

Submission on discussion document: *Effective financial dispute resolution*

Your name and organisation

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Responses to discussion document questions

Issue 1: Consumer awareness of and access to dispute resolution

1

Do you think there is a problem with low consumer awareness and access to dispute resolution?

Raising consumer awareness and increasing access are key focus areas for any dispute resolution service (DRS).

We acknowledge that consumer awareness, based on various government surveys, is low, and agree that raising consumer awareness should remain a priority. Promotion plays a big part in any scheme's accessibility by ensuring likely users have awareness of the scheme. The ongoing challenge for dispute resolution providers is to maintain awareness of services that people only think about when they need them. Feedback we receive from consumers accessing dispute resolution services, across all sectors we work in, shows accessing a dispute resolution service is not a day-to-day thought process, and is typically only thought about (and subsequently accessed) at the point of need, i.e. when disputes arise. This challenge is faced by many consumer focussed services, particularly where services are provided as part of an independent escalation pathway.

We have seen positive results from awareness campaigns in other complaint services we operate. For example, as a result of significant awareness raising activities and advertising, Telecommunications Dispute Resolution (TDR) saw a 64% increase in enquiries in 2022/23, albeit this also included changes in complaint behaviour post Covid.

In addition to awareness, the accessibility of any dispute resolution service is just as important. Having a detailed understanding of the barriers preventing people using a service is paramount. These barriers reach beyond awareness, for example barriers could include language, cultural considerations, knowledge, access to experts or financial constraints to name a few.

Each DRS has an understanding of the barriers that their consumers may experience and works towards overcoming these. Some initiatives may be at an individual scheme level, while others can be addressed collectively. This needs to remain an ongoing focus, with the ability to identify both existing and emerging needs and agility to adapt to these.

As an example of collective initiatives within the financial services sector, the four dispute resolution schemes meet quarterly to discuss issues relevant to the sector, including awareness and any access barriers we might be seeing. In addition, through our collective efforts within the Community Outreach Group (COG) we proactively engage with key industry stakeholders, particularly advocacy groups (e.g. Fincap, CAP, Salvation Army etc.). As an example of individual initiatives, Fair Way and FDRS regularly present and meet with advocacy groups to promote the free services we offer to consumers across many sectors.

We note the recently released FMA Financial Advice Providers Monitoring Insights Report which found that while good practice was largely observed in the area of disclosure, gaps seen in this area included missing complaints and DRS information. Information from providers at the point of service is an important consideration. This is an important information source for consumers to understand their rights at the time of complaints.

2

Do you think the recent increase in the volume of disputes indicates better awareness and access to the schemes?

No, we do not believe the recent increase in financial dispute volumes points to greater awareness or access to the service. Feedback across the many sectors Fair Way works in would suggest the current cost of living pressures, reduced consumer resilience to handle issues post Covid, and a growing propensity to want more formal resolution is driving the majority of this increase.

This increase does support the fact that people in need can find DR services when they need to. We have found that over 60% of consumers with complaints rely on Google to find pathways available to them for resolution of their issues.

We do also believe the licensing regime, where complaints handling is a license condition, is starting to have the positive impact of providing awareness and access opportunities at the earliest point of a complaint.

For members of FDRS we provide templated process documents, together with educational webinars to help our members understand their complaint handling responsibilities, including providing the consumer the opportunity to have an independent organisation look at the complaint.

3

What are the barriers for consumers in accessing financial service providers' internal complaints processes?

In the FMA's recent first Financial Advice Providers Monitoring Insights Report it stated:

"We found that most FAPs had robust complaints processes sufficient for the size of the business, and had a positive attitude towards dealing with complaints. Advisers told us that dealing with complaints and resolving them with clients was a priority, and that the process could reveal opportunities to improve their business. We observed complaints registers that recorded adequate detail of complaints and how they were resolved, and showed an understanding of what constitutes a complaint, as required by the FAP licence standard conditions."

This is a very positive statement from the FMA coming directly from FAP monitoring visits. The report went on to suggest there were still opportunities for growth in the area of Internal Complaints Processes (ICPs) namely:

- *incorrect understanding or definition of a complaint*
 - *the complaints process not being followed by advisers*
 - *complaints not being recorded, including complaint registers not being in place upon being granted a FAP licence*
 - *unclear roles and responsibilities for managing complaints*
 - *limited analysis of complaints to identify trends and early indicators of issues*
 - *limited oversight of adviser complaints in larger FAPs*
 - *a lack of reporting to management and the board about complaints and any underlying systemic issues.*
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While we agree with the FMA report that most Financial Advice Providers are providing good access to ICPs, we do see barriers, some of which are centred around consumer perception or other issues. These observations include:

- little patience from consumers in wanting to work through an internal process prior to it being escalated
- no trust of the process (independence of ICP)
- consumer not understanding the information provided
- unrealistic expectations regarding the time to resolve
- limited information about the process and timing
- Advisers or their complaints team are sometimes not equipped or skilled to manage an ICP fairly or reasonably, this is more so with complex and technical cases that might require specialist dispute resolution capability.

4 *What are the barriers for consumers in accessing dispute resolution schemes?*

Most consumers engage with the applicable DRS if they need a source of escalation as their complaint remains 'unresolved' through the provider's ICP. We have not observed barriers in these cases.

We do from time to time see consumers contact the wrong DRS, however the 'no wrong door' process used by the four providers means the consumer is provided with a 'warm handover' to the correct DRS.

There are some myths that stop consumer engaging with a DRS, these include:

- perception of hidden costs' for consumers
- fear of retribution
- concerns about where or how the information will be shared
- concerns around independence
- DRS organisations appearing too formal.

In addition consumers do on occasion tell us they:

- are not wanting to retell their story
- have technology issues (which is easily overcome through our process)
- experience language barriers (FDRS utilises both translation and interpreting services for these cases).

We regularly get questions from consumers regarding the time frame for resolving the case, if we can assure them they will get an outcome and is it possible to resolve the issue less formally. While we don't see these issues as barriers that will prevent a consumer coming to the DRS, in some cases these may be a factor in whether or not they will make that first call.

5 *Do you have any specific examples or case studies of situations where consumers have experienced issues accessing a financial dispute resolution scheme?*

FDRS have a range of cases studies available on our website relating to work completed. Some of these can be viewed in the context of opportunities raised within this consultation document. ([Case studies » Financial Dispute Resolution Service \(fdrs.org.nz\)](#))

Issue 2: Enhancing scheme effectiveness through improved oversight and accountability

6

Do you think that current oversight and accountability mechanisms are sufficient to ensure schemes' effectiveness? Why/why not?

Oversight and accountability mechanisms are an important part of any dispute resolution service. While we believe these are currently working well, it is an area that should continually evolve as dispute resolution practices do so.

We think there is more the industry can do to standardise the approach to oversight and accountability. One mechanism to help consider how each DRS is performing is to look to the Aotearoa best practice dispute resolution framework. This framework was developed by government, together with industry stakeholders. It is a practice focused framework, with 5 Principles and 9 Standards. Fair Way's FDRS took the bold step of including this framework as part of its 2023 independent review process.

7

Do you think that the schemes are as effective as they could be? Why/why not?

We think the DRSs are very effective in what they achieve. Notwithstanding the comments about awareness and accessibility, for those consumers that engage with a service most are satisfied with the process they work through.

In the case of FDRS for the period 1 July 2023 – 30 May 2024, 71% of cases have been resolved in less than 60 days, with the average resolution within 56.8 days.

In the year ending 30 June 2023, we saw strong results from our early resolution approach with 95 percent of matters resolved through our informal process. While overall complaints increased by 12.5% in the year, only 5 percent of all complaints progressed through to our formal process, a 67 percent reduction from the previous year.

We also receive positive feedback and strong scores from our members in our satisfaction surveys.

FDRS, like other DRSs, publish annual reports detailing types of complaints, timeliness and resolution methods among other things. In the case of FDRS, the Minister is always provided a copy of the Annual Report together with an invitation to discuss its content.

8

Do you agree with these criteria for assessing the options? Why/why not?

Yes – these criteria are consistent with the Financial Service Providers (Registration and Dispute Resolution) Act 2008 s52(2).

These criteria (accessible, accountable, effective and cost efficient) are subsection of the principles under which the Minister is to give consideration before approving a dispute resolution service.

Status quo: Retain existing model and monitor the impact of aligning the schemes' rules

9

Do you think that the new regulations will be sufficient to achieve the objectives set out above?

The new Regulation Rules will be a step forward in achieving fairness and consistency across all DRSs. With respect to the objectives contained within the consultation document, objective b to improve scheme effectiveness will be partially met with the new regulations, albeit noting the regulations don't address any perceived accountability gaps this consultation poses.

The Regulations impact DRS Rules rather than the initial dispute resolution pathway mandated within the Act, that is the use of the providers (FSP) internal complaints process prior to escalation to a DRS. This paper provides some ideas relating to making that transition between provider and DRS easier. While this may provide some benefit to consumers it is important to note the recent findings of monitoring visits conducted by the regulator (FMA) which suggest disclosure, in most cases, is being completed.

Option to address issue 1: Supporting consumer access and awareness of schemes

10

Which of the options we have described above would be most effective to support consumers to resolve issues with their financial service provider?

We think it is relevant to note that the incidence and frequency of complaints against FSPs is very small when measured against the millions of individual transactions and exchanges that take place annually in the financial services industry. In addition, and seemingly supported by the recent FMA Monitoring Report, FSPs are, on the whole, doing a good job of assisting their clients where issues arise.

If the Minister/Ministry considers more work needs to be done to support access and awareness we believe the following suggestions ranked in order of effectiveness would be provide greatest benefit:

- (b) further and consistent requirements on financial service providers to improve how they communicate with consumers about complaints processes and dispute resolution (e.g. ensure that information is provided in a way that is clear and prominent)
- (a) more services that provide information, advice or navigation support to consumers (or those who support them such as financial mentors)
- (c) an awareness campaign
- (d) further collaboration between schemes to improve consumer accessibility, such as providing a 'single front door' 0800 number or website for consumers to access a scheme.

11

What are the likely costs of implementing these options?

The implementation of (b) would be the most cost-effective option. While it would require an initial body of work to update the current framework, once implemented the ongoing cost would be minimal.

Option (d) would be the next most cost-effective option, requiring the build of a new website, telephony technology to be set up and employed, together with a decision on how

the addition would be resourced. It is likely to include some additional people resource on an ongoing basis.

For options (a) and (c), these would be the most expensive alternatives requiring a significant amount of investment and planning. In the case of an awareness campaign, the ongoing costs of an awareness campaign could be prohibitive on an ongoing basis, unless funded by government.

12 *Should these options be led by government, or the schemes themselves?*

While the schemes could provide valuable input into any of these options, it is important that appropriate funding is in place prior to commencing any new initiatives.

Given the likely cost profile of the (a), (c) and (d) we do not believe it is appropriate for the DRS to fund these options. If they were required to do so it would mean additional fees to financial service providers, which may translate to higher fees to consumers as a result. It is our view that funding for these option should be provided by government.

All options would benefit from collaboration with the wider financial services industry stakeholders and if appropriate funding was in place (a), (c) and (d) could be led by the DRS cohort.

Given the nature of option (b), it is most appropriate that government would lead the consultation and implementation of this.

13 *Are there any other approaches that would improve consumer access to and awareness of dispute resolution options?*

We think there would be some value in ensuring that advocacy groups have appropriate awareness of the various pathways available for consumers and how they work. We find on occasion that local advocacy groups may not have the broad awareness of what options are available to consumers and how these work in practice. We have found, for nationwide advocacy groups there is good national body awareness, however this doesn't always filter down to the local regions/branches. This may be due to the breadth of services these group offers, recognising that many may work or volunteer on a part-time basis and miss out on training or information, and may also point to a lack of funding being available for these organisations.

Option to address issue 2: Enhancing scheme effectiveness through improved oversight and accountability

14 *Do you think that there is a need for dispute resolution schemes to be more accountable?*

We believe there is currently a satisfactory level of accountability within the schemes. In the case of DRS members (FSPs), given we operate in a competitive market, ongoing membership tenure is an ultimate pointer of how FSPs perceive the accountability within schemes. From a consumer perspective we do think that a more consistent (across scheme operators) publication of measures relating to timeliness, dispute resolution outcomes and adherence to agreed standards would be beneficial.

15 *Do you think there are issues with the performance or effectiveness of the schemes?*

No, we don't believe there are any issues with the effectiveness of the schemes. From our experience as an operator of a DRS we have found consumers and FSPs are happy with the

processes that are followed, and attempts made to resolve cases at the earliest possible times. For example as one measure of effectiveness across the 2022/23 financial year, of the overall 5% of FDRS cases requiring formal dispute resolution assistance, only 18% of these cases escalated to a formal determinative process, meaning that both consumers and FSPs were able to resolve case earlier, in a consensual way, with the help of a trained dispute resolution professional.

Do you think there should be consistency in how the schemes carry out independent reviews? What would be the best approach for achieving this consistency?

We think it would be very useful to have a consistent approach for carrying out independent reviews. In having consistency the public, together with the Minister, would have greater ability to compare relative performance against a standard framework. Any framework would also have the benefit of providing DRS with areas that may benefit from additional attention or change, meaning such work could be prioritised.

We believe an appropriate framework already exists within the New Zealand context, being the Aotearoa best practice dispute resolution framework, which was developed alongside wide industry dispute resolution consultation and collaboration. The framework consists of 5 Principles and 9 Standards. The principles of user focused and accessible, independent and fair, efficient, effective and accountable align closely to a number of the issues and opportunities raised within the consultation documents. This framework has been designed to provide a maturity assessment of dispute resolution systems against best practice principles. The Government Centre for Dispute Resolution (GCDR) standards have been specifically designed for the Aotearoa New Zealand dispute resolution landscape, while drawing on internationally recognised best practice practices. It is obviously important that any framework aligns to the requirements of the FSP Act.

We believe this framework works well in practice and has ongoing benefits for all dispute resolution/complaints management services. In what we believe was a first in New Zealand, the 2023 Independent Review for FDRS saw the Reviewer construct the review of in-scope matters using the Government Centre for Dispute Resolution (GCDR) Aotearoa best practice dispute resolution framework.

The benefit of this framework include:

- having a standard approach to measuring accessibility and awareness
- having a cultural lens embedded into the framework
- it becoming increasingly recognised across government as the 'go-to' standard
- providing a robust framework to help services plan for the future
- having a self assessment tool which enables an organisation to monitoring its progress and priorities
- the framework being flexible enough to response to nuances between industries and the maturity of service.

Ongoing self-assessment using a maturity model or similar framework will provide greater prominence to the dispute resolution best practice principles and aid the reporting of dispute resolution schemes.

17 *Do you think government should set further scheme rules? If yes, what areas of the scheme rules should be set by government?*

We believe section 63 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008 provides a robust framework for the generation of fit for purpose rules in its current form.

18 *Do you think it is necessary for government to make changes to ensure effective and impartial governance of the schemes? If yes, what changes would best meet this aim?*

We believe there is some value, particularly under the consultation on 52.a. and 52.b., for government to make changes, leading to more consistency in reporting and/or an overview framework for the schemes, however we do not believe other changes in governance should be considered at this point in time.

19 *Do you think the schemes should have to report against performance targets or standards? If yes, how should these standards be reported and what metrics should be used?*

Yes, all DRS schemes currently publish annual reports, available free of charge on their respective websites. The production of these helps with the overall accountability of the schemes.

If there is consideration given to standardising the way independent reviews are completed, then we believe the same framework could be used to develop appropriate metrics that each dispute resolution service would report on.

We believe these should include at a minimum:

- timeliness measure
- resolution types (consensual through to determinative)
- complaint categories
- user satisfaction survey results.

20 *Are there any risks or unintended consequences associated with the options we are considering?*

We do not agree with the prospect of having government appoint board members for independent schemes. We have seen examples in the past where appointments have led to suboptimal results. Scheme operators should have appropriate processes and capabilities to effectively consider and manage Board composition including skills and competency needs / assessments

21 *Will any of these proposals result in significant additional costs for the schemes, scheme participants and/or consumers? If yes, please describe the magnitude of these costs.*

There is likely to be some additional costs involved in a number of these proposals. Options 52.a. and 52.d. would have the least cost and assuming a sensible regime was agreed upon could be implemented relatively cheaply. Option 52.c. would have a reasonably high implementation cost potentially requiring a DRS to change their operating model. Option

52.b. would be the costliest option to implement, potentially requiring DRS operators to make significant changes to operating models to align to new rules. In addition, it would likely require substantial changes to marketing and informational material relating to the service or employing digital resources to make system/process changes on any case management systems.

22 *Are there any other ways to improve schemes' accountability and effectiveness?*

Other options

23 *Do you agree that the impact of regulations to align scheme rules, along with any other improvements proposed in this document, should be assessed before considering changes to the current scheme model? Why/why not?*

Yes, we believe it is important for the current changes (18 July Regulations) to be fully embedded and tested prior to considering any others changes mentioned in this consultation document. The harmonisation work lead by MBIE has been a number of years in the making and was specifically designed to address the issues/opportunities outlined in the Issue 1 of the consultation document.

24 *Are there any other areas and options for change that we should consider that have not been addressed in this discussion document?*

The focus for dispute resolution education and improvement should be well understood prior to a complaint reaching an approved dispute resolution scheme and could focus on the following:

For Financial Service Providers

- FSP communication to consumers regarding their Internal Complaint Process (as covered in this consultation document)
- Whether the FSP has adequate resources and skill to conduct a fair and reasonable complaint process, especially for complex cases
- Information provided to customers regarding alternate dispute resolution options need to be timely and clear.

For Support services

Other support agencies provide valuable services to financial services clients sometimes however there is an inconsistency in how they provide support to client, which can on occasion, be detrimental to a consumer outcome. Some areas of enhancement could include:

- better/more education and resources available for support services
- providing information to consumers regarding appropriate dispute resolution options
- understanding where their 'role' ends and when the DRS should begin
- advising/supporting customers through their complaint journey, not making decisions for them.