

**Presentation by Ragini Rajadurai, Corporate and Legal Services, Financial Ombudsman Service, to the Tolling Customer Ombudsman Seminar, 29 September 2009**

**ALTERNATE DISPUTE RESOLUTION**

**FINANCIAL OMBUDSMAN SERVICE (FOS)**

The Financial Ombudsman Service is an independent, external dispute resolution Service that resolves disputes between financial service providers and consumers of their products.

On 1 July 2008, the former Banking & Financial Services Ombudsman, the Financial Industry Complaints Service (FICS) and the Insurance Ombudsman Service, merged to form the national Financial Ombudsman Service, FOS.

**APPROVED BY ASIC**

FOS is an independent, ASIC approved, external dispute resolution service. Regulatory Guide 139 sets out guidelines for Approval of External Dispute Resolution (EDR) schemes, in the Financial Services Sector.

The criteria by which EDR schemes are approved include:

- accountability
  - fairness
  - independence
  - accessibility
  - efficiency, and
  - effectiveness
- and these are the cornerstones of FOS operations.

**OUR OPERATIONS**

FOS operates out of Melbourne but we are a national service.

FOS has over 4000 financial service providers that are members, and these include banks, insurers, stockbrokers, mortgage brokers, and financial planners. A full list of participating companies is available on our website.

We are fully funded by financial service providers that are members of FOS and we are free to consumers.

We deal with a wide range of disputes that include:

- Investments and risk management,
- Insurance
- Credit
- Payment systems, and
- Deposit Taking

Our Annual Review after our first full year of operations will be released tomorrow, so I can't paint a complete picture for you. However, as a guide, we respond to nearly 200,000 telephone (183,000) and written enquiries and we received close to 20,000 disputes at the end of the financial year ending 30 June 2009. Those numbers are growing.

## **OUR PROCESS**

FOS may only deal with disputes where a participating member has had the opportunity to respond to a complaint in the first instance. All participating companies have Internal Dispute Resolution (IDR) processes. They are required to respond to complaints and advise consumers of their IDR processes, if a consumer has an unresolved complaint.

Our staff examine all documentation provided by the parties; contact consumers to discuss their dispute with them; make any further enquiries; and attempt to negotiate a settlement, conciliate the dispute or make a recommendation where possible.

We have many specialisations to deal with in the wide variety of disputes we receive and our staff comprise legally qualified as well as industry specific subject matter experts.

We deal with disputes on the papers after a full exchange of information. However, there is provision for us to conduct informal hearings or meetings with the parties in appropriate cases. If meetings are required, we will attend in major capitals. We have no power to take evidence under oath and our hearings are conducted in an inquisitorial and informal fashion.

As we employ a broad range of approaches to dispute resolution, this means that 69% of our disputes are resolved without formal determination.

Formal determinations are made by single decision-makers or by a Panel. A Panel comprises a Panel Chair, a consumer representative and an industry representative with specific subject matter expertise. Matters are referred to Panels for consideration where:

- the value of disputes is high;
- where there are multiple complex issues involved;
- fresh issues not previously considered by FOS; or
- where our other methods of dispute resolution have been unsuccessful.

We provide reasons in writing for our decisions and this is made available to both parties and our decisions are binding on the financial service providers.

## **OUTREACH / EDUCATION**

We conduct hundreds of outreach events, education activities and training workshops across Australia to a wide range of audiences. Our work extends to assisting victims of natural disasters, such as the Victorian bushfires, and investors affected by the national global financial crisis.

## **INTERNAL DISPUTE RESOLUTION**

We encourage our members to maintain and develop their internal dispute resolution capability to industry best practice. I understand the Tolling Customer Ombudsman's belief is that your companies should be able to resolve the vast majority of disputes before they come to him.

Customers are a company's major asset and companies need to focus on providing a high level of service to their customers.

Today we have sophisticated consumers who expect high level service and prompt resolution of their disputes. Time is at a premium so the quicker you as customer service operatives can resolve a customer's concerns, the better. Consumers want a pain free, simple and efficient complaints process.

Don't make it hard for them to tell you their grievance.

In this respect, management have to empower staff to resolve disputes promptly and efficiently. In my experience many disputes get escalated to external dispute resolution as customers' expectations are not met and their concerns not understood or addressed fully.

On many occasions we see disputes where a complaint has only been partially addressed or completely misunderstood and often this is due to either a lack of or inappropriate communications. Speaking to the consumer and asking the right question can often lead to a different outcome.

You have to appreciate that although you are dealing with complaints on a daily basis, in most cases it may well be the consumers' first experience at expressing dissatisfaction with the service provided. Hence they are looking at receiving a satisfactory response to all their concerns.

On the other hand, you may have heard the same or similar complaint raised many times before and it could be easy to think "not another one", but hold that thought and put yourself in their shoes, as this may assist you in dealing with the complaint more effectively. Read and listen to what they are saying and make sure you address every component of their complaint.

I appreciate that in some instances the contract or your processes and procedures give you little scope but this is where you may have to look at alternative ways of appeasing customers. A collection of the various types of remedies sought may give you the basis of some innovative ideas of coming up with solutions and perhaps a think-tank could help. An apology also can go a long way – we often see disputes where a consumer is looking simply for that.

I appreciate that in many organisations there are levels of authority to resolve disputes but where you may get some traction in early resolution is by having appropriate systems in place for quick escalation so disputes can be dealt with promptly. Having short timeframes for dispute resolution also helps tremendously.

I assume there may be some Interoperability issues between CityLink and EastLink and, in this respect, having a clear agreement between the two organisations that either customer relations team could deal with the complaint, would provide the customer with a seamless experience. This may require the establishment of some protocols that would be binding on each organisation.

## **VALUE OF COMPLAINTS**

Our natural reaction is to shy away from complaints as they can be difficult to deal with, but complaints are valuable.

In my early days in dispute resolution I was told to treat each dispute as a "gift" or treat each complainant with care and respect or as "the elderly lady next door" and this has stood me in good stead.

Remember that every experience a customer experiences has a multiplier effect. Where I am coming from here is that today's consumers respond to their experiences and communicate their concerns They tell their mother, father, brother, sister, friend, they have web pages and blogs. The gross impact of their expression of dissatisfaction could be quite detrimental to an organisation.

I have seen first hand the impact of bad press on many financial service providers and the effort and resources spent on damage control is significantly high.

To avoid such concerns, treat each dispute with care. Extra time spent at an early stage can minimise disputes. I have first hand experience at this in dealing with complaints against FOS. The longer a dispute takes, the more irate and difficult a customer can become.

Yes, I know all too well the querulous or high needs customer. My main advice there is, let the kite string out and allow them to get their concerns off their chest and then reign in the kite with a possible solution, but nip those complaints in the bud. This is where empowerment of complaints staff and early escalation points can really help.

An organisation can learn a tremendous amount from complaints. A compliant tells many stories about systems, processes, staff understanding and service.

I strongly encourage the recording and analysis of complaints to assist in the development of continuous improvement programs. It would also be very useful to receive feedback provided by the Tolling Ombudsman.

It is not uncommon for FOS to see similar concerns/disputes being raised, which suggests that companies do not have adequate feedback processes in place.

In monitoring the Code, I meet with industry and examine their systems and processes to discern the cause of system and process failures.

Most often organisations have sound processes and procedures in place but the lack of understanding, untimely training, heavy workloads, staff turnover and system failures may contribute to processes and procedures not being adhered to.

Developing strong links with the business is a must so you can provide the necessary feedback that can assist to grow and build the business and its reputation. A good name is hard to get but a bad reputation is easy to achieve.

## **TRAINING and EDUCATION**

Ensure staff are trained and equipped to deal with a variety of needs. From an EDR perspective, we have translation services to complainants, we train our staff to deal with high needs and provide them with a variety of other relevant training programs.

Continuous education by way of regular meetings, a newsletter and updates can also be very effective. Fun internal competitions on how to resolve complaints can also bring about solutions you may never have thought of. I have regular meetings with my team, who are all very experienced, for half an hour every week to discuss interesting matters and it always impresses me how differently people think and how different solutions can be reached.

## **GENERAL INSURANCE CODE OF PRACTICE AND INDUSTRY SYSTEMIC ISSUES**

Most general insurers that are members of FOS also subscribe to the General Insurance Code of Practice. The Code sets service, sales and dispute resolution standards for compliance.

I will now provide you with an insight of the impact robust internal dispute resolution processes can have on industries

Prior to the Insurance Council introducing the General Insurance Code of Practice in 1994, the General Insurance industry was successful in 35% of disputes referred to EDR. However, the introduction of the Code brought about significant changes within companies, including improvement of service standards and the introduction of Internal Dispute Resolution (IDR) processes. This has led to a significant reduction in referral of disputes to external dispute resolution as more disputes were resolved internally. Further, the General Insurance industry also became more successful at external dispute resolution, being successful in 58% of all disputes determined by EDR.

It has also been noted that the number of General Insurance disputes that are settled by FOS has declined over the years. At one time IOS used to resolve 20% of disputes, even though the number of disputes referred was much lower. However, we now only resolve about 13% of disputes. We believe this is also largely due to more robust and improved IDR processes.

## **EXERCISE**

**Before we end I would like to take you through a very simple exercise.**

Everyone please pair up and relate a time when you raised a complaint with any organisation and tell the person listening how your concern was dealt with. I would like the person listening to consider whether the complaint was adequately dealt with. If not, what could have been done better?

### **In closing:**

1. Treat each complaint as a gift
2. Listen to your customers
3. Empower staff to resolve disputes in a timely manner
4. Learn from your complaints
5. Provide training and continuous education to improve customer service