



FINANCIAL  
DISPUTE  
RESOLUTION



**FairWay**

Lead · Resolve · Agree

# **Financial Dispute Resolution Service**

## **Annual Report**

**1 July 2015 - 30 June 2016**



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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 2016 annual report.

The year ending 30 June 2016 saw the completion of our first full year as an approved scheme under the Financial Service Providers (Registration and Dispute Resolution) Act 2010.

Our new Scheme Director Jennifer Dickinson Mahony has shifted seamlessly into the role, bringing with her a wealth of experience across dispute resolution, and in particular within FairWay Resolution Limited. I want to acknowledge Stuart Ayers's excellent service as Scheme Director and wish him well for the future.

Satisfaction with the Financial Dispute Resolution Service remains high and I look forward to maintaining this in the 2016/17 year. The emphasis in the coming year will be on education opportunities for members, updating our communication materials and aiming to increase early resolution of conflicts.

The availability of an independent and efficacious service to resolve financial service disputes is very important to our members and their clients. Jennifer and her team are to be commended for

their commitment and follow through in providing an effective and independent service which can resolve disputes efficiently and thoroughly. I thank them for their diligence and industriousness over the past year.

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*The emphasis in the coming year will be on education opportunities for members, updating our communication materials and aiming to increase early resolution of conflicts.*

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Finally, I wish to acknowledge and thank the Board of FairWay Resolution Limited for their excellent oversight and management of the service.

**Stephen Ward**

Chair of the Advisory Council

# Scheme Director's report

Our theme this year is 'Stronger Relationships, Stronger Business.'

We believe in this. We hope that the coming year reinforces that belief for everyone who is either a member of the Financial Dispute Resolution Service (FDRS) or uses it to resolve a conflict with their financial service provider. The stronger the relationship, the more understanding there is, and the better the engagement and business.

The last six months serving as the new Scheme Director for FDRS has been a pleasure and a privilege. I must acknowledge the great work done by Stuart Ayres who headed FDRS from its inception until March of this year. He navigated the path from Reserve Scheme to Approved Scheme; was a strong advocate for consumer awareness and best-practice dispute resolution; and truly valued all of the relationships he built with our members. We can now plan how to make the service even stronger. We will miss Stuart and know that he is enjoying the next step in his life's work in the financial industry.

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*Overall it has been a year of expansion for FDRS.*

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For those scheme members I have yet to meet in the year ahead, a bit about me. Resolving conflict and helping people move forward has been my life's work. I have been with FairWay for six years, currently as a Senior Resolution Practitioner and I am thrilled to bring that passion and experience to the role of Scheme Director for FDRS. I am a fellow in arbitration in the Arbitrators' and Mediators' Institute of New Zealand. I am legally trained, having completed law school in the United States in 2001, where I had a commercial litigation practice for nine years before moving to New Zealand in 2010 to further my conflict resolution work.

Overall it has been a year of expansion for FDRS. We had a high number of complaints, the vast majority of which were from our foreign exchange trading platform members. This required our team to spend more time resolving these complaints, resulting in higher personnel and corporate support costs, but less recoverable complaint fees. The outcome was that the service had a deficit of \$85,000 for the 2015-16 financial year. There was no long-term financial impact to FDRS, because it is part of a much larger dispute resolution organisation, FairWay Resolution Limited. FDRS remains stable, strong, and capable.

We continue to invest in improvements that enhance the financial stability of FDRS long-term. This includes streamlining of processes; continuing to control costs; and scrutinising our application of rules around complaints about financial services not provided in New Zealand or to New Zealand citizens or residents. The result has been that FDRS is 'back in the black' already and we have been able to make targeted, smart investments in the growth of the service.

We were pleased to see that a good number of complaints were resolved as part of our scheme members' internal complaints processes. 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.

We have made submissions on a variety of proposed legislative changes. We have engaged with the community, our members, and other professional bodies and agencies in the financial services area. I spoke at the Commerce Commission's lender seminars in September, and we engage in Consumer Awareness days organised by the Ministry of Business, Innovation and Employment.

What can you expect from FDRS in the coming year? A greater emphasis on early dispute resolution and mediation as a dispute resolution option. We now have three mediators who provide assistance to the service as well as three very experienced and seasoned adjudicators. You can expect more education opportunities, like our Tuesdays at 10 monthly webinar series that started in September 2016. We hope you find your interaction with the service even better than before. While 86% of our members rate our service very highly, we always aim to do better. We plan to focus on more, regular member contact, deliver an updated website, brochures and guides, and a more finely-tuned complaints process.

On behalf of the whole team, we look forward to working with you this year. We hope to help you create stronger relationships and help keep your businesses moving forward.



**Jennifer Mahony**  
FDRS Scheme Director



# The year ahead

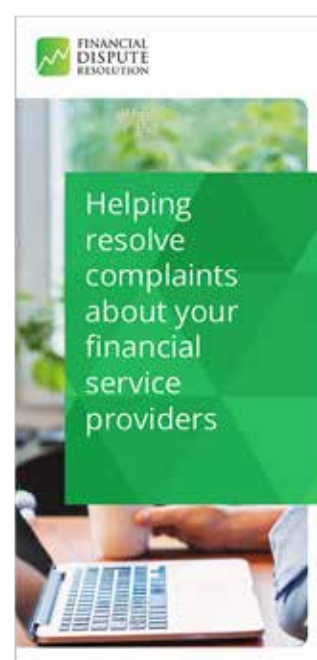


We have three primary focuses in the coming year.

## Education

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

- Tuesdays at 10 is our new monthly webinar series. On the second Tuesday of each month, it focuses on the practical application of legislative and best-practice requirements so that our scheme members can have stronger relationships and stronger business. Our speakers include some of our own members, the FDRS Advisory Council members, Financial Markets Authority (FMA), Commerce Commission, and the Commission on Financial Capability. Topics range from good communication to working with vulnerable consumer groups to understanding the new guidelines on credit fees from the Commerce Commission.
- Updated consumer-facing brochures that provide a simple and short overview of how the service works and the goals of dispute resolution.
- Updated guides and information for scheme members so that members have access to a range of materials from the short and sharp to the in-depth.





## Membership engagement

Pat Brown, who has been with the service since its inception, is now focusing exclusively on our scheme members. We want regular, meaningful contact with our scheme members. We want to know them well so that we can assist them in the best ways possible that fit their unique circumstances. Our membership engagement, includes:

- **informal morning and afternoon teas in regional locations.** We have already trialled these in Hawke's Bay, New Plymouth, Manawatu and Wanganui and are looking forward to expanding to the South Island towards the end of 2016. We anticipate having five or six regions identified around New Zealand where we will have at least three face-to-face catch-ups per year.
- **opportunities to meet with Advisory Council members.** We have an outstanding Advisory Council with a wealth of experience and knowledge. They are keen to share it among our members through a variety of events.

## Complaints processing

We continue to receive high marks from both scheme members and consumers for our friendly, helpful and pragmatic service. However, we think we can always do better. This includes:

- **updated complaints processing** with our newest team member, Claire Hancock. Claire is responsible for case managing all of our complaints. She works with our members and their customers to determine the best way forward and to increase the opportunities for early resolution.
- **greater access to mediation** as an option for resolving complaints. Not all complaints are well-suited to mediation. But most of the service's complaints are about communication issues and relationships. These kinds of cases are very well suited to a process like mediation. We also want to make it easy for you as well, which includes greater use of technology and innovative ways in which to make mediation available.
- **continuation of our strong and experienced adjudicators.** Sometimes a complaint needs to be adjudicated. Our adjudicators are highly-experienced, adept, independent and pragmatic.

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*It is going to be a great year for FDRS. We look forward to working alongside you helping you move forward.*

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# The year in review



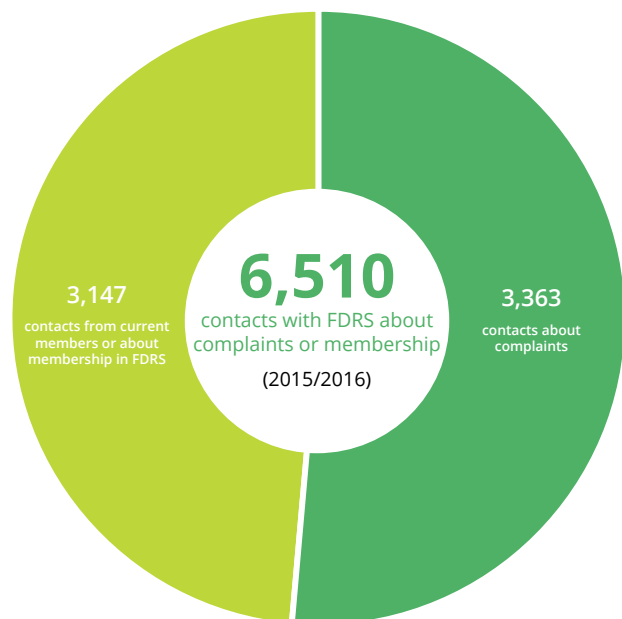
# Statistics at a glance (2015/2016)

**3,363** contacts about complaints

**609** complaints registered with FDRS

## 6,510 contacts with FDRS about complaints or membership (4,830 in 2014-15)

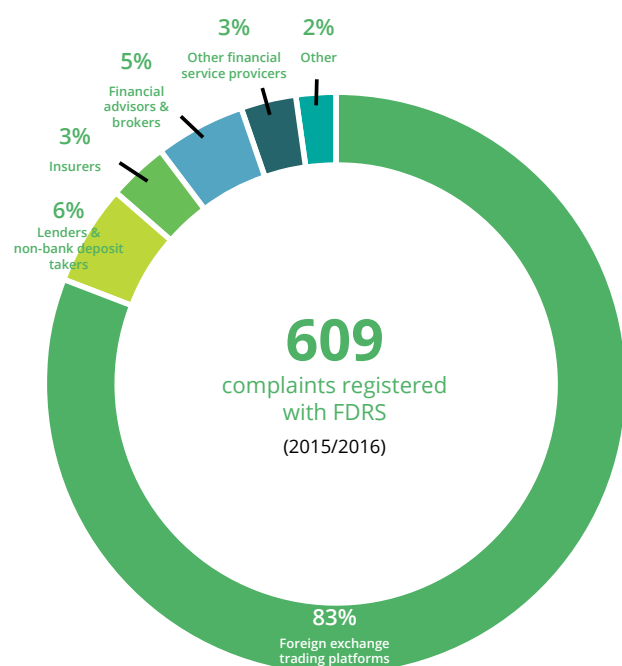
- 3,147 contacts from current members or about membership in FDRS
- 3,363 contacts about complaints



## 609 complaints registered with FDRS (475 complaints in 2014-15)

### By membership category

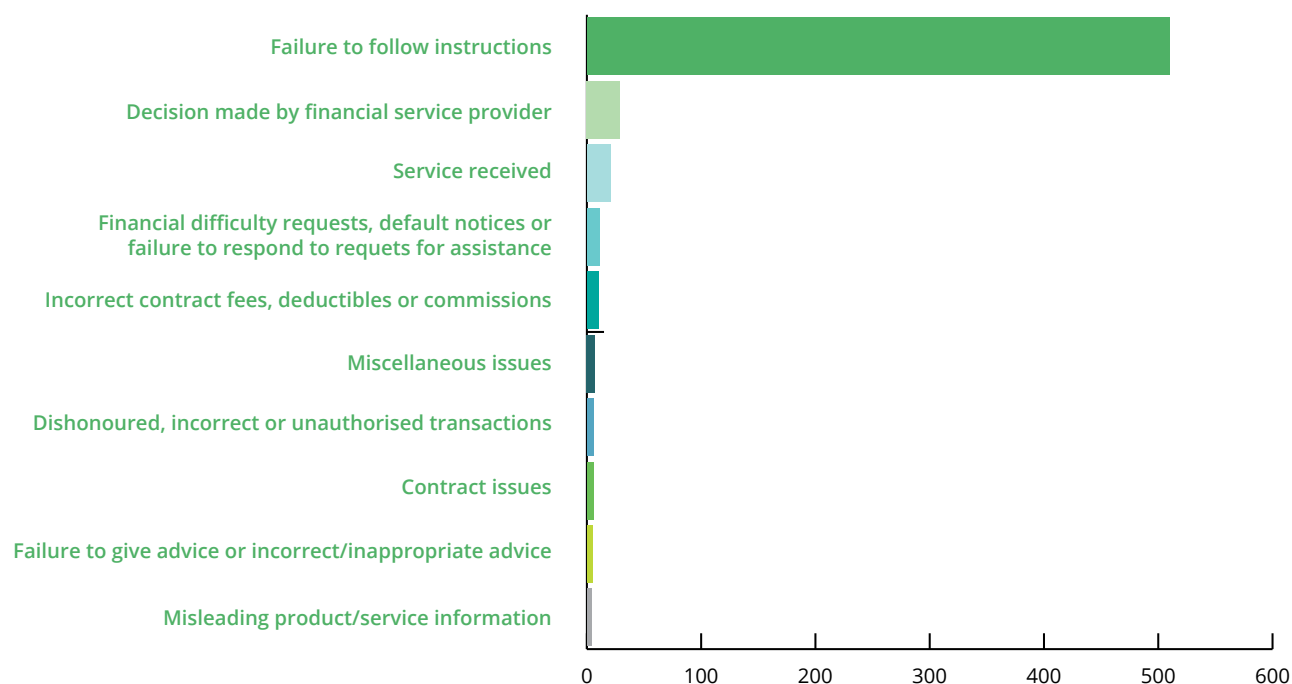
- 493 complaints from foreign exchange trading platforms (foreign exchange trading platforms make up 3% of FDRS membership)
- 34 complaints about lenders and non-bank deposit takers
- 20 complaints about insurers
- 30 complaints about financial advisors and brokers
- 20 complaints about other financial service providers
- 12 were not about any FDRS scheme member





## Of the 609 complaints

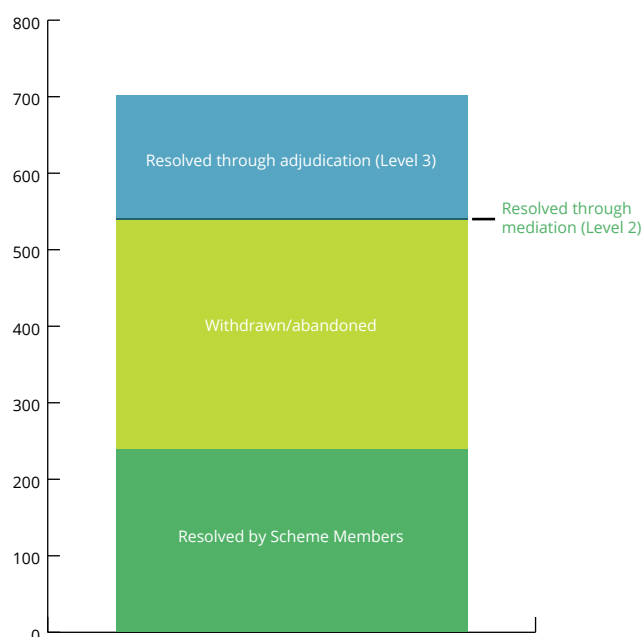
- 510 were about failure to follow instructions; specifically failing to reimburse investors funds when requested (online trading platforms were over represented in this figure)
- 29 were about the decision made by the financial service provider; primarily about denial of claims due to exclusions or conditions
- 21 related to service received
- 11 related to financial difficulty requests, default notices or failure to respond to requests for assistance
- 10 related to incorrect contract fees, deductibles or incorrect commissions
- 7 related to miscellaneous issues
- 6 related to dishonoured, incorrect, or unauthorized transactions
- 6 related to contract issues
- 5 related to failure to give advice, or incorrect or inappropriate advice
- 4 related to misleading product or service information



**239** complaints resolved by the scheme member as part of their internal complaints process

## FDRS resolved 702 complaints during the 2015/16 financial year

- 239 complaints resolved by the scheme member as part of their internal complaints process
- 300 complaints were withdrawn/abandoned at some point in the process
- 2 complaints resolved through mediation (Level 2)
- 161 complaints resolved through adjudication (Level 3)
  - 127 adjudications were about foreign exchange trading platforms



## Of the 161 complaints resolved through adjudication

- 152 complaints were upheld
  - 127 were about foreign exchange trading platform complaints
- 2 complaints were partially upheld
- 6 complaints were not upheld
- 1 complaint was not within jurisdiction



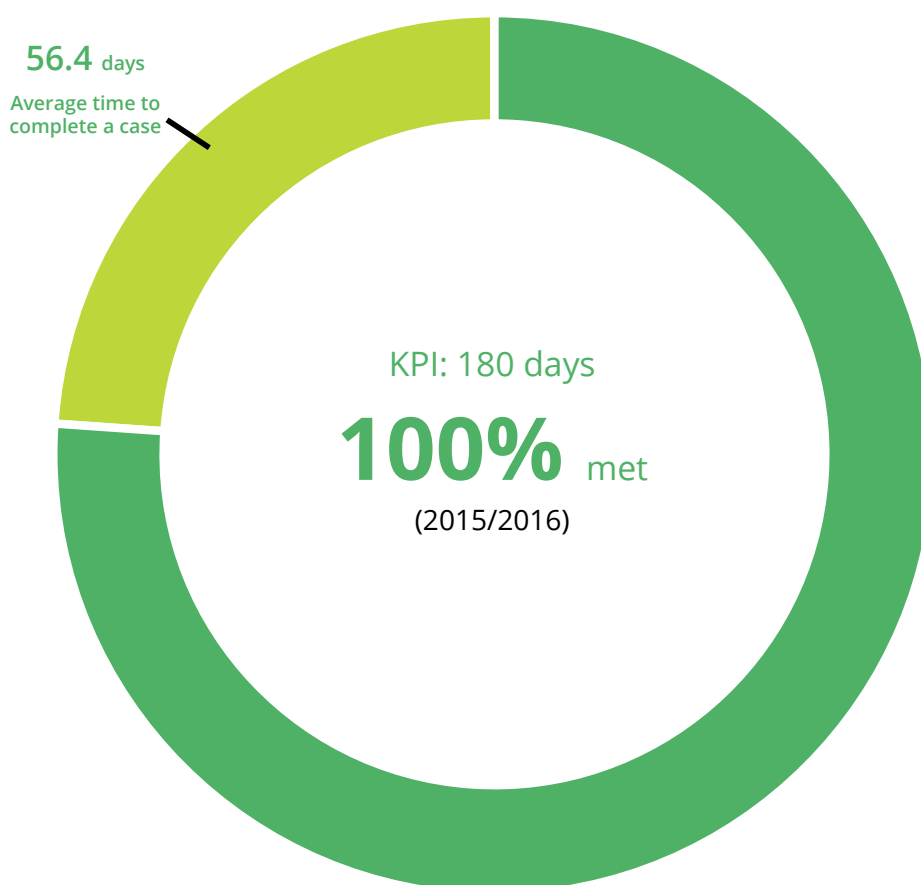


**56.4** days

Average time to complete a case  
(met 100% KPI of 180 days)

## Business performance

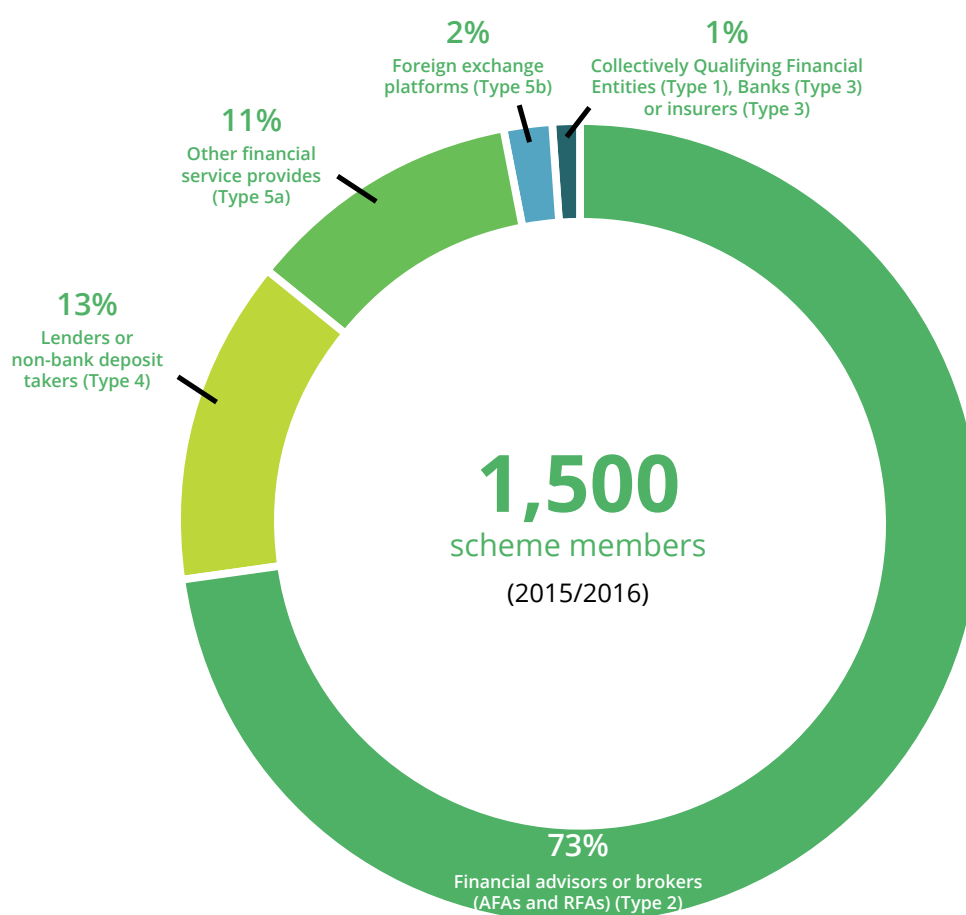
- Average time to complete a case in 2015-16: 54.6 days) (KPI: 180 days. 100% met in 2015-16)
  - 73% of cases completed in less than 60 days (KPI: 50%)
  - 93% of cases completed in less than 90 days (KPI: 60%)
  - 100% of cases completed in less than 180 days (KPI: 90%)
- 88% of calls answered in less than 30 seconds (KPI: 70%)
- Only 3% of calls not answered (KPI: less than 10%)



**1,500** members during the financial year

## We had 1,500 members during the financial year

- 73% are financial advisors or brokers (AFAs and RFAs) (Type 2)
- 13% are lenders or non-bank deposit takers (Type 4)
- 11% are other financial service providers (Type 5a)
- 2% are foreign exchange platforms (Type 5b)
- 1% are collectively Qualifying Financial Entities (Type 1), Banks (Type 3) or insurers (Type 3)



*A full list of FDRS current scheme members can be found on the FDRS website at [www.fdrs.org.nz](http://www.fdrs.org.nz)*

# Satisfaction with FDRS

## Consumers and members found FDRS:

- prompt
- accessible
- friendly
- easy to use
- helpful

Our independent researcher BuzzChannel canvasses complainants on a monthly basis. We did not send surveys to the non-residents of online foreign exchange trading platforms. Scheme members are surveyed on an annual basis. Thirty-six consumers responded to customer surveys between the period of September 2015 and June 2016. 108 of FDRS scheme members responded to the annual scheme member survey.

## How consumers felt about their experience with FDRS

**69%** either satisfied or very satisfied  
with the overall experience with FDRS

Here are some of the key statistics:

- 74% of respondents felt that FDRS Resolution Coordinators:
  - listened to them
  - understood their views
  - were friendly and courteous
  - provided all necessary information about the dispute resolution process
  - were knowledgeable and able to answer questions
  - were efficient.
- 72% of respondents felt that the process was:
  - fair and impartial
  - that they were kept well informed about what was going to happen
  - that the time taken for the process was reasonable.

Highlights include:

*The process with [FDRS] was very clearly and thoroughly explained. I had a lot of questions about the lengthy process we had already been through before contacting [FDRS] and how we could progress the situation, and what the next steps would be. These were all answered very clearly. [The Resolution Coordinator] was very helpful, informative, and answered all my questions. It was amazing after months of not knowing what to do for a plan actually to be formulated and put into action and have a time line around our situation. We wish we had contacted [FDRS] months prior to when we did.*

*Exceptional customer service, brilliant follow up.*

*Thank you, I liked the speed of feedback and implementation of agreed deadlines at all stages of the dispute.*

*[Even though the Resolution Coordinator was neutral] he always spoke with a positive voice which made the waiting process feel less painful. I did not at all feel like I was tossed in between staff members as [the Resolution Coordinator] remained my main point in contact 99% of the time.*

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***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.***

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## How FDRS scheme members rated us

Overall, 86% of our scheme members who responded to the annual survey were either satisfied or very satisfied with the service they received from FDRS and the contact they had with FDRS.

**86%** either satisfied or very satisfied with the service they received from FDRS and the contact they had with FDRS

Here are some of the key statistics:

- 86% were satisfied or extremely satisfied with FDRS staff. Staff scored well in being:
  - **Efficient.** 93% thought that FDRS staff was prompt and efficient.
  - **Informative.** 85% thought that FDRS staff provided comprehensive information
  - **Available.** 84% found FDRS staff available when they needed them.
- 70% of the respondents strongly agreed or agreed that FDRS was effective in helping the scheme member resolve the complaint.
- 80% of respondents were at least extremely likely or likely to recommend FDRS to colleagues looking for a disputes resolution service provider.

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*Just as with consumers, 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.*

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Highlights include:

*Service level when I had an urgent issue and was overseas was amazing.*

*The process was excellent & the staff helpful & knowledgeable.*

*Respond promptly when we have an enquiry. Solution based approach from staff. Very friendly and easy to work with.*

*Everyone is easy to deal with.*

*Good, open communication channel.*

*Very good relationship and very happy. Thank you.*

*Staff are always pleasant and helpful.*

## What the ratings mean to us

The ratings tell us that we are doing well but that there is more that we can do.

As part of the year ahead, we are:

- revising our consumer-facing brochures for greater clarity and understanding
- updating our internal processes to reflect greater maturity of the service, what consumers and scheme members need, and providing greater access to mediation and other consensual dispute resolution processes
- engaging with consumers and financial service providers as much as possible so that there is greater awareness of financial dispute resolution and how the process works

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

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**Fairness**  
**Accountability**  
**Effectiveness**  
**Independence**      **Efficiency**  
**Accessibility**

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# Community and industry engagement

## Who we met with, including providing case studies and information

### 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 Advisors; and regular meetings with Community 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 interact with our scheme members to better understand what is happening for them. 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.

## 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.

### Regular Society of Consumer Affairs Professionals (SOCAP) meetings

A good way to gain new insights into complaint handling trends and methods so that we can pass on this information to scheme members and better inform our complaints handling processes.

# Complaints, issues, and resolution



# Issues at a glance

We have five case studies that highlight the trends and themes FDRS has seen over the year, with a bonus study on credit fees, given the Supreme Court's decision in *MTF/Sportzone* on the reasonableness of credit fees.

Before we discuss the cases, below are the issues at a glance with significant regulatory and legislative changes and proposals highlighted.

## 1. Foreign exchange trading platforms

Most of the complaints we received were about foreign exchange trading platform providers failing to follow instructions; specifically, not responding to customer requests to reimburse investments.

This has been a complaint trend for two years now and has been identified to the Financial Markets Authority (FMA) as a systemic issue for FDRS.

The vast majority of these complaints were not from New Zealanders or about financial services provided 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. The recommendation is that a business must either be a business providing financial services from a place of business in New Zealand or be a business providing financial services to New Zealanders.

## 2. Lenders and lending practices

Our second largest group of complaints were about lenders and lending practices. Between the *MTF/Sportzone* decisions, the Commerce Commission's draft responsible lending guidelines, and the amendments to the Credit Contracts and Consumer Finance Act 2003, which became effective in 2015, there is increased pressure on and scrutiny of lenders and lending practices. Most of the complaints received by FDRS in this area are about credit fees — whether about disclosure, amount, or type.

One scheme member has been identified as creating systemic issues with respect to lending fees and was reported to the Financial Markets Authority.



### 3. Communication

Communication is at the heart of most of the complaints received by FDRS. In some cases, financial advice was not documented at all or customers only received portions of advice needed to make financial decisions. While consumers must take responsibility for their financial decisions, there are communication issues of which financial service providers should be mindful. The Financial Markets Authority's white paper on emotion and financial capability, released on 20 April 2016, highlighted that consumers often make financial decisions based on beliefs and feelings.

Communication issues are further amplified when working with vulnerable consumer groups and with consumers with low levels of financial literacy.

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### 4. Other legislation and regulatory changes

- MBIE released its report on the future of the Financial Advisor Act and aspects of the Financial Service Provider Act on 13 July 2016. FDRS had previously made submissions on the proposed changes and key outcomes: ensuring that consumers can access the advice they need; advice makes consumers better off; regulation is enabling with no undue compliance costs, complexity or barriers to innovation; consumers have effective access to redress; and misuse of the FSPR is addressed.

The outcome of these changes is yet to be seen, but recommendations include removing previous advisor classifications (AFA and RFA) and adding three new classifications (financial advisers; financial advice firms; and agents of financial advice firms).

- The Financial Markets Conduct Regulations 2014 (FMC Regulations) were amended in 2015 and commenced on a staggered basis. Most came into force on 17 December 2015 while others came into force on 1 June 2016.

# Case studies

## Do you take your medication?

Annamaria applied for a life insurance policy. She talked to an insurance agent, answered medical questions and provided general information about her health – including that she suffered from an endocrine disorder for which she took prescription medication.

A year later Annamaria died from a different condition. Because her death was during the two-year contestability period of the policy, the insurer investigated the death. The insurer reviewed the original application and medical records and determined that Annamaria had not been forthcoming about her non-compliance with prescription medication. On this basis, the insurer requested the insurance policy, citing the policy's incontestability clause.

Annamaria's beneficiaries raised a complaint with FDRS around two issues: first, whether Annamaria had appropriately disclosed her medical history and second, whether the insurance contract allowed for a requote.

After extensive analysis, including obtaining independent expert opinion, FDRS upheld the complaint. The adjudicator determined that based on the evidence, Annamaria had complied with her duty to disclose poor compliance with medication. However, even if she had not done so, there was no provision under the policy to requote.

The adjudicator noted that in cases upheld by the courts where requoteing had occurred, there were typically clear, unambiguous provisions within the policy to do so.

The case shows how critical it is to document all communications and statements, particularly as they relate to applications. If there is not room on the form, ensure that the information is otherwise documented, confirmed by all parties, and attached to the application.

Further, provisions to requote, rescind, or void need to be clear, readable and unambiguous. Contracts and applications should be easily understood and definitive.

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*The case shows how critical it is to document all communications and statements, particularly as they relate to applications.*

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## Lost in translation: A pension transfer gone wrong

Tom's dream of buying his first home was stalled when the advice he took went wrong – and there was no documentation to back him up.

Tom had talked to an adviser about transferring his UK pension to New Zealand without incurring excess fees and in a way that would allow him to access non-UK pension funds for a first-home purchase. Ultimately his pension was transferred to a KiwiSaver account but there was very little, if any, documentation about what options Tom was offered or if he was advised on their respective ramifications.

Tom later concluded that the KiwiSaver product was insufficient for his needs, as he understood that should he withdraw funds for a first-home purchase, he would incur substantial UK tax penalties.

Tom complained to FDRS that he had not been given a range of options for the pension transfer and that he had not been properly advised of the ramifications of the option put to him. Further, that option did not allow him to achieve his main goal of using the funds for a first-time home purchase within a year of transfer.

FDRS partially upheld the complaint. The adjudicator found deficiencies in the consultation and advice process, particularly with documentation of advice and options available to Tom. Whilst the adjudicator was not able to comment on what Tom would be able to do with the funds in the KiwiSaver account, the fact that he did not understand what he could or could not do further pointed to deficiency of advice. A financial loss could not be substantiated but the provider was ordered to issue an apology to the customer.

## Exotic currency pairs and ecopolitical change

An online currency trader with a taste for the exotic was left high and dry when a sudden geopolitical change blew his margins and his broker wanted a top-up.

The trader traded USA/ZAR, an exotic currency pair, so named because it is an uncommon pairing. Exotic currency pairs have unique qualities including vulnerability to geopolitical change and that they are typically low and slow transactions, making them easier to predict.

However, the bid-ask spread can be highly volatile depending on political changes, environmental disasters, or other ecopolitical change. In this case, a sudden political change in South Africa caused the spread to balloon out way beyond its normal range.

This had the effect of bottoming out the margin agreement between the trader and broker. The broker then demanded a top-up (margin call) to insure its investment. The trader suffered losses.

FDRS dismissed the trader's complaint that the trading platform was to blame for his losses. The trader argued that the platform should have cautioned or safeguarded him against the trade due to the extreme width of the spread. However, the online trading site that the trader was using is a type that offers lower fees and allows for rapid, end-to-end trading without any intervention. The ramification of this kind of trading is that there are few, if any, investor safeguards and a trade will be executed regardless of the spread.

## The case of the missing advice

Jerry wanted to surrender the life insurance policy he'd taken out in 1986 and by 2012 was in debt due to a number of missed

premiums. He had taken out a loan against the policy to cover the premium debt, but further premiums and payments were missed.

Jerry asked the insurance company what could be done. He was advised that the net surrender amount of the policy was approximately \$9,000, which had been calculated by deducting the loan from the gross surrender value.

Jerry wanted to know about other options, particularly in terms of pay out sooner than what would have occurred with the original policy. Four options were provided, three of which required the payment of additional premiums. Jerry selected the fourth option, an endowment policy which required no further payments and had a gross pay-out of approximately \$25,000. However, it appeared that Jerry was not adequately advised that the loan for missed premiums would still have to be paid. When the endowment matured, Jerry received approximately \$11,000 but had expected well in excess of that.



Jerry complained to FDRS about inadequate and partial advice. FDRS partially upheld the complaint. We found that no loss was established as the loan for the missed premiums was rightly payable. However, we directed the advisor to issue an apology to Jerry, given the lack of good communication about the ramifications of available options.

## Case studies in credit fees

Following the *MTF/Sportzone* decision, the reasonableness of credit fees is under even greater scrutiny. We have put together some representative scenarios based on a blend of actual complaints, showing the kinds of issues that FDRS sees in the lending area - and takeaways for lenders and consumers.

- 1. Milking the top-ups:** Jeannie took out a \$3,000 loan to help ease the stress of a difficult financial period. Based on her good payment history, a year later she received a text saying she was approved for a loan top-up. She wanted to do some work on her house, so decided to top-up by an additional \$1,000. A couple of months later, she topped up again by \$500.

Jeannie's issue was that the lender charged a loan processing fee when she first took out the loan, and charged the same loan processing fee again for each of her two top-ups. The total bill for credit and processing fees for the two

top-ups was greater than 50% of the total top-up amount. She complained that there had not been adequate disclosure of the fees and that the fees were unreasonable, given that she was topping up an existing loan.

FDRS worked with Jeannie and the lender who agreed to rebate some of the credit fees. The takeaways for both parties were that more information should have been given at the time of the offer and the finance company agreed to look at the reasonableness of their fees in situations like this.

- 2. Reading the fine print:** Robert took out a short-term loan and wanted to pay it back in full six months later. It was then that he really looked at the loan paperwork and saw that he had been charged a loan processing fee, a broker fee, an administrative fee, and what he considered to be mandatory repayment protection insurance fees – after all it had been pre-selected when he signed the papers. But when he queried the fees with the loan company, he found out that the repayment plan was optional.

Robert complained to the finance company about what he felt were too many fees for a small loan with a high interest rate and that the repayment protection insurance plan had not been presented as optional.



FDRS worked with Robert and the finance company to resolve the issues. Robert admitted that he should have understood the loan documentation better before signing, helping him compare loans and ask questions about the reasonableness of the fees. The finance company agreed that it should not have pre-selected the repayment protection plan because this could have given the impression that the plan was not optional. The complaint was resolved by the finance company crediting Robert's account for the repayment plan fees.

3. **An overcharged mobile:** Mariama had a credit with a mobile phone provider that she no longer used. Her budget advisor contacted the company asking the credit be paid to Mariama's bank account and the account be closed. The advisor declined the phone provider's request for Mariama's physical address as well as the mailing address they had, concerned they would send her unsolicited credit offers.

A week later, Mariama received a statement from the mobile phone provider that showed she now owed \$5.00. They had charged a fee for not supplying a physical address. The fee exceeded the credit owed to Mariama. The budget advisor wrote to the company and explained that the fee was not reasonable and violated the *MTF/Sportzone* decision. The company agreed to waive the fee but then wanted to charge another administrative fee to close the account.

FDRS worked with the parties to resolve the issue with the mobile phone company agreeing to waive the fees and to look at general reasonableness of the fees. Mariama's bank account was credited with the amount owed to her and the mobile phone account promptly closed.

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*Following the MTF/  
Sportzone decision, the  
reasonableness of credit  
fees is under even greater  
scrutiny.*

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# Financial statement



FOR THE PERIOD 1 JULY 2015 TO 30 JUNE 2016

	<b>2016</b> (\$000)	<b>2015</b> (\$000)
Income		
Membership fees	501	548
Complaint fees	24	41
<b>Total income</b>	<b>525</b>	<b>589</b>
Expenditure		
Advisory Council	26	26
Personnel costs	256	266
Marketing	8	10
Other (travel, phones, printing, internet hosting)	22	40
Office and corporate support	298	247
<b>Total expenditure</b>	<b>610</b>	<b>589</b>
<b>Deficit</b>	<b>-85</b>	<b>0</b>

*FDRS is one of a number of dispute resolution services provided by FairWay Resolution Limited. FairWay's audited financial statements are available in our Annual Report (available online [www.fairwayresolution.com](http://www.fairwayresolution.com)).*

# About our 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.

## Stephen Ward, Independent Chair

Stephen is a consultant in the corporate and commercial department of Simpson Grierson. He advises corporations and crown entities on all aspects of corporate governance, statutory compliance, companies law, mergers and acquisitions, overseas investment in New Zealand and related issues. Stephen also has more than 25 years' experience establishing, managing, amalgamating and winding up life and general insurance companies, superannuation schemes, KiwiSaver schemes, and other investment vehicles.

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

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

## Dr Pushpa Wood, Consumer Representative

Dr Wood has been appointed as an Officer of the New Zealand Order of Merit in the Queen's 90<sup>th</sup> 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 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.

She has been involved in a number of national and international consultancy projects in financial literacy and capability building.

**David Whyte,  
Industry  
Representative**

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.

**Bill Bevan,  
Consumer  
Representative**

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. In 2011, Bill received a QSM for services to the community. He was a consumer representative and chair of the Telecommunications Disputes Resolution Council.

**Justin Kerr,  
Industry  
Representative**

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 10 years following his time working for a sharebroking firm and for a major finance company.

Justin has a BCA in Economics from Victoria University; a DipBank from Massey University and is a Senior Fellow of the Financial Services Institute of Australasia Inc.



# About FairWay Resolution Limited



## MISSION

To help people in conflict to move forward.

## 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.

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

FDRS is part of FairWay Resolution Limited (FairWay). FairWay is New Zealand's largest specialist conflict management company, with over 220 people working with us across the country. We have extensive experience in dispute resolution and conflict management across a wide range of sectors from medical, financial services, insurance and telecommunications to education, local government, building/construction and family.

The breadth of experience of our people ensures we are agile and able to offer tailored solutions and respond to changing needs and demands – such as the growing field of online dispute resolution. We don't just manage disputes, we also work with organisations to actively pre-empt them, providing coaching and support to help prevent situations from becoming acute.

As an independent Crown-owned professional services company, we take very seriously the requirement for us to responsibly manage Government finances, build a more competitive and productive economy, deliver better public services and support the Christchurch rebuild.

We are committed to the Government's Business Growth Agenda (BGA) to support business and help create a more productive and competitive economy.

Supporting business and others is our strength. Our results – above 80 percent resolution rate in mediation work, and over 85 percent resolving post-earthquake insurance and related disputes, and our privacy record speak for themselves.

## Our mission, vision and values

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

## Our values mean we...

Pursue excellence in all we do; achieving this through service excellence, integrity, teamwork, empathy and fairness – which is at the heart of successful dispute resolution and any long-term valuable relationship.

## We commit to...

Ensuring a high quality service to our customers, so they trust us to provide a fair and independent process to help them reach agreement or manage their conflict.

Create an environment of openness through positive communication and transparency and treating people fairly and impartially.

Provide opportunities for our people to work cooperatively and encouraging them to identify people's needs by asking, listening and clarifying.



FINANCIAL  
DISPUTE  
RESOLUTION



FairWay  
Lead · Resolve · Agree

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