

Introduction

This is the submission by the Financial Ombudsman Service (“FOS”) in response to the consultation paper released by ASIC in April 2013, *Shaping a National Financial Literacy Strategy for 2014 – 16*. The submission has been prepared by FOS and does not necessarily represent the views of the FOS Board.

We welcome the opportunity to provide comment on this important initiative. Our submission does not address all questions raised by the Consultation Paper. It focuses on key areas that we consider important in ensuring all Australians, from all communities, can improve financial literacy to reduce their need to use our services, or increase their ability to take a complaint to FOS either directly or through a consumer advocate.

Our submission is in three parts:

1. Information about FOS
2. A précis of recent consumer engagement initiatives
3. Our response to some of the specific questions in the Consultation Paper

1. Information about FOS

FOS commenced operations on 1 July 2008. It is an independent dispute resolution scheme that was formed through the consolidation of three schemes:

- Banking and Financial Services Ombudsman (“BFSO”);
- Financial Industry Complaints Service (“FICS”); and
- Insurance Ombudsman Service (“IOS”).

On 1 January 2009, two other schemes joined FOS, namely:

- Credit Union Dispute Resolution Centre (“CUDRC”); and
- Insurance Brokers Disputes Ltd (“IBD”).

FOS is an external dispute resolution (“EDR”) scheme approved by ASIC. Membership of FOS is open to any financial services provider (“FSP”) carrying on business in Australia including providers not required to join a dispute resolution scheme approved by ASIC. Replacing the schemes previously operated by BFSO,

FICS, IOS, CUDRC and IBD, FOS provides free, fair and accessible dispute resolution for consumers unable to resolve disputes with FSPs that are members of FOS.

Members of BFSO, FICS, IOS, CUDRC and IBD are now members of FOS. The members of those schemes included:

- BFSO – credit providers, mortgage brokers, payment system operators, Australian banks and their related corporations, Australian subsidiaries of foreign banks and foreign banks with Australian operations;
- FICS – life insurance companies, fund managers, friendly societies, stockbrokers, financial planners, pooled superannuation trusts, timeshare operators and other Australian FSPs;
- IOS – general insurance companies, re-insurers, underwriting agents and related entities of member companies;
- CUDRC – credit unions and building societies;
- IBD – insurance brokers, underwriting agents and other insurance intermediaries.

FOS and its predecessor schemes have over 20 years experience in providing dispute resolution services in the financial services sector, and it is estimated that FOS covers up to 80% of banking, insurance and investment disputes in Australia.

FOS provides services to resolve disputes between member FSPs and consumers, including certain small businesses, about financial services such as:

- banking;
- credit;
- loans;
- general insurance;
- life insurance;
- financial planning;
- investments;
- stock broking;
- managed funds; and
- pooled superannuation trusts.

As well as its functions in relation to dispute resolution, FOS has responsibilities to identify and resolve systemic issues and obligations to make certain reports to ASIC. FOS also monitors compliance with a number of industry codes of practice.

FOS is a not for profit organisation that provides services free to consumers. FOS is funded by its members, which are FSPs. A significant proportion of our funding is from case fees, and the fees paid by an FSP reflect the number of disputes in which it is involved and the stages to which they progress.

FOS is governed by a board with an independent chair and:

- four “industry directors” appointed based on their expertise in and knowledge of the financial services industry, independence and capacity and willingness to consult with the industry; and
- four “consumer directors” appointed based on their expertise in consumer affairs, knowledge of issues pertaining to the industry, independence and capacity and willingness to consult with consumer organisations.

2. Consumer engagement focus

FOS launched its Consumer Engagement Strategy in July 2012, which outlines our program to educate, consult and collaborate with the consumer sector. The aim of the strategy is to ensure a strong two-way flow of ideas, education and training to the sector to improve outcomes for consumers. A core competency of financial literacy – ensuring that consumers know their rights – underpins all aspects of this work.

We target the sector by focussing on consumer advocates bringing disputes to FOS on behalf of vulnerable and disadvantaged¹ clients.

Our Consumer Engagement Strategy is rolled out to consumer organisations through strong, yet informal partnerships with the following groups:

- Financial Counselling Australia;
- National Association of Community Legal Centres;
- Financial and Consumer Rights Council (“FCRC”);
- Financial Counsellors’ Association of NSW (“FCAN”);
- Financial Counsellors’ Association of Queensland (“FCAQ”);
- Financial Counsellors’ Association of Western Australia;
- Southern Australian Financial Counsellors’ Association;
- Financial Counselling Tasmania; and
- Money Workers Association of the NT.

FOS is also committed to engaging the consumer sector by supporting activities or events that contribute to the education of consumer advocates engaging in EDR.

¹ In this submission, references to “vulnerable and disadvantaged” individuals include individuals with low levels of financial literacy.

Through sponsorship FOS also seeks to support community organisations by reducing the cost of running such events.

Consultation

A core component of our Consumer Engagement Strategy, the Consumer Liaison Group (“CLG”), was established to work with us to identify opportunities to make our service more effective, accessible and user-friendly for vulnerable and disadvantaged consumers. The CLG is made up of financial counsellors and legal advocates from around Australia.

Collaboration

To support the CLG and foster collaboration, we run a dedicated online collaboration tool called the CLG Hub. This allows the group to discuss issues in an online forum, manage and track ideas and issues and share information and documents. It also provides the mechanism for FOS and the CLG to work together on special projects such as research or targeted campaigns to reach underrepresented groups.

Consumer engagement – case study 1

Based on recommendations of the CLG, FOS will shortly undertake a pilot trialling SMS communication. It is considered that SMS communication will be particularly useful in contacting applicants who are in financial difficulty. In the experience of our case-handling staff, people in such circumstances are often difficult to contact by phone. This may be the result of a reluctance to answer calls from private numbers such as ours, which is indistinguishable from collections calls from creditors. It may also be the result of not having a voicemail service due to socio-economic factors.

We expect SMS would help us, for example, as follows:

- when we plan to call applicants, we could use SMS to flag that we will be calling soon;
- after we try unsuccessfully to call applicants, we could use SMS to ask them to contact us.

The outcome of the trial could be shared with other EDR schemes considering this technology, increasing the level of support available to vulnerable and disadvantaged consumers. To date we are unaware of any other EDR schemes in Australia that offer this service.

Education

FOS Forums

FOS Forums are workshops designed to educate consumer advocates about our dispute resolution processes and also to raise awareness of key aspects of financial disputes such as financial difficulty and responsible lending. Learning outcomes are consolidated by supporting material including: presentations, fact sheets and brochures, all provided in a sustainable, electronic format.

FOS Forums also expose consumer advocates to in-depth case studies. We provide examples of how, for example, people with low level financial literacy can misunderstand their obligations under some credit contracts and the resultant negative impacts. Consumer advocates are then better able to identify similar scenarios with their vulnerable clients.

By 2014 we will have delivered a FOS Forum to New South Wales, Queensland, Victoria and Western Australia. On average, 80 to 100 consumer advocates attend each forum.

Each Forum is evaluated to measure knowledge levels before and after the event. In the case of the Queensland FOS Forum, our partnership with FCAQ allowed an even greater level of evaluation, including measurement of the quality and usefulness of information presented by FOS. This feedback is a vital mechanism to inform future events.

Consumer engagement – case study 2

Work is currently being undertaken to deliver a specialised FOS Forum in Darwin for consumer advocates, community, social and healthcare workers. The event is being delivered in partnership with the Money Workers Association of the NT whose profile in Darwin encourages consumer advocate organisations to attend, including organisations not familiar with FOS. This Forum has also been designed to strengthen relationships with consumer advocates who support Indigenous communities.

Webinars

A large number of disputes brought to FOS on behalf of vulnerable and disadvantaged consumers involve financial difficulty. Earlier in the year FOS held its inaugural webinar for members and consumer advocates focussing on “The FOS Approach to Financial Difficulty”². The FOS Approach is a new style of document that outlines the way we look at different types of disputes. It explains the issues and factors we consider, such as relevant Codes, legal principles and industry best

² On our website www.fos.org.au under “Understanding how we approach dispute types” in “Resolving Disputes”

practice. The FOS Approach is designed to assist members, consumer advocates and consumers to better understand how FOS will deal with their disputes.

eLearning

Consumer advocates service communities that are spread over a large geographical area. Taking this, and the cost of delivering face-to-face training into consideration, FOS is currently developing an elearning module for financial counsellors and community lawyers. The module has been developed in consultation with Financial Counselling Australia, FCRC, FCAN and the CLG.

By the end of the training, participants will be better informed on FOS's role, introduced to our Terms of Reference and be able to explain the dispute resolution lifecycle (pre-preparation, how and when to lodge). The module will deliver CPD points to participants, contributing to the up-skilling of the sector, and again ultimately leading to empowered consumers as this knowledge is passed on.

3. Response to Consultation Paper

Defining financial literacy

We are concerned that, because the meaning of 'individual financial wellbeing' is debatable, its use makes the definition unclear. A possible solution is to delete the part of the definition referring to 'individual financial wellbeing' as follows:

Financial literacy is a combination of financial awareness, knowledge, skills, attitudes and behaviours necessary to make sound financial decisions ~~and ultimately achieve individual financial wellbeing.~~

Strategic goals and areas of focus

As outlined above, FOS works in collaboration with its stakeholders to provide opportunities for continuous improvement for consumer advocates, expanding access to trusted information and thereby providing cut through to vulnerable and disadvantaged consumers. A natural alignment already exists between FOS's consumer engagement strategy and the strategic goals and focus areas noted below.

Two strategic goals with direct relevance for FOS are:

- extending delivery through free, independent and impartial financial information and resources;
- working together through collaboration with a network of national and international financial literacy stakeholders.

In terms of focus areas, FOS supports:

- expanding access to trusted information and problem solving tools where and when people need it most;
- including programs with greater levels of assistance for disadvantaged people when mere information is not enough; and
- facilitating partnerships and cooperation between and within sectors.

Key actions

Each of the focus areas above are supported by:

- increasing numbers of financial counsellors to provide targeted guidance and support to those most at risk

A key aspect of the infrastructure underpinning dispute resolution in the financial services sector is the support for consumers provided by financial counsellors, community legal centres and other community organisations. FOS strongly believes ongoing funding and development of a sustainable, longer term funding model for this social and community infrastructure is vital. Such measures would help to make external dispute resolution more accessible, particularly for vulnerable and disadvantaged consumers.

Summary

We undertake a diverse range of engagement activities in the consumer sector, particularly focussing on consumer advocates bringing disputes to FOS on behalf of vulnerable and disadvantaged Australians. Our strong relationships with consumer groups help to improve consumers' understanding of, and ability to exercise, their rights. We see this work as an important aspect of addressing financial literacy. There are mutual benefits in our partnerships as described above and we are interested in learning more about other organisations we can partner with – both consumer organisations and our members – to continue to improve accessibility to, and understanding of, our service.