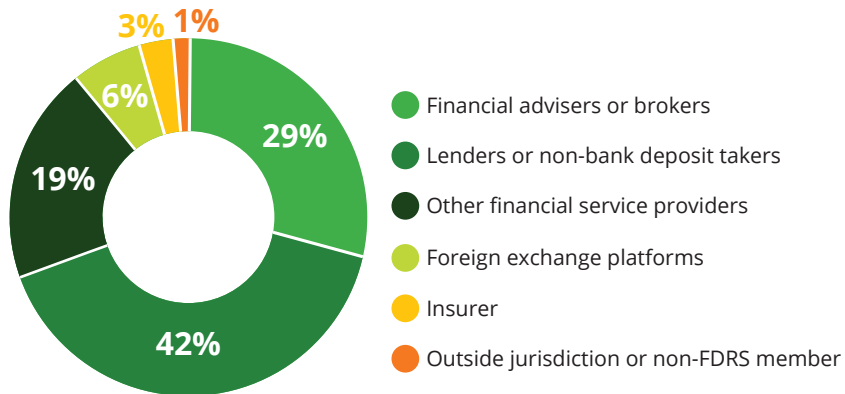
"I have confidence in FDRS."

"Had a productive call and it was helpful to learn that if we had an issue that we needed assistance with, we could get assistance."

"I am happy with service, and I trust that you will make the necessary changes as the market will require."



Complaints by member type



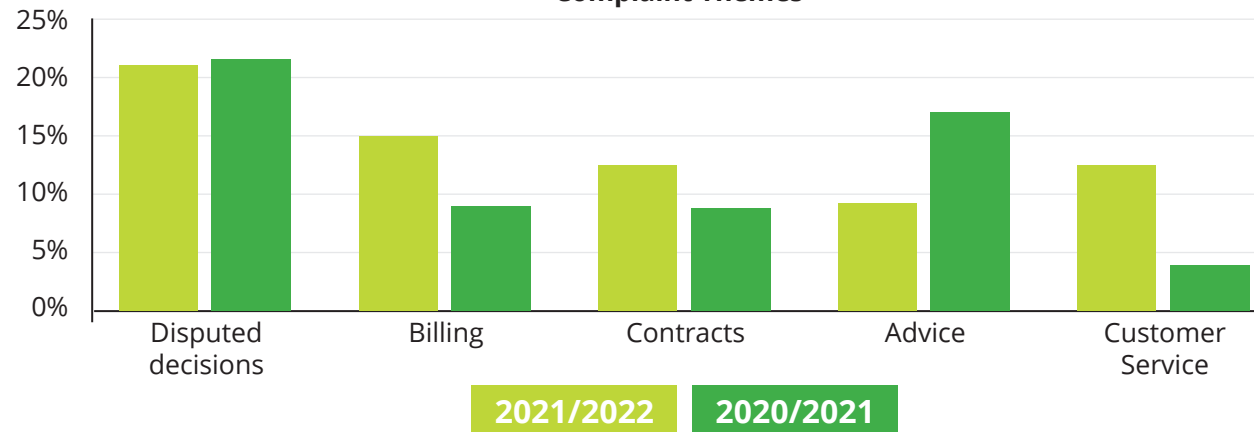
Of the **33** complaints that were accepted into our process, here is the breakdown by specific member type.

Complaints about **financial advisers and brokers** increased from **8%** last year to **29%** this year. While **lenders or non-bank deposit takers** remain the highest proportion, they have decreased by **12%** this year.

Top five complaint themes

Of the 33 accepted complaints, most complaints received were about **decisions** made by financial service providers. The biggest increase in this category related to denial of claims due to exclusions or conditions. Complaints relating to financial difficulty dropped from 22% last year to 6% this year.

Complaint Themes



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:

"I feel I can call FDRS and get help with a complaint."

92.11% of respondents scored us as a three or higher.

Average rating
4.22

"FDRS provides a professional complaint resolution service."

93.05% of respondents scored us as a three or higher.

Average rating
4.24

"FDRS respond promptly to member enquiries."

94.36% of respondents scored us as a three or higher.

Average rating
4.45

"FDRS provides good value to its members."

89.34% of respondents scored us as a three or higher.

Average rating
4.00



Case studies

Loan and caveat

Background

The customer had taken out a loan in early 2020 and the loan company lodged a caveat on the title of a property owned by this customer. Over the course of the loan, the customer fell behind on repayments. The customer requested a change to their repayment schedule and believed an agreement was reached to pay \$20 per week. At this time, they lodged an application for financial hardship which was not approved by the loan company, due to a lack of supporting information. The loan company disputed that an amended repayment plan was agreed, and they pursued the customer for full payments.

During this period, the customer wished to sell their property so they would be able to address the debt they had with the loan company. While communicating about the debt, the loan company indicated to the customer that they could not sell the property, given the caveat. The customer was subsequently advised by another financial institution that the loan company had provided incorrect information about the effect of the caveat and that they should not have been prohibited from selling the house. The customer stated that if they had of proceeded with the sale when intended, they would have saved around \$5,000 of interest.

Next steps

FDRS arranged a conciliation but unfortunately no agreement could be reached by the parties. The complaint progressed to adjudication, where an independent person makes a decision from a legal perspective based on the evidence supplied. Both the customer and lender made submissions and provided copies of correspondence. The provider insisted that their representative had not told the customer that they could not sell the house. They also queried whether the customer had seriously considered selling the property.

The customer maintained that they had discussed their intention of selling the property with the loan company on multiple occasions since 2020. In addition, they provided copies of emails with a real estate agent initiating the sales process. The customer also provided a copy of an email from the loan company which included the statement *"We will block all future dealings with your house such as re-finance, sale or any other matters pertaining to the title being required"*.

The adjudicator considered the legalities of a caveat. He determined that the property could go on the market, and be sold, but recognised that there would be difficulties in registering the change of owner on the title without either the loan company consenting

to remove the caveat, or the High Court setting it aside. As such, he deemed the correspondence from the loan company to have been incorrect.

The adjudicator also found that the loan company had misdirected the customer on their options with regards to paying the debt. The customer was in arrears and was claiming to have significant financial difficulties. The adjudicator deemed that a reasonable lender would be open with the customer around their options to pay the debt. One option is to apply for hardship (which was applied for here), but another legitimate option is to sell assets such as the house, to free up funds to pay off the loan. The loan company did not demonstrate any communication where it had discussed sale of assets, and the customer supplied emails where the loan company indicated that the only option was to continue with the weekly payments and infers that selling the house was not an option, and that any attempts to sell the property would be "blocked".

Outcome

The complaint was upheld. The adjudicator found that the loan company had not acted reasonably, and they were directed to pay \$2000 compensation, to be credited to the loan.

Case studies



Unsafe relationship and unaffordable loan

Background

A customer was in an unsafe relationship when, together with his partner, they took out a loan. The customer felt his partner pressured him into applying for the loan but did not say anything to the financial institution about the physical and mental abuse they were experiencing.

The financial institution, unaware of the abusive relationship, worked closely with the customer's partner to verify security assets, income, and expenses. The financial institution had very little contact with the customer during the application process because his partner was the main contact. The loan was approved, and the funds were paid out.

Days later, the customer realised his partner had gambled away all the funds. The customer was very upset and approached the lender for support. The customer wanted to know if he could be released from the loan but was told since it was a joint application, he was jointly liable for the repayment of the loan. The customer was not satisfied with this answer and approached FDRS with the support of a financial mentor.

Next steps

Conciliation was arranged for the customer and lender. The customer brought along their financial mentor to support them during the conciliation and the mentor argued that the lender should have supported the customer more when it learned about his hardship, and that the lender had not done a proper assessment to determine if the customer and his partner could afford the loan. The parties could not agree during conciliation. The customer asked FDRS to adjudicate the matter.

Coercion and hardship support offered

Adjudication is where an independent person investigates the complaint and makes a decision. The decision is binding on the financial service provider. The adjudicator reviewed all the information provided by both the customer and lender. They found that the lender was not aware of the customer's abusive relationship and that there was no evidence that the lender had coerced the customer into taking out the loan. If there was any coercion it may have been from the customer's partner, but since the lender had not applied undue pressure, the lender had not done anything wrong. The adjudicator also found the lender acted reasonably by informing the customer about the hardship support it could offer and the process for accessing the support.

Affordability

The adjudicator found the lender did not consider the actual spending patterns of the customer and his partner. This meant that the lender under-recorded certain expenses or completely excluded others. The adjudicator held that in some instances it may be appropriate to rely on average-expenses, but not if this was contradicted by the actual spending patterns reflected on the applicants' bank statements.

Not doing a proper affordability assessment meant the customer and his partner were granted a loan they could not afford to repay. The adjudicator upheld that the lender did not observe the principles of section 9C of the Credit Contract and Consumer Finance Act 2003 (CCCFA), as the lender did not act with care, diligence, and skill before entering into a credit agreement.

Outcome

The adjudicator concluded the lender's failure to act with care and skill resulted in financial hardship. To recognise the impact the adjudicator granted compensation to the value of 25% of the loan.

Healthy financial relationships toolkit

Good Shepherd has a **free online toolkit** to support you to have healthy conversations about money with your partner.



Case studies

Settling a lending complaint

Background

A customer fell significantly behind on her loan repayments. She was struggling to make ends meet and concerned about the impact that debt collection would have on her. She contacted a local budgeting service for help. A financial mentor got in touch with FDRS and lodged a complaint on behalf of the customer against the loan company. The customer provided their financial mentor with Authority to Act, and so they were able to represent the customer. The financial mentor believed that the customer had received a loan that she was not able to afford, and that this was a breach of the responsible lending guidelines and the lender's responsibilities.

Next steps

The customer had not made the lender aware of their complaint prior to contacting FDRS. Our first step was to connect the customer, their financial mentor, and the lender so they could work through their internal complaint process first. The complaint remained unresolved between the parties and FDRS was notified, which enabled us to commence our formal resolution processes.

As the complaint related to a financial service from the lender to the customer, it was deemed that the complaint was within the jurisdiction of FDRS. FDRS suggested conciliation to the parties so they could work together to resolve the matter. Both parties agreed and a mediator was assigned to the case.

Conciliation provided a safe space for the parties to discuss the complaint. The customer, with the support of their financial mentor, had the opportunity to talk about their situation and the lender was able to explain how they had made their decisions and what those decisions were based on.

Outcome

During the conciliation, options to resolve the matter were suggested and discussed by the parties. A settlement agreement was reached between the parties and the complaint was resolved.

Where's my money?

Background

A customer urgently needed to transfer money to her family overseas. On 5 Mar 2021, she visited an international money transfer company to arrange the transfer. The transaction was unsuccessful. A few days later the customer followed up with the company. She was advised there was a technical issue and once the issue was resolved the transaction would be completed.

Next steps

The customer contacted FDRS on 31 Mar 2021 as the transaction still had not been completed. The international money transfer service continued to hold her funds. The first step in the FDRS process is to ensure the member has had an opportunity to work together with the customer to reach a resolution, so she was referred to the international money transfer company to raise a complaint. The customer contacted FDRS again in June 2021 as it was more than two months since she raised her complaint and the matter remained unresolved.

Outcome

FDRS collated her information and sent a Notice of Complaint to the provider. A response was requested within 21 days. The customer contacted FDRS again within the following two weeks to let us know that she had now received her refund, she was very thankful for our involvement and that the complaint could be closed.



Finances

Cover confusion

Background

The customer and her husband had been paying insurance premiums since 2014 for life insurance and funeral costs. They recently found out that they were only covered for accident and funeral costs. This is not what their insurance agent had told them they were covered for, and the couple believed they were misled. They wanted the policies to be cancelled and to receive a refund on the funeral cover paid.

The insurer had considered the complaint through its internal process and referred the customer to FDRS as the matter was unresolved.

Next steps

FDRS contacted the customer and the insurer. The initial response from the insurer advised no refund was due as the policies had lapsed and were reinstated in 2016. They noted that copies of the policy documents were posted to the customer three times and no complaint was raised until 2021.

Through the information gathering process, further emails were shared between the insurer and customer. FDRS asked the insurer if, given the recent information shared, any further consideration could now be given to the complaint. The insurer agreed to cancel the policies and refund all the premiums paid.

Outcome

The complaint was settled. The customer and her husband accepted the offer.

	2022 \$000	2021 \$000
Income		
Membership Fees	552	588
Complaint and other Fees	35	40
Total Income	587	628
Expenditure		
Advisory Council	15	26
Travel and Marketing	2	-
Personnel	107	134
Computer Systems	-	26
Other (Premises, Systems, Support etc)	410	367
Total Expenditure	534	553
Profit / (Deficit)	53	75



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