



FINANCIAL INDUSTRY
COMPLAINTS SERVICE LIMITED
ABN 64 068 901 904

FICS ANNUAL REVIEW 2005

Working Together



It is with much pleasure and in accordance with the Rules of the Financial Industry Complaints Service Limited (FICS) that on behalf of the Board, Management and Staff of FICS I present our Annual Review for the period ending 31 December 2005.

In addition to the reports from myself, the National Panel Chair and the Chair of the Board we have featured the Conciliation Report, an interview with Nina Harding (who co-presents the FICS workshops to Members), the newly introduced FICS Internal Dispute Resolution process, Participants Surveys and information relating to other FICS activities, including our education programme. Statistical tables and Case Studies of particular interest are also featured.

As you can see this year we have produced the Review on mini-disk. We did so for a number of reasons, including the reduced cost of production and distribution, and the substantial saving of paper.

I hope you find our Annual Review interesting and informative. FICS would welcome any comments or feedback, which should be forwarded to Trevor Slater, the National Relations Manager who can be contacted on (03) 8623 2000 or tslater@fics.asn.au

Alison Maynard
Chief Executive

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THE TEAM AT FICS



Back Row L – R: Brian Carpenter; Michael Ridgway; Claire Axelson; Amy Freestone; Maureen Murrill; Kevin Haddon; Alan Smith; Nick Crowhurst; Alison Maynard; Fran Bolger; Michael Croyle; Helen Brown; Jacinta Stute; Tania Wilson; George Walker; Nichola Caddeo; Michael D’Argaville; Ada Bombardieri; Trevor Slater

Front Row L – R: Michele Foulds; Naomi Layton; Maria Romeo; Ben Walker; Alycia James; Denny Meadows; Lorraine Russell-Haddon; Dennis Cooper; Ian Pugh; Phillip Robinson; Michela Friolo

Absent: Michael Arnold; Hannah Cuthbertson; Amie Foster; Judith Floody; Fiona Kardes; Teresa Molluso; Averil Summers

The Management Team

Alison Maynard, Chief Executive
Denny Meadows, National Operations Manager
Trevor Slater, National Relations Manager
Michael Ridgway, Conciliation Manager
Mike D’Argaville, Legal Counsel

Membership Coordinator

Lorraine Russell-Haddon

Legal Case Manager

Claire Axelson

Case Managers

Nichola Caddeo
Dennis Cooper
Maureen Murrill
Naomi Layton
Alan Smith

Panel Case Managers

Fran Bolger
Ada Bombardieri
Nicolas Crowhurst
Ian Pugh
Phillip Robinson
George Walker

Conciliators

Michela Friolo
Alycia James
Fiona Kardes

Technical Support Manager

Tania Wilson

Panel Liaison Officer

Jacinta Stute

Administration Manager

Ben Walker

Enquiries Officers

Brian Carpenter
Hannah Cuthbertson
Judith Floody

Support Staff

Helen Brown, National Relations Assistant
Amie Foster, Panel Assistant
Michele Foulds, Personal Assistant to
National Panel Chair
Amy Freestone, Case Manager’s Secretary
Kevin Haddon, Assistant Membership Coordinator
Teresa Molluso, Panel Team Assistant
Maria Romeo, Executive Assistant to CE
Averil Summers, Panel Assistant

Full details and CVs of FICS staff members are available on the FICS website at www.fics.asn.au

ABOUT FICS

“Providing an independent service resolving disputes between Members and Consumers fairly and efficiently”.

The Mission Statement of FICS

The Financial Industry Complaints Service (FICS) is an external dispute resolution scheme (EDR) approved by the Australian Securities and Investments Commission (ASIC) under ASIC Policy Statement 139 which sets out the requirements for approval. The basis of PS139 is that any EDR scheme must be accessible, independent, fair, accountable, efficient and effective. FICS fulfils the requirements of PS139 and in doing so, is able to offer a range of services to help consumers and providers of financial services resolve their complaints.

FICS is an alternative to the courts and provides resolution of complaints against the criteria of the relevant law, good industry practice, relevant industry codes and what is fair in all the circumstances. The process is informal and inquisitorial rather than adversarial. It is a national service and is free to consumers.

ASIC issue Australian Financial Services Licences (AFSL) to providers of financial services. It is a condition of an AFSL that the licence holder must be a member of an approved EDR scheme such as FICS, if it is dealing with retail clients.

At the end of 2005 there were in excess of 2,500 providers of financial services which have joined FICS as their EDR scheme. These are referred to as ‘Members’ of FICS.

The FICS process aims, in the first instance, to resolve complaints by mutual agreement between the parties. If this is not possible, the complaint can be referred to the Panel or the Adjudicator who have the ability to make a formal determination which is binding on the Member.

A Constitution and a set of Rules govern the operations of FICS. The Constitution sets out the objectives of the company and governs the operations of the company. The Rules, on the other hand, provide the detail on how FICS will deal with complaints. A copy of the Constitution and Rules are available upon request or on the FICS website www.fics.asn.au.

THE RESOLUTION OF COMPLAINTS

When a complaint is received an initial assessment takes place to assess whether the complaint falls within the FICS Rules. If so, it is then assigned to a Case Manager who provides the FICS Member with the complaint and any material supplied by the complainant and requests a response.

When the response is received the matter is assessed by the Case Manager and a suitable course of action planned with a view to providing the best opportunity for resolution of the complaint. Each complaint is treated on its own merits and the way a complaint is treated at FICS depends on the individual circumstances of the matter.

The Case Manager may use a number of different methods to resolve the complaint including shuttle negotiation (where the Case Manager speaks or writes individually to each party to generate options for resolution), the non-binding expression of an opinion as to the merits of each party's case (only the Panel or the Adjudicator can make formal binding determinations). The Case Manager may also refer the complaint to the FICS conciliation team for consideration that a formal Conciliation Conference be conducted or directly to the Panel or the Adjudicator (where there is clearly no further opportunity for negotiation between the parties).

Conciliation helps resolve disputes by sharing information, identifying issues in dispute and in common, discussing them and generating options for resolution.

A Conciliation Conference is a process in which the complainant and Member come together, usually via a telephone link-up, and with the assistance of the FICS Conciliator generate options to resolve the complaint.

It is not a process that attempts to determine who is right and who is wrong. It is a recognised and successful method of resolving complaints by meeting the needs of all parties.

The FICS Conciliation Conference process has been specifically designed for the users of the FICS process. The conferences are undertaken on a strictly confidential basis and are conducted by qualified and experienced FICS conciliators.

Since its inception in 2004 both complainants and Members have indicated very high levels of satisfaction when participating in Conciliation Conferences.

Although Case Managers and Conciliators make every attempt to resolve complaints by mutual agreement if this cannot be achieved the case is referred for a formal determination by the Panel or an Adjudicator, if the case is non-complex and its value is under \$30,000.

Once a complaint enters the process for determination the file passes to a Panel Case Manager. The complainant and the Member are provided with a case summary setting out FICS' understanding of the issues in dispute, and the arguments relied upon by each party in support of their case. All documents received by FICS are provided to both parties. At this stage both parties are provided with a list of these documents to ensure a complete exchange of all material on the file has taken place.

The complainant and Member are invited to submit comments in response to the case summary, and to respond to each other's comments. All parties have the opportunity to address the issues and evidence which will be considered by the Panel or Adjudicator.

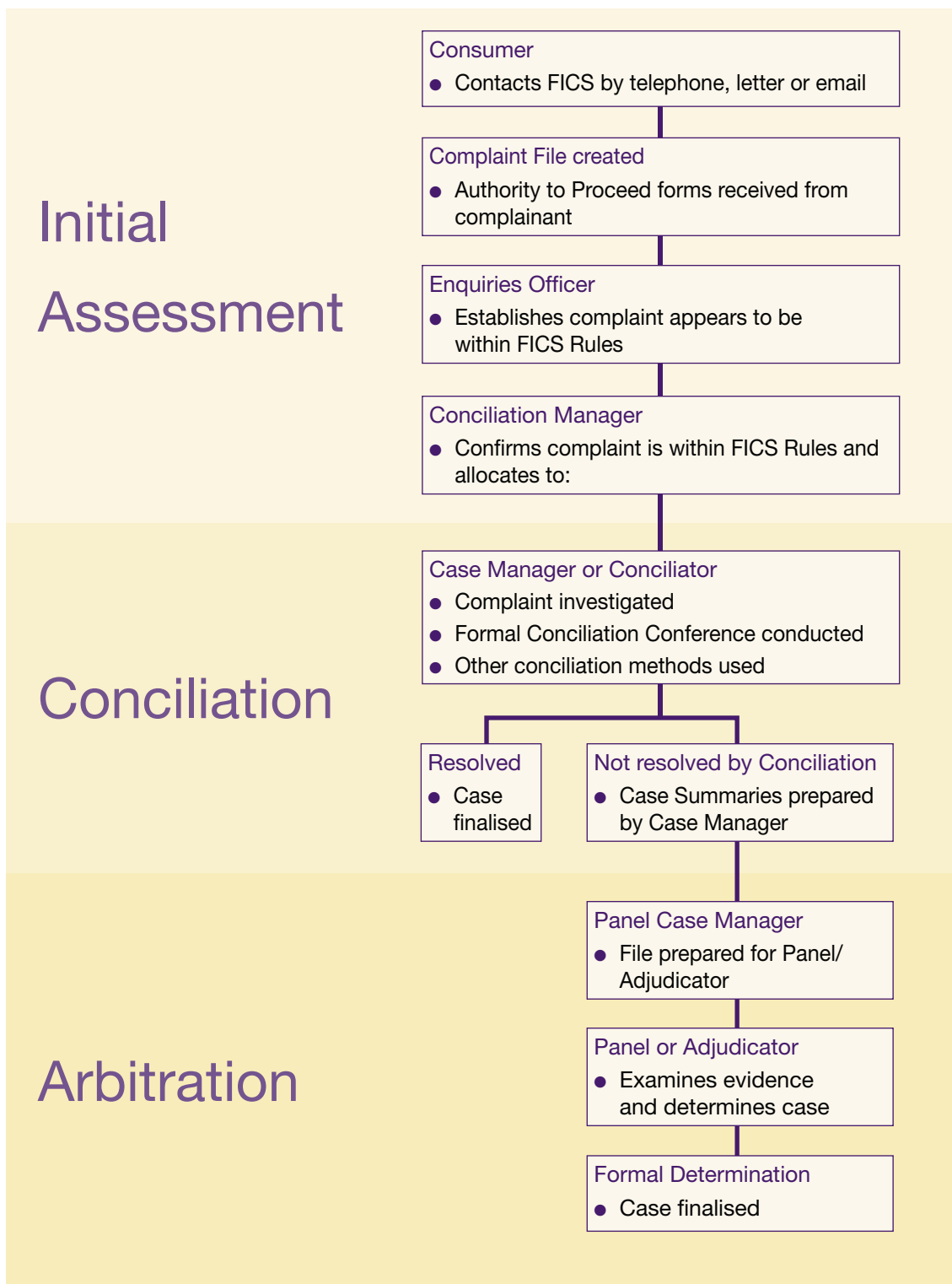
The Panel and the Adjudicator usually make their determinations on the basis of the material supplied by the parties. The Panel may conduct Panel hearings with the parties present. However, this procedure is not used often. Lawyers only appear at a hearing in some circumstances and with the agreement of the Panel Chair.

The Panel, which is made up of an industry representative, a consumer representative and an independent Chair, makes a written determination including reasons, which are binding on the Member but not binding on the complainant. The industry representative on the Panel will change in accordance with the type of complaint being dealt with by the Panel. For example a financial planning industry member will sit on all financial planning complaints. Consumer representatives are well informed in relation to commercial practices, in particular in the financial industry. They are impartial and objective and capable of advising the relevant Chair of each Panel on consumer-related issues.

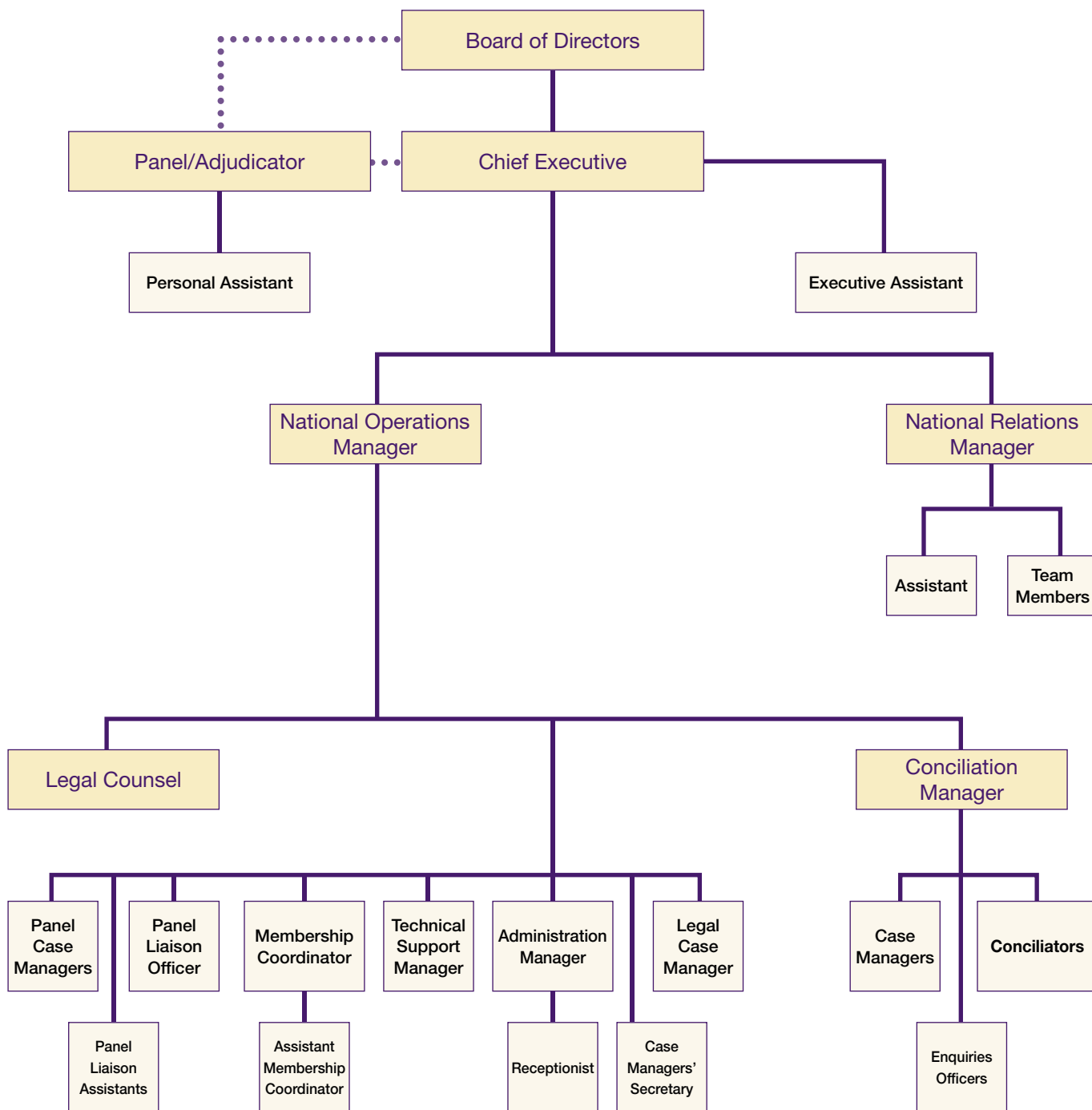
The Adjudicator sits alone and also issues binding determinations.

COMPLAINTS FLOW CHART

Flow charts showing the complaint process (on this page) and the conciliation process are included in this Review.



ORGANISATION CHART



..... Administrative Responsibility

———— Direct Reporting

CHIEF EXECUTIVE'S REPORT



ALISON MAYNARD
Chief Executive

Introduction

The FICS Team has had a productive and interesting year working with Members to resolve consumer complaints. Membership growth has slowed with 2,562 Members at the end of 2005, compared with 2,501 at the end of 2004. During the year the number of complaints to FICS fell and the case handling staff, Panels and Adjudicators worked hard to close complaints resulting in there being 628 open complaints at FICS at the end of 2005 compared with 915 at the end of 2004.

Complaints

FICS dealt with 13,204 telephone contacts and received 1,165 new complaints. There were 525 life insurance, 289 financial planning, 120 stockbroking, 156 managed investments and 75 other new complaints. Of these 689 progressed to investigation by FICS Case Managers.

Conciliation

The FICS conciliation team has had a highly successful year. During 2005 the team received 275 referrals which were 40% of all cases allocated to Case Managers in 2005. Of these 209 cases were suitable for conciliation, 172 Conciliation Conferences were conducted and an additional 22 cases were resolved by the conciliation team before the conciliation took place. The resolution rate for 2005 is 57%. Again, the feedback received from Members and complainants participating in the Conciliation Conference process demonstrates very high levels of satisfaction, and support for the process.

Panel/Adjudicator

The Panel operated with two full-time Panel Chairs/Adjudicators, Michael Arnold and Michael Croyle, and four part-time Panel Chairs/Adjudicators, Ron Eggleston, Murray Gerkens, Ian Thompson and Dick Viney.

The Panels finalised a total of 284 complaints and the Adjudicators 98 complaints, an increase from the 65 complaints finalised by the adjudication process during 2004 and follows the increase of the Adjudicator monetary limit from \$10,000 to \$30,000 from 1 January 2005. The adjudication process is generally faster than the Panel process resulting in speedier resolutions for complainants and Members.

Rules

FICS continued a major review of its Rules during 2005, and is expected to complete the review during 2006 after further consultation with Members.

The proposed Rule changes streamline FICS procedures. In particular they provide for reconsideration of Panel and Adjudicator determinations to correct decisions where there has been failure to consider evidence, failure to afford a party a reasonable opportunity to address evidence, by consent, or where there are grounds to find a decision may have been obtained by fraud. Although FICS initially included discussion of the monetary limits in the review of the Rules it has been decided that further consultation is required with all stakeholders of FICS as well as Professional Indemnity Insurers in relation to monetary limits. Therefore changes to these were not included in the Rule changes referred to the Board for decision in early 2006.

CHIEF EXECUTIVE'S REPORT

Liaison

Liaison meetings for Members were held in Sydney, Brisbane and Melbourne during 2005 and continue to be a vital process for exchanging information and receiving feedback from Members.

Internal Dispute Resolution (IDR) Training

Consistent with the commitment of FICS to assisting Members to resolve complaints five IDR Workshops open to FICS Members were undertaken in Sydney (two), Melbourne, Brisbane and Perth, with a further seven Workshops conducted in-house for individual Members, resulting in a total attendance of 370. Feedback from attendees indicates that 92% thought the Workshops were either very good or excellent.

FICS National Conference

The third and most well received National Conference was held in Melbourne on 6 and 7 October, preceded by a pre-Conference IDR Workshop on 5 October. Conference topics included changes at the Service, industry and consumer perspectives, a demonstration Conciliation Conference and workshops of case-related issues.

Stakeholder Relations Committee

A Stakeholder Relations Committee was formed in 2005 and is a committee of the FICS Board. The Committee initiated research into Members' concerns and approved Management's Action Plan designed to improve communication and relationships with stakeholders.

Cooperation

FICS continued to pursue cooperative projects with the Banking and Financial Services Ombudsman, the Insurance Ombudsman Service Limited and the Credit Union Dispute Resolution Centre. Plans for the development of one shared IT system were finalised with implementation of stages one and two scheduled for 2006 and 2007. IT is seen as being central to further cooperative projects between the schemes.

Legal Action

A legal action challenging a Panel determination issued in late 2004 was heard in the Victorian Supreme Court in December 2005. The judgement dated 3 April 2006 dismissed the proceedings with costs. The Court found that there was no error in the Panel's decision. Another legal challenge to a Panel Determination was issued in April 2005 but was settled between the parties and did not proceed to a hearing.

Thanks

Thank you to the FICS staff, Management Team, the Panel Chairs and Panel Members for their commitment and hard work during 2005.

The Board and its Chair, Peter E. Daly AM, are to be praised for their vision and commitment to FICS as well as their guidance and support to myself.



Alison Maynard
Chief Executive

PANEL CHAIR REPORT



MICHAEL ARNOLD
National Panel Chair

The Panel and Adjudicators have overseen a large number and variety of disputes in 2005. The Panel resolved 284 complaints in all made up of 147 life insurance, 103 financial planning, 19 stockbroking and 15 managed investments complaints. In addition to these there have been 98 resolutions by the Adjudicators.

The continuing high level of decision-making has reduced a backlog of disputes and means that current cases can proceed more quickly to determination. My thanks go to the Panel Chairs and Adjudicators Michael Croyle, Murray Gerkens, Ian Thompson, Dick Viney and Ron Eggleston in this regard. My particular thanks go to Ian Thompson and Ron Eggleston who will not be with us next year. Both have served FICS with distinction as Adjudicator and Alternate Panel Chair for many years and provided stature to its decision-making processes.

Panel Case Management System

The Panel this year has benefited from the introduction of a new Panel Case Management system which was designed to enable Members and complainants, who were to have their disputes resolved at the Panel level, to better address the important elements of their dispute. Issues that come to the Panel are usually complex and the parties often hold diametrically opposed points of view in relation to the same.

Panel Case Managers, in consultation with the parties, have been able to assist them to focus on the relevant issues and produce the material necessary to support their points of view or rebut those of the other party prior to coming to the Panel.

An example of a letter that might be sent to the parties in an income protection claim:

“The following is a brief outline of the issues which appear to have been raised by the parties so far and questions of law which are necessarily raised by those issues. Please advise whether you agree or whether you wish to expand on this summary.

Did Ms V fail to disclose to (Name of Member) about her income from personal exertion in the preceding 36 months, either in her application for insurance (signed 7 December 2000) or otherwise?

Did the statements in her application misrepresent to (Name of Member) her income from personal exertion?

If Ms V either failed to disclose or misrepresented her income from personal exertion, what was her income from personal exertion, and based on that income would (Name of Member) have issued her with a policy of insurance on any terms?

The Panel would be assisted by your submissions on all issues:

- *Whether or not raised in the above summary;*
- *Whether raised by (Name of Member).*

If you are raising new issues, please identify (or provide, if not already with FICS) the evidence on which you rely to support your submission. It is unnecessary to repeat submissions which you have already made”.

PANEL CHAIR REPORT

This process has the impact, in some instances, to narrow the issues to be considered by the Panel and in others the dispute being resolved by negotiation, without the necessity of the intervention of the Panel.

The Panel is also assisted by the fact that a statement of the Member's and complainant's positions are provided by the Panel Case Manager to the parties, together with a list of all the documents upon which they rely, for comment prior to the dispute being referred to the Panel for Determination. This gives the Panel assurance that the parties have been given the opportunity to understand the issues they are facing and thus afforded procedural fairness prior to its making a Determination. This is an important consideration following the decision of *Masu Financial Management P/L v FICS and Julie Wong (No 1)* [2004] NSWSC 826 (Masu) that reaffirmed that dispute resolution bodies such as the Panel must ensure that there is due process.

I believe that the Panel Case Management system will lead to parties to a dispute having greater confidence in the Panel decision-making processes as they can be confident that the Panel will have the complete file to a complaint and that the parties will have a final opportunity to confirm the issues and evidence they consider most important and relevant for the Panel.

Panel and Adjudicator Decisions

The Panel and Adjudicator are required to provide written reasons for their decisions to the parties to a dispute.

Rule 34 provides:

"Reasons for decision

34 A Panel must issue reasons for its decisions in writing, unless it believes that would be inappropriate – as, for example, in the case of suspected fraud. The reasons will not identify the parties".

The Panel and Adjudicator produced a total of 457 written Determinations in 2004 and 329 in 2005 and many are lengthy and complex. Originally the aim of FICS was to make the decisions as short and simple as possible. However, to satisfy the requirements of the parties and more recently to meet a level of precision as outlined in Masu, they now often contain technical information and legal analysis that is difficult for a layperson to follow.

I believe it is timely to review the way that Determinations are framed – looking at things such as content, clarity, style and length. The primary aim of a Determination is to clearly inform an unsuccessful party the reasons for the loss and to articulate the basis of the calculation of compensation that is due and payable to a successful complainant. The task can be complicated because of difficult legal principles and the fact that our Members, be they life insurers, stockbrokers, financial planners or funds managers, use technical language or jargon to refer to the products or services they offer. Determinations must both illustrate an understanding of the legal principles and industry language as well as explain the reasons for the decision in plain English.

More broadly, the Determinations are to have an educative impact. Although the Panel and Adjudicator decisions are not binding precedents, there is a striving for consistency. The object is to have Determinations that assist the parties to subsequent disputes to understand how the Panel/Adjudicator would approach their issues in dispute and any compensation payable. The result, hopefully, is early settlement of such disputes by the parties.

PANEL CHAIR REPORT

Panel Members

I think it is important to highlight the fact that there has been a broadening of the representation in the ranks of Panel members, with the inclusion of industry representatives Anne Bartholomew (Financial Planning) and Glenys O'Leary (Life Insurance) and consumer representatives Winsome Hall, Jenny Lawton and Joan Staples over the last year or so. Further, there has been an introduction of other Panel members with academic experience in the teaching of the requirements of financial services legislation and younger representatives who have 'grown up' with the newer approach to the regulatory regime and systems.

The importance of having a 'good mix' of appropriately qualified experienced and objective Panel members is balanced against the range of consumer members sensitive to the needs of their constituents. Many complaints are complex and therefore the Panel requires a high quality of debate in coming to a decision.

There is a need not only to assess the merits of each complaint as well as issues of fairness, there is also a requirement to stand back and assess some very emotive rhetoric that often impacts upon the logic in arguments made by parties to a dispute in these circumstances.

Qualification and Training

The Panel is concerned that financial advice is being provided or services offered in relation to new or emerging products in the form of derivatives and contracts for difference by persons who may not have the appropriate training or qualifications. It is important that Members and their authorised representatives have the appropriate qualifications to provide advice and services in relation to such products.

Further, the Australian Securities and Investments Commission (ASIC) has warned Australian financial services licensees to check that the training they are providing to their representatives complies with ASIC Policy Statement 146 - Licensing: Training of financial product advisers (PS 146).

PS 146 sets out minimum training standards for people who provide financial product advice to retail clients.

As part of their standard compliance arrangements, licensees should conduct checks to ensure that their employees are qualified and that the courses undertaken by their employees are listed on the ASIC Training Register. This should be done, for example, when employing new representatives or in determining whether ongoing representatives are appropriately trained to provide financial product advice to retail clients.

Loan Cover Policies

The Panel has noted in a number of cases that insurers have not provided documentation explaining the full terms and effect of loan cover policies to applicants.

Customer Information Brochures (CIBs) are the norm in life insurance applications. However, when banks and other institutions provide mortgage or loan money and require the borrower to take out loan cover insurance, the relevant documentation is often prepared at the same time as the loan application. The questions asked are brief and often could be misinterpreted by the borrower – so that incomplete information is given in answer to the questions. Issues of misrepresentation and non-disclosure can arise.

Further, in one case, the application for the loan cover insurance identified that the borrower would be unable to claim under the policy for 'sickness or disease contracted prior to the commencement date unless he/she was not and could not reasonably be expected to have been aware of the condition'.

However, when the policy was sent to the borrower – after the application had been accepted – this clause was more extensive and also excluded a sickness or disease 'for which you have received medical treatment prior to the commencement date leading to a diagnosis after the commencement date'.

PANEL CHAIR REPORT

In those circumstances, the more extensive words could not form part of the contract as they had not been notified to the borrower before the application was accepted.

Submissions with Multiple Annexures

When making submissions, Members provide documentation relating to the dispute often consisting of hundreds of pages.

However, Members frequently do not:

- Tab each document with an identifying mark (eg. Appendix 1);
- Do not provide an index of the documentation to enable identification of the number of documents and the number of pages in each document; and
- Do not number the pages of each annexure.

And so FICS, and particularly the Panel, must wade through this documentation, trying to identify the start and finish of each document – and that each document is complete.

Without the tabulation and indexing of annexures, FICS cannot be assured that all of the documentation which the Member intends to provide has in fact been photocopied by the Member and provided to FICS.

Also, without such tabs, the significance of documents may be missed or pages omitted by the Member inadvertently – giving FICS no opportunity to identify or call for the missing documentation. It is difficult for FICS to know that it is missing without such tabulation and indexation.

It is in the interests of Members that they provide this assistance to FICS and particularly in matters which are to go to the Panel. It will enable more efficient and expeditious processing of the complaints as well as decision-making.

Underwriting Decisions

A reminder for life insurance Members. In insurance matters where the Member is alleging that there has been relevant non-disclosure or misrepresentation, it is fundamental that the Member provide in its documentation:

- *The original underwriting decision (or decisions) made at the time that an application for insurance was lodged with the Member; and*
- *The underwriting decision (or decisions) made at the time the Member determined to avoid the policy.*

Frequently, Members fail to provide this necessary documentation and only provide underwriting decisions that have come into being subsequent to the decision made by the insurer to avoid a policy. In determining a dispute of this nature, it is essential that FICS be provided with all relevant documentation, particularly this underwriting evidence.

The Future

The full impact of the Financial Services Reform legislation and regulation has now been felt by the industry. There have been modifications to some regulatory requirements by ASIC after consultation with stakeholders. More are likely to follow but the basic principles will remain. The Panel is acutely aware that it now plays a significant role in the resolution of financial disputes between Australian Financial Service licensees and consumers and as a consequence its decisions are under scrutiny.

PANEL CHAIR REPORT

Compliance with the law is a fundamental requirement of good decision-making but the Panel must also abide by FICS Rule 5 which provides:

“What principles must the Service have regard to?”

5 In dealing with complaints, the Service must deal with the complaint on its merits and do what, in its opinion, is fair in all the circumstances, having regard to each of the following:

- *any applicable legal rule or judicial authority (including one concerning the legal effect of an express or implied term of the contract or other document)*
- *general principles of good industry practice and any applicable code of practice...”.*

The meaning of what is fair and reasonable raises some tensions as both parties to a dispute believe that it is fair and reasonable for them to succeed. The concept of what is fair and reasonable in the circumstances has been much discussed in judicial decisions reviewing superannuation fund trustee decisions in claims under total and permanent disablement policies.

In *Pope v Lawler* (1996) 41 ALD 127, R D Nicholson J discussed the phrase ‘fair and reasonable’ observing, at 135:

“The meaning of the words ‘fair and reasonable’ is a question of fact. ‘Fair’ is relevantly defined in The New Shorter Oxford English Dictionary 4th ed (1993) at 907 as ‘just, unbiased, equitable, impartial’. ‘Reasonable’ is defined in the same dictionary at 2496 relevantly as ‘within the limits of reason; not greatly less or more than might be thought likely or appropriate’”.

Those definitions have since been applied in a number of judgments at first instance in the Federal Court including *National Mutual Life Association of Australasia Limited v Jevtovic* [1997] FCA 359, *Briffa v Hay* (1997) 75 FCR 562 and *Lykogiannis v Retailer Employee Superannuation Pty Ltd* (2000) 97 FCR 361. However, the Full Court of the Federal Court in *National Mutual Life Association of Australasia Limited v Campbell* (2000) 99 FCR 562, noted, at 571, that:

“attempts to achieve a precise definition of words such as ‘unreasonable’ and ‘unfair’ are likely to run into difficulty. The legislature has quite deliberately used words of broad content”.

Furthermore, the notion of fairness in this context does not pertain to the process by which the decision has been arrived at but to the actual decision itself, in its operation in relation to the complainant; see *Pope v Lawler*, at 134.

The Panel believes that this case-by-case approach adopted by the courts is the appropriate course for it to follow in determining what is fair and reasonable.

Thanks

I wish to record my thanks to a number of Panel members who have retired as Panel members in the past 12 months. These were Frank Baumgartner, Brendan Egan and Terry Power (Stockbroking), John Hewison and Max Weston (Financial Planning) and John Berrill (Consumer). I can only say that the Panel system could not have operated without them and their contributions have been invaluable.

PANEL CHAIR REPORT

I also extend my appreciation for the assistance provided by Panel members from a number of industries and professions. These include Life Insurance: Bob Emery, Glenys O'Leary, Iain Ross and Graham Slater; Stockbroking: Alex Knipping, Barry Murray and Matthew Wigzell; Financial Planning and Managed Investments: Anne Bartholomew, Warren McKeown, Peter Roan, Brian Scullin, Peter Van West and Gavin Wright.

The same applies to our consumer representatives Stephen Duffield, Khaldoun Hajaj, Winsome Hall, Jenny Lawton, Joan Staples and Kim Wilson.

I look forward in 2006 to chairing Panels with new members – Greg Cunningham and Wayne Moriarty (Financial Planning) and Andrew Gillon and Marc Huinink (Stockbroking).

A handwritten signature in black ink, appearing to read 'M Arnold', with a stylized flourish at the end.

Michael Arnold
National Panel Chair

THE FICS PANEL

National Panel Chair	Michael Arnold
Panel Chair	Michael Croyle
Alternate Panel Chairs	Ron Eggleston Murray Gerken Dick Viney
Life Insurance Representatives	Rob Emery Glenys O'Leary Iain Ross Graham Slater
Stockbroking Representatives	Andrew Gillon Marc Huinink Alex Knipping Barry Murray Matthew Wigzell
Financial Planning Representatives	Anne Bartholomew Gregory Cunningham Warren McKeown Wayne Moriarty Peter Roan Peter Van West Gavin Wright
Managed Investments Representative	Brian Scullin
Consumer Representatives	Stephen Duffield Khalidoun Hajaj Winsome Hall Jenny Lawton Joan Staples Kim Wilson

Full details and CVs of all FICS Panel members are available on the FICS website at www.fics.asn.au

THE BOARD OF DIRECTORS



PETER E. DALY, AM
(Chair)

Appointed a Director of the Company in December 1993 and Chair in January 1997. Peter came to Australia in 1980 from South Africa and was appointed the Chief Executive and Managing Director of Norwich Winterthur Group in 1983. He has held a number of directorships since then and was the President of the Insurance Council of Australia Limited 1986-1987 and Chief Executive Officer from 1991-1997. He has served as the Deputy Chairman of the Zoological Parks and Gardens Board and is the Chair of Insurance Ombudsman Service Limited.

On 14 March 2004, Peter was awarded the Order of Australia for services to the insurance industry and to the community, particularly through the advancement of alternative dispute resolution and consumer protection.



DOMINIC ALAFACI
CPA, CFP®, FFPA,
B.Ec, B.Bus (Acc)

Appointed a Director of the Company on 16 March 2004 representing industry participants. Dominic was a member of the Australian Society of Investment and Financial Advisers, which helped form today's Financial Planning Association (FPA), and is a former Director of the FPA. He has also sat on the FPA's Audit Committee, the State Council and other FPA committees since its inception. Dominic has held senior roles as a practitioner for Bain & Company, Deutsche Bank, and has served as Financial Planning Manager for HSBC and more recently as the Managing Director of Collins House Financial Services Pty Ltd, a boutique multi-disciplinary practice.



JOHN BERRILL
BA., LL.B

Appointed a Director of the Company on 1 August 2005 as a consumer representative. Prior to that, he was a consumer representative on the FICS Panel from 1995 to 2001, and from 2003 until August 2005. John is an insurance and superannuation lawyer and is a partner with Maurice Blackburn Cashman. He is an accredited Personal Injuries Specialist and a member of the Law Institute of Victoria, the Australian Lawyers' Alliance and the Australian Insurance Lawyers' Association.

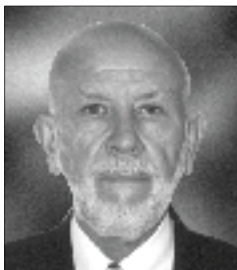
John has been involved in the consumer movement in advice, policy and advocacy work for many years. He is also a member of the Consumers' Federation of Australia, the Chronic Illness Alliance and the Superannuation Complaints Tribunal Liaison Committee and is on the Board of the Arthritis Foundation of Victoria.

THE BOARD OF DIRECTORS



RICHARD GILBERT
BCom, Dip Ed and
MMgt Econ (UNSW)

Appointed a Director of the Company in 2003 as an industry representative, Richard is the Chief Executive Officer of the Investment and Financial Services Association (IFSA). He held the position of Deputy CEO during the period 1998-2002. Prior to the formation of IFSA, Richard was the Executive Director of the Investment Funds Association. His experience in funds management includes employment as General Manager, Wholesale Distribution, in the Credit Union Services Corporation (1994-1997). From 1991 to 1994 he was Secretary to a number of Senate Committees, including the Senate Select Committee on Superannuation. Whilst working in the Senate, Richard was the foundation Director of the Parliamentary Education Office (1989-1991). He has been a member of the International Investment Fund Association since 2002 and is also a member of the executive committee of the Business Coalition for Tax Reform, and the Federal Government's Business Regulation Advisory Group. Richard has been a Board member of the Financial Industry Council of Australia since 1 January 2005.



DAVID W. LIDBETTER
B.Sc., Dip.Scc Inst.

Appointed a Director of the Company on 10 November 1999 as a consumer representative. In 1975 David was appointed Managing Director for Berger Paints Australia, a position held until 1980 when he was appointed Supervising Director and Chief Executive of the parent group Berger Jenson & Nicholson which was responsible for operating companies worldwide. In 1986 he retired to pursue his private interests. He has played a part in community work and in 1986 was appointed as Community Representative on the Sydney Airport Community Forum and various airport Committees.



JENNI MACK
BA, MALP
(Admin Law and Policy)

Appointed a Director of the Company on 10 November 1999 as a consumer representative. Jenni has extensive consumer affairs and complaints handling experience. She is on the Board of the Australian Consumers' Association and is a former executive director of the Consumers' Federation of Australia, the peak consumer body. She was the Deputy Legal Services Commissioner in NSW responsible for handling complaints about lawyers in the mid '90s. She has represented the community on the NSW Judicial Commission (which amongst other things deals with complaints about judicial officers), and was a member of the Migration Agents' Registration Authority's complaints panel for six years. She is also a director of Insurance Brokers Disputes.

THE BOARD OF DIRECTORS



DR JUSTIN E. MALBON
LL.B (Adel)
LL.M (York, Can)
PhD (UNSW) Barrister

Appointed a Director of the Company on 20 November 2002 as a consumer representative. He is an Associate Professor at Griffith University. Prior to this he was an Assistant Parliamentary Counsel with the Queensland Office of Parliamentary Counsel and a solicitor at the Melbourne office of Blake Dawson Waldron. He has been actively involved in the consumer movement for many years, holding positions as president of the Queensland Consumers Association and as a member of the Board of the Australian Federation of Consumer Organisations.



RUSSELL McKIMM
Dip FP, SF Fin, MSDIA,
FAICD, ADA1 (ASX)

Appointed a Director of the Company on 1 August 2005. Russell has almost thirty years experience in the stockbroking industry and is currently the Director of Shaw Stockbroking in Melbourne. Previous positions include Director for Tolhurst Noall Ltd from 2001 to 2005 and Managing Director of Ord Minnett Ltd from 1988 to 1991. He holds a Diploma of Financial Planning from Deakin University and has studied at the Securities Institute of Australia where he was also a regular lecturer in their Certificate and Graduate Diploma courses before leaving Sydney. Russell is a past President of the FPA and a former Board member of the FPA Complaints Resolution scheme and is a current Panel member for ASX National Adjudicatory Tribunal and ASTC Disciplinary Tribunal.



DAVID W. SQUIRE
Dip AII, GMQ (UNSW),
QPIB, AACI

Appointed a Director of FICS in August 2002 representing IFSA industry participants. David is also a director of the National Insurance Brokers Association and the Australasian Compliance Institute as well as being a member of the IFSA Regulatory Affairs board committee. Additionally he chairs a number of active committees at the aforementioned bodies and is the former chair of FPA Regulations Committee and member of Treasury's FSRA Implementation Consultative Committee. David is the National Industry Liaison Manager for MLC. He has in excess of forty years experience in general banking, life and general insurance and financial planning in a variety of roles including compliance and regulatory policy. David has actively been involved in industry advocacy dating back to 1982.

CHAIR OF THE BOARD'S REPORT



PETER E. DALY, AM
Chair

During 2005 the commitment of FICS to working with Members to resolve consumer complaints guided the activities of FICS. FICS assisted Members to improve their internal complaints handling as well as focusing on improving its own processes for assisting Members to resolve complaints.

The industry has made considerable progress in resolving complaints as evidenced by the fall in complaint numbers being received by FICS.

Relationships with Stakeholders

The Board formed a Stakeholder Relations Committee in 2005, the Committee initiated research into Members' concerns, and approved Management's Action Plan for 2006. The Plan demonstrates FICS' commitment to improving communication and relationships with all stakeholders.

Cooperation with Other Schemes

I am pleased that continued progress has been made in cooperation between FICS, the Banking and Financial Services Ombudsman, the Insurance Ombudsman Service and the Credit Union Dispute Resolution Centre. The implementation of the integrated IT System will form the basis of further cooperative strategies going forward, and I look forward to further progress in the cooperative arrangements during 2006.

The Constitution and Rules

There have been no changes to the Constitution during 2005 and the major review of the FICS Rules has continued with further extensive consultation with all stakeholders during 2005. The Rule changes will be finalised in early 2006, however, the consultation over monetary limits will be an ongoing commitment during 2006 before these changes can be fully considered.

Board

The Board was strengthened during the year to make provision for the additional appointments of Russell McKimm and John Berrill, representing the industry and consumers respectively.

Russell McKimm has had a long career in stockbroking and was nominated by the Securities and Derivatives Industry Association in conjunction with the Investment and Financial Services Association and the Financial Planning Association.

John Berrill is well qualified to represent consumers, having being involved in the consumer movement in advice, policy and advocacy work for many years. John was also previously a consumer representative on the FICS Panel from 1995 to 2001 and 2003 to 2005.

I welcome Russell and John and the expertise they bring to the Board, and wish them every success.

CHAIR OF THE BOARD'S REPORT

Board Committees

All the Board Committees have performed admirably with the Board Finance Committee meeting on a regular basis during 2005. The Nominations Committee met during 2005 to consider the appointment of additional representatives to the Board and to reconsider the process of all Board appointments. The Stakeholder Relations Committee held meetings during 2005 to consider research in relation to communication and consultation with Members and the development of an Action Plan. The Board Rules Committee has, likewise, met on a number of occasions performing the pivotal role between the External Board Rules Committee, comprising representatives of the majority of stakeholders and the Board itself.

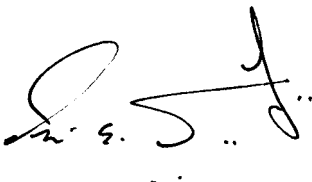
Thank You

I would like to thank members of the Board for their dedication and hard work during the year, I would also like to mention the additional contribution of the members of the Board Committees.

Further, I thank the full-time Panel Chairs/Adjudicators; Michael Arnold and Michael Croyle, the part-time Panel Chairs/Adjudicators; Murray Gerkens, Ron Eggleston, Ian Thompson and Dick Viney and the Industry Representatives and Consumer Representatives who are an important part of the complaint handling process. The issues they tackle so willingly are becoming increasingly complex and their contribution to FICS's continuing success is gratefully acknowledged by the Board.

My special thanks to Ian Thompson, who retired at the end of the year after a long association with FICS, having first become the Chair of the Life Insurance Complaints Board Panel in 1994 and then Alternate Panel Chair in 1998, until his retirement.

Lastly, my personal appreciation is extended to the Chief Executive, Alison Maynard, her Management Team and all the staff for their ongoing hard work and commitment to FICS.



Peter E. Daly, AM
Chair of the Board

ABOUT THE BOARD

Responsibilities of the Board

- Overseeing and monitoring the activity of FICS and ensuring the independence of the dispute resolution process
- Appointing the Chairs of the Panel, Adjudicators, consumer representatives and industry representatives to the Panel
- Ensuring that the Panel and the Adjudicators adhere to the Rules, but not to the extent of overturning a decision made by either body
- Analysing statistical information in relation to FICS
- Analysing and commenting on (if appropriate) the Annual Review
- Effecting appropriate changes to the Rules after consultation with interested stakeholders
- Ensuring that FICS meets all government benchmarks, policies and guidelines for complaint handling schemes to ensure FICS maintains its status as an approved EDR scheme
- Identifying recurrent or ongoing industry problems and reporting serious misconduct or other matters required by the regulators
- Satisfying itself that the promotional programme or projects are adequately funded.

Meetings

The Board met four times in Sydney in February, May, June and August and twice in Melbourne in April and November.

Major initiatives

- Implemented an ongoing Risk Management Plan
- Implemented a Corporate and Business Plan for 2006
- A review of the Board was conducted by Cameron Ralph Pty Ltd to explore opportunities for improving performance both in the short and long term
- Approved the Board Manual including the Procedure for Appointment of Consumer Representatives
- Consulted with Members on a number of Rule changes
- Entered into a Joint Venture Agreement between Banking and Financial Services Ombudsman Limited and Insurance Ombudsman Service Limited to look at opportunities in sharing of resources and the operation of a joint IT shared service
- Successfully applied to the Australian Taxation Office for the Company to be granted an exemption from income tax and be classified as a 'rebatable employer' for fringe benefits tax purposes.

ABOUT THE BOARD

Committees

Finance Committee

Chair: David Lidbetter

Members: Richard Gilbert, Alison Maynard* (Chief Executive) and Brian de Kock* (Company Secretary)

Meetings: Seven

Function: Monitor accounts, review annual accounts and meet with auditors.

Nominations Committee

Chair: Peter E. Daly, AM

Members: Dominic Alafaci, David Lidbetter

Meetings: Two

Function: This Committee nominates people for the position of Director of the Company.

Rules Committee

Chair: Alison Maynard

Members: Consumer representatives – Jenni Mack and Justin Malbon. Industry association representatives – David Mico (IFSA), David O'Reilly (IFSA), Adrian Lucchese (FPA) and Doug Clark (SDIA)

Meetings: Three

Function: This Committee provides the major consultative vehicle for the Board when construing Rule changes. In practice proposed Rule changes are signed off by this Committee before being considered by the Board.

Stakeholder Relations Committee

Chair: Peter E. Daly, AM

Members: Jenni Mack, Alison Maynard*, Dominic Alafaci, Richard Gilbert, David Squire

Meetings: Two

Function: This Committee identifies Member issues and consults with the broader stakeholders including Members, consumer movement and ASIC.

** In attendance by invitation, to provide guidance and advice*

ABOUT THE BOARD

Constitution and Rules

FICS is governed by a Constitution and Rules. The Constitution sets out the objectives of the company and governs the operations of the company. The Rules provide the detail on how FICS will deal with complaints.

The Constitution of the company may only be changed at a General Meeting or an Extraordinary General Meeting however, the Rules may be changed by the Board.

The Rules Committee

The Rules Committee was formed in early 2000 to be a consultative body representing the stakeholders of FICS. It has the ability to make recommendations to the Board in relation to the Rules. The Board has adopted a practice of referring Rule changes to the Rules Committee for consideration prior to Board consideration.

The Rules Committee has been considering extensive changes to the FICS Rules arising out of the Independent Review Final Report of February 2003, consultation and recommendations from management and in part in response to the decision of the Court in the Masu complaint.

The proposed Rules include a limited process for reopening of decisions as well as many other changes and are expected to be approved by the FICS Board after further consultation with Members in 2006.

Constitution and Rule changes during 2005

The increase in the Adjudicator limit from \$10,000 to \$30,000, while promulgated in 2004, came into effect on 1 January 2005.

CONCILIATION REPORT

Overview of FICS Conciliation Conference process in 2005

This was the first full year of the Conciliation Conference process, and the conciliation team achieved some excellent results. Particularly pleasing has been the positive feedback received from Members and complainants about the Conciliation Conference process, even in cases where the complaint was not resolved.

The number of cases referred for Conciliation Conference increased, and there was a corresponding increase in the number of conciliations conducted, compared with 2004.

Cases are normally assessed for their suitability at two stages of the case-handling process – when a Member's initial response to a complaint is received, and when one or both parties to a complaint requests a Conciliation Conference.

In 2006, we shall increase the conciliation team resources and focus on increasing the number of cases that go to conciliation. The Conciliation Conference process provides an opportunity for complaints to be resolved quickly and effectively and by the mutual agreement of both parties. With the assistance of an independent Conciliator, it allows the parties to constructively discuss and understand the issues in dispute and explore all possible options for progressing and resolving a complaint.

A snapshot of the results achieved in 2005 is as follows:

- 172 Conciliation Conferences were conducted, and 22 cases were resolved before a Conciliation Conference was organised. Seven face-to-face conciliations were conducted
- The resolution rate of cases referred for Conciliation Conference was 57% (resolved by the conciliation team before, during or after a Conciliation Conference was held). This is subject to change, as 10 cases are still in negotiation following a Conciliation Conference being held
- The conciliation team took an average time of 73 days to resolve cases, once they were referred.

Conciliation Survey Results

The conciliation team sends surveys to all Members and complainants who participate in a Conciliation Conference. Outlined below are results from surveys returned. They provide a barometer of the Member and complainant experience of each aspect of the conciliation process, including:

- The quality of the information provided by FICS prior to a Conciliation Conference
- The fairness of the process
- The opportunity for both parties to speak openly and have their say
- Satisfaction with the outcome
- Whether the Conciliator acted fairly, impartially and effectively.

A. Outcome Sought

- 2% of complainants were seeking compensation of less than \$1,000
- 16% of complainants were seeking compensation of between \$1,000-10,000
- 36% of complainants were seeking compensation of between \$10,000-50,000
- 26% of complainants were seeking compensation greater than \$50,000.
- 20% did not answer this question or did not nominate an amount.

CONCILIATION REPORT

B. Information and Understanding Prior to the Conciliation Conference

- 94% of Members and complainants agreed or strongly agreed that the conciliation guide sent before the Conciliation Conference was helpful
- 87% of Members and complainants agreed or strongly agreed that the information relayed to them prior to conciliation gave them confidence in the process.

C. Conciliation Conference Experience

- 99% of Members and complainants agreed or strongly agreed that they understood their role and understood what was happening during the Conciliation Conference
- 96% of Members and complainants agreed or strongly agreed that they were able to discuss their concerns during the Conciliation Conference
- 96% of Members and complainants agreed or strongly agreed that they were treated equally and 97% agreed or strongly agreed that they had the opportunity to speak freely
- 81% of Members and complainants agreed or strongly agreed that conciliation helped to identify the issues in dispute
- 77% of Members and complainants agreed or strongly agreed that they were involved in developing options for resolution during conciliation
- 84% of Members and complainants disagreed or strongly disagreed that they felt pressured to reach a resolution.

D. Conciliation Outcome

- 74% of Members and complainants agreed or strongly agreed that the conciliation helped move their complaint forward.

E. Conciliator Satisfaction

- 97% of Members and complainants agreed or strongly agreed that the Conciliator was fair and impartial
- 95% of Members and complainants agreed or strongly agreed that the Conciliator understood their concerns.

Conciliation Results for 2005

1. Cases Referred for Conciliation Conference

Case Type	Life	Financial Planning	Stockbroking	Managed Investments	All Cases
Conciliation suitable	93	70	33	13	209
Conciliation not suitable	29	26	6	5	65
TOTAL	122	96	39	18	275

- 275 cases were referred
- 44% of these were Life Insurance, 35% were Financial Planning cases
- 76% (209) of the cases referred were suitable for conciliation.

CONCILIATION REPORT

2. Conciliation Outcomes

- 172 Conciliation Conferences were held in 2005, and 22 cases were resolved by the conciliation team prior to a conciliation being held
- 57% of cases (111) going to conciliation were resolved before, during or after a Conciliation Conference. 5% of cases (10) are currently still in negotiation. 38% of cases (73) did not resolve at or after a Conciliation Conference.

3. Average Days to Resolve

- The average time taken to resolve cases once referred was 73 days
- The shortest resolution time was eight days, and the longest 196 days.

4. Comments of Conciliation Conference Participants

The conciliation surveys contain several questions that ask for comments from Members and complainants about the Conciliation Conference process. Outlined below are comments provided by participants:

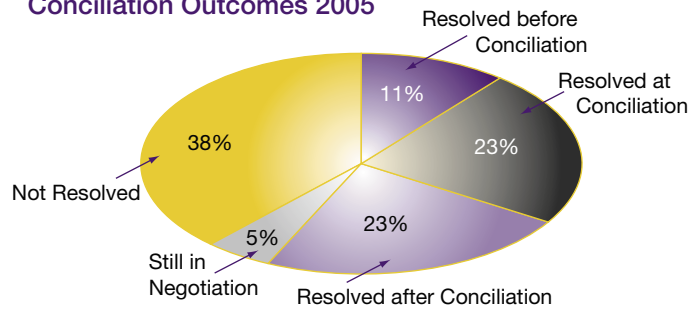
Member Comments:

- “The Conciliator was able to clarify some points very well and raised some important points for each party to consider”.
- “As a first time experience it was good to see that the system is the same as a mediation”.
- “The Conciliator was impartial but kept the discussion on the appropriate track, whilst looking for a resolution”.
- “The conciliation was a great way to discuss the issue surrounding the complaint and provided a forum for the dispute to be resolved”.

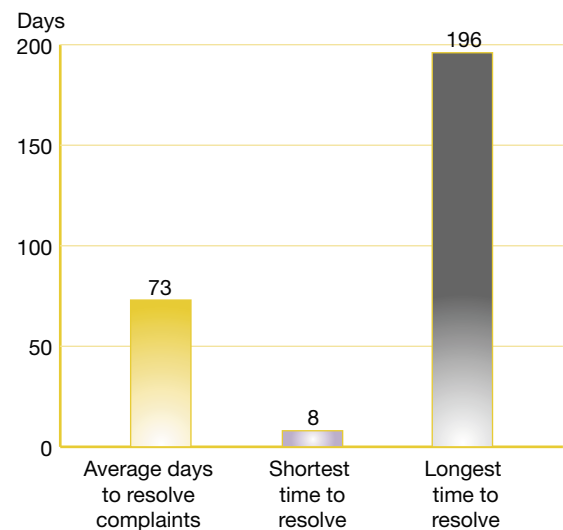
Complainant Comments:

- “Although difficult, it was managed in a calm, effective and impartial manner, which enabled a resolution to be reached. The Conciliator was very patient”.
- “She [the Conciliator] was excellent, very professional”.
- “Beyond expectations”.
- “I was very pleased and very happy to find the complainant received a fair hearing and that commonsense prevailed”.

Conciliation Outcomes 2005



Average Days to Resolve 2005



CONCILIATION REPORT

5. Conciliation Conference Case Studies

Case Type: Financial Planning

Mr J sought financial advice from X Financial Services, close to his retirement date, in respect of \$350,000 which he wished to invest. X Financial Services had prepared a financial plan which set out a number of recommendations, and disclosed the relevant fees Mr J would pay if the plan was implemented. The plan outlined that only 50% of the relevant entry fee for the investments recommended would be charged. The plan also provided for investment reviews every six months.

Two years later, Mr J lodged a complaint against X Financial Services, stating that he had suffered a capital loss of \$20,000, as a result of his funds being placed in an inappropriate asset/fund allocation. In addition, he was also dissatisfied that six monthly investment reviews had not been conducted and the original documentation outlining the advice and investments had been misplaced by X Financial Services, and a copy had never been provided to him.

Both parties were willing to conciliate to resolve the dispute. Subsequently, in the conciliation discussions, X Financial Services acknowledged that Mr J's investment documents had been misplaced and the service it had provided to Mr J had not been at an acceptable level. It advised that Mr J's regular investment reviews had been overlooked in part because it had moved office. X Financial Services also provided further information in relation to why the particular financial recommendations had been made to Mr J. Mr J noted that, while he believed X Financial Services had originally explained the recommended investment strategy well, it had focused mainly on the potential investment growth, as opposed to the risk of loss. Mr J acknowledged, however, that X Financial Services was not responsible for his total current capital loss.

A settlement was subsequently reached at the conciliation, whereby X Financial Services reimbursed the fees that Mr J had paid. Mr J noted that his respect for X Financial Services had been restored, due to the respectful and considerate attitude of X's representative in the conciliation.

Case Type: Life/Superannuation

Ms N made a complaint against Y Insurance alleging that the company had provided her with incorrect superannuation and pension statements. Ms N's concerns related to the taxation and superannuation implications of the incorrect statements she had received. Y Insurance had advised her that the incorrect reporting had been due to a change in fund managers, with the new fund manager using a different reporting logic in its reports. This had led to a crossover of investment information provided in two different taxation periods.

A Conciliation Conference was arranged and Y Insurance discussed the impact of the incorrect reports with Ms N, explaining that the reporting would have no impact on her taxation or superannuation situation. A resolution to the complaint was subsequently reached, whereby Y Insurance, with the cooperation of the relevant fund managers, agreed to have manually prepared reports provided to Ms N, which would outline the correct investment information. Ms N was satisfied with this resolution, and she advised that she would continue to hold her existing business with Y Insurance.

CONCILIATION REPORT

Case Type: Stockbroking

Mr K lodged a complaint against L Stockbroking in relation to the purchase and sale of a number of shares, including BHP, NewsCorp, ERG, and Voicenet shares. Mr K advised that on a number of occasions he had placed orders to buy or sell shares at certain prices. His orders had subsequently either not been placed by L Stockbroking at the price he stated or had not been acted on. Mr K was seeking compensation of \$16,500 from L Stockbroking.

In response to his complaint, L Stockbroking advised that on the occasions that Mr K's share orders had not been placed at his instructed price, the price of the shares had decreased below or increased above the price of his order. On many such occasions L Stockbroking had not been able to get in contact with Mr K to confirm what was happening and to seek alternative instructions. In relation to other share orders which were the subject of Mr K's complaint, L Stockbroking advised that it also did not have any record of Mr K having placed a buy or sell order.

Mr K and L Stockbroking subsequently agreed to participate in a Conciliation Conference. During the conciliation the parties discussed the communication that had occurred between Mr K and L Stockbroking in relation to the disputed share orders. The parties acknowledged the difficulty in reaching agreement about what had taken place, given the lack of any clear records regarding any orders placed. The parties noted that much of the communication had occurred over the phone, and it was possible that there had been miscommunication and misunderstanding about Mr K's intentions in relation to the shares he wished to buy and sell.

The parties agreed to resolve the complaint on the basis of L Stockbroking making an ex gratia payment of \$5,000 to Mr K.

Case Type: Life Insurance

Mr DM had an income protection policy with G Insurance which provided for payment of income replacement benefits until age 65, if Mr DM was totally disabled. After suffering injuries in 1995, Mr DM received income protection benefits from G Insurance until G Insurance ceased paying benefits and finalised his claim in 2003.

G Insurance ceased paying benefits on the basis that it believed Mr DM was not totally disabled within the terms of his policy, and was capable of returning to work in occupations that he was reasonably fitted for by his education, training and experience. Mr DM advised that he believed his medical condition had degenerated since he first incurred his injury, and he did not agree with G Insurance's assessment that he was not totally disabled.

Mr DM was seeking reinstatement of his benefits and back payment of benefits by G Insurance.

Mr DM and G Insurance agreed to participate in a Conciliation Conference. During the conciliation the parties discussed Mr DM's medical condition and the medical assessments that had been provided by specialists and treating doctors. The parties also discussed the medical treatment that Mr DM had received and the rehabilitation he had undertaken.

A number of resolution options were put forward by Mr DM and G Insurance during the conciliation, and a resolution was subsequently reached. Both parties indicated during the conciliation that their preference was to find a settlement that would result in the claim and policy being concluded, with no need for ongoing assessment by G Insurance. Accordingly, G Insurance agreed to make a lump sum payment of \$90,000 to Mr DM on the basis that his claim and his income protection policy with G Insurance would both be finalised.

CONCILIATION REPORT

Case Type: Managed Investment (Timeshare)

Mr and Mrs G attended a seminar conducted by K Timeshare in November 2003. They were attracted by the concept of a free holiday within Australia for attending the presentation. Mr and Mrs G were also impressed that K Timeshare was affiliated with a major accommodation provider, with which they had a positive association. Accordingly, they joined the timeshare programme.

Mr and Mrs G were approaching retirement and wanted to continue to enjoy regular holidays within Australia and New Zealand. Prior to joining the fund, Mr and Mrs G advised that they had asked K Timeshare whether the criteria for access to timeshare destinations would remain the same over the life of their membership. Mr and Mrs G advised that they were assured that this would be the case. They claimed they were also advised that they would be able to obtain alpine accommodation in the low season.

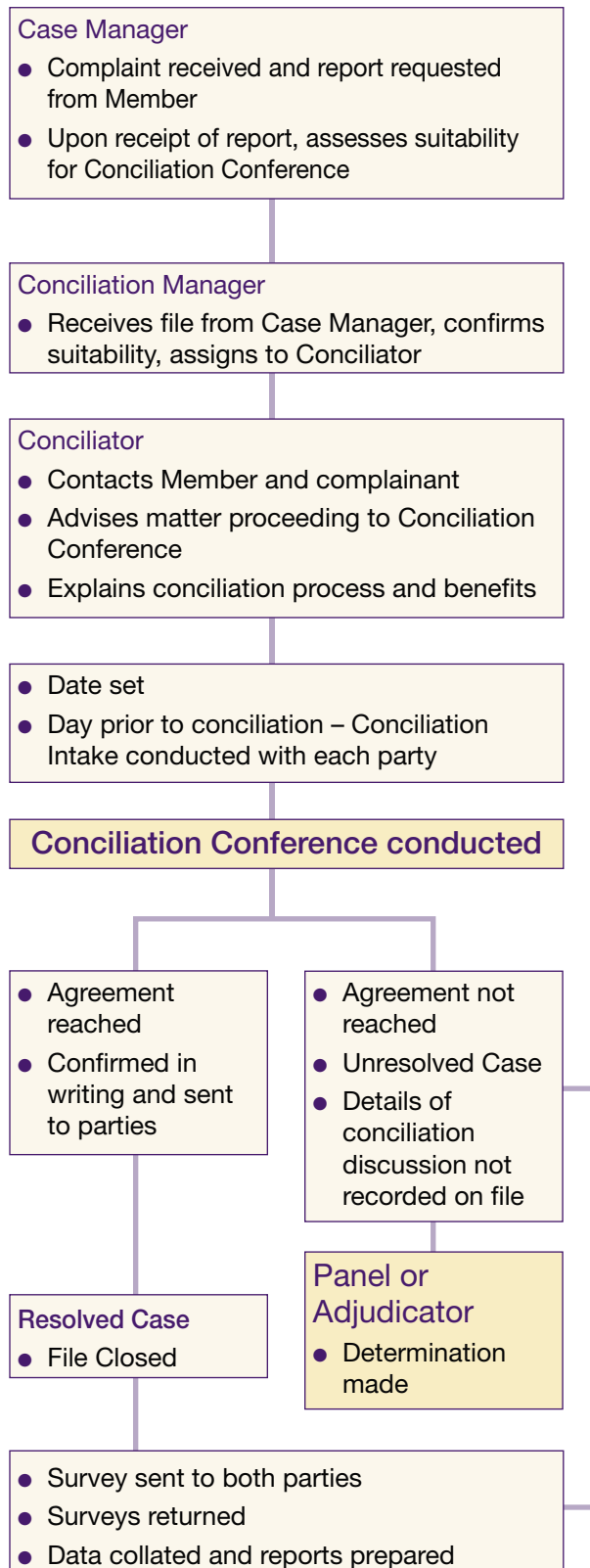
Mr and Mrs G subsequently attempted to book alpine accommodation in the low season, without success. They found that the low season period had been reduced and the criteria for accommodation had also been recalculated to their detriment. They complained to K Timeshare and requested a full refund of the membership fees.

Both parties subsequently agreed to participate in a Conciliation Conference organised by FICS. In the conciliation discussions, K Timeshare confirmed that the accommodation criteria had been amended, and that alterations were allowed under the terms and conditions of the programme. K Timeshare advised that the alterations had advantaged the majority of members, and outlined a number of accommodation destinations where the criteria changes had advantaged members. Mr and Mrs G acknowledged these beneficial changes, however, they remained concerned that they had been given a guarantee when they joined the programme that changes would not occur, and they believed that this had been misrepresented. Mr and Mrs G also believed that they had received poor customer service from K Timeshare.

K Timeshare advised that they did not believe a misrepresentation had occurred, however, it empathised with Mr and Mrs G's inability to book the accommodation they sought. K Timeshare also apologised to Mr and Mrs G for the level of customer service they had received, which K Timeshare acknowledged was less than the level to which the company strived.

As a resolution of the complaint, K Timeshare offered to upgrade Mr and Mrs G's membership. Additionally, in recognition of the service issues, K Timeshare agreed to award additional membership points to Mr and Mrs G. Mr and Mrs G accepted these resolution proposals, and agreed to remain in the investment. Mr and Mrs G advised that their initial positive impression of K Timeshare had been restored.

CONCILIATION FLOW CHART



SYSTEMIC ISSUES AND SERIOUS MISCONDUCT

FICS has a responsibility to identify systemic issues and cases of serious misconduct that arise from complaints, refer these matters to the relevant Member for response and action and report information about the systemic issue or serious misconduct to ASIC in accordance with agreed guidelines and thresholds.

A systemic issue is one that may have further implications for a Member beyond the immediate actions and rights of the parties to the complaint. Whilst several complaints of the same type may indicate a systemic issue, it is not enough to define or classify systemic issues by reference only to the number of complaints FICS may receive. A systemic issue can be identified by one complaint. This is because the effect of the particular issue will clearly extend beyond the parties to the complaint.

Rule 59 provides that:

“the Board must ensure that FICS has procedures in place for dealing with systemic issues and serious misconduct”.

The Board must consult with ASIC in relation to changes to those procedures. FICS current procedures for handling systemic issues and serious misconduct are contained in Practice Note 4, which is available on the FICS website.

Some systemic issues/serious misconduct matters dealt with during 2005 were:

Misappropriation of Cheques by Adviser

A complainant alleged that a Member's adviser deposited two cheques made out to the complainant by the Member into the adviser's account, rather than the complainant's account. On raising this with the Member as a systemic issue and/or serious misconduct, FICS was informed that ASIC had already investigated this adviser. He was permanently banned from providing financial services and charged with criminal offences. The Member withdrew the adviser's proper authority two years earlier.

The Member also objected to FICS' jurisdiction to handle this complaint. A Panel Chair ruled that FICS did not have jurisdiction to handle the complaint against the Member because the adviser's handling of the cheques did not occur in his role of providing financial advice. Therefore, it did not occur in the course of his employment and the Member could not be held vicariously liable for the adviser's misappropriation of the cheques.

This ruling did not prevent FICS from referring the adviser's conduct to ASIC for investigation so FICS informed ASIC of the complainant's allegations.

Inappropriate Financial Advice

In the course of handling a complaint about inappropriate financial advice, FICS received a copy of a letter from the adviser in which he stated that authorised representatives of the Member had been required to recommend margin lending and placement into a particular company's investments. The implication was that advisers were required to recommend these strategies regardless of whether they were appropriate for the particular client.

FICS raised this as a systemic issue with the Member who denied issuing any such directive. After investigating the matter FICS was satisfied that it was not necessary to take this issue any further in light of the following:

- there was insufficient evidence that the Member had issued an inappropriate directive;
- the adviser was no longer an authorised representative of the Member; and
- the Member had changed its business model to no longer having external authorised representatives.

SYSTEMIC ISSUES AND SERIOUS MISCONDUCT

Failure to Inform that Insurance Policy Not Reinstated

FICS received a complaint from a customer of a life insurance company whose policy had been cancelled but not reinstated after late payment of the premium.

The complainant was overseas and did not pay the premium for renewal of his income protection policy by the due date. The policy lapsed and the Member informed him of this. Subsequently, the complainant forwarded payment of the premium to the Member and the Member presented his cheque. However, the Member did not communicate with the complainant about this insurance policy for nearly five months after accepting the payment. The policy provided that acceptance of the premium in this situation was not a reinstatement of the policy but an acknowledgement of a request for a reinstatement.

The Adjudicator commented that there had been a serious breach of duty by the Member in not informing the complainant forthwith after receipt of the late premium payment that the policy would not be reinstated until a formal application had been made and that application had been assessed.

This was raised as a systemic issue with the Member who explained that at around the time of the events in question their operations were being relocated interstate. The Member provided details of procedures it had instituted that would prevent a similar situation recurring in the future, which included a requirement that a letter be sent to the client within five working days. FICS therefore regarded this systemic issue as having been rectified.

Members' Complaint Handling Procedures

Consumers are required to raise their complaint with the Member before asking FICS to handle it. In turn, Members are required to have an internal complaint handling system to the relevant Australian Standard and in accordance with any relevant ASIC guidelines. In addition, Members are required to advise complainants that they may complain to FICS if they are unhappy with the outcome of a complaint dealt with by the Member's internal complaint handling system.

In the course of handling complaints, FICS receives information about the way in which Members have handled complaints internally. When it appears that a Member may have failed to comply with their obligations under FICS Rules they are contacted to provide clarification and, if necessary, rectify the problem. The most common non-compliance relates to failing to inform complainants that they may complain to FICS.

Where it appears that the Member may have complaint handling procedures that do not comply with FICS Rules, the Australian Standard or ASIC guidelines, the Member has been asked to provide FICS with a copy of their procedures. Feedback is then provided so the procedures can be amended to make them compliant with the relevant requirements. This is necessary in only a small number of cases. As a general rule, Members are very cooperative with this process and readily amend their procedures to make them compliant. Occasionally FICS has to be more assertive in seeking necessary changes. As yet, it has not been necessary to refer the failure to change complaint handling procedures to ASIC as a systemic issue.

Delay Responding to FICS

Occasionally it has been necessary to investigate delays by Members in responding to FICS and follow this up with individual Members as a systemic issue. Members have responded positively to these referrals and have instituted changes that would improve their response times. These have included complaints department audits, improved complaints tracking systems, additional resources, revising procedures and providing further training to their staff.

FICS is pleased with the way Members have responded to these concerns and is confident that this should lead to improved case-handling times.

FICS continues to monitor the time taken by these and other Members to respond to complaints.

INTERVIEW WITH NINA HARDING – CO-PRESENTER OF IDR WORKSHOPS FOR MEMBERS



NINA HARDING

Nina Harding knows FICS business very well. In conjunction with Trevor Slater, the FICS National Relations Manager, Nina conducts the popular *Avoiding, Managing and Resolving Complaints* workshops which aims to teach skills to Members to help them resolve complaints before they escalate to FICS.

Nina is a highly experienced dispute resolution expert and was recently interviewed by Tribeca for their professional development sessions for advisers and planners.

Below is an extract from that interview.

Why will a client complain?

There's a simple answer and a more complex answer. The simple answer is that people complain when they are unhappy with a product or a service. It becomes a little more complicated because they also complain when they are unhappy with some behaviour that they have seen, either your own or an organisational behaviour. But it's even more complex than that, because why will one person complain about something and another three or four people wouldn't think of complaining about the same thing. There's a suggestion that the reason why some people complain and others don't is their deeply embedded belief system.

We all have our own belief system. For instance if somebody had a complaint about an aged care facility there might be one relative who is quite prepared to report the complaint and take it all the way and perhaps even litigate, whereas another relative might say 'no I'm prepared to let it go'. So why will they both behave quite differently when faced with the same circumstances? The answer is their belief system. One person's belief system might be that nobody should treat their relative in an unkind or inappropriate way and they will take it all the way to enforce their rights. Another relative might firmly believe that aged care is quite a difficult area, the people who work there do their best most of the time and this was just one of those things. So you will find two individuals who behave very differently, depending on their deeply underlying belief system.

We all know the problems associated with complaints, but can complaints be valuable?

Yes they can be. It's valuable to have feedback from your clients and customers. Many of us pay a lot of money to do research to discover what's important to our clients and customers. So complaints are actually a way of getting free feedback from your clients. It will also highlight systemic issues in an organisation - repeat problems and issues that are recurring. Both are very valuable to an organisation. I've encountered lots of experiences in my work where people making complaints have actually helped companies.

Are continuously recurring complaints a concern and if so what is the reasoning?

Yes, you would think that those were the things we should worry about most but in fact that's not right. You should be concerned about all complaints. All complaints that arise should flag to you that there is an issue which you should deal with efficiently. You need to deal with all complaints with the same tenacity as you would the larger complaints. Having said that most companies try to identify the high risk complaints.

And they have a number of criteria that will help their frontline staff to identify the complaints that are high risk. Some examples of high risk complaints are things like people saying that they are going to involve the media, that they are going to the Ombudsman, that they are going to FICS. Early on these should indicate to you that this complaint needs to be dealt with in a very responsible way.

INTERVIEW WITH NINA HARDING – CO-PRESENTER OF IDR WORKSHOPS FOR MEMBERS

So what priority level should be allocated to simple or one-of-a-kind complaints?

They should all be treated with the same level of respect as higher risk complaints. There are some very good standards available on complaints handling. FICS Members will be complying with Australian Standard 4269* of 1995, which incidentally was the first standard on complaints handling in the world. They currently have to comply with this standard to obtain their licence. It provides a procedure for dealing with complaints, one off or otherwise. There's another standard, ISO 10002 which is an international standard. You can download both of those standards from the International Standard website or the Australian Standard website and they are great sets of procedures to follow with any type of complaint.

* From 5 April 2006 AS 4269–1995 was superceded by AS ISO 10002–2006.

What are the key steps that should be followed when presented with a client complaint?

Look at your internal complaints handling system which you are required to have. If you don't have one have a look at the above standards for guidance to develop one. Before you try to resolve a complaint you need to have a good understanding of what it is about. So lots of listening, acknowledging the issues that they have raised. Perhaps summarising back what they have told you. Showing some empathy, apologising for something if it's appropriate. Identifying their needs, their concerns, their fears. Do that first before you do anything else, before you even state your own position or the company's position. Once you have established a good understanding then you might assert your own position or the company's position. Once you've done that you can then move on to exploring options and reaching an agreement. However, most of us jump straight from 'I'm listening to the complaint', straight to 'the solution is'. You should try not to do that.

What is the key to preventing complaints from escalating to an external dispute resolution body?

Oh that's easy, you resolve them. Put enough energy into resolving them early and I promise, if you can resolve a dispute as soon as it arises, or a complaint as soon as it arises you have got a much greater chance of settling it early, faster, whilst retaining the relationship. It's when complaints or disputes drag out that they often escalate, that you often discover that people have cemented themselves into a position, that now their legal costs or their losses are so high that the thing they are expecting, the outcome they want, is much greater than it was in the beginning. So get in, resolve them early, deal with all of them with the same level of respect and tenacity as you would any complaint, no matter how big or small.

Where can you learn more about complaint management and prevention?

There are lots of training courses out there. There's the FICS training course, there are mediation training courses which are offered by an organisation called LEADR, there are lots of books in any good management book store, you will find books about complaints handling and dispute resolution. So there are lots of avenues to improving your skills. But a little advice. Start doing it. Start resolving disputes at home. Start by trying to identify the issues, the needs of people, developing creative options and reaching agreements. It doesn't just happen one day, it's practising these skills over time.

Do you have any final advice on complaints prevention and management?

Just do what you do well, focus on your business and when a complaint arises deal with it as though it was from your most important customer, your most valued client, and I'm confident that you'll be able to resolve those disputes.

Full details of Nina Harding's qualification and contact details can be found on www.ninaharding.com.

Details of the FICS complaint handling workshops can be found on www.fics.asn.au.

OTHER ACTIVITIES

Avoiding, Managing and Resolving Complaints - Internal Dispute Resolution (IDR) Workshops For FICS Members

During 2005 an increased number of IDR workshops for Members was conducted by Trevor Slater and Nina Harding. The year also saw a big increase of Members requesting that this training be done in-house.

Workshops, open to all Members, were conducted in Brisbane, Melbourne, Perth and Sydney (2) with approximately 150 Members attending. FICS also conducted full-day, in-house workshops for BT/Westpac and NAB/MLC each of which had about 20 attendees.

The big success story of 2005 was the request by stockbrokers ABN AMRO Morgans for FICS to run half-day sessions for all of their account managers throughout Australia. These were conducted in Sydney, Brisbane, Adelaide, Melbourne and Perth. A total in excess of 220 of their staff attended, including two Managing Directors.

Feedback from the workshop attendees established that all would recommend the workshop to other FICS Members; 92% stated the workshop was excellent/very good and 97% rated the trainers excellent/very good.

One of the best pieces of feedback was received from an attendee at one of the Morgans sessions who wrote to the Morgans Compliance Manager saying that he had been very reluctant to attend. However, a few days after the workshop he received his first complaint and used the skills he had learnt and as a result resolved the complaint to the satisfaction of both his client and himself.

Some comments from workshop participants:

"It was definitely one of the best workshops that I have attended in a long time. Nina and Trevor were excellent and made the information interesting and humorous. I was most impressed with the content and will be able to utilise a lot of the strategies discussed".

"I have attended quite a few workshops over my 24 years in the industry, however Trevor and Nina provided a very practical and extremely well prepared presentation that did not have any 'down-time' through the day at all which is inevitably the case with workshops that run over a full day".

"I thought the combination of theory followed by practical examples and work-shopping was very effective".

"I was very impressed by the location of the venue, the quality and experience of the presenters and also the workshop content and supporting documentation".

Complaints about FICS - The FICS Internal Dispute Resolution Process (IDR)

FICS has for many years demonstrated to Members and complainants a commitment to the principles of interest-based dispute resolution. FICS has now extended this service to include dealing with complaints about its own services by introducing the FICS IDR.

The International Organisation for Standardisation (ISO) defines a complaint as being an:

"expression of dissatisfaction made to an organisation, related to its products, or the complaints handling process itself, where a response or a resolution is explicitly or implicitly expected".

While FICS does not deal with any 'products', it does provide a service. In trying to keep in line with the ISO definition, FICS will deal with any clearly expressed dissatisfaction about its service or the outcome of any Panel or Adjudicator determination, as a complaint.

Every issue raised with FICS will be addressed as quickly as possible. If an issue cannot be resolved immediately, the complainant is contacted within seven days and the ongoing process will be explained.

OTHER ACTIVITIES

We aim to resolve simple complaints within seven days. Issues that require specialist advice or further investigation should be resolved within 21 days from the time the complaint was formally lodged with FICS. If more time is required to resolve or investigate a complaint, FICS will advise the complainant in writing.

A complaint can be made verbally via the telephone or in person. A written complaint can be made via letter, email or fax.

More information on making a complaint about FICS is on our website www.fics.asn.au.

Participants Surveys

FICS has an obligation to seek feedback from the users of the FICS scheme. In 2004 FICS undertook a survey of complainants whose file had been finalised during a set four month period. This provided some valuable information on the views of complainants about the FICS process.

However, FICS formed the view that both the complainant and the Member should be given the opportunity to provide feedback.

It was decided to commence this process using a short survey. In August the *FICS One Minute Member/Consumer Satisfaction Surveys* (Participants Surveys) began to be used. It is sent to all parties when a complaint is finalised whether it be at Case Manager stage or Panel or Adjudicator Determination.

Although this survey process has some obvious limitations it has provided valuable feedback. It has also given FICS an indication of the type of issues that should be investigated further by way of the planned 2006 comprehensive survey.

FICS received data from surveys sent from August to December 2005. Over this period 718 cases were closed at FICS and surveys were sent to both Members and complainants for each case. During this period 134 Member surveys and 140 complainant surveys were returned.

Results:

- 95% of Members and 74 % of complainants thought the information provided to them about how FICS works was sufficient
- 67% of Members and 76% of complainants thought FICS staff were helpful
- 74% of Members and 74% of complainants thought FICS was fair
- 35% of Members and 36% of complainants felt the complaint process took longer than expected.

Following these surveys, 9 Members and 31 complainants requested a follow-up call from FICS to provide additional feedback. Examples of comments and feedback coming through so far include:

Feedback/comments:

- *"Thought that the person I dealt with was very professional and gave all the assistance I required".*
- *"FICS are friendly and helpful however fee schedule is prohibitive to Members who might wish to oppose a complaint but the costs are too high (i.e. more than paid)".*
- *"Very happy with the service and appreciative of what FICS did".*
- *"Very helpful, staff could not have been more helpful, very considerate and fair".*

OTHER ACTIVITIES

La Trobe University Student Placement

In October 2005 FICS provided the opportunity for a student from La Trobe University of Melbourne to work at FICS for a period of 150 hours. The student was undertaking studies in the Graduate Diploma in Conflict Resolution. The student attended FICS on a part-time basis and learnt how FICS operates and also gained practical experience in conciliation and negotiation.

FICS, La Trobe University and the student all signed a contract protecting the confidentiality of parties with complaints at FICS. The purpose of the student placement was for FICS to be able to contribute to the alternative dispute resolution education training programme undertaken at La Trobe University. It is planned that a second student will undertake work placement with FICS in 2006.

Conferences and Seminar Presentations

Alison Maynard, Chief Executive

2 June	Women in Finance, Melbourne
17 June	The Association of Independently Owned Financial Planners (AIOFP) Conference, Brisbane
4 August	IFSA Conference, Brisbane
23 August	SDIA Retail Broking Committee
20-21 September	International Conference of Financial Ombudsman – Toronto
6-7 October	FICS Annual Conference, Melbourne

Michael Arnold, National Panel Chair

16 March	Law Institute of Victoria Continuing Professional Development Programme, Melbourne
12-13 May	Financial Planning Association – Western Chapter, Dubbo and Orange
18-19 August	Tribeca – Advising on Risk and Insurance, Sydney
6-7 October	FICS Annual Conference, Melbourne

Trevor Slater, National Relations Manager

27 April	Westpac, In-house Internal Dispute Resolution Workshop, Sydney
2 May	Clearview Financial Personal Development Day, Sydney
3 May	Count Financial Ltd, Annual Conference, Gold Coast
4 May	FICS Internal Dispute Resolution Workshop, Melbourne
20 May	Ombudsman Forum – Illawarra, Wollongong
3 June	Association of Independent Retirees, Bayside Branch, Melbourne
7 June	FICS Internal Dispute Resolution Workshop, Brisbane
14 July	FICS Internal Dispute Resolution Workshop, Perth
15 July	Australian Life Underwriting and Claims Association (ALUCA), Perth

OTHER ACTIVITIES

8 August	National Agricultural Commodities Marketing Association Limited Conference, Melbourne
10 August	FICS Internal Dispute Resolution Workshop, NAB/MLC, Sydney
11 August	FICS Internal Dispute Resolution Workshop, Sydney
12 August	FICS Internal Dispute Resolution Workshop, Sydney
16-17 August	FICS Internal Dispute Resolution Workshop, ABN AMRO Morgans, Sydney
9 September	Association of Independent Retirees, Swan Hill
28 September	ALUCA, Professional Development Day, Melbourne
6-7 October	FICS Annual Conference, Melbourne
17-18 October	FICS Internal Dispute Resolution Workshop, ABN AMRO Morgans, Perth
21 October	FICS Internal Dispute Resolution Workshop, ABN AMRO, Morgans, Brisbane
15-16 November	FICS Internal Dispute Resolution Workshop, ABN AMRO Morgans, Adelaide
30 November	Interview with Tribeca, Sydney

Media Articles

- Financial Review, 17 January
- Independent Financial Adviser Magazine, 31 January
- Independent Financial Adviser Magazine, 7 February
- Choice Magazine, January/February edition
- Australian Investor's Association, E-Newsletter, February
- Melbourne Chinese Post, March
- Asset Magazine, March
- Chinese Australian Daily News, 2 March
- Money Management Magazine, 3 March
- Independent Financial Adviser Magazine, 14 March
- ASIC, Media Release, 21 March
- Financial Planning Magazine, April
- Independent Financial Adviser Magazine, 4 April
- Weekend Australian, Financial Review, 24 - 25 April
- Money Management Magazine, 28 April
- Independent Financial Adviser Magazine, 25 April – 1 May
- Independent Financial Adviser Magazine, 9 - 15 May
- Money Management Magazine, 12 May
- Independent Financial Adviser Magazine, 13 June
- Money Management Magazine, 16 June
- Insurance & Risk Professional Magazine, June/July edition
- Financial Planning Magazine, July
- Money Management Magazine, 14 July
- Financial Planning Magazine, August
- Money Management Magazine, 4 August
- Money Management Magazine, 10 August
- Money Management Magazine, 29 September
- Investor Daily, Daily News (online), 3 October
- Money Management newsletter (online), 10 October
- Independent Financial Adviser Magazine, 17 October
- Money Management Magazine, 20 October
- Independent Financial Adviser Magazine, 25 October
- Independent Retiree, November

FUTURE DEVELOPMENTS

In 2005 FICS continued to develop its services with particular attention to providing a comprehensive complaint resolution service which included not only conciliation and negotiation of complaints but also assisting Members to become aware of the skills required to resolve complaints at an early stage and prior to escalating to FICS.

FICS intends to continue to develop its services to provide a first class complaint resolution process. In 2006 FICS has plans to:

- Finalise the Rules review
- Further consultation in relation to increasing FICS monetary limits
- Continue to improve case management process and complaint handling times
- Complete information packages for Members which will be a step-by-step guide on how to respond to a complaint which is lodged with FICS
- Survey participants to improve the method of communication between FICS and its stakeholders
- Complete a Code of Practice which will include a comprehensive Code of Ethics as well as the recently implemented FICS Internal Dispute Resolution process
- Continue to improve working relationships with Members
- Continue to conduct workshops in complaint handling for FICS Members, in particular in specific industry sectors
- Increase the awareness in the consumer area of the services offered by FICS as well as the Financial Ombudsman Service* generally
- IT integration with other FOS Members
- Undertake joint presentations with other members of FOS including participation in the Independent Retirees bi-annual conference in Ballina 17 October 2006
- Assist in the preparation and organising of the 2006 International Ombudsman's Conference on 28-31 August in Queensland
- Participate in the ALUCA Conference in Cairns October, 9-13 September
- Participate with La Trobe University to allow another student to undertake 150 hours work at FICS as part of their conflict resolution studies
- Create a new role(s) in the National Relations Team to deal with complaints against FICS and improve communication with FICS stakeholders
- Undertake a review of the FICS website, predominately to make it more user friendly and provide more factual information on dealing with FICS
- Undertake a comprehensive survey of Members and other stakeholders of FICS to improve the way we communicate with our stakeholders.

* The Financial Ombudsman Service (FOS) is the collective title of the schemes that are represented at the 1300 Call Centre and include FICS, the Banking and Financial Services Ombudsman, the Insurance Ombudsman Service, the Superannuation Complaints Tribunal, the Insurance Brokers Dispute Resolution Scheme, the Credit Union Dispute Resolution Centre and the Credit Ombudsman Service. One of the roles of FOS is to attend consumer style forums and represent the members of the FOS in promoting EDR schemes to the public.

STATISTICS

Telephone Contacts

	2004	2005
TOTAL	9,878*	13,204**

* The 2004 figures are recorded calls direct to the FICS Enquiries Officers.

** The 2005 figures are an average of calls received at the Financial Ombudsman Service Call Centre that were referred to FICS.

Due to a technical error calls direct to the FICS Enquiries Officers in 2005 were not fully captured.

Nature of Complaint

	2004		2005	
	No.	%	No.	%
Denial of claim	417	16	263	15
Inappropriate advice	328	13	199	11
Misrepresentation	137	5	55	3
Non-disclosure	197	8	127	7
Policy values/charges	78	3	70	4
Standard of company service	1,108	43	776	45
Share transaction - misunderstanding	12	<1	49	3
Policy terms & conditions	233	9	171	10
Technical problems	41	2	18	1
No written plan	1	<1	2	<1
Customer with special needs	1	<1	0	0
Training competencies	4	<1	0	0
Failure to meet customer protection standard	n/c*	n/c*	1	<1
Other	n/c*	n/c*	50	<1
TOTAL	2,557	100	1,781	100

Not all calls require a Nature of Complaint to be recorded. Instances of such calls include those outside jurisdiction or follow up calls from complainants regarding complaint progression.

* n/c is data not collected

Product Types

	2004		2005	
	No.	%	No.	%
Allocated Pension	71	2	36	2
Bank Deposits	14	<1	9	<1
Debentures	17	<1	6	<1
Deferred Annuity	27	1	32	1
Endowment	52	2	19	1
Funeral Plan	23	1	35	2
Futures & Futures Options	6	<1	4	<1
Immediate Annuity	7	<1	7	<1
Income Protection	835	24	374	17
Investment				
– Regular Premium	41	1	4	<1
– Single Premium	70	2	12	1
Master Trusts	6	<1	5	<1
Managed Funds	148	4	59	3
Managed Investments	400	12	226	10
Managed Investments - Cash	3	<1	2	<1
Mortgage Protection	11	<1	33	1
Non FICS	n/c*	n/c*	327	15
Regular Premium	41	1	2	<1
Shares - Derivatives Warrants	257	7	204	9
Single Premium	15	<1	0	0
Superannuation				
– Company	30	1	27	1
– Personal	274	8	177	8
Term/Temporary Insurance	148	4	224	10
Timeshare	1	<1	28	1
Total & Permanent Disablement	158	5	102	5
Trauma	60	2	35	2
Unit Trusts - Property	39	1	21	1
Whole of Life	673	20	208	9
TOTAL	3,427	100	2,218	100

Not all Product Type were recorded on initial telephone contact. Instances of such calls would include those outside jurisdiction or follow up calls from complainants regarding complaint progression.

* n/c is data not collected

STATISTICS

Written Complaints

Active Complaints

	2004	2005
New complaints received	1,416	1,165
Reopened	109	94
Finalised	1,758	1,483
ACTIVE AT END OF PERIOD	915	628

Finalised does not include those complaints where a Panel or Adjudicator Determination has been issued but the complaint remains open pending further administrative requirements.

New Complaints received

Industry	2004		2005	
	No.	%	No.	%
Life Insurance	725	51	525	45
Financial Planning	449	32	289	25
Stockbroking	93	7	120	10
Managed Investments	141	10	156	14
Non FICS Industry Type*	1	<1	61	5
New complaints not yet assessed	0	0	2	<1
Other**	7	<1	12	1
TOTAL	1,416	100	1,165	100

* Non FICS Industry refers to complaints received against companies that are not members of FICS. Note - data collection commenced 12/04.

** Other denotes industry types that do not fit the standard categories such as Traders in Futures and Contracts for Difference.

New Complaints Progressed to Investigation

Industry	2004		2005	
	No.	%	No.	%
Life Insurance	467	50	310	45
Financial Planning	284	31	189	27
Stockbroking	59	6	92	13
Managed Investments	123	13	87	13
Other*	0	0	11	2
TOTAL	933	100	689	100

A complaint is progressed to investigation when a signed Authority to Proceed and Summary of Complaint is received and a preliminary assessment made that it is within jurisdiction.

* Other denotes industry types that do not fit into standard categories such as Traders in Futures and Contracts for Difference.

All Complaints Finalised During Period

Industry	2004		2005	
	No.	%	No.	%
Life Insurance	850	48	686	47
Financial Planning	598	34	406	27
Stockbroking	156	9	131	9
Managed Investments	147	9	195	13
Other*	7	<1	5	<1
Non FICS Industry**	0	0	60	4
TOTAL	1,758	100	1,483	100

* Other denotes industry types that do not fit into standard categories such as Traders in Futures and Contracts for Difference.

** Non FICS Industry refers to complaints received against companies that are not members of FICS. Note - data collection commenced in 12/04.

STATISTICS

Status of Open Complaints at End of Period - by Process Stage

Status	2004		2005	
	No.	%	No.	%
New complaints not yet assessed	1	<1	2	<1
Investigation pending	159	17	109	17
Complaints under investigation	433	47	280	45
Complaints referred to Panel	247	27	156	25
Adjudication issued*	1	<1	3	<1
Determination issued*	18	2	27	4
Complaints referred to Adjudicator	56	6	51	8
TOTAL	915	100	628	100

A complaint is only progressed to investigation when a signed Authority to Proceed and Summary of Complaint is received and a preliminary assessment made that it is within jurisdiction.

* These Panel and Adjudicator complaints remain open pending finalisation of administrative requirements.

Status of Open Complaints at End of Period - by Industry

Industry	2004		2005	
	No.	%	No.	%
Life Insurance	457	50	310	49
Financial Planning	297	32	186	30
Stockbroking	65	7	59	9
Managed Investments	94	10	60	10
Non FICS Industry	0	0	2	<1
Other*	2	<1	9	1
New Complaints not yet assessed	0	0	2	<1
TOTAL	915	100	628	100

* Other denotes industry types that do not fit into standard categories such as Traders in Futures and Contracts for Difference.

Geographic Distribution of New Complaints that Progressed to Investigation

	Life Insurance		Financial Planning		Managed Investments		Stock-broking		Other		All Industries	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Australian Capital Territory	10	3	8	4	4	5	3	3	0	0	25	4
New South Wales	85	27	53	28	26	30	32	35	4	36	200	29
Northern Territory	0	0	1	1	0	0	0	0	0	0	1	<1
Queensland	71	23	43	23	18	21	10	11	2	18	144	21
South Australia	27	9	12	6	4	5	8	9	0	0	51	7
Tasmania	7	2	5	3	1	1	2	2	0	0	15	2
Victoria	71	23	51	27	26	30	21	23	4	36	173	25
Western Australia	32	10	15	8	7	8	14	15	1	10	69	10
No State Recorded	7	2	1	1	1	1	2	2	0	0	11	2
TOTAL	310	100	189	100	87	100	92	100	11	100	689	100

STATISTICS

Complaint Outcomes

Summary of all Complaints Finalised and their Outcomes

		2004		2005	
		No.	%	No.	%
Complaint not Forwarded to Member	Duplicated**	73	11	27	5
	Outside Jurisdiction	260	41	238	43
	Withdrawn	139	22	91	17
	Complainant did not respond*	159	25	170	31
	Resolved by Member***	7	1	25	4
Total	638	100	551	100	
Case Manager	Duplicated**	1	<1	0	0
	Outside Jurisdiction	68	11	33	6
	Withdrawn	66	11	86	16
	Resolved by Member***	87	14	141	26
	Cconciliation Conference - Finalised by agreement	33	5	105	19
	In favour of complainant	234	37	111	20
	In favour of Member	136	22	74	13
Total	625	100	550	100	
Adjudicator	Outside Jurisdiction	1	2	1	1
	Withdrawn	2	3	1	1
	Finalised by agreement	1	2	9	9
	Cconciliation Conference - Finalised by agreement	0	0	1	1
	In favour of complainant	20	30	25	26
	In favour of Member	41	63	61	62
Total	65	100	98	100	
Panel	Outside Jurisdiction	2	<1	2	1
	Withdrawn	19	4	4	1
	Finalised by agreement	13	3	35	12
	In favour of complainant	196	46	116	41
	In favour of Member	200	47	127	45
Total	430	100	284	100	
Total	Duplicated**	74	4	27	2
	Outside Jurisdiction	331	19	274	19
	Withdrawn	226	13	182	12
	Complainant did not respond*	159	9	170	11
	Resolved by Member***	94	5	166	11
	Finalised by agreement	14	1	44	3
	Cconciliation Conference - Finalised by agreement	33	2	106	7
	In favour of complainant	450	26	252	17
	In favour of Member	377	21	262	18
	TOTAL	1,758	100	1,483	100

* Complainant did not respond, refers to when the complainant does not respond to requests for further information after at least two follow-ups.

** Duplicated are complaints that the complainant tries to bring/raise multiple times or complaints that are administratively duplicated.

*** Resolved by Member occurs when the Member resolves the complaint either before it is referred to a Case Manager or at the Case Manager stage.

STATISTICS

Resolution Times – All Industries

		2004		2005	
		No.	%	No.	%
Case Manager	Up to 60 Days	187	30	212	39
	61 - 90 Days	81	13	82	15
	91 - 120 Days	51	8	58	11
	121 - 150 Days	39	6	35	6
	151 - 180 Days	46	7	29	5
	181 - 211 Days	35	6	20	4
	212 - 241 Days	23	4	24	4
	Over 241 Days	163	26	90	16
Total		625	100	550	100
Adjudicator	Up to 60 Days	13	20	9	9
	61 - 90 Days	10	15	14	15
	91 - 120 Days	8	12	11	11
	121 - 150 Days	5	8	14	14
	151 - 180 Days	3	5	21	22
	181 - 211 Days	9	14	7	7
	212 - 241 Days	2	3	10	10
	Over 241 Days	15	23	12	12
Total		65	100	98	100
Panel	Up to 60 Days	10	2	9	3
	61 - 90 Days	12	3	7	3
	91 - 120 Days	35	8	17	6
	121 - 150 Days	25	6	37	13
	151 - 180 Days	26	6	38	13
	181 - 211 Days	26	6	29	10
	212 - 241 Days	21	5	25	9
	Over 241 Days	275	64	122	43
Total		430	100	284	100
TOTAL		1,120		932	

STATISTICS

Resolution Times by Industry Type

Industry Type*	Case Manager				Adjudicator				Panel			
	2004		2005		2004		2005		2004		2005	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Life insurance												
Up to 60 Days	74	25	101	40	7	28	3	9	7	4	4	3
61 - 90 Days	34	12	30	12	2	8	3	9	8	4	2	1
91 - 120 Days	34	12	29	11	2	8	4	12	12	6	10	7
121 - 150 Days	21	7	23	9	2	8	7	22	15	8	27	18
151 - 180 Days	28	9	14	5	2	8	8	24	10	5	20	14
181 - 211 Days	18	6	12	5	4	16	3	9	12	6	11	7
212 - 241 Days	11	4	14	5	1	4	3	9	11	6	12	8
Over 241 Days	72	25	33	13	5	20	2	6	119	61	61	42
Total	292	100	256	100	25	100	33	100	194	100	147	100
Financial Planning												
Up to 60 Days	47	22	51	35	4	15	5	13	1	1	5	5
61 - 90 Days	26	12	28	19	6	23	5	13	2	1	3	3
91 - 120 Days	21	10	14	10	4	15	5	13	8	6	3	3
121 - 150 Days	14	7	11	8	1	4	3	8	8	6	6	6
151 - 180 Days	16	8	11	8	1	4	8	22	11	7	14	13
181 - 211 Days	11	5	4	3	5	19	2	5	11	7	16	15
212 - 241 Days	12	6	5	3	1	4	5	13	8	6	10	10
Over 241 Days	65	30	20	14	4	16	5	13	98	66	46	45
Total	212	100	144	100	26	100	38	100	147	100	103	100
Stockbroking												
Up to 60 Days	11	20	19	34	1	14	1	8	2	3	0	0
61 - 90 Days	4	7	15	27	1	14	3	26	2	3	1	5
91 - 120 Days	1	2	7	12	1	14	1	8	2	3	3	16
121 - 150 Days	2	4	1	2	0	0	1	8	1	2	3	16
151 - 180 Days	5	9	2	4	0	0	2	17	2	3	2	11
181 - 211 Days	7	13	1	2	0	0	0	0	1	2	0	0
212 - 241 Days	3	5	4	7	0	0	2	17	1	2	1	5
Over 241 Days	22	40	7	12	4	58	2	16	50	82	9	47
Total	55	100	56	100	7	100	12	100	61	100	19	100
Managed Investments												
Up to 60 Days	18	27	40	44	1	14	0	0	0	0	0	0
61 - 90 Days	7	11	7	8	1	14	3	20	0	0	1	7
91 - 120 Days	7	11	8	9	1	14	1	7	13	46	1	7
121 - 150 Days	9	14	0	0	2	28	3	20	1	4	1	7
151 - 180 Days	4	6	2	2	0	0	3	20	3	11	2	13
181 - 211 Days	8	12	3	3	0	0	2	12	2	7	2	13
212 - 241 Days	2	3	1	1	0	0	0	0	1	4	2	13
Over 241 Days	11	16	30	33	2	30	3	21	8	28	6	40
Total	66	100	91	100	7	100	15	100	28	100	15	100
TOTAL	625		547		65		98		430		284	

* Industry Type does not include 'Other' which included 3 complaints relating to Traders in Futures and Contracts for Difference.

The increase in the number of complaints resolved at Adjudicator level is due to the monetary limit of a complaint referred to an Adjudicator being increased to \$30,000 and there being two Panel Chairs adjudicating in 2005.

STATISTICS

Referral Source of Complaints that Progressed to Investigation

Referral Source	Life Insurance		Financial Planning		Managed Investments		Stock-broking		Other		All Industries	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Accountant/Solicitor	38	12	13	7	2	2	4	4	0	0	57	8
Agent/Broker/ Financial Adviser	21	7	26	14	8	9	9	10	0	0	64	9
Community Groups	3	1	1	1	0	0	1	1	0	0	5	1
FICS Website	2	1	2	1	1	1	0	0	0	0	5	1
Friend/Relative	20	6	13	7	3	3	8	9	2	18	46	7
Government Agency	11	3	16	8	11	13	12	13	1	9	51	7
Industry Associations*	6	2	6	3	1	1	5	5	1	9	19	3
Media	5	2	5	3	3	3	4	4	1	9	18	3
Member	157	51	78	41	45	52	33	36	5	46	318	46
Members of Parliament	2	1	2	1	0	0	0	0	0	0	4	<1
Other Industry Complaint Schemes	9	3	8	4	1	1	4	4	0	0	22	3
Professional Bodies	3	1	0	0	0	0	4	4	0	0	7	1
Superannuation Complaints Tribunal	13	4	5	3	0	0	0	0	0	0	18	3
Telephone Directory	9	3	6	3	5	6	2	2	0	0	22	3
Other	11	3	8	4	7	8	6	7	1	9	33	5
TOTAL	310	100	189	100	87	100	92	100	11	100	689	100

* Industry Associations denote entities representing members of the financial industry, e.g. the Financial Planning Association.

STATISTICS

Industry Information – Life Insurance

Status of Open Complaints at the End of the Period

	No.	%
Investigation pending	57	18
Complaints under investigation	130	42
Complaints with Adjudicator	14	5
Complaints with Panel	86	28
Adjudication issued*	1	0
Determination issued*	22	7
TOTAL	310	100

A complaint is not referred to a Case Manager until signed Authority to Proceed and Summary of Complaint forms are received, and a preliminary investigation made to ensure the complaint is within jurisdiction.

* These Panel and Adjudicator complaints remain open pending finalisation of administrative requirements.

Nature of New Written Complaints by Category that Progressed to Investigation

	2004		2005	
	No.	%	No.	%
Standard of Member service	50	11	42	13
Denial of claim	291	62	191	62
Inappropriate advice	16	3	8	3
Policy values/charges	20	4	13	4
Policy terms & conditions	41	9	22	7
Non-disclosure	10	2	8	3
Non-disclosure				
– fees/charges	2	<1	2	<1
– risk	0	0	0	0
– conditions & warning	1	<1	0	0
– tax/social security	1	<1	0	0
Misrepresentation	35	7	24	8
TOTAL	467	100	310	100

Nature of Complaint by Policy Type that Progressed to Investigation 2005

Policy Type	Denial of Claim	Values/Charges	Misrepresentation	Terms & Conditions	Standard of Member Service	Non-disclosure	Inappropriate Advice	TOTAL
Whole of Life	3	5	7	1	5	4	1	26
Endowment	0	4	1	0	0	0	0	5
Investment Regular Premium	0	0	2	0	0	0	0	2
Investment Single Premium	0	0	1	0	0	0	0	1
Term/Temporary	26	1	7	6	17	4	0	61
Income Protection	117	2	2	13	9	0	2	145
Total & Permanent Disability	24	1	0	0	2	0	0	27
Trauma	14	0	0	0	1	0	0	15
Allocated Pension	0	0	0	0	0	1	2	3
Superannuation - Personal	0	0	0	0	4	1	2	7
Deferred Annuity	0	0	1	0	0	0	0	1
Mortgage Protection	7	0	1	2	2	0	0	12
Funeral Plan	0	0	2	0	2	0	1	5
TOTAL	191	13	24	22	42	10	8	310

STATISTICS

Summary of Complaints Finalised and their Outcomes – Life Insurance

			2004		2005	
	No.	%	No.	%		
Complaint not Forwarded to Member	Duplicated***	36	11	12	5	
	Outside Jurisdiction	122	36	91	36	
	Withdrawn	85	25	37	15	
	Complainant did not respond**	92	27	102	41	
	Resolved by Member****	4	1	8	3	
Total		339	100	250	100	
Case Manager	Outside Jurisdiction	28	10	10	4	
	Withdrawn	29	10	25	10	
	Resolved by Member****	38	12	57	22	
	Conciliation Conference - Finalised by agreement	10	3	44	17	
	In favour of complainant	95	33	65	26	
	In favour of Member	92	32	55	21	
Total		292	100	256	100	
Adjudicator	Withdrawn	2	8	0	0	
	Conciliation Conference - Finalised by agreement	n/c*	n/c*	1	3	
	Finalised by agreement	n/c*	n/c*	7	21	
	In favour of complainant	15	60	5	15	
	In favour of Member	8	32	20	61	
Total		25	100	33	100	
Panel	Outside Jurisdiction	1	1	1	1	
	Withdrawn	9	5	2	1	
	Finalised by agreement	8	4	27	19	
	In favour of complainant	89	45	52	35	
	In favour of Member	87	45	65	44	
Total		194	100	147	100	
Total	Duplicated***	36	4	12	2	
	Outside Jurisdiction	151	18	102	15	
	Withdrawn	125	15	64	9	
	Complainant did not respond**	92	11	102	15	
	Resolved by Member****	42	5	65	9	
	Conciliation Conference - Finalised by agreement	10	1	45	7	
	Finalised by agreement	8	1	34	5	
	In favour of complainant	199	23	122	18	
	In favour of Member	187	22	140	20	
	TOTAL		850	100	686	100

* n/c is data not collected.

** Complainant did not respond, refers to when the complainant did not respond to requests for further information after at least two follow-ups.

*** Duplicated are complaints that the complainant tries to bring/raise multiple times or complaints that are administratively duplicated.

**** Resolved by the Member occurs when the Member resolves the complaint either before it is referred to a Case Manager or at the Case Manager stage.

STATISTICS

Analysis of Complaints Outside Jurisdiction – Life Insurance

	No.	%
Underwriting decision	6	6
Investment performance	1	1
Subject to legal proceedings	2	2
Over monetary limit	16	16
Complainant knew all facts over six years ago	16	16
Complaint lodged with another scheme	17	16
Level of charges	3	3
Not a current Member	7	7
Company not involved in complaint	2	2
Level of premium	1	1
Management of fund/scheme as a whole	2	2
Punitive/Consequential damages sought	2	2
Frivolous or Vexatious complaint	1	1
Superannuation Trustee Decision	26	25
TOTAL	102	100

Case Study: Life Insurance

In 1983, Mr T and his wife entered into two endowment life insurance policies with R Insurance. One of the policies had a five year surrender notice period. When they entered into the policies they were advised by R Insurance that the maturity value of the policies would be around \$12,000.

Subsequently, in 2002, when Mr T requested details of the current maturity values from R Insurance he was advised that the immediate surrender value was \$5,200 and the value of the policies in five years time would be \$7,500.

Mr T lodged a complaint with FICS, advising that he and his wife were dissatisfied with the discrepancy between the maturity value and the value they were quoted when they took out the policies. They understood that the initial estimates had been indicative of the final maturity value, however, they had believed when entering the policy that the estimates and actual values would be reasonably similar. Mr T wanted R Insurance to pay him and his wife the amount that was indicated to them when the policy was entered.

Both parties agreed to participate in a Conciliation Conference. During the conciliation, R Insurance explained how the policies worked and also gave some indications of the different factors that can affect maturity values. R Insurance acknowledged the lower investment performance of the policies, however, it also noted that the policies had an insurance component which had been of benefit to Mr T, and should be taken into account when considering the policy value.

During the conciliation discussions, Mr T asked whether R Insurance could release Mr T from the policies immediately, as opposed to having to wait another two years (when the five year notice period would come to an end). R Insurance agreed to do this, and the matter was subsequently resolved on the basis of the policy coming to an end and Mr R being paid out the maturity values. After factoring in CPI increases and other bonuses, the policy value increased by \$1,200. Mr T was satisfied with this settlement, particularly as it meant he was able to meet a current financial commitment that had arisen.

STATISTICS

Industry Information – Financial Planning

Status of Open Complaints at the End of the Period

	No.	%
Investigation pending	24	13
Complaints under investigation	78	42
Complaints with Adjudicator	25	13
Complaints with Panel	54	29
Adjudication issued*	1	1
Determination issued*	4	2
TOTAL	186	100

A complaint is not referred to a Case Manager until signed Authority to Proceed and Summary of Complaint forms are received, and a preliminary investigation made to ensure the complaint is within jurisdiction.

* These Panel and Adjudicator complaints remain open pending finalisation of administrative requirements.

Nature of New Written Complaints by Category that Progressed to Investigation

	2004		2005	
	No.	%	No.	%
Inappropriate advice	155	55	99	52
Misrepresentation	24	8	15	8
Non-disclosure	5	2	6	3
Non-disclosure – fees/charges	27	10	20	10
– risk	2	1	3	2
– conditions & warnings	1	<1	2	1
– tax/social security	3	1	3	2
Policy values/charges	1	<1	3	2
Standard of Member service	55	19	26	14
Share transaction - misunderstanding	4	1	9	5
Denial of claim	3	1	0	0
Technical problems	3	1	2	1
Policy terms & conditions	1	<1	0	0
No written plan	0	0	1	<1
TOTAL	284	100	189	100

Nature of Complaints by Category Type that Progressed to Investigation

Contract Type	Values/Charges	Misrepresentation	Share Transaction Misunderstanding	Standard of Member Service & Tech Problems	Non-disclosure	Inappropriate Advice	No Written Plan	TOTAL
Managed Investments	0	5	0	4	6	25	1	41
Superannuation - Personal	0	0	1	5	7	30	0	43
Allocated Pension	0	2	0	1	4	10	0	17
Shares - Derivatives/Warrants	0	0	8	7	4	7	0	26
Managed Funds	0	0	0	4	3	13	0	20
Managed Investments - Cash	0	0	0	1	1	1	0	3
Immediate Annuity	0	3	0	0	1	3	0	7
Unit Trusts Property	0	0	0	2	0	3	0	5
Deferred Annuity	0	0	0	1	1	1	0	3
Superannuation - Company	0	0	0	0	2	1	0	3
Income Protection	0	0	0	0	2	3	0	5
Term/Temporary	0	3	0	2	2	0	0	7
Total & Permanent Disablement	0	0	0	1	0	0	0	1
Whole of Life	1	1	0	0	0	1	0	3
Endowment	2	1	0	0	1	1	0	5
TOTAL	3	15	9	28	34	99	1	189

STATISTICS

Summary of Complaints Finalised and their Outcomes – Financial Planning

		2004		2005	
		No.	%	No.	%
Complaint not Forwarded to Member	Duplicated***	27	13	7	6
	Outside Jurisdiction	92	43	49	40
	Withdrawn	37	17	24	20
	Complainant did not respond**	55	26	33	27
	Resolved by Member****	2	1	8	7
Total		213	100	121	100
Case Manager	Duplicated***	1	<1	0	0
	Outside Jurisdiction	26	12	10	7
	Withdrawn	27	13	19	13
	Resolved by Member****	28	13	35	24
	Conciliation Conference - Finalised by agreement	16	8	38	27
	In favour of complainant	85	40	26	18
	In favour of Member	29	14	16	11
Total		212	100	144	100
Adjudicator	Outside Jurisdiction	1	4	1	3
	In favour of complainant	8	31	14	37
	In favour of Member	17	65	23	60
Total		26	100	38	100
Panel	Withdrawn	4	3	1	1
	Outside Jurisdiction	n/c*	n/c*	1	1
	Finalised by agreement	3	2	4	4
	In favour of complainant	74	50	55	53
	In favour of Member	66	45	42	41
Total		147	100	103	100
Total	Duplicated***	27	5	7	2
	Outside Jurisdiction	119	19	61	15
	Withdrawn	68	11	44	11
	Complainant did not respond**	55	9	33	8
	Resolved by Member****	30	5	43	11
	Conciliation Conference - Finalised by agreement	16	3	38	9
	Finalised by agreement	3	1	4	1
	In favour of complainant	167	28	95	23
	In favour of Member	112	19	81	20
TOTAL		598	100	406	100

* n/c is data not collected.

** Complainant did not respond, refers to when the complainant did not respond to requests for further information after at least two follow-ups.

*** Duplicated are complaints that the complainant tries to bring/raise multiple times or complaints that are administratively duplicated.

**** Resolved by the Member occurs when the Member resolves the complaint either before it is referred to a Case Manager or at the Case Manager stage.

STATISTICS

Analysis of Complaints Outside Jurisdiction – Financial Planning

	No.	%
Over monetary limit	10	16
Complainant knew all facts over six years ago	10	16
Complaint lodged with another scheme	3	5
Level of charges	1	2
Level of premium	1	2
Not a current Member	16	26
Company not involved in complaint	6	10
Complainants interest insufficient	2	3
Management of fund/scheme as a whole	1	2
Punitive/consequential damages	5	8
Subject of legal proceedings	1	2
Superannuation Trustee decision	5	8
TOTAL	61	100

Case Study: Financial Planning

Mrs C sought and received financial advice from M Financial Services in 2001. Mrs C subsequently lodged a complaint, alleging that she had received inappropriate financial advice from M Financial Services, causing financial loss, and she had not received appropriate ongoing investment service and reviews from M Financial Services.

Mrs C advised that she believed the financial advice that had been provided to her had not been consistent with her risk profile, which had led her to incur a significant financial loss. Mrs C was also dissatisfied that she had received poor on-going service from M Financial Services. Mrs C stated that when she had raised concerns about how her investments were performing, M Financial Services had advised her not to worry about them. Mrs C had also asked for investment reviews to be conducted, but she had not received any. When a review was finally provided, she was only given an investment valuation, not a comprehensive review. Mrs C was seeking compensation of \$50,000 for the capital loss she had incurred.

In its initial response to Mrs C's complaint, M Financial Services advised that while Mrs C was dissatisfied with one particular aspect of the investments recommended by them, having regard to Mrs C's overall investment requirements, the advice M Financial Services had provided to Mrs C had a reasonable basis.

M Financial Services believed that Mrs C had considerable time to review the plan that had been prepared, and M Financial Services had no record of Mrs C complaining or raising concerns about her investments in the two years after the investments were made. With regard to Mrs C's complaint about poor service, M Financial Services advised that in the plan Mrs C had been given the option of choosing from various on-going service options, however, Mrs C chose not to enter an on-going service agreement, and Mrs C had refused to pay a fee for a subsequent review.

With regard to the loss claimed, M Financial Services advised that Mrs C had not factored in amounts she had withdrawn from her investments, gains on some of the investments, and dividends she had also received. These amounts significantly reduced any loss Mrs C had incurred on her investments.

STATISTICS

Mrs C and M Financial Services subsequently agreed to participate in a Conciliation Conference. During the conciliation, Mrs C's investment objectives and the parties' understanding of what ongoing service was to be provided were discussed and clarified.

A number of resolution options were put forward by both parties, and Mrs C and M Financial Services subsequently agreed to resolve the matter on the basis of M Financial Services arranging for an experienced senior financial planner to meet with Mrs C to review her investments and her current personal situation. This review would be done at no cost to Mrs C. If Mrs C agreed to the subsequent financial advice provided to her by M Financial Services, it would be agreed to cap the cost of any future reviews at \$300. M Financial Services also provided an ex gratia payment of \$2,000 to Mrs C, in relation to the concerns she had raised about the service that had been provided.

STATISTICS

Industry Information – Managed Investments

Status of Open Complaints at the End of the Period

	No.	%
Investigation pending	17	29
Complaints under investigation	30	51
Complaints with Adjudicator	7	12
Complaints with Panel	3	5
Adjudication issued*	1	2
Determination issued*	1	2
TOTAL	59	100

A complaint is not referred to a Case Manager until signed Authority to Proceed and Summary of Complaint forms are received, and a preliminary investigation made to ensure the complaint is within jurisdiction.

* These Panel and Adjudicator complaints remain open pending finalisation of administrative requirements.

Nature of New Written Complaints by Category that Progressed to Investigation

	2004		2005	
	No.	%	No.	%
Inappropriate advice	25	20	9	11
Misrepresentation	51	41	28	32
Non-disclosure	1	1	1	1
Non-disclosure				
– fees/charges	5	4	9	11
– conditions & warnings	0	0	1	1
– risk	1	1	0	0
– tax/social security	0	0	2	2
Policy terms & conditions	1	1	1	1
Standard of Member service	36	29	33	38
Technical problems	2	2	2	2
Policy value/charges	1	1	1	1
TOTAL	123	100	87	100

Nature of Complaints by Category Type that Progressed to Investigation

Contract Type	Misrepresentation	Standard of Member Service	Non-Disclosure	Inappropriate Advice	Terms & Conditions	Technical Problems	Policy Value/Charges	TOTAL
Managed Investments	2	11	4	4	0	1	0	22
Superannuation - Personal	0	0	5	2	0	0	0	7
Managed Investments - Cash	0	1	1	0	0	0	0	2
Managed Funds	4	16	1	2	0	0	0	23
Shares - Derivatives/Warrants	0	1	0	0	0	0	0	1
Unit Trusts Property	2	0	0	0	0	1	1	4
Time Share	20	4	2	1	1	0	0	28
TOTAL	28	33	13	9	1	2	1	87

STATISTICS

Summary of Complaints Finalised and their Outcomes – Managed Investments

		2004		2005	
		No.	%	No.	%
Complaint not Forwarded to Member	Duplicated***	5	11	1	1
	Outside Jurisdiction	20	43	24	33
	Withdrawn	9	20	18	24
	Complainant did not respond**	11	24	24	33
	Resolved by Member****	1	2	7	9
Total		46	100	74	100
Case Manager	Outside Jurisdiction	10	15	4	5
	Withdrawn	7	11	33	36
	Resolved by Member****	14	21	31	34
	Conciliation Conference - Finalised by agreement In favour of complainant	5	8	11	12
	In favour of Member	24	36	12	13
		6	9	0	0
Total		66	100	91	100
Adjudicator	Finalised by agreement In favour of complainant	n/c*	n/c*	2	13
	In favour of Member	3	43	4	27
		4	57	9	60
Total		7	100	15	100
Panel	Outside Jurisdiction	1	4	0	0
	Finalised by agreement In favour of complainant	1	4	2	13
	In favour of Member	6	21	6	40
		20	71	7	47
Total		28	100	15	100
Total	Duplicated***	5	3	1	1
	Outside Jurisdiction	31	21	28	14
	Withdrawn	16	12	51	26
	Complainant did not respond**	11	8	24	12
	Resolved by Member****	15	10	38	20
	Conciliation Conference - Finalised by agreement Finalised by agreement	5	3	11	6
	In favour of complainant	1	1	4	2
	In favour of Member	33	22	22	11
		30	20	16	8
TOTAL		147	100	195	100

* n/c is data not collected.

** Complainant did not respond, refers to when the complainant did not respond to requests for further information after at least two follow-ups.

*** Duplicated are complaints that the complainant tries to bring/raise multiple times or complaints that are administratively duplicated.

**** Resolved by the Member occurs when the Member resolves the complaint either before it is referred to a Case Manager or at the Case Manager stage.

STATISTICS

Analysis of Complaints Outside Jurisdiction – Managed Investments

	No.	%
Investment performance	2	7
Over monetary limit	2	7
Complainant knew all facts over six years ago	1	4
Complaint lodged with another scheme	2	7
Level of charges	2	7
Punitive/consequential damages sought	2	7
Subject to legal proceedings	1	4
Not a current Member	6	21
Company not involved in complaint	2	7
Management of fund/scheme as a whole	5	18
Superannuation Trustee decision	3	11
TOTAL	28	100

Case Study: Managed Investment

This dispute arises from a claim made by the complainant for losses incurred as a result of poor service by the Member, a fund manager.

The complainant made an investment in a fund on 21 February 1994. At the time X was the administrator of the fund. In July 2000 the administration of the fund was transferred to the Member. The complainant stated that in May 2003 he tried to redeem the investment through the Member but the Member did not provide the withdrawal papers and as a consequence he lost a taxation benefit.

The complainant maintained that in April/May 2003 he contacted the Member's call centre to redeem his investment. He claimed that the call centre could not locate his account or assist him. He then contacted X, the original administrator of the fund, who told him he needed to contact the Member as they were now the fund administrator. The complainant also wrote to the fund directly on 16 May 2003 seeking to withdraw his investment but did not receive a reply.

In November 2003 the complainant again contacted X who provided him with a contact at the office of the Member. Correspondence was subsequently exchanged between the complainant and the Member with the complainant stating that he could suffer adverse taxation consequences as a result of the delay and requesting a back-dating of the redemption. The Member advised him that this could not occur.

In January 2004 the complainant then completed a withdrawal request and provided it to the Member. The Member wrote to the complainant on 13 January 2004 advising him that the withdrawal would not be paid until after approval by the fund Board on 24 March 2004. The Member then wrote to the complainant on 25 March 2004 confirming that \$13,254.03 had been paid into his bank account.

In February 2004 the complaint was lodged with FICS.

The complainant's argument was that the Member's call centre did not meet their duty of care to him when he made the calls to withdraw from the investment and as a consequence he had to wait months before receiving attention. He claimed he needed to redeem the investment in May 2003 for the 2002/2003 financial year as his income for that year was very low and that his inability to do so caused him detrimental taxation consequences.

STATISTICS

The Member denied any liability on the basis that it did not receive the request to redeem the investments in the 2002/2003 financial year. They stated that they had no record of either phone calls or correspondence from the complainant in April/May 2003 and claimed it was not until 4 November 2003 that the complainant contacted them.

Further the Member stated that annual statements sent to the complainant in November 2000, December 2001 and December 2002 providing the Member's contact details would have enabled the complainant to easily contact the Member and facilitate the redemption of his funds in May 2003.

The Member stated that once the complainant contacted them they redeemed the investment as soon as practicable and therefore should not be liable for any loss sustained by the complainant.

The complaint proceeded to the Panel for a formal determination. The Panel was satisfied that the Member did not act in accordance with the duty of care it owed to the complainant and as a result he suffered financial loss. They found that fund managers must provide competent and skilled care in relation to investments under their management in order to meet their duty of care. They must appreciate that investors from time-to-time have varying needs and circumstances that result in the requirement to seek an early and timely redemption of their investments. They should have a process in place to facilitate this in order to meet their duty of care to those who invest in the products they manage.

The Panel was satisfied that the complainant did make reasonable efforts from May 2003 in relation to the redemption of the investment and was frustrated in his attempts to do so.

The Panel found the complainant should receive compensation that would place him in the same position he would have been in if he had received the monies in the 2002/2003 financial year together with interest at the rate of 5% per annum compounding from 30 June 2003 to the date of payment.

STATISTICS

Industry Information – Stockbroking

Status of Open Complaints at the End of the Period

	No.	%
Investigation pending	9	15
Complaints under investigation	35	58
Complaints with Adjudicator	4	7
Complaints with Panel	12	20
TOTAL	60	100

A complaint is not referred to a Case Manager until signed Authority to Proceed and Summary of Complaint forms are received, and a preliminary investigation made to ensure the complaint is within jurisdiction.

Nature of New Written Complaints by Category that Progressed to Investigation

	2004		2005	
	No.	%	No.	%
Standard of Member service	17	29	15	17
Inappropriate advice	23	39	37	40
Misrepresentation	0	0	0	0
Non-disclosure				
– risk	1	2	2	2
– fees/charges	2	3	1	1
– conditions & warnings	0	0	3	3
– tax/social security	0	0	1	1
Share transaction - misunderstanding	16	27	30	33
Technical problems	0	0	3	3
TOTAL	59	100	92	100

Nature of Complaints by Contract Type that Progressed to Investigation

Contract Type	Share Transaction Misunderstanding	Standard of Member Service	Non-Disclosure	Inappropriate Advice	Technical Problems	TOTAL
Shares - Derivatives/Warrants	30	14	6	36	3	89
Superannuation - Personal	0	1	1	1	0	3
TOTAL	30	15	7	37	3	92

STATISTICS

Summary of Complaints Finalised and their Outcomes – Stockbroking

		2004		2005	
		No.	%	No.	%
Complaint not Forwarded to Member	Duplicated***	0	0	5	11
	Outside Jurisdiction	24	73	15	34
	Withdrawn	8	24	11	25
	Complainant did not respond**	1	3	11	25
	Resolved by Member****	0	0	2	5
Total		33	100	44	100
Case Manager	Outside Jurisdiction	4	7	9	16
	Withdrawn	3	5	9	16
	Resolved by Member****	7	13	17	31
	Conciliation Conference - Finalised by agreement	2	4	10	18
	In favour of complainant	30	55	8	14
	In favour of Member	9	16	3	5
Total		55	100	56	100
Adjudicator	Finalised by agreement	1	14	0	0
	In favour of complainant	1	14	2	17
	In favour of Member	5	71	9	75
	Withdrawn	n/c*	n/c*	1	8
Total		7	100	12	100
Panel	Outside Jurisdiction	0	0	0	0
	Withdrawn	6	10	1	5
	Finalised by agreement	1	2	2	11
	In favour of complainant	27	44	3	16
	In favour of Member	27	44	13	68
Total		61	100	19	100
Total	Duplicated***	0	0	5	4
	Outside Jurisdiction	28	18	24	18
	Withdrawn	17	11	22	17
	Complainant did not respond**	1	1	11	8
	Resolved by Member****	7	4	19	14
	Conciliation Conference - Finalised by agreement	2	1	10	8
	Finalised by agreement	2	1	2	2
	In favour of complainant	58	38	13	10
	In favour of Member	41	26	25	19
TOTAL		156	100	131	100

* n/c is data not collected.

** Complainant did not respond, refers to when the complainant did not respond to requests for further information after at least two follow-ups.

*** Duplicated are complaints that the complainant tries to bring/raise multiple times or complaints that are administratively duplicated.

**** Resolved by the Member occurs when the Member resolves the complaint either before it is referred to a Case Manager or at the Case Manager stage.

STATISTICS

Analysis of Complaints Outside Jurisdiction – Stockbroking

	No.	%
Over monetary limit	10	42
Complainant knew all facts over six years ago	1	4
Punitive/consequential damages sought	1	4
Not a current Member	3	13
Company not involved in complaint	4	17
Management of fund/scheme as a whole	2	8
Complainants interest insufficient	1	4
Subject of legal proceedings	2	8
Total	24	100

Case Study: Stockbroking

This complaint concerns a claim for compensation of \$14,000 in relation to losses allegedly suffered by the complainant as a result of advice from the Member, a stockbroker.

The complainant alleges that in July 2001 she discussed Sydney Gas Company options (SGC options) with the Member's adviser. On 1 August they spoke again and on that day 100,000 SGC options were purchased for the complainant at a cost of 14 cents per option.

On 25 July 2002 the complainant wrote a letter to the Member alleging the options had been purchased without her authority and that inappropriate and misleading advice had been given by the Member's adviser when recommending the options, including the omission that the options had an expiry date. The complainant wrote to FICS to lodge her complaint on 25 March 2003 alleging she had suffered a loss of \$14,000.

The Member denied the complainant's allegations and informed FICS that the adviser had explained the nature of options and the risks involved, with the complainant. The Member claimed that the complainant had contacted the adviser and asked him to purchase the options, as a relative of the complainant had just purchased the same stock. The Member stated that this was supported by the complainant's own telephone records, its electronic order entry records, the adviser's trade book entry and a file note of the conversation with the complainant on 1 August 2001.

The Member also commented that typically, if a client alleged that a transaction was conducted without their authorisation, they refused to pay for the transaction and then made a complaint to the credit department when it follows up non-payment. In this case the complainant paid for the transaction by the due date of 10 August 2001 without complaint and it was not until almost a year after the transaction that she claimed the transaction had been conducted without her authorisation.

Further, the Member stated that claims by the complainant, that she did not receive any transaction documentation, appeared questionable given that she paid the amount of \$14,154 into the Member's account on the due date as requested by the contract note.

The Member claimed that while information about the options was discussed with the complainant the Member did not provide any advice in relation to same. The decision to invest and the valuation of the investment against her financial and personal circumstances rested solely with the complainant.

The complaint proceeded to the Panel for a formal determination. On examining all documentation exchanged between the two parties the Panel was satisfied that the Member's adviser had exercised due care and diligence.

STATISTICS

The Panel noted from the documentation provided that the complainant had been aware that the options had an expiry date.

The Panel was satisfied that the complainant purchased the options after a relative purchased stock in the company. They were also satisfied that the Member's adviser had explained to the complainant the nature of options and that further information would have been received by the complainant from the company's share registry.

The Panel found that the complainant understood the risky nature of the investment and that this complaint was a result of the performance of the investment.

The Panel cannot award compensation for the poor performance of an investment unless there has been poor advice, non-disclosure or misrepresentation. As such the Panel determined that the Member was not responsible for the losses of the complainant.

MEMBERSHIP

As required by ASIC holders of Australian Financial Services Licences are required to be a member of an approved external dispute resolution scheme (EDR) such as FICS.

FICS is the largest of all the EDR schemes and FICS Members provide a wide range of products and services to consumers.

Membership numbers – 31 December 2005

	Number of Members
Category A - Life Insurance and large Friendly Societies	40
Category B – Reinsurers	5
Category C - Managed Investments	317
Category D - Pooled Superannuation	7
Category E - Brokers, Financial & Security Advisers	161
Category F - A, C or E small Members - Non-voting	2,032
TOTAL MEMBERS	2,562

Further details of the classes of FICS membership can be found in the Constitution on the FICS website: www.fics.asn.au.



FINANCIAL INDUSTRY
COMPLAINTS SERVICE LIMITED

ABN 64 068 901 904

PO Box 579
Collins Street West
Melbourne Victoria 8007

Telephone	03 8623 2000
Toll Free	1300 78 08 08
Facsimile	03 9621 2291
Email	fics@fics.asn.au
Website	www.fics.asn.au