

## **Submission to MBIE**

### **Proposed Amendments to the Complaints Process**

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NewBuild has been offering low deposit construction lending to New Zealanders since 1999. The NewBuild delivery mechanisms (not available via traditional banks) we have successfully offered our customers have made us very attractive in securing new homes, especially to first time homeowners. It has also made us very vulnerable to predatory behaviour of banks who are quite happy that NewBuild does the heavy lifting to fund a client through a build loan to a completed home, only to attract the clients back to them with incentives and cash contributions once the home is completed.

Such an environment made NewBuild unsustainable, given we regularly have to repay the lender clawbacks after doing all the hard work - essentially for free. We initiated a "fee for service" mechanism whereby the bulk of our remuneration could be covered by our bank, however, where a customer chooses to move their business outside the terms of engagement, the cost for our service would then be born by the customer.

This fee for service process, and the associated fees, are clearly disclosed repeatedly to the customers; nonetheless, we continue to have attrition due to anti competitive banking behaviours. We occasionally lose clients unwilling to agree to our terms, and that is perfectly acceptable given we simply can't run our business at a loss.

In 20 years we have not once had a complaint made against us around the quality of service, our professionalism, nor our product offering. Nonetheless, we are all too regularly having to defend against complaints around fees for service by clients who have elected to breach their terms of engagement agreement with NewBuild.

We seek clarity from the proposed regulation to adequately define a complaint as one has not been clearly articulated. If a person chooses to defy a disclosed fee for service, does that constitute a complaint? Every formal complaint incurs \$1,150 to our DRS to defend, plus sometimes legal costs. And even if the DRS finds in our favour, our clients still get a free shot at us without recourse. There are no consequences, and nothing for clients to lose by formalising a complaint. We have even experienced our DRS encouraging it, and we have even observed a one- sided approach by our DRS attempting to find against us.

The DRS's have a vested interest in encouraging complaints as it makes them money.

We request that a complaint or dispute, when defined, also exclude anything that has been specifically and adequately disclosed in a timely and concise manner (under regulation, these processes need to be consistent and templated so it is not difficult to provide such evidence), or can be easily proved to be adequately disclosed.

Alternatively, the defendant (Adviser) should be able to have recourse to recoup its cost of defending itself when a judgement is found in their favour, including legal costs when necessary. This will at the very least provide a pause to consider the ramifications of any malicious complaint.

I can't recall any other industry, including Government employees or Members of Parliament (whose roles must surely carry the same weight of responsibility), who have to pay out of their own pocket every time a complaint is brought against them, without any opportunity of recourse. We are unsure why the financial services sector has been unjustly singled out and burdened with a one-sided process, and we seek consideration to amend the complaints process to recognise the unfair burden placed on the advice industry.