



Annual Review 2017-18

About this Annual Review

This Annual Review covers the 2017-18 financial year (1 July 2017 to 30 June 2018). It follows the reporting requirements for external dispute resolution (EDR) schemes set out in *ASIC Regulatory Guide 139*.

This review is available in hard copy and on the Financial Ombudsman Service Australia website at www.fos.org.au/annualreview. To order print copies, please email publications@fos.org.au.

All statistics in this publication were correct at the time of reporting.

Many of the charts and tables in this review use percentages. All percentages have been rounded to the nearest whole number. Because of this, the percentages in a chart or table might not add up to 100.

The 2017-18 Comparative Tables, which show dispute data about FOS members, are available on our website at www.fos.org.au/comparativetables from October 2018.

From 1 November 2018, FOS is being replaced by a new single resolution scheme for the financial sector, the Australian Financial Complaints Authority (AFCA). See www.afca.org.au.

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We acknowledge the traditional owners of country throughout Australia and their continuing connection to land, culture and community. We pay our respects to elders past, present and future.



Our mission

Our mission is to fulfil an important community role by providing an independent dispute resolution service in which people can place their confidence and trust. This involves understanding all sides of a dispute, and resolving it fairly and efficiently.

We aim to be:

- > Respectful
- > Efficient
- > Trustworthy
- > Forward thinking.

What we do

We resolve disputes between consumers and financial services providers:

- > in a cooperative, efficient, timely and fair manner
- > with minimum formality and technicality
- > as transparently as possible, taking into account our obligations for confidentiality and privacy.

This involves understanding all aspects of a dispute without taking sides, and making decisions based on the specific facts and circumstances of each dispute.

2017-18 at a glance

Performance compared with last year

Total disputes received

43,684 \blacktriangle 11%

Financial difficulty disputes accepted

2,752 unchanged

Number of members - licensees

5,285 \blacktriangledown 6%

Number of members - authorised credit representatives

6,245 \blacktriangledown 20%

Total disputes closed

43,325 \blacktriangle 10%

Systemic issues resolved

91

Number of investigations of alleged breaches of industry codes of practice (with 98 confirmed breaches)

292

Phone calls handled by our contact team

220,951 \blacktriangledown 6%

Visits to our website

809,820 \blacktriangle 20%





Message from the Chair of the Board



By the time this final FOS Annual Review is published, FOS will have been wound up as an organisation and our staff and assets transferred to the new external dispute resolution body, the Australian Financial Complaints Authority (AFCA). The new AFCA Board will be running the FOS scheme, and final preparations for AFCA to accept new disputes on 1 November 2018 will be well underway.

This fundamental change to the structure of external dispute resolution has occurred at a time when the financial services sector has been under exceptional scrutiny as a result of the Royal Commission, and FOS has faced unprecedented challenges with a record number of disputes.

While dealing with these operational challenges, FOS has played a central role in supporting the successful transition to AFCA. During the Ramsay Review, we supported the new single scheme and have been committed to working with all stakeholders to ensure AFCA's smooth and successful implementation.

In order to do so, FOS established a joint working group comprising members of the FOS Board and Superannuation Complaints Tribunal Advisory Council. Our purpose was to begin as early as possible the detailed preparatory work required for the successful application for authorisation of AFCA required under the legislation.

This work was then taken up in early 2018 by the Transitional AFCA Board, which I chaired, and Helen Coonan joined as a director. The Transitional Board submitted the formal application for approval in early March 2018 and the Minister granted AFCA authorisation on 20 April 2018.

Retaining the ombudsman model

An important aspect of the new AFCA scheme is that it will build on the infrastructure of FOS and other ombudsman schemes and keep the key elements of the industry ombudsman model of dispute resolution. In my view, this model has been the most important practical development in improving access to justice for Australians with disputes in financial services.

Without the operations of FOS over the past 10 years, the hundreds of thousands of consumers and small businesses whose disputes have been handled by FOS would not have had a realistic option for access to an independent dispute resolution scheme. Due to the costs involved, the courts are not a practical option for most consumers and small businesses.

Dispute numbers

In 2017-18, FOS received 220,951 calls and dealt with 43,684 disputes from people who were unable to resolve their complaints directly with their financial firm. Without FOS, these individuals and small businesses would not have had access to an independent, impartial means to resolve their disputes.

‘The ombudsman model has been the most important practical development in improving access to justice for Australians with disputes in financial services’

Complaints and feedback

For the first time, our Annual Review includes a report (see page 118) from our Independent Assessor, John Warde, who began in this new role in October 2017 as part of improved accountability and transparency of our complaints process. He deals with complaints about FOS service issues that have been escalated beyond our own service complaints process.

He received 52 complaints in 2017-18, half of which were resolved. The other 26 were unresolved as at 30 June 2018. While these 52 complaints represent 8% of our total service complaints, and only 0.12% of the disputes we received, every service complaint helps us understand where we might need to improve.

Meeting extra demands and challenges

I would like to thank my FOS Board colleagues. It has been an honour and pleasure to have been able to work with you on the FOS Board over the past 10 years.

The past few years have been particularly challenging, with many extra demands placed on all FOS directors. Your unstinting commitment to the ombudsman model of dispute resolution and collaborative approach have been central to the Board’s response to the many and varied challenges we have faced.

I would like to acknowledge the contributions of our two Chief Ombudsmen over the life of FOS, Colin Neave and Shane Tregillis.

I would also like to thank Helen Davis, John Berrill and Michael Dwyer for their contributions on the joint working group and for John and Michael as members of the Transitional AFCA Board. Their superannuation experience and expertise were essential for us to understand and respond to the likely issues facing this sector in the transition to AFCA.

Most of all I would like to express my sincere thanks to all current and past FOS staff whose sustained commitment and efforts have enabled us to deliver and improve our important service to the Australian community.

AFCA Board

I congratulate Helen Coonan on her appointment as the inaugural AFCA Chair and the other members of the AFCA Board, which met for the first time in May 2018 when it assumed formal responsibilities for the operations of the FOS scheme and transition to AFCA.

I wish Helen and her AFCA directors every success.

Professor the Honourable Michael Lavarch AO

Chair of the FOS Board

Message from the Chief Ombudsman



In 2017-18, we handled a record number of disputes. Despite the major challenge of this sharp rise in dispute numbers, from 39,479 received last year to 43,684, we maintained our timeframes without compromising quality. We did so by recruiting additional staff, maintaining our robust internal dispute processes, and moving staff to areas of higher dispute volumes.

A key focus again this year has been on systemic issues. We identified and referred 306 possible systemic issues to financial services providers for response and resolved 91 definite systemic issues. We also continued working with our members and community organisations that support people who have financial disputes, and to make our service more open and accessible.

In September 2017, FOS hosted the International Network of Financial Services Ombudsman Schemes (INFO Network) conference in Melbourne. We welcomed 70 participants from dispute resolution schemes from 25 countries. This annual conference provides an important opportunity for schemes across the world to share insights about best practices in dispute resolution.

During the past 12 months, we have been working to be well prepared for the transition to the new single financial sector dispute resolution scheme, the Australian Financial Complaints Authority (AFCA). Our aim was to ensure minimal disruption for FOS staff, consumers and financial sector firms. I am pleased this is now well advanced in accordance with the approach we supported.

Restoring trust in financial services

FOS has also been busy responding to the Royal Commission since it was established at the end of 2017. As part of this response, I set out my views on some key reasons for the lack of trust in financial services and failures by financial firms to meet community standards and expectations. These views were consistent with those expressed in our submissions to the Murray Inquiry and other government and parliamentary inquiries in recent years.

The reasons for this lack of trust are inextricably linked to the failure of the boards and senior management of financial firms to put fair treatment of consumers at the heart of their business models, strategies, operations and practices. It is disappointing that more progress has not been made to rebuild consumer trust, despite clear imperatives to do so and commitments by financial firms to the community in recent years.

As highlighted in FOS submissions, a major weakness in the regulatory regime is the patchwork of obligations that express in a variety of ways the outcome of 'fair treatment' of consumers. These obligations are often regulated – activity specific or entity specific – and in some cases, such as the general test for financial licensing, have provided only limited after-the-fact remedies. They also reflect the financial system regulatory framework as a set of separate functional activities rather than an integrated value chain.

‘Lack of trust is linked to the failure of financial firms to put the fair treatment of consumers at the heart of their business models, strategies, operations and practices’

A consistent standard of fair treatment across all appropriate financial sector activities, with the regulator being willing and able to enforce this obligation at an earlier, pre-emptive stage, would have significant advantages. This would mean that boards and senior management would need to take appropriate steps to ensure their business models, strategies, accountability mechanisms and operations (including risk management, remuneration and recruitment) put fair treatment of consumers at the core of all their activities.

Until the approach by the boards of financial firms changes dramatically, backed by a credible and enforceable obligation, other regulatory changes will amount to tinkering rather than the fundamental reform needed to restore consumer trust in financial services.

Glaring gap in reforms

The failure to put in place a compensation scheme of last resort remains the glaring gap in current dispute arrangements and a missed opportunity of the past 10 years. FOS has been a consistent advocate of the importance of such a scheme. The report by the Government-commissioned Ramsay Review last year explains clearly why such a scheme is essential, and how one could be implemented in the short term.

I am hopeful that the Royal Commission will strongly support the Ramsay Review proposals and that the Government and industry stakeholders will act quickly to establish and fund a compensation scheme. Failure to do so will mean that consumers will continue to lose out when firms are unable to pay the compensation awarded to them by AFCA. As at

30 June 2018, consumers were owed more than \$16 million (excluding interest) in unpaid FOS determinations. Allowing this situation to continue does not in any way meet basic community standards and expectations.

A note of thanks

I would like to thank the FOS Board, under its Chair Michael Lavarch, for giving me the opportunity of taking on the role of Chief Ombudsman and for its support for the improvements we have made to our service. It has been both a privilege and responsibility to be the custodian of such an important organisation.

I am proud of all that FOS staff have achieved over the past seven years. I would like to thank my executive and management team colleagues for their support, and all the wonderful FOS staff for their commitment and willingness to embrace new challenges, and for working together to deliver a fair and efficient dispute resolution service for the benefit of the Australian community.

I am confident that by building on the foundations of FOS, AFCA will go from strength to strength under the AFCA Chief Ombudsman, David Locke, and the AFCA Board, chaired by Helen Coonan.

Shane Tregillis

FOS Chief Ombudsman

New dispute scheme takes shape

Legislation to establish the Australian Financial Complaints Authority (AFCA) as the new single resolution scheme for the financial sector passed Parliament on 14 February 2018.

AFCA will replace the three existing external dispute resolution schemes: Financial Ombudsman Service (FOS) Australia, Credit and Investments Ombudsman (CIO) and Superannuation Complaints Tribunal (SCT).

From 1 May 2018, a new operating company, the Australian Financial Complaints Authority Limited replaced the Financial Ombudsman Service Limited as the legal entity running the FOS scheme.

AFCA begins receiving new disputes on 1 November 2018. Until then, consumers should continue to lodge disputes with FOS under our existing Terms of Reference. Any FOS disputes that are open at the time AFCA commences will be handled under the FOS Terms of Reference. The SCT will continue to operate in its own right after 1 November 2018 until it finalises all existing disputes.

AFCA will have its own terms of reference, known as Rules, incorporating new claims limits and compensation caps as set out on the AFCA website (www.afca.org.au), and funding model.

Since March 2018, more than 50 FOS staff have been working to ensure a smooth transition to AFCA. The comprehensive work program comprises governance; process; technology; communications and engagement; finance, facilities and membership; and organisational change.

Before this, a joint working group was established with the SCT and it met regularly from July 2017 to examine the best ways for superannuation disputes to be managed under the new scheme.

The new AFCA Board, chaired by the Hon Helen Coonan, held its first meeting on 7 May 2018. The other Board members are:

Industry directors	Consumer directors
› Robert Belleville	› Carmel Franklin
› Jennifer Darbyshire	› Elissa Freeman
› Claire Mackay	› Catriona Lowe
› Johanna Turner	› Erin Turner
› Andrew Fairley AM	› Alan Wein

All FOS staff had transferred to AFCA by 1 May 2018, and all financial firms required to hold membership of an external dispute resolution scheme must join AFCA by 21 September 2018.

Timeline of key events

2016

December

Ramsay Review publishes interim report on the financial system's external dispute resolution (EDR)

2017

February

FOS submission to the Ramsay Review supports a single EDR scheme

May

Government announces new one-stop shop: Australian Financial Complaints Authority (AFCA)

September

Legislation introduced to Parliament to establish AFCA

2018

February

AFCA legislation passes through Parliament

March

The Hon Helen Coonan appointed inaugural AFCA Chair

April

Minister for Revenue and Financial Services authorises the establishment and operation of AFCA

May

AFCA Board meets for the first time

June

AFCA consults on draft Rules to enhance dispute resolution

David Locke appointed inaugural Chief Ombudsman/CEO of AFCA

July

AFCA consults on funding model

November

AFCA to commence receiving new disputes




Snapshot of the FOS decade

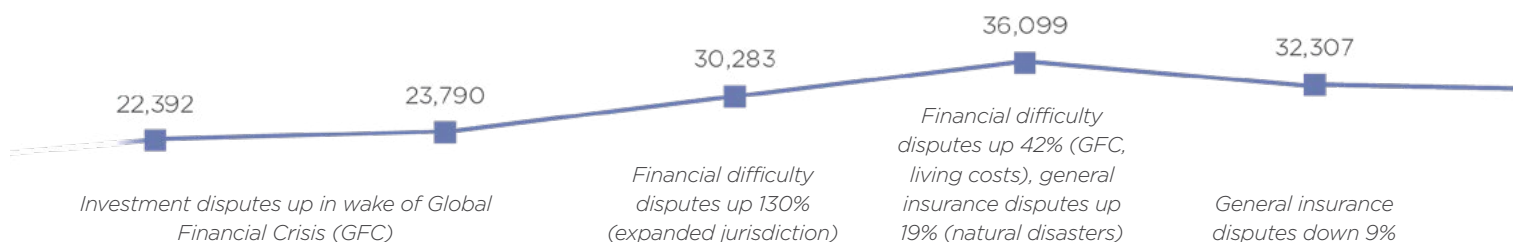
- Corporate/organisational ■
- Communication/engagement ■
- Regulatory/legislative ■

<p>■ FOS established as a result of merger of Banking and Financial Services Ombudsman, Insurance Ombudsman Service and Financial Industry Complaints Service (July 2008)</p> <p>■ Credit Union Dispute Resolution Centre and Insurance Brokers Disputes Ltd join FOS (January 2009)</p>	<p>■ The Hon Michael Lavarch AO appointed as Board Chair following resignation of Peter Daly</p> <p>■ Began operating under our own Terms of Reference</p> <p>■ Launched new dispute resolution process and case management system</p> <p>■ Established specialist Financial Difficulty team</p>	<p>■ Online dispute form introduced</p> <p>■ Single FOS office opened at 717 Bourke Street, Melbourne</p>	<p>■ FOS Code team established</p> <p>■ Established Consumer Liaison Group and launched stakeholder engagement survey</p>	<p>■ Project 500 launched to reduce dispute backlog</p> <p>■ FOS Board commissioned independent review, which recommended simplifying the dispute process</p>
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2008-09 2009-10 2010-11 2011-12 2012-13

<p>■ Website launched</p> <p>■ Ran merger roadshows, first national conference for members, first industry workshops</p> <p>■ Launched FOS eNews (later known as <i>The FOS Circular</i>)</p> <p>■ Made first submissions on legislative and policy reforms</p>	<p>■ Published first member comparative tables</p> <div style="text-align: center;">  <p><i>Colin Neave, FOS Chief Ombudsman from 2008 to 2011</i></p> </div>	<p>■ Introduced complaints and feedback process</p> <p>■ Amendments to National Consumer Credit Protection Act expanded financial difficulty jurisdiction</p>	<p>■ Interactive voice response system (IVR) introduced</p> <p>■ Released online Secure Services portal for members</p> <p>■ Established Indigenous Liaison team</p> <p>■ New jurisdiction introduced – traditional trustee services</p>	<p>■ Introduced significant event response plan to manage disputes arising from natural disasters, financial collapses and technology failures experienced by financial services providers</p> <p>■ Established quality assurance framework</p> <p>■ Convened first consumer roundtable</p> <p>■ Expanded outreach program</p>
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Total disputes received per year





The FOS National Conference in 2016 at the Melbourne Convention and Exhibition Centre

Independent review conducted by Cameron Ralph Navigator

Began Dispute Process Reform program

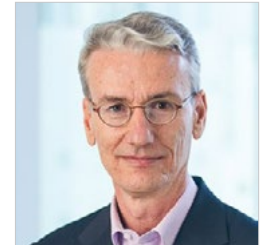
Commenced electronic file management

Began Fast Track pilot to help speed up dispute process

New dispute process takes effect (July 2015) addressing independent review findings and stakeholder feedback to resolve disputes in a more timely, efficient and fair manner

Made initial submission to the Ramsay Review of the financial system's external dispute resolution and complaints framework

FOS Reconciliation Action Plan endorsed by Reconciliation Australia



Shane Tregillis, FOS Chief Ombudsman from 2011-18, who oversaw our Ramsay Review response and the transition to AFCA

2013-14

2014-15

2015-16

2016-17

2017-18

First quarterly applicant survey
Published first FOS Approach documents
Upgraded website to improve accessibility
FOS Action Working Group (FAWG) established
First webinar for members and consumer advocates (financial difficulty)

Introduced online statement of financial position to improve financial difficulty dispute handling

Introduced free phone call number, 1800 367 287 (1800 FOS AUS)



The FOS Consumer Liaison Group in 2015

Family violence: introduced compulsory staff training, family violence leave and published the FOS Approach to Joint Facilities and Family Violence

Introduced live chat to our online dispute form

Legislation to establish the Australian Financial Complaints Authority (AFCA) passed in Parliament (February 2018)
AFCA scheme authorised by the Minister (April 2018)

31,680

31,895

34,095

39,479

43,684

Financial difficulty disputes fall steadily

General insurance disputes on rise (increased consumer awareness, higher claim numbers, industry-specific issues)

Record dispute numbers (95% more than 2008-09)

Our Strategic Plan

Our Strategic Plan aims to meet the six external dispute resolution (EDR) benchmarks prescribed by the Australian Securities and Investments Commission (ASIC).

Our focus continues to be on delivering a more efficient and effective dispute resolution service, enhancing our public role and stakeholder engagement, and building our organisational capability and sustainability.

Our focus areas	 Delivering a more efficient and effective dispute resolution service	 Enhancing our public role and stakeholder engagement	 Building our organisational capability and sustainability
What we want to be	A customer-centric service An organisation that is adaptable, able to effectively deal with change and provide excellent dispute resolution to all users, including vulnerable consumers	A trusted organisation The authority on financial services dispute resolution, shares its experience and insights and actively engages with all its stakeholders	A smart, efficient and responsible organisation An organisation with passionate people, effective systems, clear plans and a conscience
What we need to do	<ul style="list-style-type: none"> › Eliminate any dispute queues and sustainably prevent future queues emerging › Continue to embed an accessible, flexible and responsive approach to dispute resolution › Enhance user experience › Maintain and enhance the quality of our dispute resolution service › Provide clear and fair outcomes that 'feel fair' 	<ul style="list-style-type: none"> › Promote our service, actively engage and maintain stakeholder support › Share our knowledge, experience and insights › Raise community awareness of FOS › Routinely seek stakeholder feedback and act on it 	<ul style="list-style-type: none"> › Attract, retain and develop highly skilled and engaged people › Embed new ways of working as part of our desired behaviours and culture › Develop and enhance physical and technical resources to future-proof the organisation

Our performance in 2017-18



Delivering a more efficient and effective dispute resolution service

Our 2017-18 plans	What we achieved
Improve user experience and quality of our dispute resolution	<ul style="list-style-type: none">› Eliminated dispute queues across case management teams in February and March 2018.› Significantly reduced the number of disputes waiting to be decided by an Ombudsman, Adjudicator or panel.› Enhanced our quality framework and reporting, conducting 3,252 quality reviews of disputes files and finalising an external pilot review of decisions.› Reviewed and enhanced our process for informing parties that a dispute falls outside our jurisdiction. This included amendments to the assessment process and communication with parties.› Reviewed and enhanced our process for dealing with low-value disputes (Fast Track process), including an evaluation of our process for providing parties with verbal preliminary views on the merits of disputes and further training for FOS staff.› The FOS Board appointed an Independent Assessor and approved the Independent Assessor's Terms of Reference. The function and process has been in place and operating since September 2017.
Monitor time and service standards for dispute resolution and enhance our analytics	<ul style="list-style-type: none">› Successfully piloted a business intelligence tool to enhance our reporting and analytics. Implementation of the tool is due to be completed by 1 November 2018.
Streamline and enhance our systemic issues function	<ul style="list-style-type: none">› Reviewed our systemic issues process and identified opportunities for improvement.› Reduced the volume of open files by 63% and improved the age profile of open systemic issues investigations.



Delivering a more efficient and effective dispute resolution service

Our 2017-18 plans	What we achieved
Code: Further develop the Code Compliance and Monitoring function and processes	<ul style="list-style-type: none">➤ The Life Code Compliance Committee was established in July 2017. To support this committee, we set up the secretariat function and inaugural monitoring framework.➤ Developed the annual compliance program for the Life Code subscribers and a framework for investigating code breach allegations.➤ Developed a model for identifying key industry issues affecting customers to enable the code committees to target their monitoring activities.➤ Implemented several enhancements in response to recommendations from independent reviews of the Code of Banking Practice and Code Compliance Monitoring Committee. These include improvements to our ability to interpret breach data through engagement with code subscribers and targeted collection of breach data.➤ Enhanced our analytical skills and ability to conduct robust code monitoring by increasing our team capability.➤ Conducted and published the results of the following own motion inquiries:<ul style="list-style-type: none">➤ Direct Debits – October 2017➤ Breach Reporting – June 2018➤ Special Report: Access to Banking Services by Indigenous Customers – July 2017➤ Privacy – a review of customer owned banking institutions' compliance with privacy obligations – June 2018➤ Direct Debit Follow Up – an inquiry into compliance with section D20.1 of the Customer Owned Banking Code of Practice – September 2017➤ Report into the sale of add-on general insurance products – June 2018.

Our performance in 2017-18



Enhancing our public role and stakeholder engagement

Our 2017-18 plans	What we achieved
Improve accessibility of FOS for consumers	<ul style="list-style-type: none"> › Commenced a review of our outreach and accessibility program. › Expanded our engagement with advocacy services for seniors and culturally and linguistically diverse communities. › Developed a social media strategy focused on creating greater awareness about FOS and our services online, and enhancing access to our website resources and services, including Live Chat. › Reviewed the outcomes of the 2016 Census to identify new languages for our external communications. › Promoted a new Auslan video during Hearing Awareness Week – August 2017.
Further enhance our membership services and engagement	<ul style="list-style-type: none"> › Conducted a review of our engagement with member firms and developed a new strategy for member engagement. › Enhanced our online membership application form and database. › Provided refresher training to our frontline staff to help respond to member administrative queries.
Enhance our public role and engagement with stakeholders	<ul style="list-style-type: none"> › Actively engaged with members and consumer organisations using: <ul style="list-style-type: none"> › forums › stakeholder events › face-to-face meetings › consumer liaison group meetings. › Used webcasts to help engage with a wider audience. We plan to use this medium to enhance engagement with members who may not otherwise be able to attend forums. › Identified opportunities to enhance our engagement with stakeholders.
Code: Promote stakeholder understanding	<ul style="list-style-type: none"> › Dedicated significant resources to providing feedback in submissions and face-to-face meetings in response to reviews of the Code of Banking Practice and the General Insurance Code of Practice. › Undertook an extensive engagement program with stakeholders to promote their understanding of code compliance. › Worked closely with code subscribers to promote a customer-centric approach and continuous improvement. › Participated in several forums, including consumer, industry and external dispute resolution events. › Developed a media strategy and published several publications, including submissions, to promote the visibility of code issues and the work of the code monitoring committees.




Our performance in 2017-18



Ensuring organisational development and sustainability

Our 2017-18 plans	What we achieved
Attract, retain and develop highly skilled and engaged people	<ul style="list-style-type: none"> › Upgraded our learning platform to deliver staff training. › Updated our induction program and conducted a needs analysis of our staff training. › Carried out management development training with 47 graduates over the different levels. › Reviewed our recruitment process and work practices to build stronger teams. › Enhanced our human resources information system.
Continue embedding our new ways of working as part of the FOS desired behaviours and culture	<ul style="list-style-type: none"> › Developed and implemented an environmental action plan and policy and transitioned to 100% renewable energy. › Implemented several actions arising from our staff survey, including activities to encourage staff to recognise and celebrate the good work of their colleagues and increase interactions across teams. › Created an action log in response to the findings of our staff survey, with most items implemented. Reviews of the action items were conducted quarterly to ensure they effectively addressed the survey findings.
Develop and enhance physical and technical resources that improve performance and operational efficiencies	<ul style="list-style-type: none"> › Undertook several Information technology improvement initiatives including: <ul style="list-style-type: none"> › upgraded our core IT infrastructure › enhanced our IT security policy and framework › commenced the implementation of a business intelligence reporting platform › developed a cloud-based disaster recovery environment for our core applications.
Code: Configure our Code team to effectively deal with expanded jurisdiction and scope	<ul style="list-style-type: none"> › Positioned the Code team as specialists in secretariat support to Codes of Practice in the financial services sector. › Commenced configuration of the Code team to better support the independent function of code monitoring and respond to the needs of our various stakeholders.

Our strategic measures

Strategic focus	Success measures	2017-18 targets	2017-18 performance
 <p>Delivering a responsive, flexible and adaptable dispute resolution service</p>	<p>Applicant satisfaction</p> <p>Percentage of applicants who report a satisfactory or better dispute resolution experience at FOS</p>	70% of applicants are satisfied with how FOS handled their dispute	65% (see page 34)
	<p>Clearance ratio</p> <p>A retrospective indicator that compares how many disputes we closed with how many we accepted</p>	≥103%	100% ¹
	<p>Age profile of open disputes</p> <p>Percentage of open accepted disputes that are less than or equal to 180 days old</p>	95% are less than or equal to 180 days old	89% ²
	<p>Age profile of closed disputes</p> <p>Percentage of accepted disputes closed in less than or equal to 180 days</p>	95% closed ≤180 days	89% ³
	<p>Accepted disputes closed per quarter per dispute FTE</p> <p>This provides a measure of the dispute handling process at FOS. It does not account for the type and complexity of disputes</p>	≥23	21 ⁴
 <p>Enhancing our stakeholder engagement and accessibility</p>	<p>Stakeholder engagement survey</p> <p>Measures the overall satisfaction that FOS is meeting the needs of stakeholders (on a scale of 0 to 10)</p>	Due to the transition to the Australian Financial Complaints Authority (AFCA), the stakeholder engagement survey was not conducted in 2017-18	No result
 <p>Building our organisational capability and sustainability</p>	<p>Staff engagement score</p> <p>Survey responses measuring staff engagement and alignment with our values and behaviours</p>	Maintain staff engagement at current levels	No result (survey every two years)
	<p>Environment audit rating</p> <p>NABERS rating of organisation's impact on the environment</p>	≥5 star rating	5.5 stars
	<p>Corporate full-time equivalent (FTE) to total FTE</p> <p>Percentage of support staff (corporate) to staff directly involved in dispute resolution ≤15%</p>	≤15%	14%

¹ We maintained good resolution timeframes, closed a record number of disputes and delivered a better result than last year, but the pressure of record dispute numbers kept us under our target

² This was an improvement on last year's result but due to the increase in dispute numbers this year and last year, particularly general insurance disputes received that progressed through to decision in 2017-18, we were still under our target

³ An increase in dispute numbers this year and in 2016-17, and a higher number of general insurance disputes progressing to decision this year, added pressure to our dispute handling and closure timeframes

⁴ A large number of staff were recruited in 2017-18 to meet the demands of record dispute numbers and fill vacant positions and this had some impact on average disputes closed per case worker

Our people

FOS staff are experienced professionals dedicated to resolving disputes fairly, impartially and efficiently.

In 2017-18, the investment in our human resource information system continued to deliver efficiencies in workforce planning and recruitment processes. This enabled us to respond quickly and effectively to meet the demands of record dispute numbers. We also introduced a career development tool that allows staff to plan their career at FOS, including training, professional development and mentoring.

We continued to develop the leadership capability of staff, and provided a variety of training programs to increase their specialist skills and knowledge, including understanding and helping people with additional needs, such as those affected by family violence and financial abuse.

All FOS staff took up the opportunity to transfer their employment to the Australian Financial Complaints Authority from 1 May 2018.

Learning and development

Building our skills base

We delivered 263 internal and external training sessions in 2017-18. These sessions ranged from 'follow the file' and quality and knowledge management for new starters to workshops for existing staff on mental health awareness and family violence.

We developed and launched the following elearning training modules for staff:

- Security – all staff are required to complete this course every two years. It aims to ensure that staff are kept updated about changes to security policies and practices.
- Telephone essentials – designed for case workers to better understand the needs of applicants through active listening and effective questioning.

This takes the number of elearning programs offered at FOS to 28. The others cover specialist and product knowledge as well as compliance training, including privacy, conflict of interest and responsible use of social media.

Our management development program continued for a fifth year. The program, which is in four streams, is designed to develop leadership capabilities at FOS. A total of 47 people undertook the program in 2017-18, of whom 26 in the senior manager and foundations of management streams graduated. The others, in the leading manager and aspiring manager streams, are expected to graduate in October 2018.

Ten managers attended a one-on-one coaching program, which focuses on accountabilities and expectations of leaders and is run by an external management coach.

Sharing knowledge

Our continuous professional development program features monthly workshops aimed at increasing knowledge sharing across the organisation. It includes opportunities for staff to engage with our decision makers and understand more clearly our approaches to dispute resolution.

In 2017-18, workshop topics included e-payments, irresponsible lending and vehicle loans, insurance cash settlements and motor vehicle claim delays.

Eleven staff members undertook our mentoring program, which provides development opportunities, guidance and support from members of the Senior Leadership Group.

Occupational health and safety (OHS)

FOS continued to deliver the popular staff health and wellness program, FOS Fit, in 2017-18. The program is divided into three parts:

- be fit – promoting an active and healthy lifestyle
- think fit – promoting mental health and wellbeing
- fun fit – promoting social connectivity.

Each month, we hold an activity in each part of the program. FOS Fit also includes regular first aid training, OHS and Equal Employment Opportunity elearning courses, free flu vaccinations, and free health and skin checks.

Whistleblower service

FOS recognises the importance of ensuring a safe and supportive environment where people feel confident about reporting any issue. This led to the establishment of our externally managed 24-hour Whistleblower Hotline in December 2017.

The hotline is an independent and confidential service available to receive information relating to improper conduct, unlawful or unethical behaviour and supports our values and Code of Conduct.

Diversity and inclusion

At FOS, we are committed to achieving and promoting a workforce that values fairness, respect and social and cultural diversity. In 2017-18, we formalised this commitment by establishing our Diversity and Inclusion Policy to ensure that FOS is guided by the principles of equal opportunity, respect and inclusion.

Workforce planning

We work closely with dispute teams to determine workforce demands, and ensure adequate staffing and skill levels.

At 30 June 2018, FOS had a total workforce of 411 (348 full-time equivalent), compared to 382 (314 full-time equivalent) one year earlier.

Gender equity

Our workforce consists of 226 (55%) women and 185 (45%) men across part-time and full-time roles. The table below shows the distribution of male and female employees.

Pay gap analysis

In November 2017, FOS undertook a gender pay gap analysis using a tool provided by the Workplace Gender Equality Agency. The aim of this analysis was to assess gender equity across the FOS pay grades. The analysis found that generally there was gender pay parity but we made minor adjustments to ensure consistency across gender and pay grades.

Gender breakdown at FOS

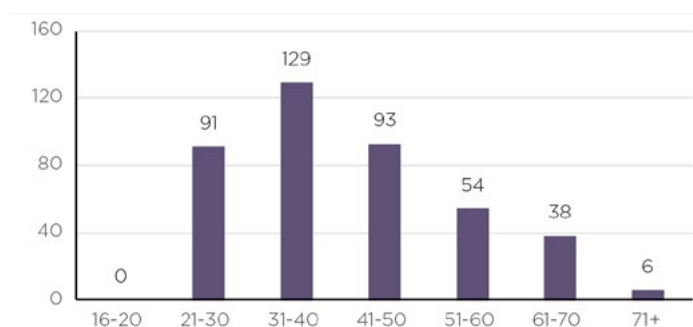
Category	F	M	Total
Middle management	18	21	39
Senior professional/technical	183	132	315
Executive level (including Lead Ombudsmen)	2	5	7
Ombudsmen	5	6	11
Board	8	3	11
Consumer or industry panel members	10	17	27
Independent Assessor	0	1	1
Total	226	185	411

Recruitment, induction and demographics

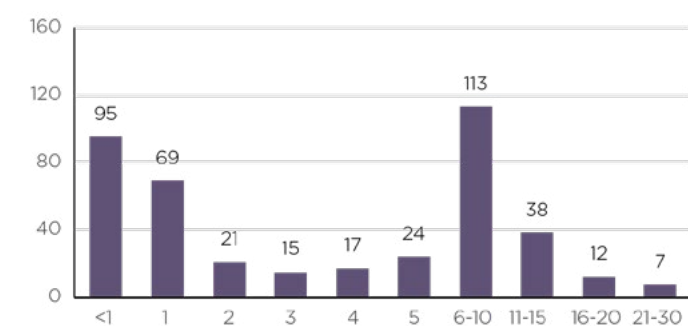
In 2017-18, we welcomed 122 new employees. Through an induction and orientation program, our newest team members were briefed on our culture, values, business goals and processes.

Most staff recruited in 2017-18 were in the 21 to 30 and 31 to 40 age brackets.

Age of staff as at 30 June 2018



Years of service as at 30 June 2018



Recognising service excellence

We recognise and celebrate the achievements of our staff who exemplify the idea of 'building service excellence into everything we do'. In 2017-18, we presented awards to the following staff:

Vanessa Angelica

Case Analyst, Systemic Issues

Mauro Ferro

Case Officer, Registration and Referral

Kate Gardini

Team Manager, Banking and Finance

Neelan Gopal

Team Manager, Registration and Referral

Campbell Kirkland

Case Support, Support and Allocation

Jessica Stephens Raymond

Case Analyst, Financial Difficulty

Mandy Van Der Poel

Case Manager, Investments and Advice

Meredith Walker

Project Manager, Support and Allocation



Ombudsmen

In 2017-18, our full-time, part-time and sessional Ombudsmen were:

Shane Tregillis

Chief Ombudsman

Philip Field

Lead Ombudsman,
Banking and Finance

John Price

Lead Ombudsman, General Insurance

June Smith

Lead Ombudsman,
Investments and Advice

Katy Adams

Michael Arnold

Geoff Bant

Michael Brett Young

Sarah-Jane Christensen

Evelyn Halls

Chris Liamos

Alison Maynard

Christine McCarthy

Nicole McCutcheon

Helen Moye

Don O'Halloran

Andrew Weinmann

Adjudicators

Melinda Cavalieri

Rachel Erlich

Qasim Gilani

Debbi Lukman

Alex Maslen

Charlotte Murphy

Wendi Nisbet

Elizabeth O'Brien

Wes Pan

Neva Skilton

Ruth Talalla

Jacqueline Thompson

Teresa Willemsen

Panel members

Consumer

Stephen Duffield

Paul Holmes

William Mitchell

Anna Nightingale

Paul O'Shea

Joan Staples

Catherine Wolthuizen

Industry

Bruce Beakey

Mike Britton

Phil Campbell

Jennifer Diggie

Robert Emery

Ian Enright

Tim Griffiths

Corin Jacka

Richard WF King

Alex Knipping

Martin McIntosh

Michael Miller

Philip Oswald

Peter Roan

Graham Slater

Patrick Sweeney

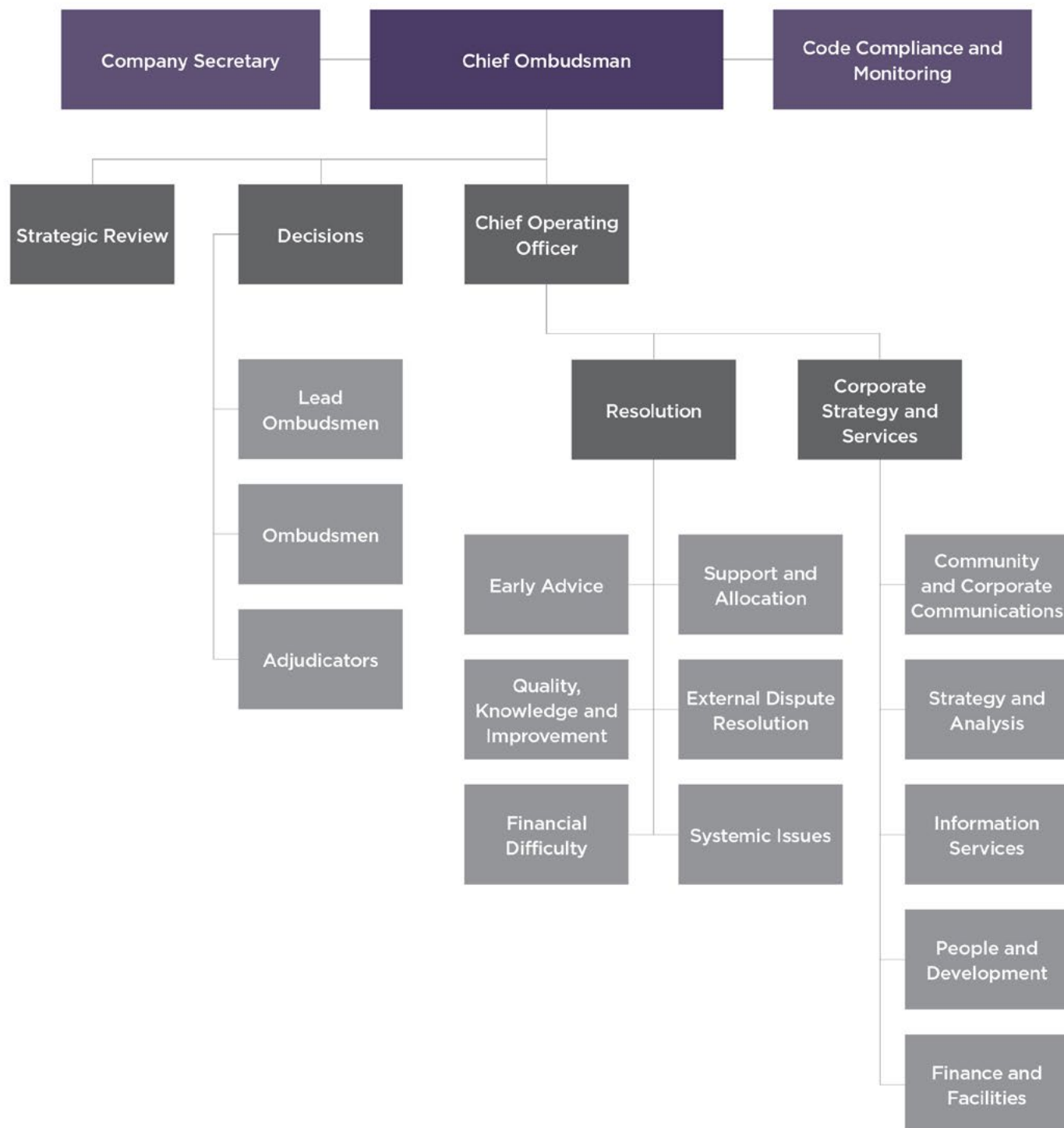
Terry Wakefield

Tim Webber

Matthew Wigzell

Gavin Wright

Organisation chart



Senior Leadership Group



From left:

John Stringer

Chief Operating Officer

Michael Ridgway

Executive General Manager, Corporate Strategy and Services

John Price

Lead Ombudsman, General Insurance

Diana Ennis

Executive General Manager, Resolution

Shane Tregillis

Chief Ombudsman

June Smith

Lead Ombudsman, Investments and Advice

Philip Field

Lead Ombudsman, Banking and Finance

Not pictured:

Jamie Orchard

Executive General Manager, Resolution
(left FOS in October 2017)

Jenny Peachey

Executive General Manager, Strategic
Review (left FOS in March 2018)



Our stakeholders

FOS has a broad range of stakeholders – financial services providers (members of FOS), consumer representatives including financial counsellors and community lawyers, industry bodies, ASIC and other government bodies, and the Australian community. We engage with all these stakeholders in various ways.

Our members

FOS is one of the largest industry-based external dispute resolution services in Australia. Our members are financial services providers (FSPs) that have chosen us as their external dispute resolution scheme. Every business with an Australian financial services licence or credit licence must be a member of an external dispute resolution scheme approved by the Australian Securities and Investments Commission (ASIC).

Our members cover the full range of financial services. A large proportion are small and medium-sized enterprises, and most of these businesses never have to deal with a dispute.

Our members fall into two categories – licensees and authorised credit representatives (ACRs). Licensees are FSPs that hold an Australian financial services licence or credit licence from ASIC. More than nine in ten (91%) of our licensee members are sole operators or small organisations.

ACRs are businesses that represent a credit licensee. Any complaint we receive from a customer of an ACR is referred to the dispute resolution area of its licensee.

To see if your FSP is a member of FOS, go to www.fos.org.au/member.

Key member industry types as at 30 June 2018

FSP type	% of members
Financial advisor/planner	24
Accountant	14
General insurance broker	11
MIS operator/fund manager	9
Credit provider	6
Finance broker	5
Mortgage broker	3
Underwriting agency	2
Corporate advisor	2
Administration services provider	2
Securities dealer	1
General insurer	1
Stockbroker	1
Bank	1
Superannuation fund trustee/advisor	1
Derivatives dealer	1
Research house	1
Foreign exchange dealer	1
Credit union	1
Non-cash payment system provider	1
FinTech	1
Product distributor	1
Managed discretionary account operator	1
Life insurance broker	1
Product issuer	1
Trustee	1
Mortgage manager	1
Life insurer	1
Timeshare scheme operator	1
Other*	3

* Charity/community fund, custodial and depository services, debt collector or buyer, make a market, mortgage originator, friendly society, coverholder, clearing/settlement house, mortgage aggregator, travellers' cheques/foreign currency transfer provider, reinsurer/reinsurance agent, professional indemnity insurer, warranty provider, private health insurer, building society, credit-sourced funding intermediary, debt manager/credit repair

Where our members come from



Member numbers

Member type	30 June 2017	30 June 2018	Change %
Licensees	5,621	5,285	-6
Authorised Credit Representatives (ACRs)	7,801	6,245	-20
Total	13,422	11,530	-14

Our total membership at 30 June 2018 was 11,530. The number of licensee members reduced from 5,621 to 5,285 in 2017-18, and the number of ACRs reduced by 20% to 6,245.

The total number of members fell by 14%. There were two main reasons for this reduction. Generally, members must give FOS 12 months' notice when they know they are going to cease providing financial services (and so no longer need to be a member of an external dispute resolution scheme). But with the AFCA transition, FOS allowed these businesses (mainly ACRs) to cease membership in one larger batch, waiving the normal notice period. The other main reason for a reduction in ACR members was because several large licensees restructured their business, and no longer needed the same level of representation.

Fees and funding

FOS provides a cost-effective dispute resolution service for our members, consumers and other stakeholders. We are a not-for-profit service and a significant proportion of our funding comes from case fees. The case fees paid by an FSP reflect the number of disputes it has at FOS and the progress of these disputes before resolution. A free decision may be available for smaller members if the outcome is in the member's favour.

Our funding structure consists of an annual membership fee, user charge and dispute fees. Our fee structure was unchanged in 2017-18, with minor CPI-related adjustments from 1 July 2018.

This fee structure will continue until 31 October 2018, after which FOS will be replaced by AFCA. In early 2018-19, members were consulted about AFCA's fees and funding.

Distribution of received disputes across our membership

Dispute numbers per FSP	Number of FSPs	Total number of disputes
1	371	371
2	125	250
3	57	171
4 to 10	180	1,077
11 to 20	54	800
21 to 50	42	1,371
51 to 100	27	1,939
>100	50	35,974
Sub-total	906	41,953
Not yet allocated to a member	-	1,731
Members with no disputes	10,624	-
Total	11,530	43,684

The vast majority (92%) of our 11,530 members had no disputes lodged against them in 2017-18. When members did have disputes lodged against them, most had only one dispute. Of the FSPs with disputes lodged against them, the proportion of members with only one dispute was 41%, about the same as last year (42%). There were 50 members (49 last year) with more than 100 disputes lodged against them.

Sharing knowledge and expertise

We recognise the experience and expertise of our members and appreciate the benefits of sharing knowledge to develop skills in the industry and improve the efficiency and effectiveness of our dispute resolution service.

Our member events, such as open forums, continued to focus on helping members improve their internal dispute handling and giving them opportunities to provide us with practical feedback on how the dispute process is working.

We also kept our members informed of the arrangements for their transition to AFCA, including transfer of memberships, updating contact details and public consultation on the proposed AFCA Rules.

Key activities in 2017-18 were:

- hosting 21 open forums in Adelaide, Brisbane, Melbourne, Perth and Sydney, attended by a total of more than 1,400 members. The forums brought together industry participants from all areas of financial services to discuss FOS decisions and share industry developments and insights
- delivering our first forum webcast, on banking and finance, which was attended by 55 members. A further 130 members across Australia logged in, viewed the live stream and texted their questions 'live'
- holding face-to-face meetings with members, industry liaison groups and associations, and consumer groups
- participating at industry conferences, panel discussions, seminars, training, meetings and workshops on dispute resolution in financial services
- holding regular industry specialist meetings with members to discuss issues of mutual concern in banking and finance, investments and advice, life insurance, professional indemnity and general insurance
- delivering a consultation webcast on the proposed AFCA Rules. FOS staff introduced the consultation documents and answered questions submitted by members from all over Australia who logged in to view the live stream.



Key issues discussed at FOS open forums

All forums covered dispute trends and issues, including systemic issues, recent FOS decisions, case studies and guides for responding to disputes. Other issues included:

Sector	Issues
Banking and finance	<ul style="list-style-type: none"> › <i>FOS Approach to Financial Elder Abuse</i> › <i>FOS Approach to Joint Facilities and Family Violence</i> › ePayments Code › early release of superannuation › conciliations
General insurance (see also page 81)	<ul style="list-style-type: none"> › discrimination and mental health › add-on insurance › cash settlements › natural disasters including Cyclone Debbie › fraud and flood disputes › agents and third party representatives › <i>FOS Approach to Section 54 of the Insurance Contracts Act</i> › fairness and reasonableness in practice › proximate cause › duty of disclosure › working with vulnerable applicants
Investments and advice	<ul style="list-style-type: none"> › contributory negligence and proportionate liability › fee for no service and ongoing service reviews › tolerance to risk assessment › inappropriate advice and best interest duty › life insurance advice and switching policies › elder abuse › self-managed superannuation fund advice and property
Life insurance	<ul style="list-style-type: none"> › income protection policies › <i>FOS Approach to Section 54 of the Insurance Contracts Act</i> › medical definitions in trauma policies › total and permanent disability › non-disclosure › section 47 of the Insurance Contracts Act › business expenses insurance policies and information requests by insurers › Life Insurance Code of Practice › working with vulnerable policyholders

Working together to build trust

Meaningful engagement with our members is mutually beneficial. It facilitates better planned and better informed projects, policies, processes and services, accommodates and shapes the capacity for innovation and develops mutual trust.

The information and guidance we share about disputes, our process and our approach helps members understand the areas of their business that are working well and areas for improvement, explains dispute trends and helps members find ways to avoid disputes progressing.

In 2017-18, we helped our members get the most out of their membership by providing benefits and resources including:

- › benchmarking reports to inform members with large dispute numbers. These reports capture key dispute data and trends to help members improve the effectiveness of their internal dispute resolution
- › networking opportunities with FOS staff, industry peers and consumer organisations through events and forums, face-to-face meetings and our e-newsletter, *The FOS Circular*
- › further enhancements to the member portal, and training and assistance on its effective use. The portal gives FSPs access to customised resources and enables membership and dispute administration anywhere, at any time
- › access to dispute handling resources, including FOS Approach documents and dispute response guides, to help members identify information and documentation FOS needs for disputes, address the main issues in their response and understand our approach to the disputes
- › training and development opportunities including continuing professional development points for forum attendance and elearning.



Diana Ennis: Financial firms must have appropriate resources and processes to deal with internal complaints

Firms urged to be flexible in handling customer complaints

Member FSPs need to have flexible resourcing to meet increased customer demands and complaints caused by events such as natural disasters, remediation programs and community awareness of dispute resolution as a result of official inquiries like the Royal Commission, according to a senior FOS manager.

Diana Ennis, Executive General Manager, Resolution, told member forums that some FSPs were not meeting their obligations to respond to complaints before they come to FOS, often because of structural and management changes.

'With more pressure from the external environment, member FSPs have themselves predicted increases in internal complaint volumes and expect a spike in volumes,' she said. 'This requires them to be flexible in their resourcing and resolution mindset so that they can meet increased customer demands.'

She said FSPs must at all times comply with the ASIC regulatory guides regarding their internal dispute resolution responsibilities including being adequately resourced and having appropriate systems and processes in place to deal with internal complaints.

More than one-fifth (21%) of the disputes FOS accepted into case management in 2017-18 contained no information or response from FSPs. This made the task of FOS case workers extremely difficult – even to the point of understanding what the issues were and the amount of any compensation so the dispute could be allocated to the appropriate case worker.

This lack of information from FSPs was occurring despite providing them with the required timeframes to resolve the complaint themselves, without the need for FOS involvement.

Case workers were often beginning the difficult task of understanding the issues in dispute to assess how disputes could be resolved with only brief information from the applicants' online dispute form and without any relevant documents.

'This can significantly impact our ability to deliver a timely and efficient service,' Diana said.

FSPs that fail to meet their obligations to deal with internal complaints appropriately become the subject of a systemic issues investigation at FOS.

Stakeholder engagement

2017-18 at a glance

Industry forums held
in major cities

21

Community outreach
events attended

32

Submissions to inquiries,
reviews and consultations

6

LinkedIn followers

2,319

Twitter followers

475

Requests for interpreters

688

Requests for
accessibility-specific advice

2,151

Live chat sessions

1,818

YouTube views of Auslan videos

679

Improving the accessibility of our service

In 2017-18, we continued working to make our service more accessible for people in a range of challenging circumstances. Three specialist groups led initiatives in the following areas: family violence (page 44), reconciliation (page 43) and accessibility (page 40). Staff undertaking projects in these areas do so in addition to their usual jobs.

Alongside this work, an area of increasing concern is financial elder abuse. In 2017-18, we published a FOS Approach document (see page 42) to help FSPs (especially frontline employees) understand the warning signs of financial elder abuse and act to prevent it. We then delivered professional development on the subject for consumer advocates and our members at 12 conferences and forums, including our first webcast.

We continued to raise awareness of financial abuse in a family violence context by delivering workshops for consumer advocates, engaging closely with members and conducting compulsory staff training.

We strengthened our partnerships with consumer representative organisations, such as financial counselling services, and continued meeting with our Consumer Liaison Group to gain a broader picture of financial problems in the community.

We shared our knowledge and experience with stakeholders to help people access and understand our service, including:

- ▶ assisting the Royal Commission and participating in other public inquiries about improving financial services and external dispute resolution
- ▶ surveying applicant satisfaction and training staff to improve communication and engagement with applicants
- ▶ engaging with the media and attending community and industry events across the country to increase awareness and understanding of financial issues and external dispute resolution
- ▶ improving resources for people accessing our website, including launching a new Auslan video for people who are deaf or hard of hearing
- ▶ providing information about the transition to the Australian Financial Complaints Authority (AFCA).

Policy submissions

FOS makes submissions to a range of inquiries, reviews and consultations on financial services policy and regulation or dispute resolution arrangements.

In 2017-18, our Ombudsmen also appeared at hearings to provide further assistance and information to inquiries, including the financial services Royal Commission. During the year, we made written submissions to:

- › the ASIC Enforcement Review, relating to industry codes in the financial sector (August 2017)
- › ASIC's consultations on crowd-sourced funding (August 2017)
- › the Senate Economics Legislation Committee's inquiry into the Treasury Laws Amendment (Putting Consumers First – Establishment of the Australian Financial Complaints Authority) Bill 2017 (September 2017)
- › the NSW Justice Department Review of Community Legal Centres (October 2017)
- › the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (February and June 2018)
- › other consultations, on general insurance.

In addition to formal submissions, FOS contributed to developments in financial services, such as arrangements for the Asia Region Funds Passport, strategies to improve financial capability and privacy reforms. We made these contributions through conferences, letters and online feedback.

See www.fos.org.au/publications/submissions

Sharing our knowledge

Media

In 2017-18, most media interest was about changes to financial services dispute resolution. FOS media releases about the formation of AFCA received coverage in mainstream and trade publications.

Our Ombudsmen shared their knowledge and experience about insurance, including disputes involving natural disasters, especially Cyclone Debbie, and data and trends about travel insurance.

The most popular banking issue, apart from those raised at the Royal Commission, was financial elder abuse, following the release of our Approach document in October 2017 (see page 42). Other issues raised included fees relating to payWave, credit card fraud, mistaken internet payments and PayPal accounts.

Our Annual Review and Comparative Tables received media coverage and we provided articles for trade publications on financial advice and the new life insurance code.

Assisting the Royal Commission

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry was established on 14 December 2017. It is considering the adequacy of laws and how well-equipped regulators should identify and address misconduct.

The Royal Commission will assess the effectiveness of mechanisms for redress for consumers who do not receive awarded compensation for financial loss as a result of misconduct. As at 30 June 2018, consumers were owed \$16 million (excluding interest) in unpaid FOS determinations.

The Royal Commission has engaged across the financial services industry and sought input via submissions and case studies. FOS made two written submissions to the Royal Commission in 2017-18.

The first, in February 2018, answered questions posed by the Commission about systemic issues and misconduct in the financial services sector, and the other, made in June 2018, focused on a particular dispute that the Commission asked about.

FOS Lead Ombudsman, Banking and Finance, Philip Field, appeared before the Royal Commission in May 2018.

Insights from the work of the Commission will be invaluable for AFCA and the financial services industry generally.

Publications

We produce a range of publications and other communications to help people understand our service, share our experience and discuss current and emerging industry trends and issues.

Our publications can be found on our website including:

- › *The FOS Circular*, our quarterly online publication, which has a circulation of about 14,000. It provides an overview of disputes handled each quarter, information about the numbers and types of disputes we handle, case studies and analysis of particular issues from our perspective. In 2017-18, we released editions 30, 31, 32 and 33 (see www.fos.org.au/circular).
- › FOS Approach documents, designed to help members and consumers understand how we consider disputes and reach decisions. We now have 21 FOS Approach documents, which are available at www.fos.org.au/approach. In 2017-18, we published:
 - › *The FOS Approach to Financial Elder Abuse* (see page 42)
 - › *The FOS Approach to Section 54 of the Insurance Contracts Act 1984* (see page 102).

Listening to our applicants

We survey applicants who have lodged disputes with us to help improve our service. In 2017-18, overall applicant satisfaction with our dispute handling was 65%, five percentage points below our target of 70%.

Applicant satisfaction remained high for disputes resolved at our initial Registration stage, with 88% of applicants satisfied with our handling of their dispute (88% last year).

Applicants who received a favourable outcome at our Case Management stage recorded a satisfaction rating of 80%. Those who had an unfavourable outcome recorded a satisfaction rating of 30% with the handling of their dispute, reflecting the general correlation between a favourable outcome being reached and an applicant's satisfaction.

In 2017-18, we continued to focus on delivering a quality service in a timely manner despite the significant challenge of record dispute volumes. We worked to clearly explain our role, process and possible outcomes to applicants and be flexible in the way we handled disputes. We focused on key points of engagement with applicants, such as our initial phone call and the call made immediately before a decision is reached. We have developed guidelines and training for these key points in the dispute-handling process.

We also worked to reduce waiting time at decision and trained more staff to facilitate conciliations. Applicants show a high level of satisfaction when a dispute is resolved at conciliation.

Helping people understand and use our service

Being more accessible online

We are committed to providing an accessible service that gives all our stakeholders the information they need in a format that suits them. In 2017-18 we:

- › improved the consumer section of the FOS website by making it easier to navigate, more visually appealing and highlighting accessibility, special assistance and the work of advocates
- › added more resources to our member portal including best practice guidelines on providing documents to FOS during disputes
- › explained the transition to the Australian Financial Complaints Authority (AFCA).

We continued reaching people through our website, videos and social media. The number of videos viewed increased by 7% to 7,899 in 2017-18, building on strong growth in previous years. The information we shared via LinkedIn and Twitter was also of increased interest, with our LinkedIn page attracting 2,319 followers (up 41% on last year).

Visits to our website increased by 20%, with more unique users accessing our information and services online, indicating greater awareness of FOS online.

Website visits

	2016-17	2017-18	Increase %
Visits	675,246	809,820	20
Unique visits	399,749	476,071	19

Note: A single visit on a website may contain multiple page views, search actions etc. and ends after 30 minutes of inactivity. A unique visitor is a person who has used the website at least once during the reported year.



Extending live chat to help people online

In 2016-17, we introduced live chat to enable people to engage with us online if they are having difficulty registering their dispute. This allows people to ask questions while completing the online dispute form (such as what information to include in particular sections), and receive answers in real time. It also helps us explain the information we need and whether we can consider particular disputes.

The previous year, we launched an online form that allows people to provide us with details of their financial situation (electronic statement of financial position).

In October 2017, the Financial Difficulty team began a four-month trial to extend live chat to the electronic statement of financial position, giving people the opportunity to ask questions while they were completing this form as well.

The number of live chat questions received during the trial was small, but people who used the service found it helpful and in some cases, FOS received better quality information. Based on these results, the trial was extended for another six months. At the end of that time, we will review the service again, with a view to keeping it in place permanently.

Being more accessible by phone

On 1 July 2015, we introduced a freecall number, 1800 367 287 or 1800 FOS AUS. This number enables people to ring us free from most phones. Our 1300 78 08 08 'local charge' option remained active in 2017-18, as members advised their customers of the freecall number.

In 2017-18, 220,951 calls were made to 1300 or 1800 FOS numbers. These calls were handled by our contact centre or case workers investigating disputes.

Of the calls FOS received, the vast majority (96%) came from the public. The number of calls from the public fell by 6% compared with last year (the same as the decrease in total calls). This fall in total phone calls is most likely due to increased use of our website (see page 34).

The proportion of people ringing our freecall number increased to 85% from 74% last year and 52% the previous year.

There were 147 calls to our natural disaster hotline in 2017-18, a 29% reduction compared with last year. This reflects the decrease in natural disasters compared with previous years.

People can lodge their dispute over the phone, or call us for general information about our process. If we cannot help, we try to refer the caller to the appropriate agency or service.

See also: How applicants lodged their disputes, page 51.

Calls to FOS in 2017-18

	Total
1300 565 562 (Membership)	9,472
1800 367 287 (Freecall)	180,768
1300 780 808 (Local)	30,564
1800 337 444 (Disaster)	147
Total public	211,479
Total FOS	220,951

Listening to consumer advocates

Now in its fifth year, the Consumer Liaison Group (CLG) continues to help FOS improve service delivery to vulnerable people.

Members of the CLG meet our Senior Leadership Group to discuss practical ways to improve access to dispute resolution and to better understand issues and trends in financial services. Where appropriate, matters flowing from these discussions are raised directly with members.

In 2017-18, topics included:

- › access to financial hardship provisions for uninsured third parties
- › apportioned liability in motor vehicle accidents
- › funeral insurance policies and Aboriginal and Torres Strait Islander peoples
- › financial abuse, including financial elder abuse and joint facilities and family violence
- › fees for documents and expert reports
- › FSP interpretations of the ePayments Code.

We welcomed:

- › Gemma Mitchell, Consumer Credit Legal Service WA
- › Philip White, The Salvation Army Moneycare NSW.

They joined the following core group of members:

- › Rachna Bowman, South East Community Links Vic
- › Philippa Heir, Consumer Action Law Centre Vic
- › Paul Holmes, Legal Aid Queensland
- › Alexandra Kelly, Financial Rights Legal Centre NSW
- › Christine Raymond, Uniting Communities SA
- › Brenda Staggs, Legal Aid NSW (see page 37).

Independent Chair

We also welcomed former Financial and Consumer Rights Council Executive Officer Peter Gartlan as Chair of the CLG. Peter performs a vital role, liaising with participants to articulate the issues. He also brings significant experience in the consumer sector, helping to ensure that outcomes meet the needs of people experiencing financial difficulty.

Supporting the consumer sector

In 2017-18, we continued to participate in events for consumer representatives including financial counsellors, community lawyers and financial capability workers.

These events included:

- › 5th National Elder Abuse conference
- › Financial Counselling Australia conference and Twilight EDR Forum (see below).

Annual conferences:

- › Australian Council of Social Service (Melbourne)
- › Financial and Consumer Rights Council (Lorne)
- › Financial Counselling Tasmania (Devonport)
- › Financial Counsellors' Association of NSW (Port Macquarie)
- › Financial Counsellors' Association of Queensland (Noosa)
- › Financial Counsellors' Association of Western Australia (Perth)
- › National Association of Community Legal Centres (Canberra)
- › South Australian Financial Counsellors' Association (Adelaide).

Twilight EDR Forum

The theme for the Financial Counselling Australia conference in May 2018 was 'The Big Yarn: Stories That Stir'. It was held on the traditional lands of the Mouheneenner people in Hobart.

In conjunction with the conference, FOS collaborated with other industry ombudsman schemes to present the Twilight EDR Forum. The forum provides an opportunity for financial counsellors to hear about issues and trends in external dispute resolution, provide feedback directly to Ombudsmen and share experiences with colleagues from across the country.

This year's forum focused on difficult conversations and included tips from dispute workers, conciliators and decision makers from across the schemes, via a creative video presentation.



FOS Lead Ombudsman John Price at the Twilight EDR Forum
Picture: Financial Counselling Australia



Meet Brenda Staggs

FOS Consumer Liaison Group member

Helping victims pick up the pieces

Heavy rain or the smell of fire can trigger symptoms of trauma among emergency workers as well as disaster victims, according to Brenda Staggs.

Brenda knows a thing or two about how people react to natural disasters. As Disaster Response Coordinator for Legal Aid NSW, she has worked on the ground in six: two bushfires, three storms/floods and one tornado.

The latest was in April 2018 after the bushfires at Tathra, where she marvelled at the way community members supported each other.

Brenda manages a specially trained team of Legal Aid lawyers from all over NSW who help people following disasters. For example, after Cyclone Debbie in March/April 2017, a total of 21 lawyers joined other emergency workers in the Disaster Recovery Centre in Murwillumbah, working with more than 400 clients over 10 weeks. Brenda was at the scene for almost four weeks.

On the ground, the team advises people about insurance, financial hardship provisions, and workplace or rental accommodation issues, among others.

'I feel sad for the people who have lost everything and a strong sense of responsibility to help them as much as we can,' she said.

'People affected by natural disaster find it more traumatic to deal with an insurance claim than they would otherwise. The fact that FOS is available to them as a free service, if the claims process doesn't go as well as they'd like, gives people a lot of comfort immediately following a disaster.'

Brenda also feels a keen sense of responsibility for every lawyer she rosters on. After each shift, her colleagues talk

to her about what they saw and heard, and she encourages them to take advantage of debriefs with psychologists from Legal Aid NSW's Employee Assistance Program, something Brenda does herself. She also receives strong support from her director.

The lawyers who work with Brenda are trained to recognise signs of their own vicarious trauma - ranging from becoming very emotional and involved in their clients' problems to completely lacking feeling for them, as well as having troubling and intrusive thoughts, difficulty sleeping and loss of appetite.

Each disaster brings with it a range of emergency personnel who quickly work out their roles and often form close working relationships. 'There's a great feeling of collegiality and we lean on each other a fair bit,' Brenda said.

Helping disadvantaged people has been a constant part of her career - most recently, three years at Legal Aid NSW, which followed six years at Redfern Community Legal Centre and 10 years in private practice specialising in insurance litigation.

As a member of the FOS Consumer Liaison Group, she enjoys working with other community advocates on common issues affecting vulnerable people and having a direct dialogue with FOS. This connection with FOS has enabled her to help clients who may have difficulty with their insurers in the aftermath of natural disasters; for example, by clarifying issues with insurers via the Lead Ombudsman.

Brenda undertook a Bachelor of Psychology degree to add to her knowledge and understanding of the barriers faced by people with mental health issues when accessing justice. She will complete that degree later this year, complementing her law degree (both with honours from the University of New England).

Hearing Awareness Week

In August 2017, we participated in Hearing Awareness Week with the public launch of our second Auslan video, *An Introduction to FOS*. The video explains the importance of external dispute resolution as an alternative to court to resolve financial disputes, the first steps to resolving a complaint through internal dispute resolution and the key things to consider before lodging a dispute with FOS.

A similar number of people who lodged disputes with us said they were deaf or hard of hearing in 2017-18 as the previous year but there was a 46% increase in the number of applicants who chose to communicate with us via text telephone.

An Introduction to FOS, along with our first Auslan video, *Sarah's Story*, are available on the FOS Australia YouTube Channel.

Reaching out to the community

FOS staff attended a range of public events in 2017-18 to raise awareness of external dispute resolution in financial services, including:

- › National Multicultural Festival (Canberra)
- › Western Adelaide Disability Expo (Angle Park, SA)
- › Yabun Festival (Camperdown, NSW)
- › Hume Disability Expo (Broadmeadows, VIC)
- › Western Sydney Homeless Connect (Parramatta, NSW).

We continued to attend community expos linking people with a disability and their carers to related services, including the National Disability Insurance Scheme. In 2017-18, the number of people lodging disputes with FOS who identified a physical impairment increased by two-thirds (65%).

When attending events for culturally and linguistically diverse communities, we provide information in 14 languages, including English. The most requested language is Mandarin, and in 2017-18 there was a two-thirds (67%) increase in the number of people lodging disputes who told us that Mandarin was their preferred language.

Successful partnerships

Several times during the year, external dispute resolution schemes and other community services collaborated at events to raise awareness. For example, at the Sydney Disability Expo, we shared a stand with the Energy & Water Ombudsman NSW (EWON), distributing information for FOS, EWON and the Telecommunications Industry Ombudsman in one showbag. Seniors Day at the Sydney Royal Easter Show brought together eight services, including FOS, in one 'justice marquee'.

Building our awareness

Speaker series

We invite speakers from a range of organisations, including the charities staff support, to broaden our cultural awareness and understanding of people living in challenging circumstances. In 2017-18, speakers were:

- › Jacob Boehme, Creative Director, Yirramboi First Nations Arts Festival (NAIDOC Week)
- › Jonathan Brown, Media and Communications Officer, Consumer Action Law Centre
- › Sandy Dudakov OAM, Board Vice-President, FareShare
- › Graeme Holdsworth, Suicide Prevention Australia
- › Shelley Ware, *Marngrook Footy Show* co-host (National Reconciliation Week)
- › Helen, survivor advocate, safe steps Family Violence Response Centre.

FOS staff giving

In 2017-18, FOS staff raised a total of \$8,345 for:

- › ANZAC Appeal
- › Asylum Seeker Resource Centre
- › Daffodil Day (Cancer Council)
- › Edgar's Mission
- › FareShare
- › Move (Arthritis Victoria)
- › Pets for the Homeless
- › Remembrance Day
- › safe steps Family Violence Response Centre
- › Starlight Foundation
- › White Ribbon Day.



Shelley Ware pictured with Banking and Finance Adjudicator Ruth Talalla (left) and Lead Ombudsman, Banking and Finance, Philip Field, after speaking to FOS staff

Stories of persistence and breaking barriers

FOS staff were treated to a highly engaging and meaningful speech from renowned educator, presenter and football personality Shelley Ware in June 2018 to celebrate National Reconciliation Week.

Shelley, a proud Yankunytjatjara and Wirangu woman, is best known as a host of the ground-breaking NITV *Marngrook Footy Show* screened on SBS.

Shelley told stories about her family to help staff understand more about the struggles and barriers Aboriginal and Torres Strait Islander people face and have faced.

For example, her father Bob, a professional sprinter, beat a white man in a race one day, overcoming a lengthy handicap – and nobody except family members cheered.

Bob wanted to return to study as an adult and complete Year 12. He was told Ceduna Area School never had enough students to bother with Year 12 because most left to attend college in Adelaide. This excluded most Indigenous students.

Bob successfully lobbied the Year 11 students, staff and Education Department to have the first ever Year 12 at Ceduna Area School. He joined the youngsters, completed the year and gained his university entry to further his studies.

Shelley's grandfather would have been proud of Bob: he felt strongly that good and meaningful education was the way forward for his people. When Bob passed away, aged 51, he was buried beside his father on their homeland near Fowlers Bay, on the edge of the Nullarbor Plain between Ceduna and Nullarbor.

Shelley's mother, Jan, always wanted to be a nurse and eventually succeeded, after leaving teaching and studying for four years when she was in her 40s. She trained and worked at The Queen Elizabeth Hospital in Adelaide and now nurses Adelaide's homeless in the city.

Shelley spoke about the racism Aboriginal and Torres Strait Islander footballers have endured over the years, their great successes and their support for one another. She feels this experience is perhaps a cause for optimism for all Aboriginal and Torres Strait Islander peoples.

'We've come a long way and everyone has a responsibility to do what they can to improve things for the next generation,' she said. 'If we do, amazing things can be achieved.'

Supporting vulnerable applicants

The FOS Access Working Group (FAWG), comprising staff from across the business, works to understand and address barriers to our service.

One of its 12 members, case analyst Kristina Sajfar, said: 'I was keen to contribute to the great work FAWG does in improving accessibility for vulnerable and disadvantaged people. I am motivated to work with my colleagues and external stakeholders to ensure that we continue to find innovative ways of working.'

During 2017-18, FAWG began developing a Disability Action Plan. This work includes assessing the help FOS currently provides, surveying the effectiveness of this support, beginning to develop relationships with relevant organisations, and identifying ways to engage with applicants more effectively.

To raise awareness with members about the work of FAWG, Chair Peter Fisher presented to general insurance and investments and advice member forums in 2017-18.



Members of the FOS Access Working Group

Understanding individual circumstances

The better we understand our applicants' circumstances, the more flexible we can be in handling their dispute. We provide the opportunity for people lodging a dispute to let us know about any such circumstances that may indicate the need for help along the way.

In 2017-18, there was a 38% increase in requests for additional assistance overall. The largest increase (101%) was the number of applicants who told us their dispute related to financial abuse as a result of family violence. A significantly larger number of people also identified as having a mental health issue (41% increase).

Received disputes by type of additional assistance

	Total
Mental health	865
Other help needed	353
Physical impairment	252
Family violence	193
Literacy	140
Hearing	132
Cognitive condition	91
Sight/vision	71
Text telephone	54
Total	2,151

For more details about additional assistance, see our accessibility guidelines at www.fos.org.au/accessibility.

The languages people request

When lodging disputes, applicants are given the opportunity to let us know if they speak a language other than English. Not all applicants who indicate they might need an interpreter end up using one, but we provide this service free of charge as needed.

In 2017-18, a total of 688 applicants identified they spoke a language other than English. This was 8% less than last year.

The languages for which we received the most interpreter requests were Mandarin (183), Arabic (84), Persian (Farsi) (31), Vietnamese (30), Cantonese (27), Afrikaans (25), Italian (25), Korean (25), Spanish (18), Hindi (17), Greek (15), Punjabi (15) and Turkish (13).





➤ Financial elder abuse

FOS Approach sets the standard

Financial abuse is the most common form of abuse experienced by elderly people, according to an Australian Institute of Family Studies report. The report¹ said that 2% to 10% of older Australians experience elder abuse in any given year.

So it is imperative that FSPs and consumers understand the protections that should be in place for seniors accessing financial products and services.

We published the *FOS Approach to Financial Elder Abuse* in October 2017, consulting widely with our members, industry and consumer stakeholders and the Human Rights Unit of the Attorney-General's Department.

The document provides definitions of elder abuse and financial abuse, covers what is considered good industry practice to prevent elder abuse, and discusses 'red flags' and issues arising in disputes involving financial abuse.

We publish FOS Approach documents to help individuals, small business owners and FSPs better understand how we reach decisions.

Following publication of the document, we delivered professional development for our members and consumer advocates on the subject, beginning with the 5th Annual Elder Abuse Conference in February 2018 and ending with the NSW Legal Aid Civil Law Conference in June 2018. In total, we presented 12 sessions across the country, including our first live webcast.

¹*Research Report No. 35, Elder abuse: Understanding issues, frameworks and responses*, Rae Kaspiew, Rachel Carson and Helen Rhoades

Case study

Red flags should have protected vulnerable customer from scam

An FSP breached its obligation to an elderly applicant, Mrs T, when it completed a large overseas transfer of almost all the funds in an account from which she did not typically make withdrawals. She later became aware that she was the victim of a scam.

Soon afterwards, Mrs T lodged a dispute with FOS. The dispute centred on whether the FSP should have made further enquiries before completing the transfer, and acted appropriately to recover the transfer.

The scam occurred when Mrs T received a call from a jewellery store advising her that someone had tried to use her debit card to buy a watch. She was told to call her FSP and believed she did so, unaware that it was a continuation of her call with the fraudster.

In a later call, to 'police' (also the fraudster), Mrs T was instructed to transfer her funds to a secure account and, if asked, to tell the FSP that the funds were for a property purchase. She then visited the FSP's branch to request the transfer to a third party account.

FOS found clear red flags including her request to transfer money to an overseas location, which was inconsistent with her past account usage. Other warning signs included Mrs T's advanced age, her initial reluctance to provide information about the transfer, her insistence

that the transaction be completed as soon as possible and her account history – no withdrawals in the previous six months and a long period of savings.

A FOS recommendation found that the FSP should fully compensate her for the transfer sum, the fee charged for the transfer, interest lost on the deposit funds and \$2,000 non-financial loss for stress and inconvenience.

In the March 2018 recommendation, FOS found that the FSP staff should have asked more questions to gain a better understanding of the transaction, and sought further guidance within the FSP about whether to allow the transaction to proceed.

The recommendation, which was accepted by Mrs T and the FSP, found that the FSP delayed requesting a recall of the funds from the receiving bank. It also said the FSP failed to take appropriate steps to contact Mrs T after the receiving bank advised it had recovered some of the money for which she was entitled to claim.

'Had the FSP taken appropriate steps to ensure that the applicant was warned that the transfer might be a scam, or that she seek advice before making the transfer, it is more likely than not that the transfer would not have been made,' FOS said.



➤ Reconciliation

The FOS Reflect Reconciliation Action Plan (RAP) represented a major milestone in our commitment to improve the service we provide to Aboriginal and Torres Strait Islander peoples.

Endorsed in August 2016, and now complete, our RAP focused on improving understanding within FOS of Aboriginal and Torres Strait Islander peoples.

In 2017-18, we delivered 64 initiatives under the RAP, supporting our growth as a culturally competent organisation. Our major achievements under the RAP are outlined below.

- **Providing a more supportive service** – we introduced a priority telephone call to all applicants who identify as Aboriginal and Torres Strait Islander people in which we explain our process and identify the best method of communication, within seven days of disputes being lodged.
- **Improving our understanding** – we reviewed disputes lodged by Aboriginal and Torres Strait Islander applicants to better understand accessibility requests and decide how best to respond to them.
- **Increasing job opportunities** – we introduced a diversity statement in recruitment advertisements, encouraging applications from Aboriginal and Torres Strait Islander peoples.
- **Promoting supplier diversity** – we reviewed our procurement policy to consider opportunities for Aboriginal and Torres Strait Islander-owned businesses.
- **Celebrating dates of significance** – we hosted Jacob Boehme, of Yirramboi First Nations Arts Festival in NAIDOC Week 2017 and Shelley Ware, from the *Marrgrook Footy Show*, in National Reconciliation Week 2018 (see page 39).
- **Creating a central information source for staff** – we introduced an intranet page explaining cultural protocols and identifying the traditional owners of the land on which FOS stands, local volunteering opportunities, cultural events and dates of significance.
- **Raising cultural awareness** – we continued working with Reconciliation Australia to deliver our elearning module for all staff. This training program raises awareness and increases understanding among FOS staff of Aboriginal and Torres Strait Islander peoples.

Documentaries build knowledge and understanding

The FOS RAP Crew, the group of staff leading our RAP activities, organised lunchtime film screenings at FOS to help staff better appreciate the history, context and challenges for Aboriginal and Torres Strait Islander peoples.

In November 2017, staff viewed *Zach's Ceremony*, a feature-length documentary by filmmaker Aaron Petersen captured over 10 years. It depicts how Zach makes the transition from boyhood to manhood, in the modern world and his ancient culture, and how he copes with the pressures of his loving but firm father, temptations of city life and ever-present racism.

In May/June 2018, in commemoration of National Reconciliation Week, FOS screened *First Australians*, a historically significant seven-part documentary produced by Blackfella Films. The documentary details the birth of contemporary Australia from the perspective of its first peoples, exploring what happens when the world's oldest living culture is overrun by the world's largest empire.



Mannie Edwards and Carolyn Dea, co-chairs of the FOS RAP Crew

➤ Family violence

Learning to support victims

In 2016-17, we made a change to our online dispute form, making it possible for applicants to identify if family violence was a factor in their dispute. In 2017-18, the number of people who did so doubled, from 96 to 193.

This significant change was an initiative of the FOS Family Violence Working Group (FVWG), which was established in 2016 following the Royal Commission into Family Violence (Victoria). In 2017-18, the FVWG continued its work to engage on the issue with staff, consumer groups, other ombudsman schemes and member FSPs.

Staff

- We continued our partnership with safe steps Family Violence Response Centre, delivering a total of 10 workshops for staff and managers.
- All new FOS staff complete a compulsory course designed to help them identify warning signs of family violence in disputes, provide practical help for applicants accessing our service and refer applicants for specialist support.

Consumer groups

- We presented tailored workshops at events for consumer advocates, including financial counsellors and community-based lawyers, covering the *FOS Approach to Joint Facilities and Family Violence*.

Other ombudsman schemes

- We also shared information about the way we consider disputes involving family violence with staff from other ombudsman schemes, at the International Network of Financial Ombudsmen Conference in Melbourne in September 2017 (see page 46), and through the Australian and New Zealand Ombudsman Association network.

Member survey

In June 2017, we surveyed 154 FSPs in the banking and insurance sectors. The response rate was low (24% from the banks and 4% from the insurers).

Of those that responded, most said they:

- rarely identify customers experiencing family violence
- do not provide information beyond how to apply for financial difficulty assistance
- are not aware of what support services exist for customers experiencing family violence
- do not have specific family violence training for staff, and do not intend to introduce training in the future.

Following the survey, members of the FVWG interviewed several FSPs about their responses and found few had formal procedures and processes to guide staff working with customers experiencing family violence.

This work found that FSPs face challenges in the area, especially around legal rights, obligations and internal systems constraints, but several FSPs had implemented initiatives including grants for customers experiencing family violence, and 'silent accounts' and protected files to ensure the privacy of family violence victims.

The survey found that the financial services industry's response to family violence remains a work in progress. FOS will continue to work with FSPs to help customers experiencing family violence.

Consistent with the *FOS Approach to Joint Facilities and Family Violence*, released in 2016-17, key areas for FSP improvement include staff training, being flexible in their approach to customers in financial hardship, minimising 'touchpoints' for customers, and being aware of and referring customers to appropriate support services.



Case study

Quick resolution leads to removal of victim's default listing

A dispute about a credit default listing made against the applicant, Ms R, who was a victim of emotional, financial and physical abuse, was resolved quickly after being lodged with FOS.

Initially, Ms R's representative contacted the FSP in July 2017 to ask about removing the listing. The representative explained the circumstances of Ms R's violent relationship but the FSP said it had complied with its obligations and would not remove the listing.

Two months later, the representative lodged the dispute with FOS.

Ms R said she had been living in extreme emotional and financial hardship and was afraid of her ex-partner who had a gambling addiction and often took her entire wage to support his habit. When the abuse became physical, she had no alternative but to leave the relationship and was living in a safe house.

The FSP's main contention was that Ms R did not explain her situation before the default listing. Ms R maintained that she did.

However, it did not matter if she had told the FSP or not because FOS considers it to be good industry practice to remove the listing if family violence is present. As outlined in the *FOS Approach to Joint Facilities and Family Violence*, this is because customers who have experienced family violence are likely to struggle to achieve financial autonomy if they have adverse information on their credit file.

The FOS case worker read the relevant section of the Approach to the FSP and sent them a copy. The dispute was resolved later that day when the FSP agreed to remove the listing. This outcome was achieved within two weeks of the dispute being lodged.

Case study

Conciliation helps abused borrower resolve joint home loan dispute

An applicant, Ms H, who owned a house with her abusive former partner, lodged a dispute with FOS after an FSP took legal action against them over mortgage repayments owing.

The former partner refused to maintain mortgage repayments, triggering regular enforcement action by the FSP, despite living in the house throughout the eight years the couple had been separated.

Ms H had left the relationship because of her former partner's coercive, accusatory and intimidatory behaviour, which included taking financial control. He had not paid maintenance for child support for several years.

She had tried to negotiate for the FSP to sell the house and release her from any shortfall, without success.

Ms H lodged the dispute, in July 2017, because she had run out of time to apply for property settlement in the Family Court.

FOS could not remove Ms H from the loan contract or get involved in how the relationship assets were divided but focused on the FSP's response to requests for financial assistance and its obligations under the loan contract.

We set up a telephone conciliation conference early in the dispute process so that Ms H and the FSP could hear each other's concerns and constraints, decide on areas requiring further information and consider options for resolving the dispute.

This work enabled the FSP to exercise its discretion and consider a more favourable outcome for Ms H, given the family violence she faced and the commercial realities of the mortgage.

FOS helped the parties reach a negotiated resolution in which the FSP:

- agreed it would pursue Ms H only for possession of the property and not debt in any future court proceedings
- discontinued the then legal proceedings at no cost to her
- agreed not to place an adverse listing on her credit file.

As part of the resolution, which was reached in November 2017, Ms H's name remained on the title and she acknowledged she was jointly liable for the debt.

Innovation, accessibility and Vegemite on conference agenda

Ombudsmen representing 25 countries visited Melbourne in September 2017 for the International Network of Financial Ombudsman Schemes (INFO Network) annual conference.

The INFO Network brings together financial ombudsmen working in environments and jurisdictions from around the world, building expertise in external dispute resolution by sharing experiences and information.

FOS Board members, ombudsmen, senior staff and guest speakers delivered an insightful program, presenting on alternative dispute resolution, governance, consumer law and behaviour, and behavioural economics.

The key universal challenges of accessibility and vulnerability were addressed, with sessions covering mental health, financial literacy, family violence, financial hardship, and responses to natural disasters.

The program also shared ideas shaping the way the schemes respond to the many approaches to alternative dispute resolution. Highlights included emerging trends shaping consumer behaviour, neuroscience and behavioural finance, as well as artificial intelligence and its important role in improving access to justice.

In a moving ceremony, delegates were formally welcomed onto Wurundjeri land by Elder Colin Hunter. They also had the opportunity to visit some of the city's iconic places, including Healesville Sanctuary and the MCG.

FOS Lead Ombudsman Philip Field said INFO Network conferences provide a valuable opportunity to share knowledge, expertise, approaches and experience. 'We also shared some unique Aussie flavours along the way – everyone loved the Tim Tams, but unsurprisingly, some were bewildered by the Vegemite!'

Top row – Elder Colin Hunter welcomes delegates onto Wurundjeri land, conference booklets, Lynda Edwards (Financial Counselling Australia)

Middle row – Muvhango Lukhaimane (Office of the Pension Funds Adjudicator, South Africa) with Hranush Aghayan (Financial System Mediator, Armenia), Elli Reunanen (Finnish Financial Ombudsman Bureau), the famous MCG scoreboard, Douglas Melville (Channel Islands Financial Ombudsman)

Bottom row – Vegemite (an acquired taste), Louise Lakomy (FOS Australia Board member), Jeremy Lee (Ombudsman for Financial Services, Malaysia)





Significant event response plan

We have a plan in place to ensure we respond effectively to significant events. The main factors that determine whether an event falls into this category include the likely substantial increase in our dispute numbers, and/or the impact of the event.

The plan can be triggered by any type of event – for example, a natural disaster (bushfire, flood or cyclone), financial collapse or large FSP technology failure.

To ensure a quick response, we enact our plan even if it initially seems that the event may not generate a large number of disputes.

The key objectives of the significant event response plan are to ensure that we continue to provide the same standard of service to our stakeholders by:

- ▶ consistently identifying and assessing the likely impact of significant events for consumers and FSPs as quickly and effectively as possible
- ▶ effectively dealing with any disputes arising from a significant event, and managing and controlling any impact on FOS resources and workloads
- ▶ ensuring timely and appropriate internal and external communication and stakeholder engagement during a significant event. This may include attending community forums, such as the ones held as a result of Cyclone Debbie, to inform community members about our service (see below).

In 2017-18, we implemented our significant event response plan for these events:

December 2017

Victorian severe rain and hail

March 2018

North Queensland storms and flooding

Bushfires (NSW, Victoria)

Cyclone Marcus (Northern Territory)

May 2018

Hobart floods

Helping people in the aftermath of Cyclone Debbie

Claim delays, the role of loss adjusters, conflicting opinions on cover, cash settlements, uplift of roofs and the impending cyclone season were some of the key concerns expressed to FOS at a community forum of Whitsundays residents affected by Cyclone Debbie.

Matt O'Donoghue, a FOS case manager in general insurance, addressed the forum of about 40 people at the Whitsunday Neighbourhood Centre in October 2017.

FOS was approached by the Cannonvale Community Centre after concerns were raised about the difficulties people were facing with their insurers in the wake of damage caused by Cyclone Debbie six months earlier.

Matt gave an overview of FOS, what we do and how we can help, and then took questions from the floor.

'A lot of them were quite upset, which is completely understandable,' he said. 'For example, there was a single mother who had lost everything including her home and business, and she was struggling to take care of her children. It was heartbreaking to see this had happened.'

'Having these types of forums helps spread the word of what FOS does and how we can assist. It also resonates with people that we listen to them and that we are a free and independent service.'

Matt spent about two hours speaking at the forum and an hour afterwards discussing individual concerns with people and being interviewed for a local newspaper article. Meetings with local residents to discuss specific concerns were scheduled the next morning. He met a further 10 people to discuss their experience with insurers, how FOS might consider these matters and what steps to take if they wanted to lodge a dispute with FOS.

Ombudsmen visit businesses to resolve Cyclone Debbie disputes

Business premises damaged by inundation in the wake of Cyclone Debbie were the subject of 84 disputes referred to FOS by the NSW Small Business Commission.

Flooding in and around the northern NSW towns of Lismore and Murwillumbah in March/April 2017 led to the disputes. None of the businesses had flood cover. In all cases, the issue was whether the business had been damaged before the floodwaters arrived.

As part of our work to resolve these disputes, Ombudsmen John Price and Don O'Halloran visited more than 40 premises in September 2017, and another Ombudsman, Michael Brett Young, contacted other affected businesses. John and Don inspected damage, spoke and listened to property owners, made further enquiries and liaised with the NSW Small Business Commissioner and insurers.

All 84 disputes were concluded by May 2018, with payments in whole or part to 37 of the applicants.

The site visits enabled the Ombudsmen to better understand the topography of the areas and the events leading to the inundation of properties. The knowledge gained from those visits and discussions with local business owners was very important in helping to resolve the disputes.

The Ombudsmen's key findings were:

- › flood insurance was unaffordable for many businesses
- › some businesses were not properly informed by insurers, agents or brokers whether they had flood cover
- › some insurers provided policy notices that were ambiguous in relation to flood cover
- › some insurers failed to deliver the Product Disclosure Statement with a flood exclusion
- › insurers relied too heavily on hydrology reports and did not work closely enough with property owners to understand the sequence of events leading to the inundation
- › small businesses (defined as those in which all employees work a total of less than 190 hours) are deemed to have flood cover unless stated otherwise.

John, who is Lead Ombudsman, General Insurance, said: 'While insurers have learned from the lessons following the Queensland floods of 2011, there is still room for improvement. Communication remains an issue, delays add to the anxiety and many small business owners remain confused as to the extent of their cover.'

An intersection in Logan, south of Brisbane, is submerged following torrential rain as a result of Cyclone Debbie



Who lodged disputes

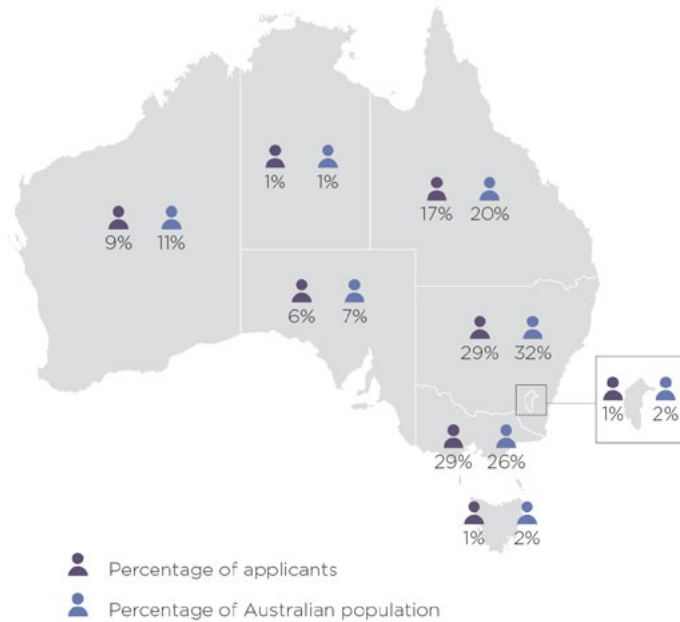
Our national, free service is available to consumers who have an unresolved dispute with a financial services provider (FSP) if the FSP is a FOS member. These consumers include individuals, partnerships of individuals, some small businesses and clubs or incorporated associations.

As in previous years, the majority (95%) of disputes were lodged by individuals.

About our applicants

The geographic distribution of our applicants in 2017-18 was similar to last year, and to that of the Australian population.

Geographic distribution



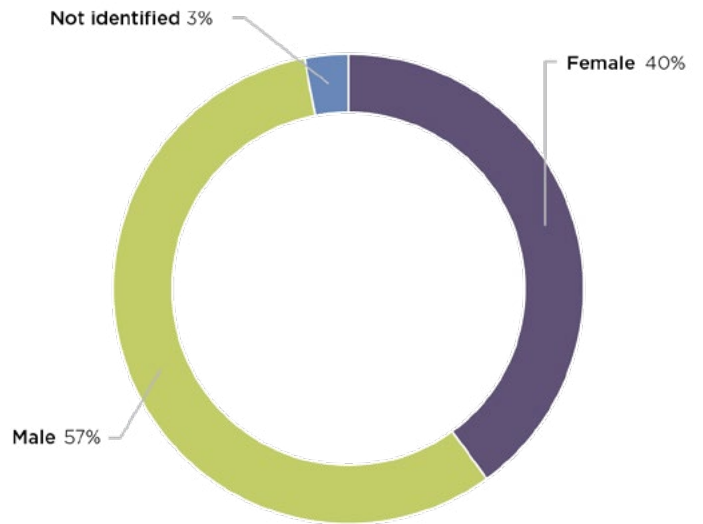
The applicant's location in Australia was recorded for 93% of disputes

Population derived from Australian Bureau of Statistics data (2016)

Gender

As in previous years, more men than women lodged disputes with us in 2017-18.

Received disputes by gender of applicant



Age

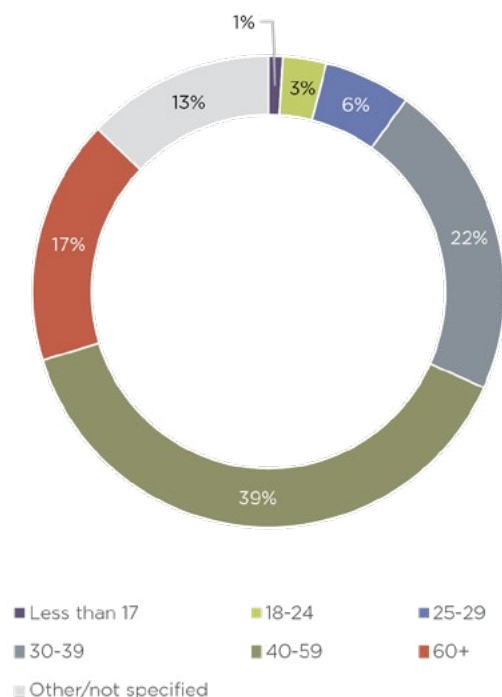
The vast majority (77%) of people who lodged disputes in 2017-18 were aged over 30. This reflects the trend for consumers to increase the number of financial services they use and financial products they hold as they get older.

As in previous years, the largest percentage of disputes lodged came from the 40-59 year age group (39%). Most of these disputes were about credit cards, home loans, comprehensive motor vehicle insurance and personal loans.

People aged 18-24 lodged 1,288 disputes, which was 3% of all disputes. Most of those disputes were about credit cards, personal loans and comprehensive motor vehicle insurance.

Disputes about credit cards were the most common reason the 60+ age group came to FOS, which was the same as last year.








Received disputes by age of applicant



How applicants lodged their dispute

More than three-quarters (76%) of applicants lodged their disputes through the FOS website using our online dispute form, compared with 75% last year. The proportion of emailed disputes increased to 15% from 14%, and the number of emailed disputes increased by 20%.

Consumers can also lodge their dispute over the phone, by letter, email or fax.

	Total	%
 Internet	33,387	76
 Email	6,431	15
 Letter	3,005	7
 Phone	806	2
 Not recorded	42	0
 Fax	11	0
 In person	2	0
Total	43,684	100

Seeking the help of representatives

The dispute resolution service FOS provides is an accessible alternative to court. Applicants do not need legal or financial advice or representation to come to us, nor do they need to pay anyone to represent them. However, we recognise that some applicants may prefer to have someone lodge their dispute for them or act on their behalf during the dispute resolution process.

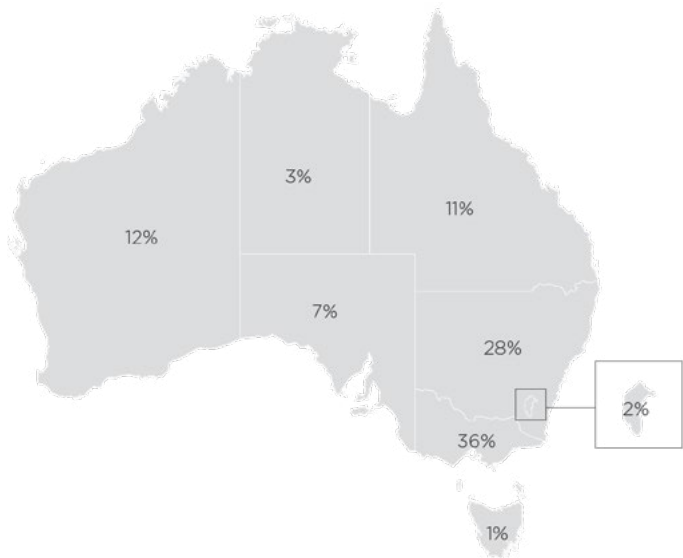
In 2017-18, a total of 7,428 applicants (5% more than last year) used a representative to lodge a dispute with FOS. The type of representative applicants most commonly used was a family member or friend (35%). The proportion of disputes lodged by representatives was 17%, slightly less than 18% last year.

Many people in financial difficulty seek the help of a consumer representative. Consumer representatives including financial counsellors, Legal Aid and community lawyers from 153 community-based organisations (168 last year) helped Australians lodge 550 disputes with FOS (586 last year) in 2017-18.

As we continue to expand our outreach program, raising awareness of our free service, the number of applicants using a fee-for-service agent (who charge consumers a fee for providing representation) fell 15%, following increases in the past three years.

Disputes lodged by consumer representatives by state

Applicants used representatives most in Victoria (36%) and NSW (28%).

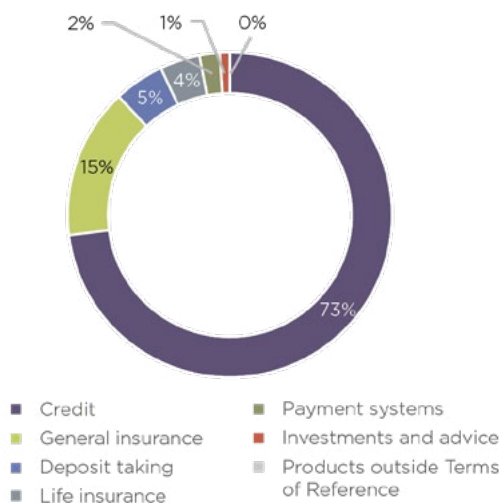


Received disputes by type of representative

	Total
Family member or friend	2,620
Business director/owner	1,449
Consumer advocate – private/paid	941
Solicitor – private	651
Business employee	303
Financial counsellor*	296
Insurance broker	218
Financial advisor	182
Solicitor – community/pro bono*	142
Accountant	126
Consumer advocate – community/unpaid*	112
Power of Attorney	99
Executor	69
Other	68
Co-trustee	20
Trustee-affected party	53
Legal guardian	38
Policyholder	32
Member of Parliament	9
Total	7,428

* Consumer representatives

Disputes lodged by consumer representatives by product line



Disputes lodged by consumer representatives

In a challenging environment where demand for consumer representatives continues to outstrip availability, we highly value the support free, community-based services provide, helping people to address financial problems.

Disputes lodged with a representative

296  14%
from 2016-17



Financial counsellor

142  14%
from 2016-17



Solicitor -
community/pro bono

112  49%
from 2016-17



Consumer advocate -
community/unpaid

Disputes referred by a representative

868  1.5%
from 2016-17

915  3%
from 2016-17

355  1%
from 2016-17

Disputes lodged by top 10 community organisations

More than one-third (36%) of the disputes lodged by consumer representatives on behalf of applicants came from just 10 organisations in 2017-18.

Organisation	Total
 Legal Aid NSW	57
 The Salvation Army Moneycare	40
 Anglicare Victoria	22
 Consumer Action Law Centre	16
 Lifeline Financial Counselling Services	12

Organisation	Total
 Financial Rights Legal Centre	11
 Djerriwarrh Health Services	10
 Consumer Credit Legal Service WA	10
 Indigenous Consumer Action Network (ICAN)	10
 IPC Health	9

A man in a dark suit, white shirt, and striped tie is sitting at a wooden desk. He is smiling and looking towards the camera. On the desk in front of him is a laptop and some papers, including a pie chart. The background is a modern office with a grid pattern on the wall.

Overview of disputes

How we classify disputes

We classify disputes according to:

- › the **product/s** the consumer is complaining about
- › the **issue/s** involved in the dispute
- › the **sales** or **service channel** the consumer used to purchase or get advice about the product in dispute
- › the **outcome** of the dispute (once it is closed).

This section details all the classifications within these categories.

How we classify financial products

Percentages below are for disputes accepted in 2017-18

➤ Credit 43%

Business finance

- › Business credit card
- › Business loans
- › Commercial bills
- › Hire purchase/lease
- › Letter of credit
- › Line of credit/overdraft
- › Non-FSP debt

Consumer credit

- › Construction loans
- › Credit cards
- › Equity release
- › Hire purchase/lease
- › Home loans
- › Interest-free finance
- › Investment property loans
- › Line of credit/overdraft
- › Non-FSP debt
- › Personal loans
- › Short-term finance

Guarantees

- › Bank guarantee
- › Business guarantee
- › Consumer guarantee

Margin loans

➤ General insurance 32%

Domestic insurance

- › Consumer credit insurance
- › Home building
- › Home contents
- › Motor vehicle – comprehensive
- › Motor vehicle – third party fire and theft
- › Motor vehicle – third party theft
- › Motor vehicle – uninsured third party
- › Personal and domestic property – caravan
- › Personal and domestic property – domestic pet

- › Personal and domestic property – horse
- › Personal and domestic property – mobile phone
- › Personal and domestic property – moveables
- › Personal and domestic property – pleasure craft
- › Personal and domestic property – trailer
- › Personal and domestic property – valuables
- › Residential strata title
- › Sickness and accident insurance
- › Ticket insurance
- › Travel
- › Trust bond

Extended warranty

- › Browngoods
- › Motor vehicles
- › Whitegoods

Professional indemnity insurance

- › Medical indemnity
- › Other professional indemnity

Small business/farm insurance

- › Commercial property
- › Commercial vehicles
- › Computer and electronic breakdown
- › Contractors all risk
- › Fire or accidental damage
- › Glass
- › Industrial special risk
- › Land transit
- › Livestock
- › Loss of profits/business interruption
- › Machinery breakdowns
- › Money
- › Public liability
- › Theft

➤ Deposit taking 8%

Current accounts

- › Business transaction accounts

- › Foreign currency accounts
- › Mortgage offset accounts
- › Passbook accounts
- › Personal transaction accounts

Safe custody

Savings accounts

- › Bank bills
- › Cash management accounts
- › First home buyer accounts
- › Online accounts
- › Term deposits

➤ Payment systems 6%

Direct transfer

- › ATM
- › Bank drafts
- › Cheques
- › Counter transactions
- › Direct debits
- › EFTPOS
- › Electronic banking
- › Foreign currency transfers
- › Merchant facilities
- › Telegraphic transfers

Non-cash

- › Loyalty programs
- › Non-cash systems
- › Stored value cards
- › Travellers' cheques

➤ Investments and advice 6%

Derivatives/hedging

- › Contracts for difference
- › Cryptocurrency
- › Foreign exchange
- › Forwards
- › Futures
- › Options
- › Swaps

Managed investments

- › Australian equity funds
- › Cash management accounts

- › Charitable/educational schemes
- › Film schemes
- › Horse schemes
- › International equity funds
- › Investor direct portfolio services
- › Managed discretionary accounts
- › Managed strata title schemes
- › Mixed asset funds
- › Mortgage schemes
- › Primary production schemes
- › Property funds
- › Timeshare schemes
- › Trustee common funds

Real property

Securities

- › Bills of exchange
- › Bonds
- › Debentures

- › Exchange traded funds
- › Promissory notes
- › Shares
- › Warrants

Superannuation

- › Account-based pensions
- › Approved deposit funds
- › Corporate funds
- › Industry funds
- › Pooled trusts
- › Retail funds
- › Retirement savings accounts
- › Self-managed funds

➤ **Life insurance 4%**

Income stream risk

- › Consumer credit insurance
- › Income protection

Non-income stream risk

- › Annuities
- › Endowments
- › Funeral plans
- › Scholarship funds
- › Term life
- › Total and permanent disability
- › Trauma
- › Whole of life

➤ **Traditional trustee services <1%**

Estate management

Estate planning

- › Enduring powers of attorney
- › Wills

Trusts

- › Beneficiary
- › Specific purpose

1. Products

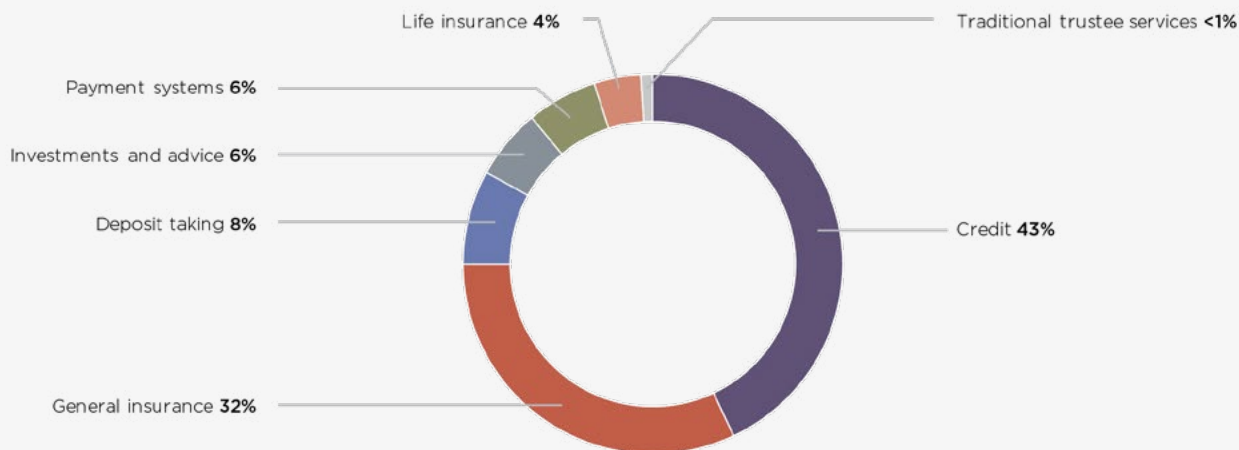
We handle disputes across many areas of financial services. Our classification system divides these disputes into product types.

There are seven main product types: credit, deposit taking, general insurance, investments and advice, life insurance, payment systems and traditional trustee services. There

are 23 product categories within these product types and 135 individual products.

As the diagram below demonstrates, we receive many disputes about some products, such as credit and general insurance, and only a very small number about other products, such as traditional trustee services.

Accepted disputes by product line in 2017-18



2. Issues

We also classify disputes according to the issue/s involved. For example, a person may lodge a dispute about an FSP declining their request for financial difficulty assistance (issue) in respect of their home loan (product).

Some issues, such as those relating to financial difficulty, are very common in the disputes we receive, while others are less frequent.

The table below provides the major issue types as well as the specific issues that fall under each type.

Advice <ul style="list-style-type: none"> Failure to act in client's best interest Failure to prioritise client's interests Failure to provide advice Inappropriate advice 	FSP decision <ul style="list-style-type: none"> Cancellation of policy Claim amount Denial of claim Denial of claim – applicant non-disclosure Denial of claim – driving under influence Denial of claim – exclusion/condition Denial of claim – fraudulent claim Denial of claim – no policy or contract Denial of claim – no proof of loss Denial of variation request Inappropriate debt collection action Inappropriate margin call notice and/or investment liquidation Interpretation of product terms and conditions Liability disputed Mortgagee sale Responsible lending 	Non-Terms of Reference issues <ul style="list-style-type: none"> Outside Terms of Reference Privacy and confidentiality Credit reporting Failure/refusal to provide access Other privacy breaches Unauthorised information disclosed
Charges <ul style="list-style-type: none"> Break costs Deductible or excess Incorrect commissions Incorrect fees/costs Incorrect interest added Incorrect premiums No claim bonus 	Instructions <ul style="list-style-type: none"> Delay Failure to follow instructions/agreement 	Service <ul style="list-style-type: none"> Delay in claim handling Delay in complaint handling Failure to provide special needs assistance Incorrect financial information provided Loss of documents/personal property Management of applicant details Service quality Technical problems
Disclosure <ul style="list-style-type: none"> Break costs disclosure Fee disclosure Incorrect product/service information Insufficient product/service information Misleading product/service information 		Transactions <ul style="list-style-type: none"> Dishonoured transactions Incorrect payment Mistaken internet payment Unauthorised transactions
Financial difficulty <ul style="list-style-type: none"> Decline of financial difficulty request Default notice FSP failure to respond to request for assistance Request to suspend enforcement proceedings 		

3. Sales and service channels

Disputes are classified by the FSP's nominated sales/service channel when they complete their annual assessment for us.

The table below shows a full list of the sales and service channels of our members.

Sales and service channel
Accountant
Administration services provider
Bank
Building society
Charity/community fund
Clearing/settlement house
Corporate advisor
Coverholder
Credit provider
Credit reporting agency
Credit representative
Credit union
Crowd-sourced funding intermediary
Custodial and depository services
Debt collector or buyer
Debt manager/credit repair
Derivatives dealer
Finance broker
Financial advisor/planner
FinTech
Foreign exchange dealer
Friendly society
General insurance broker
General insurer
Life insurance broker

Sales and service channel
Life insurer
Make a market
Managed discretionary account operator
Managed Investments Scheme operator/fund manager
Mortgage aggregator
Mortgage broker
Mortgage manager
Mortgage originator
Non-cash payment system provider
Pooled superannuation trust
Private health insurer
Product distributor
Product issuer
Professional indemnity insurer
Provider of lender of record services
Reinsurer/reinsurance agent
Research house
Securities dealer
Stockbroker
Superannuation fund trustee/advisor
Timeshare scheme operator
Travellers' cheques/foreign currency transfer provider
Trustee
Underwriter/underwriting agency
Warranty provider

4. Outcomes

We use the term 'closed dispute' to refer to a dispute we have finished handling. A dispute can be closed:

- › through an agreement between the parties involved
- › through a decision or assessment by FOS
- › because the dispute is discontinued or outside our Terms of Reference.

When we finish handling a dispute, we classify it according to its outcome and outcome type. The possible outcomes and outcome types are listed on the following pages.

Resolved by agreement

These outcomes are reached by agreement between the consumer and the FSP. They can reach agreement by communicating directly with each other (resolved by the FSP) or with the help of our service (conciliation or negotiation).

Conciliation involves a telephone conference between the FSP, the applicant and us. This technique allows the parties to talk about the issues in dispute in an attempt to come up with a mutually agreeable outcome. Our conciliators bring the parties together to guide the conversation to make it easier for everyone to talk about the issues involved (see Conciliation conferences, page 113).

Conciliation

Apology
Capitalisation of arrears
Hardship superannuation release
Monetary compensation in full
Monetary compensation in part
No compensation or action
Not disclosed
Other product, service or resolution provided
Partial waiver of debt/interest/fees
Policy/contract altered/voided/cancelled
Repayment arrangement
Timeframe for refinance
Timeframe for sale/surrender of asset

Negotiation

Apology
Capitalisation of arrears
Hardship superannuation release
Monetary compensation in full
Monetary compensation in part
No compensation or action
Not disclosed
Other product, service or resolution provided
Partial waiver of debt/interest/fees
Policy/contract altered/voided/cancelled
Repayment arrangement
Timeframe for refinance
Timeframe for sale/surrender of asset

Resolved by FSP

Apology
Capitalisation of arrears
Hardship superannuation release
Monetary compensation in full
Monetary compensation in part
No compensation or action
Not disclosed
Other product, service or commercial resolution provided
Partial waiver of debt/interest/fees
Policy/contract altered/voided/cancelled
Repayment arrangement
Resolved by FSP
Timeframe for refinance
Timeframe for sale/surrender of asset

Resolved by FOS decision or assessment

These outcomes are reached following our recommendation or determination or other assessment about the merits of a dispute.

A preliminary view, which may be provided through a recommendation, is an assessment provided by us following a detailed investigation into the dispute. If the consumer or FSP reject the preliminary view or the FSP fails to respond, the dispute proceeds to the final stage in our process. At that stage, an Ombudsman or panel reviews the dispute and makes a formal decision called a determination, by which the FSP is bound, if the consumer accepts it.

Some disputes proceed directly to determination without a recommendation being made. These are known as expedited determinations. We apply criteria in deciding whether standard and complex disputes ought to be expedited.

Where a dispute is expedited to determination, we usually provide the parties with a preliminary view through a telephone call, case conference or letter.

Preliminary view in favour of applicant

Capitalisation of arrears

Monetary compensation in full

Monetary compensation in part

No compensation or action

Other product, service or resolution provided

Repayment arrangement

Timeframe for refinance

Timeframe for sale/surrender of asset

Preliminary view in favour of FSP

Capitalisation of arrears

Monetary compensation in full

Monetary compensation in part

No compensation or action

Other product, service or resolution provided

Repayment arrangement

Timeframe for refinance

Timeframe for sale/surrender of asset

Decision in favour of applicant

Capitalisation of arrears

Monetary compensation in full

Monetary compensation in part

Other product, service or resolution provided

Repayment arrangement

Timeframe for refinance

Timeframe for sale/surrender of asset

Decision in favour of FSP

Capitalisation of arrears

Monetary compensation in part

No compensation or action

No conclusion as to the merits of the dispute

Other product, service or resolution provided

Repayment arrangement

Timeframe for refinance

Timeframe for sale/surrender of asset

We may provide the parties with guidance on the merits of a dispute after we have investigated and considered the issues raised. Disputes resolved through such guidance are recorded with an 'Assessment' outcome.

Assessment

Apology

Capitalisation of arrears

Monetary compensation in full

Monetary compensation in part

No compensation or action

Not disclosed

Other product, service or resolution provided

Policy/contract altered/voided/cancelled

Repayment arrangement

Timeframe for refinance

Timeframe for sale/surrender of asset

Discontinued or outside Terms of Reference

These outcomes reflect disputes that are discontinued because the consumer chooses to discontinue the dispute or stops communicating with FOS, or the disputes are outside our Terms of Reference (that is, not the kind of disputes that FOS can consider). See also Disputes outside our Terms of Reference, page 70.

Discontinued

Beneficiary legal proceedings
Discontinued by applicant
Failure to respond
Fee-for-service agent conduct
Sale of asset

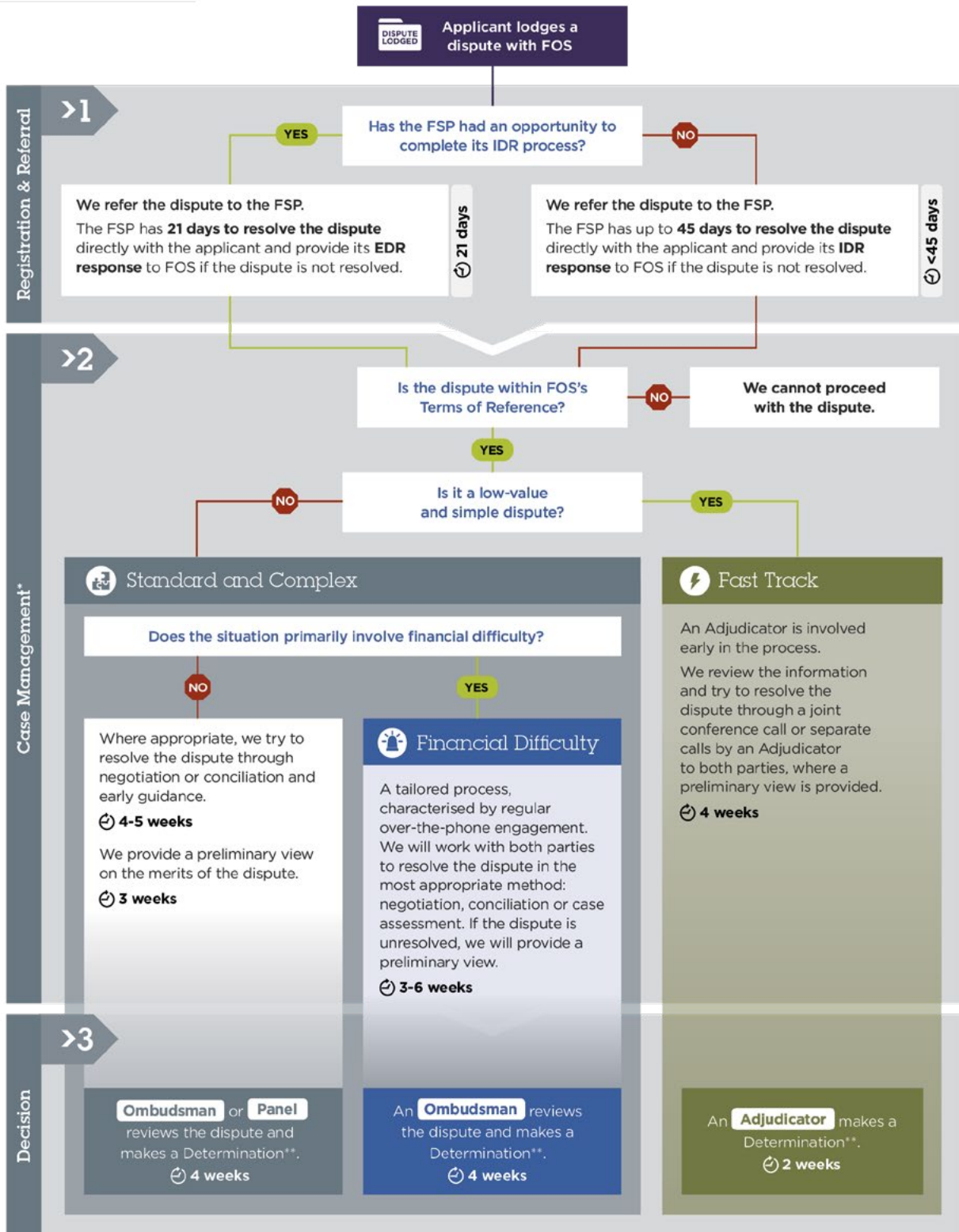
Outside Terms of Reference

Alleged capacity of testator
Allocation of benefit
Applicant not eligible
Claim exceeds \$500,000
Credit risk assessment
Dealt with by court/tribunal/scheme
Dispute not under Australian law
Dispute previously dealt with by FOS
Excluded due to inappropriate agent conduct
Excluded general insurance policy
Excluded professional accounting service
Excluded traditional trustee company service
Financial service not provided
Frivolous/vexatious/lacking in substance
FSP practice/policy
General discretion - investigation not warranted
General discretion - previously settled
General insurance premium ratings/weightings
Insurance cover refusal
Investment performance
Legal proceedings commenced

Outside Terms of Reference

Legal proceedings previously commenced before lodgement
Level of fee/premium/charge
Lodged with other external dispute resolution (EDR) scheme
Management of a fund as a whole
More appropriate place
No entitlement or benefit under general insurance policy
Non-retail client
Not a current FOS member
Outside two-year internal dispute resolution time limit
Outside two-year National Credit Code credit contract internal dispute resolution time limit
Outside two-year National Credit Code credit contract time limit
Outside six-year time limit
Privacy only
Related to body corporate >20/100
Small business credit facility exceeds \$2 million
Trustee decision
Type of dispute outside Terms of Reference
Underwriting/actuarial factors led to offer of non-standard life insurance
Uninsured third party motor vehicle criteria not met

How our dispute resolution process works



These are average expected timeframes.

* A single case worker will manage the dispute wherever possible.

** A financial services provider is bound by a Determination if an applicant accepts it.

For more information, see www.fos.org.au/resolving-disputes.

How we count disputes

What we record about disputes referred for internal dispute resolution (IDR)

The initial stage in our process is known as Registration and Referral. Here we process all the disputes we receive, record basic information about the issue(s) in dispute and then send the details to the FSP.

Even those disputes that have already gone through the FSP's internal dispute processes are referred back to the FSP to provide another opportunity for the parties to resolve their dispute directly.

What we record about disputes that we consider

Those disputes that the consumer and FSP cannot resolve are accepted by FOS and progress to Case Management. We assess whether a dispute is within our jurisdiction and record extensive information about it. We classify it according to the product(s) or services(s) it relates to, the issue(s) it raises, and the sales or service channel(s) through which the consumer bought the product(s) or service(s) in dispute.

This detailed information allows us to select the most appropriate way to help the parties resolve the dispute. It also enables us to report accurately and thoroughly about the disputes we have dealt with. We continue to update our dispute data and information as the dispute progresses.

What we record about disputes involving multiple issues or products

Some disputes we receive are about more than one product/service or more than one issue. For example, a consumer might complain about their residential strata title insurance policy (Product A) and about damaged furniture they believe should have been covered by their home contents insurance policy (Product B), which is separate from their residential strata title insurance policy.

The approach we usually take is to establish one case file but to record the fact that more than one product has been complained about and that more than one issue has been raised. This is an important aspect of case management and dispute resolution. It ensures that all aspects of a dispute are considered and provides an accurate picture of the causes of consumer concerns.

It also means that there are two ways that we can count and report on disputes. We can count a dispute that involves multiple products and issues as a single dispute, because it comes from one consumer and we hold one case file on it. Alternatively, we can count it as multiple disputes: one for each product or distinct issue in dispute. Which of these counting methods we use depends on what we are reporting.

Reporting the total number of disputes

When we report the total number of disputes we received or closed, we count each case as one dispute even if it is about multiple products and issues. This is the best way of presenting our overall dispute input and output in a year. We use this counting method in these sections of this Annual Review:

- › Total disputes received (page 64).
- › Total disputes closed (page 68).
- › Who lodged disputes (page 50).

Reporting about products, issues and sales and service channels

When we want to analyse the products, issues and sales and service channels involved in disputes, we exclude the cases we received and closed in Registration and Referral. We focus on accepted disputes – that is, disputes that we accepted into the Case Management stage of our dispute resolution process.

For accepted disputes, a case that is about more than one issue can be counted as multiple disputes: one for each issue. This enables us to provide an accurate picture of the proportions of disputes that involve each product and issue.

We use this counting method in the following sections of this Annual Review:

- › Credit disputes (page 73)
- › General insurance disputes (page 78)
- › Payment system disputes (page 88)
- › Deposit-taking disputes (page 84)
- › Investments and advice disputes (page 92)
- › Life insurance disputes (page 100)
- › Traditional trustee service disputes (page 105).

We use both counting methods for financial difficulty disputes (page 106) and legal proceedings disputes (page 112).

Disputes 'not yet determined'

In this Annual Review, the category 'Not yet determined' is used to refer to disputes we have only just received and about which we may not yet have all relevant information – such as the products, issues and sales and service channels involved.

Total disputes received

FOS received another record 43,684 disputes in 2017-18. This was an 11% increase from last year, after the 16% increase from 2015-16. This followed three years of stable dispute numbers.

The increase in 2017-18 was driven by growing dispute numbers in all categories, especially later in the year. It was highlighted by a 28% rise in investments and advice disputes and a 27% rise in deposit-taking disputes.

Greater awareness of FOS, due to our community outreach programs, increased attention brought about by the Royal Commission and the public debate about the future of external dispute resolution, may help explain the unprecedented dispute numbers.

Total disputes received by year (case count)

	Total
2011-12	36,099
2012-13	32,307
2013-14	31,680
2014-15	31,895
2015-16	34,095
2016-17	39,479
2017-18	43,684

Registration and Referral

The table below shows how the 43,684 disputes that FOS received in 2017-18 entered our dispute resolution process (see page 62 for more information on our process).

More than four in ten (44%) of the disputes we received in 2017-18 at Registration and Referral were closed after they were referred back to the FSP's internal dispute resolution (IDR) process. This compares with 43% last year. These disputes are resolved by the FSP and the consumer working together. This highlights the value of FSPs considering disputes before FOS becomes involved.

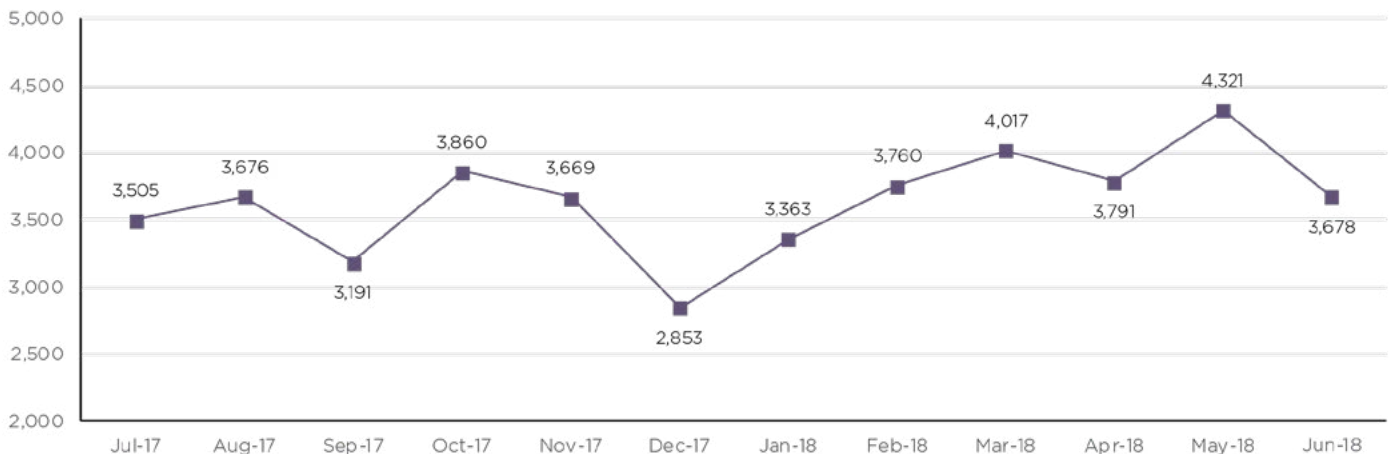
	2016-17		2017-18	
	Number	%	Number	%
Disputes received into IDR process	18,379	47	21,014	48
Disputes received into post-IDR process	19,058	48	20,605	47
Other	2,042	5	2,065	5
Total	39,479	100	43,684	100

IDR = the FSP has not had an opportunity to complete its IDR process when FOS receives the dispute

Post-IDR = the FSP has had an opportunity to complete its IDR process when FOS receives the dispute

Received disputes by month

FOS received an average of 3,640 disputes a month in 2017-18, up from 3,290 last year. Our busiest month was May 2018 and our quietest month was December 2017.



Total number of disputes received by product line

More than four in ten (41%) of the disputes we received in 2017-18 were about one product line: credit. The most common issues within credit disputes included financial difficulty and FSP decisions (mostly about decline of financial difficulty request and responsible lending). Financial difficulty disputes overall have fallen in recent years (see page 106).

As the table below shows, the number of credit disputes received in 2017-18 is higher than the past few years but the proportion of overall disputes received fell slightly. See page 73 for a detailed analysis of credit disputes.

The number of general insurance disputes received increased at a reduced rate in 2017-18, and represents 30% of disputes received, down slightly from last year. See page 78 for a detailed analysis of general insurance disputes.

The number of deposit-taking disputes received increased significantly and represented 11% of overall disputes received. See page 84 for a detailed analysis of deposit-taking disputes.

The number of investments and advice disputes received increased significantly but the proportion of the total disputes received was the same as last year. See page 92 for a detailed analysis of investments and advice disputes.

The number of payment system disputes received was 19% higher than last year but the proportion of overall disputes was the same. See page 88 for a detailed analysis of payment system disputes.

The number of life insurance disputes received was 13% higher than last year but the proportion of total disputes was the same. See page 100 for a detailed analysis of life insurance disputes.

Received disputes by product line

	2014-15		2015-16		2016-17		2017-18	
	Number	%	Number	%	Number	%	Number	%
Credit	16,458	48	16,491	45	18,525	43	19,789	41
General insurance	8,867	26	10,588	29	13,200	31	14,252	30
Deposit taking	2,721	8	3,102	8	4,309	10	5,492	11
Payment systems	2,754	8	2,894	9	3,342	8	3,972	8
Investments and advice	1,666	5	1,517	4	1,681	4	2,147	4
Life insurance	1,485	4	1,365	4	1,307	3	1,471	3
Traditional trustee services	31	0	34	1	26	0	23	0
Products outside Terms of Reference	455	1	197	1	173	0	276	1
Not yet determined	53	0	249	0	687	2	693	1
Total	34,490	100	36,437	100	43,250	100	48,115	100

Note: The total of 48,115 in this table does not match the total of 43,684 in the 'Total disputes received by year' chart on page 64. The total in this table is based on counting cases about multiple products and issues as multiple disputes. For further explanation of this distinction, see 'How we count disputes' on page 63.

Total disputes accepted

We accepted 22,962 disputes in 2017-18. This was 2% more than last year (the second year in which all disputes lodged with us were first referred back to the FSP's internal dispute resolution process).

Accepted disputes are those that the FSP and consumers could not resolve and then progress into Case Management at FOS. At the beginning of Case Management, we review and allocate disputes into one of the following work streams:

Fast Track disputes – generally low-value disputes with a single primary issue, do not require detailed investigation and suitable for fast information gathering and negotiation or decision.

Standard disputes – may require FOS to investigate, gather and consider more information but generally involve straightforward issues and more likely to be resolved by agreement.

Complex disputes – generally require detailed investigation and consideration, and may involve a number of issues. These disputes are less likely to resolve by agreement through negotiation or conciliation, and more likely to require a decision by FOS.

Disputes that may be outside our jurisdiction are allocated to our **Terms of Reference** team to assess and determine whether we can consider them.

Disputes accepted into Case Management by stream

Stream	2016-17		2017-18	
	Number	%	Number	%
Fast Track	8,297	37	8,286	36
Standard	5,644	25	6,174	27
Terms of Reference	5,464	24	5,502	24
Complex	3,030	13	2,960	13
Total	22,475	100	22,962	100

Note: As at 30 June 2018, 40 disputes were yet to be streamed.

Accepted disputes by product line

In 2017-18, credit disputes accounted for 43% of all accepted disputes (the same as last year), followed by general insurance 32% (down three percentage points from last year).

	Number	%
Credit	11,295	43
General insurance	8,603	32
Deposit taking	2,195	8
Payment systems	1,656	6
Investments and advice	1,524	6
Life insurance	1,117	4
Products outside Terms of Reference	161	1
Traditional trustee services	19	0
Total	26,570	100

Note: The total in this table is based on counting cases about multiple products and issues as multiple disputes. For further explanation of this distinction, see 'How we count disputes' on page 63.

Accepted disputes by month

FOS accepted an average of 1,914 disputes a month in 2017-18, up from 1,873 last year. Our busiest month was May 2018 and our quietest month was January 2018.



Accepted disputes by sales and service channel and issue

Most disputes we accepted in 2017-18 were from the banking sales and service channel (43%). This was two percentage points more than last year. Of these disputes, the most common issues were FSP decision and financial difficulty.

	Advice	Charges	Disclosure	Financial difficulty	FSP decision	Instructions	Outside Terms of Reference	Privacy and confidentiality	Service	Transactions	Not yet determined	Total
Accountant	0	2	0	0	0	0	0	1	0	0	0	3
Administration services provider	2	11	19	3	5	15	10	0	6	6	3	80
Bank	140	1,031	698	2,210	2,494	1,404	29	972	681	1,672	65	11,396
Building society	0	1	1	5	0	0	0	0	0	0	0	7
Clearing/settlement house	0	0	0	0	0	1	0	0	1	3	0	5
Corporate advisor	1	0	0	0	2	1	0	0	0	1	0	5
Coverholder	0	1	1	0	16	0	0	0	4	0	0	22
Credit provider	1	241	182	620	543	192	4	312	70	201	9	2,375
Credit union	0	14	7	38	31	12	0	11	8	20	1	142
Custodial and depository service	2	2	1	0	1	12	1	0	3	3	0	25
Debt collector or buyer	0	10	6	133	178	8	3	144	9	8	2	501
Derivatives dealer	72	3	68	0	29	164	0	0	26	12	1	375
Finance broker	1	20	16	9	12	25	0	6	1	2	2	94
Financial advisor/planner	394	50	47	1	13	45	1	4	15	13	2	585
FinTech	0	2	2	5	7	5	0	15	6	3	0	45
Foreign exchange dealer	1	2	4	1	7	15	1	1	4	8	2	46
Friendly society	1	2	1	1	3	1	0	0	1	0	0	10
General insurance broker	15	20	12	0	82	16	1	2	32	0	1	181
General insurer	14	420	120	4	5,289	112	40	34	1,470	12	37	7,552
Life insurance broker	1	1	0	0	0	1	0	0	0	0	0	3
Life insurer	15	110	95	0	436	54	2	2	109	9	8	840
Make a market	7	5	8	0	4	16	1	0	6	5	0	52
Managed discretionary account operator	1	1	2	0	0	2	0	0	2	0	0	8
MIS operator/fund manager	10	10	23	6	18	18	0	6	8	2	3	104
Mortgage aggregator	0	0	0	0	0	1	1	0	1	0	0	3
Mortgage broker	1	2	3	0	1	2	1	1	0	0	0	11
Mortgage manager	0	4	2	1	1	3	0	0	1	0	0	12
Mortgage originator	0	1	1	1	1	0	0	0	0	0	0	4
Non-cash payment system provider	0	26	6	4	428	49	0	6	29	88	4	640
Private health insurer	0	0	0	0	1	0	0	0	0	0	0	1
Product distributor	3	36	27	3	55	17	22	7	23	24	2	219
Product issuer	7	4	4	0	18	6	1	0	5	4	0	49
Professional indemnity insurer	0	0	1	0	3	1	0	0	0	0	0	5
Research house	3	0	2	0	0	1	0	0	0	0	0	6
Securities dealer	3	1	2	0	0	3	0	0	0	0	0	9
Stockbroker	28	10	9	1	5	35	0	4	12	18	1	123
Superannuation fund trustee/advisor	6	9	6	3	29	25	2	1	9	2	1	93
Timeshare scheme operator	10	3	21	2	5	5	0	0	1	0	0	47
Travellers' cheques/foreign currency transfer provider	0	0	0	0	0	1	0	0	0	2	0	3
Trustee	5	6	2	4	6	5	0	2	3	0	0	33
Underwriting agency	0	44	18	0	598	10	3	4	91	0	6	774
Warranty provider	1	2	4	0	19	1	1	0	1	0	0	29
Not yet determined	1	5	2	0	16	19	0	1	3	6	0	53
Total	746	2,112	1,423	3,055	10,356	2,303	124	1,536	2,641	2,124	150	26,570

Total disputes closed

Total disputes closed

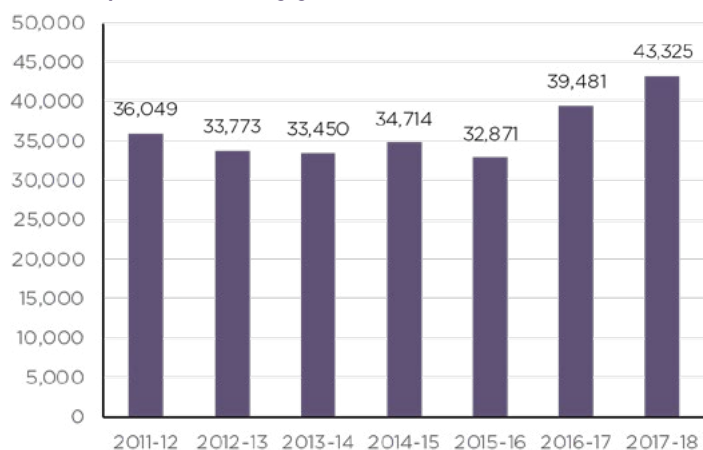
In 2017-18, we closed a record 43,325 disputes. This was 10% more than last year's figure (which was also a record).

Of those disputes closed in 2017-18, almost half (47%, compared with 44% last year and 37% the previous year) closed during Registration and Referral, and the rest (53%, compared with 56% last year and 63% the previous year) closed after they were accepted into Case Management.

In 2017-18, 18% more disputes than last year were closed at Registration and Referral. This means that more FSPs are taking advantage of the opportunity to resolve disputes directly with their customers, consistent with the objectives of our dispute process.

A dispute can be closed at different stages in our dispute resolution process (see page 62). It may close through an agreement between the parties involved, through a decision made by us or because the dispute is discontinued or outside our Terms of Reference.

Total disputes closed by year



Stage at which disputes were closed

	2016-17	2017-18	Increase %
During Registration and Referral	17,203	20,311	18
After being accepted into Case Management	22,278	23,014	3
Total	39,481	43,325	10

Time taken to close disputes

In 2017-18, we closed almost half (48%) of the disputes lodged with us within 30 days. This is an increase of four percentage points from last year.

We closed 80% (compared with 78% last year) of disputes within 60 days. And we closed 87% (86% last year) of disputes within 90 days.

The average time to close disputes was 54 days (the same as last year), which was a 13% reduction from 62 days in 2015-16.

By stream, the average number of days to close disputes was: Terms of Reference 38 days, Fast Track 52 days, Standard 102 days and Complex 169 days.

Reducing the time taken to close disputes was a key objective of our dispute process introduced on 1 July 2015, and continues to be a priority for us in our efforts to deliver a fair, fast and efficient dispute resolution service.

Days taken to close disputes

	2014-15 %	2015-16 %	2016-17 %	2017-18 %
<=30 days	22	43	44	48
31-60 days	39	34	34	32
61-90 days	11	8	8	7
91-180 days	15	9	9	7
181-270 days	6	4	3	3
271-365 days	3	2	2	2
366-730 days	3	1	1	1
>730 days	1	0	0	0
Total	100	100	100	100

Outcomes of disputes closed

The possible outcomes of a dispute handled by us are listed on page 59. The table below shows the outcomes of the disputes closed in the past four years. The chart groups the outcomes into the following categories – resolved by agreement, resolved by FOS decision, discontinued, and outside the FOS Terms of Reference.

The proportion of disputes closed by agreement between the applicant and the FSP was 60%, the same as last year. The proportion of disputes resolved through a FOS decision – because an agreement could not be reached – was 17% (compared with 15% last year).

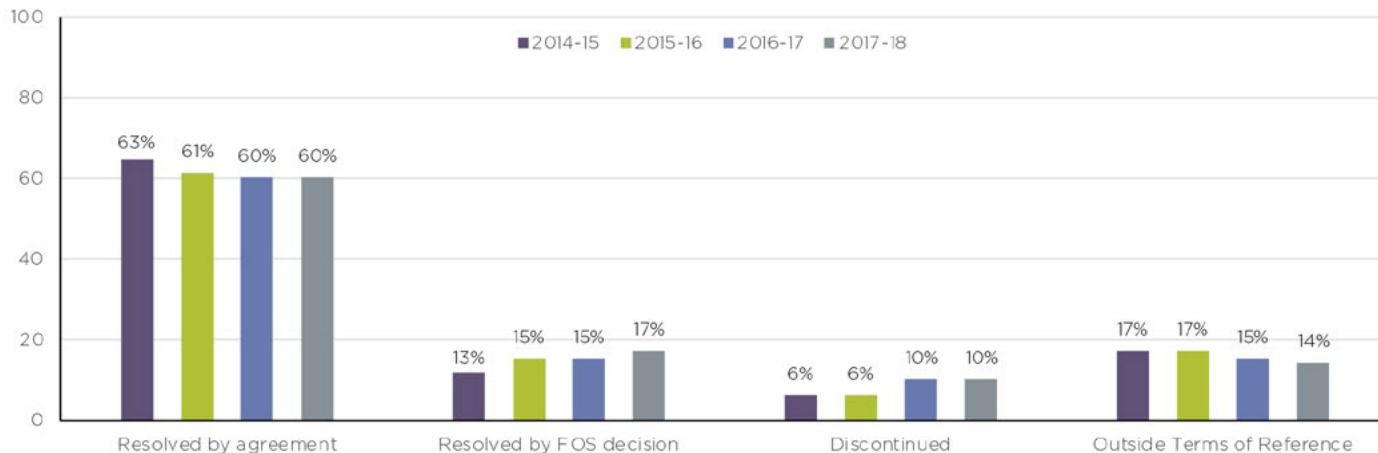
Collaborative resolutions are quicker and cheaper than resolutions achieved through a formal decision by us. They can be tailored to the specific facts of the dispute and are also more likely to maintain, or even improve, relationships between the consumer and their FSP.

The proportion of disputes that were discontinued was 10% (the same as last year). A dispute is recorded as discontinued if the applicant decides to discontinue their dispute, pursue it through other means (for example, in court) or if the applicant fails to respond to requests from us for contact and information. We have a follow-up process in place for situations in which an applicant does not respond to communication from us.

Outcomes of disputes closed

	2014-15		2015-16		2016-17		2017-18	
	Number	%	Number	%	Number	%	Number	%
Resolved by agreement								
Resolved by FSP	18,273	53	16,894	51	19,694	50	20,985	48
Negotiation	2,565	7	2,624	8	3,065	8	4,229	10
Conciliation	878	3	592	2	866	2	941	2
Resolved by FOS decision or assessment								
Decision in favour of FSP	2,078	6	1,558	5	1,898	5	2,529	6
Decision in favour of applicant	1,478	4	878	3	889	2	1,097	3
Decision confirming FSP's offer/action	155	0	0	0	-	0	0	0
Preliminary view in favour of applicant	-	-	626	2	887	2	962	2
Preliminary view in favour of FSP	-	-	1,415	4	1,951	5	1,916	4
Assessment	1,130	3	521	2	297	1	681	2
Discontinued or outside Terms of Reference								
Discontinued	2,244	6	2,071	6	4,019	10	4,130	10
Outside Terms of Reference	5,913	17	5,692	17	5,915	15	5,855	14
Total	34,714	100	32,871	100	39,481	100	43,325	100

Proportion of disputes closed by outcome



Our Terms of Reference

Our operations are governed by published Terms of Reference, which sets out our principles, rules and processes (see www.fos.org.au/tor).

The principles that underpin our operations and processes are that in dealing with disputes, we:

- must do what in our opinion is appropriate with a view to resolving disputes in a cooperative, efficient, timely and fair manner
- shall proceed with the minimum formality and technicality
- shall be as transparent as possible, while also acting in accordance with our confidentiality and privacy obligations.

The Terms of Reference sets out who is eligible to lodge a dispute, the types of disputes that we can consider, how we resolve disputes, the types of remedies that we can provide and other related matters. We also publish Operational Guidelines to assist understanding of our Terms of Reference and to provide further detail on how we resolve disputes.

The most recent version of our Terms of Reference was updated on 1 January 2018 following CPI adjustments to our monetary limits.

Disputes outside our Terms of Reference

The proportion of disputes outside our Terms of Reference was 14% in 2017-18, down from 15% last year. The total number of disputes outside our jurisdiction was 5,855, down 1% from 5,915 last year.

The most common outside Terms of Reference reasons were: more appropriate place (19%), financial service not provided (16%) and (FSP) not a current FOS member (9%).

A more appropriate place to deal with a dispute may be, for example, a court, tribunal or another dispute resolution scheme. Of all the disputes outside our Terms of Reference in 2017-18, we referred 1,197 to a more appropriate place. Of these, we referred 389 (32%) to the Credit and Investments Ombudsman and 212 (18%) to the Superannuation Complaints Tribunal.

A total of 1,021 disputes were outside our Terms of Reference because a financial service was not provided by the FSP.

The following table categorises outside Terms of Reference disputes according to the reasons we could not consider them.

Outside Terms of Reference by reasons*

	Total	%
More appropriate place	1,197	19
Financial service not provided	1,021	16
Not a current FOS member	600	9
FSP practice/policy	519	8
Level of fee/premium/charge	343	5
Credit risk assessment	341	5
Applicant not eligible	275	4
Uninsured third party motor vehicle criteria not met	275	4
Dealt with by court/tribunal/scheme	256	4
Outside six-year time limit	254	4
General discretion - investigation not warranted	236	4
Excluded general insurance policy	214	3
General discretion - previously settled	168	3
Dispute previously dealt with by us	161	2
Trustee decision	136	2
Type of dispute outside Terms of Reference	78	1
Claim exceeds \$500,000	72	1
General insurance premium ratings/weightings	55	1
Insurance cover refusal	32	0
Outside two-year internal dispute resolution time limit	28	0
Privacy only	23	0
Frivolous/vexatious/lacking substance	21	0
No entitlement or benefit under general insurance policy	20	0

	Total	%
Excluded due to inappropriate agent conduct	19	0
Small business credit facility exceeds \$2 million	15	0
Management of fund as a whole	14	0
Outside two-year National Credit Code credit contract time limit	13	0
Legal proceedings commenced	12	0
Dispute not under Australian law	9	0
Investment performance	8	0
Legal proceedings previously commenced before lodgement	8	0
Applicant is member of related bodies corporate with more than 20 employees (more than 100 if manufacturing group)	6	0
Outside two-year National Credit Code credit contract internal dispute resolution time limit	6	0
Non-retail client	5	0
Allocation of benefit	3	0
Lodged with other external dispute resolution scheme	3	0
Excluded professional accounting service	3	0
Underwriting/actuarial factors led to offer of non-standard life insurance	2	0
Excluded traditional trustee company service	2	0
Total	6,453	100

* Some disputes may have more than one outcome type

For more information about our Terms of Reference, see www.fos.org.au/tor or www.fos.org.au/factsheets.

Disputes

The counting method we use in these sections (pages 73-112) focuses on accepted disputes and excludes the cases we received and closed in Registration and Referral.



➤ Credit disputes

In 2017-18, we accepted 11,295 credit disputes (3% more than last year). This is 43% of all disputes we accepted into Case Management, the same as last year.

As in previous years, the vast majority (89%) of credit disputes concerned consumer credit.

The most common issues in credit disputes were financial difficulty (27%) and a decision made by an FSP (25%). We examine financial difficulty disputes in detail on page 106.

	2015-16		2016-17		2017-18	
	Total	%	Total	%	Total	%
Consumer credit	9,159	88	9,673	88	10,021	89
Business finance	1,005	10	1,067	10	1,016	9
Guarantees	176	2	190	2	230	2
Margin loans	5	0	12	0	14	0
Not yet determined	93	1	31	0	14	0
Total	10,438	100	10,973	100	11,295	100

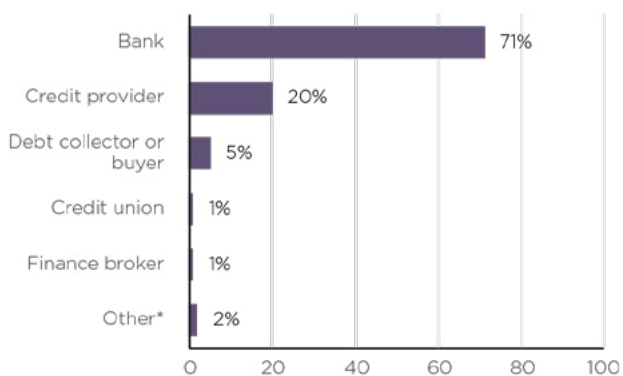
Consumer credit

We accepted 10,021 consumer credit disputes in 2017-18. Of these disputes, 40% were about credit cards, 27% about home loans and 19% about personal loans.

The proportion of consumer credit disputes that were about financial difficulty was 27%, the same as last year, following seven consecutive years of reductions.

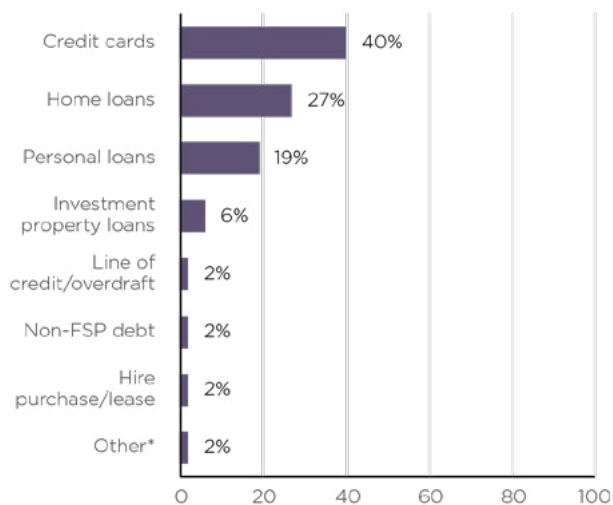
Banks were involved in almost three-quarters (71%) of consumer credit disputes.

Accepted consumer credit disputes by sales and service channel



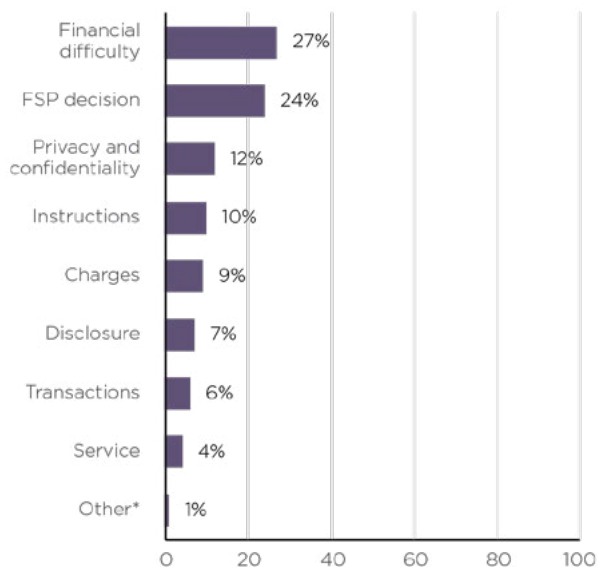
* FinTech, administration services provider, product distributor, MIS operator/fund manager, general insurer, trustee, mortgage broker, mortgage manager, non-cash payment system provider, building society, financial advisor/planner, life insurer, mortgage aggregator, general insurance broker, accountant, clearing/settlement house, custodial and depository services, foreign exchange dealer, friendly society, product issuer, stockbroker, superannuation fund trustee/advisor, underwriting agency, not yet determined

Accepted consumer credit disputes by product



* Construction loans, interest-free finance, short-term finance, equity release, not yet determined

Accepted consumer credit disputes by issue



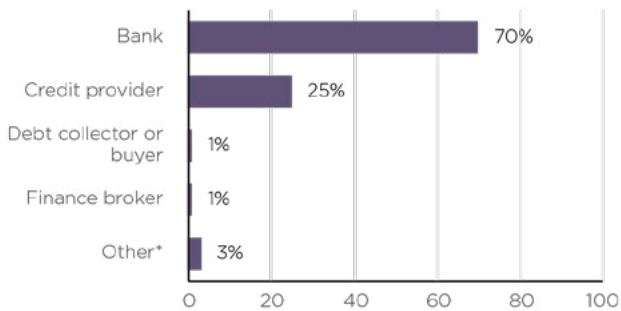
* Advice, outside Terms of Reference, not yet determined

Business finance

We accepted 1,016 business finance disputes in 2017-18. Almost two-thirds (64%) of business finance disputes related to business loans, followed by business credit cards (12%).

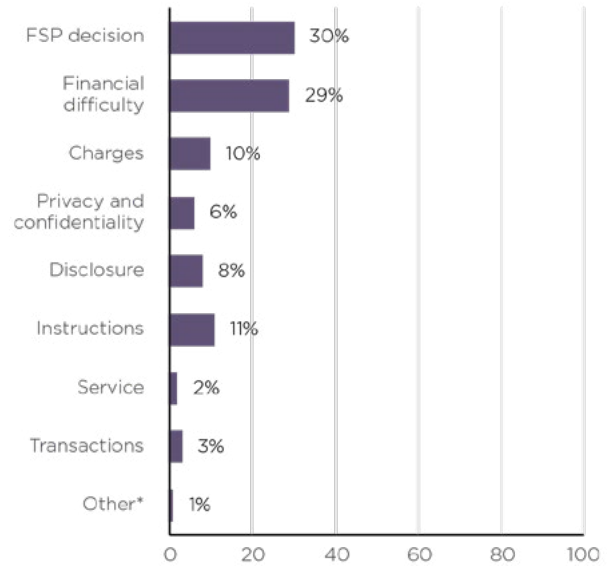
FSP decision (30%) and financial difficulty (29%) were the main issues within business finance disputes. Banks were involved in 70% of disputes relating to business finance.

Accepted business finance disputes by sales and service channel



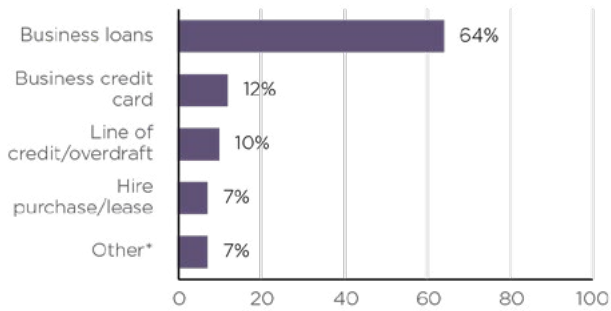
* Trustee, mortgage originator, MIS operator/fund manager, product distributor, mortgage manager, non-cash payment system provider, credit union, financial advisor/planner, superannuation fund trustee/advisor, not yet determined

Accepted business finance disputes by issue



* Outside Terms of Reference, advice, not yet determined

Accepted business finance disputes by product



* Commercial bills, non-FSP debt, letter of credit, not yet determined

Case study

Signature forged on loan and account documents

A dispute in which an FSP refinanced two loans to an applicant, Ms L, and her ex-partner without her knowledge or consent, was determined in her favour.

The dispute also involved two transaction accounts and a credit card, which the FSP provided in her name without her knowledge or consent.

FOS found that Ms L's ex-partner had forged her signature on the loan documents and to open the transaction accounts and credit card.

Ms L agreed that she entered the original two loans and remained jointly and severally liable for the amounts owing on those loans.

The FSP investigated the other two (refinanced) loan documents and found that Ms L did not consent to the refinanced loans, the accounts or credit card, and that she should be removed from those loans. This confirmed that the FSP must release the applicant from any liability under these loans. The FSP also confirmed that the accounts and credit card would be closed and any outstanding balance waived.

The May 2018 determination and earlier FOS recommendation found that Ms L and her partner separated almost three years before the FSP provided the first of the two refinanced loans, for which the ex-partner was named as borrower and Ms L named as guarantor.

In the determination, FOS said:

- › the FSP should close the transaction accounts and the credit card and waive any outstanding balances owing
- › if the security property was sold, the FSP should discharge the mortgage on the basis that the first two loans were repaid in full and the other two loans were repaid but only from the ex-partner's 50% share of the property when sold
- › the FSP was not entitled to seek payment of these other loans from Ms L or from her 50% share of the property.

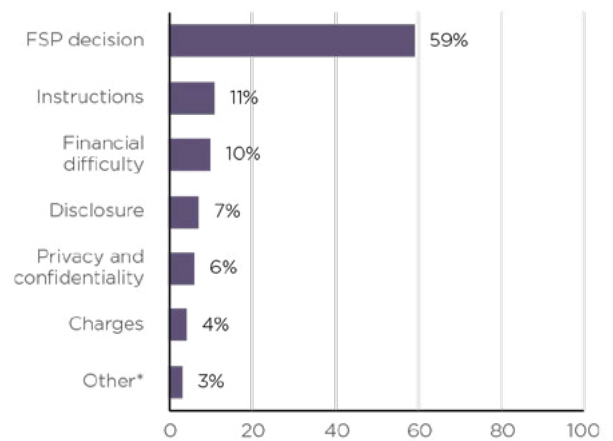
Guarantees

A guarantee is a promise to pay a debt of another if they do not pay. For example, a business guarantee is a guarantee offered by a company or an individual as security for the borrowings of a business.

In 2017-18, there were 230 guarantee disputes. Almost half of these disputes (48%) related to consumer guarantees, 37% to business guarantees and 12% to bank guarantees.

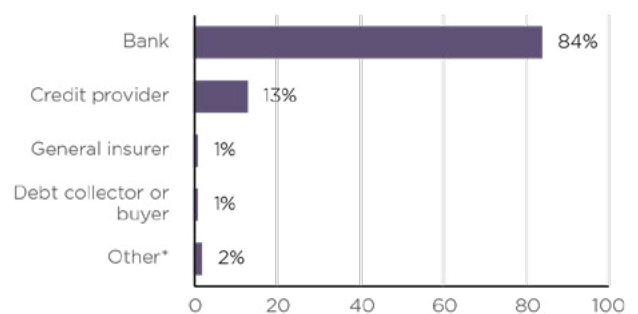
More than half (59%) of these disputes related to a decision made by an FSP. The majority (84%) of guarantee disputes involved banks.

Accepted guarantee disputes by issue



* Service, advice, transactions, not yet determined

Accepted guarantee disputes by sales and service channel



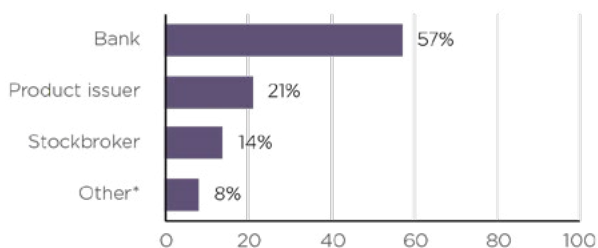
* Accountant, administration services provider, product distributor, product issuer

Margin loans

Margin loans are loans that allow an investor to borrow money against the value of listed shares or units in managed funds.

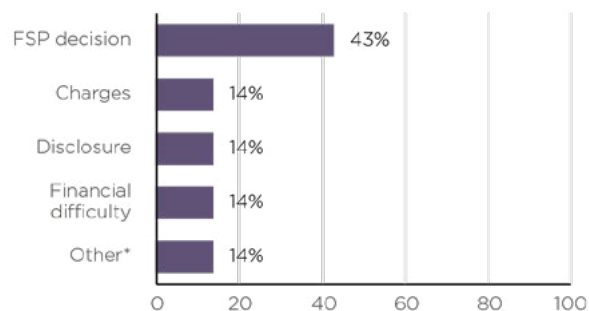
There were 14 margin loan disputes in 2017-18. Of these disputes, six related to an FSP decision.

Accepted margin loan disputes by sales and service channel



* Financial advisor/planner

Accepted margin loan disputes by issue



* Advice, instructions

Case study

Borrowers' age at centre of responsible lending dispute

A dispute about the capacity of the applicants, Mr and Mrs W, to meet repayments on a residential investment loan and home loan was determined in their favour.

The loan funds were used to refinance an existing home loan and buy a new home for Mr and Mrs W to live in with other family members, who then paid them rent.

The 30-year loans were provided by an FSP, which received the application through a broker, and had no direct contact with Mr and Mrs W.

Mr and Mrs W were in their 50s when they applied for the investment loan and although age is not a barrier to considering a loan request, their retirement was likely during the term of the loan.

FOS said in the June 2018 determination that the FSP failed to exercise the care and skill of a prudent lender when it approved the investment loan. At the time of the loan application, the FSP should have discussed whether Mr and Mrs W intended to sell or rent their existing home. Had those discussions taken place, the FSP may have discovered that they intended to live in the proposed investment property and should have made the sale of their existing residence a loan condition.

The FSP also failed to comply with its obligations under the *National Consumer Credit Protection Act 2009* because the loan would become unaffordable over the term due to their age, and should have been assessed as unsuitable. Also the 'statutory presumption of substantial hardship' would arise because the applicants could comply with the loan contract only by selling their principal place of residence.

Mr and Mrs W said once they moved into the investment property, they put their existing home on the market but it did not sell and was subsequently rented.

The loan was affordable while they were working, but would become unaffordable on their retirement because they could not service it through rental income alone.

In the determination, FOS said the FSP did not comply with its responsible lending obligations when it approved the new loan and so should compensate Mr and Mrs W by reducing the loan balance by almost \$200,000 and eliminating interest and fees on the remaining balance. The FSP should pay further compensation of \$3,000 for non-financial loss, for failing to provide documents in response to their lawyers' requests.

➤ General insurance disputes

We accepted 8,603 general insurance disputes in 2017-18. This was 2% less than last year, following increases of 26% and 28% in the previous two years.

In keeping with past years, the vast majority (92%) of general insurance disputes accepted related to domestic insurance. More than two-thirds (70%) of general insurance disputes concerned the FSP decision, which in most cases related to an FSP's decision to decline a claim or the claim amount.

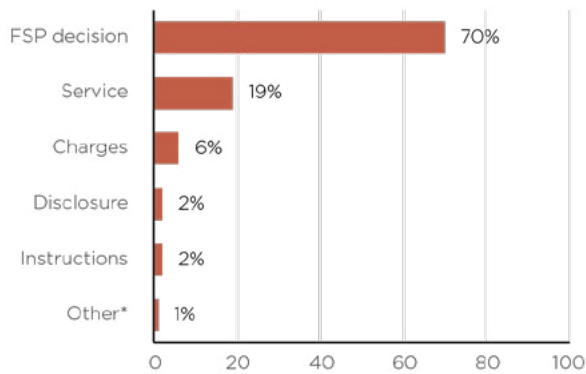
	2015-16		2016-17		2017-18	
	Total	%	Total	%	Total	%
Domestic insurance	6,411	93	8,094	92	7,885	92
Small business/farm insurance	311	5	478	5	590	7
Professional indemnity insurance	38	1	50	1	45	1
Extended warranty	47	1	57	1	43	0
Not yet determined	51	1	77	1	40	0
Total	6,858	100	8,756	100	8,603	100

Domestic insurance

We accepted 7,885 domestic insurance disputes in 2017-18. This was 3% less than last year but 23% more than 2015-16.

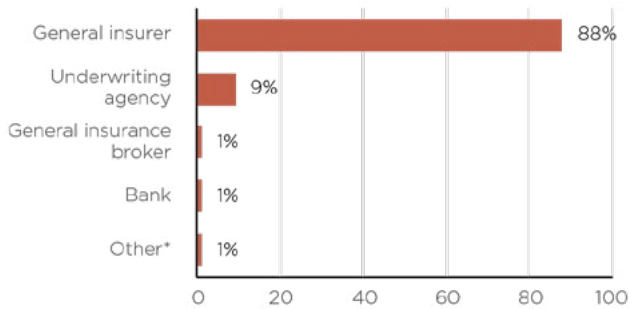
The type of insurance policies most people complained about were motor vehicle comprehensive (32%), home building (32%) and travel insurance (10%). In more than two-thirds (70%) of domestic insurance disputes, consumers complained about the insurer's decision. Most disputes (88%) were lodged against an insurance company and 9% involved an underwriting agency.

Accepted domestic insurance disputes by issue



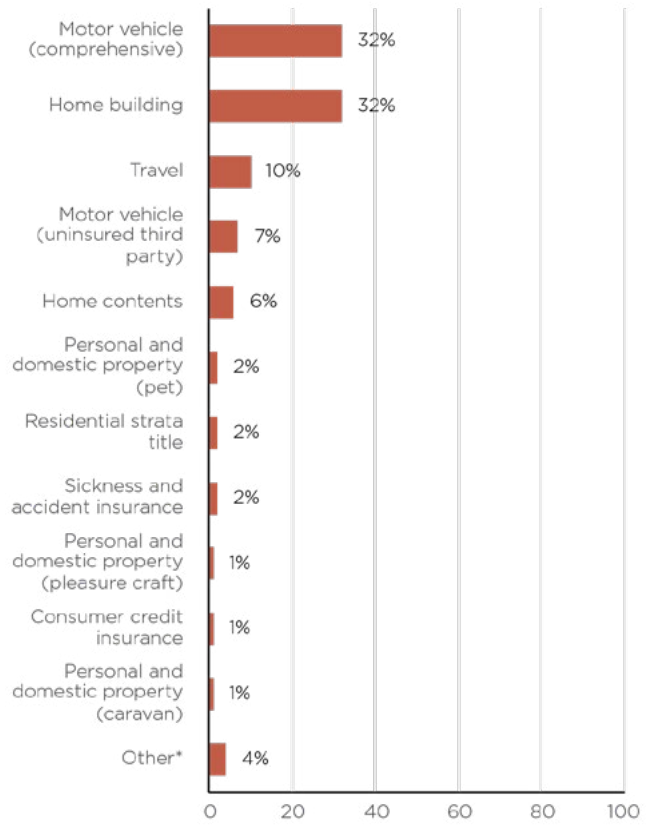
* Privacy and confidentiality, outside Terms of Reference, advice, transactions, financial difficulty, not yet determined

Accepted domestic insurance disputes by sales and service channel



* Product distributor, coverholder, life insurer, credit provider, warranty provider, administration services provider, product issuer, debt collector or buyer, financial advisor/planner, credit union, private health insurer, not yet determined

Accepted domestic insurance disputes by product



* Personal and domestic property (mobile phone), motor vehicle (third party fire and theft), personal and domestic property (valuables), personal and domestic property (moveables), motor vehicle (third party theft), ticket insurance, personal and domestic property (trailer), personal and domestic property (horse), not yet determined

Small business/farm insurance

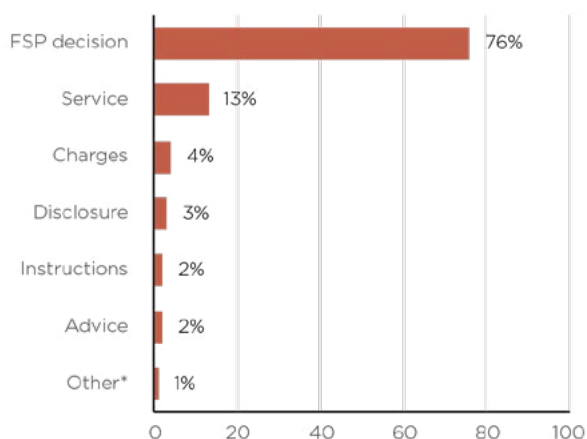
We accepted 590 small business/farm insurance disputes in 2017-18, which accounted for 7% of total general insurance disputes. More than three-quarters (76%) related to an FSP decision.

Small business owners and farmers take out insurance policies to cover such things as property and vehicle damage, machinery breakdowns, public liability, theft and loss of property.

In 2017-18, most small business/farm insurance disputes related to commercial property (40%) and commercial vehicles (24%).

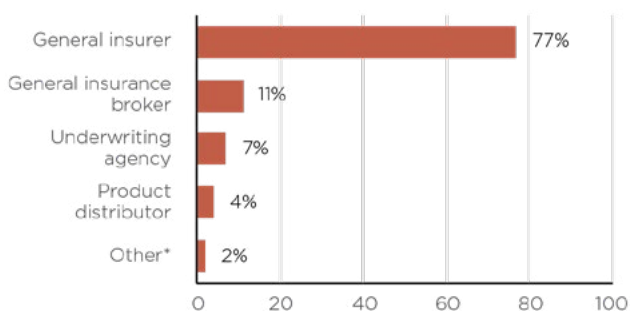
Of small business/farm insurance disputes, more than three-quarters (77%) involved general insurers and their customers, and 11% involved general insurance brokers and their customers.

Accepted small business/farm insurance disputes by issue



* Privacy and confidentiality, outside Terms of Reference

Accepted small business/farm insurance disputes by sales and service channel



* Product issuer, bank, credit provider, debt collector or buyer, financial advisor/planner, not yet determined

Case study

Cash settlement ends storm damage dispute

An insurance claim made by the applicants, Mr and Mrs C, for property damage following a storm, resulted in them lodging a dispute with FOS.

The dispute was about the cover provided for several buildings at their property by their farm insurance policy.

The insurer accepted Mr and Mrs C's claim for damage to a garage shed, which collapsed during the storm, but denied liability for damage to a tenanted residence at the property, which lost its roof.

The insurer said the damage to the residence was not caused by the storm but by factors excluded under the policy (such as gradual deterioration and lack of maintenance).

A FOS panel said Mr and Mrs C clearly established a valid claim for storm damage under the policy. The available information did not establish that the excluded factors identified by the insurer were the proximate (that is, the real, effective or dominant) cause of the loss.

Reports and photographs provided by the insurer's engineer found that the 100-year-old property was in a deteriorated condition before the storm. But the panel said it was not satisfied that the property's poor condition was the proximate cause of the disputed damage.

The engineer said that winds experienced during the storm, of 70 kmh, were not strong enough to have caused the roof sheets to blow off, had the roof been properly constructed and maintained. But the panel was not satisfied there was sufficient information to accurately determine the strength of the winds that affected the property during the storm.

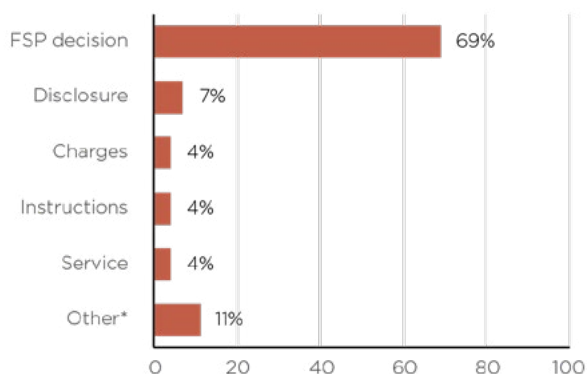
The panel said in its July 2017 determination that the insurer was liable for Mr and Mrs C's claim. Given the poor condition of the property at the time of the storm, the insurer was liable for the cost of repairing only the damage directly caused by the storm.

The panel determined that the insurer should cash settle with Mr and Mrs C for the cost of repairing damage to the roof, kitchen ceiling and internal areas caused by the storm.

Professional indemnity insurance

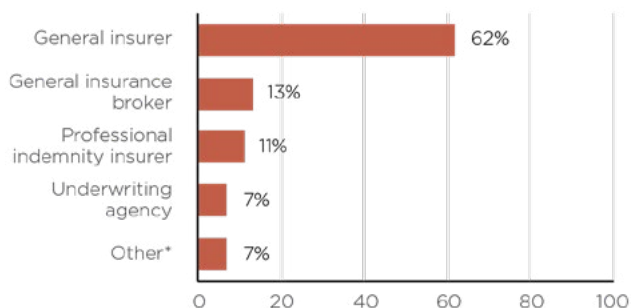
We accepted 45 professional indemnity insurance disputes in 2017-18. Of these disputes, more than two-thirds (69%) were about decisions made by the FSP. Almost two-thirds (62%) of professional indemnity insurance disputes involved a general insurer.

Accepted professional indemnity disputes by issue



* Advice, outside Terms of Reference, not yet determined

Accepted professional indemnity disputes by sales and service channel



* MIS operator/fund manager, product issuer, not yet determined

The key issues discussed with insurers

Among the issues FOS highlighted with insurers at open forums in 2017-18 were ‘add-on insurance’ products such as extended warranties and consumer credit insurance, often sold by car dealers acting as licensees for insurers (see page 132). These products were among those examined in a three-year ASIC review. We believe that unless insurers can show that consumers understand the products and get value for money for them, consumers are entitled to redress.

In relation to mental health, FOS continued working with ASIC and the industry to ensure policies are clearer and more specific, and remove ‘blanket’ exclusions for pre-conditions. These exclusions are discriminatory and have been removed by two major insurers. Recent discussions have led to increased awareness of the issue, together with the protocols and principals relating to consumers with mental illness. These are likely to be addressed in the General Insurance Code of Practice, which is being revised.

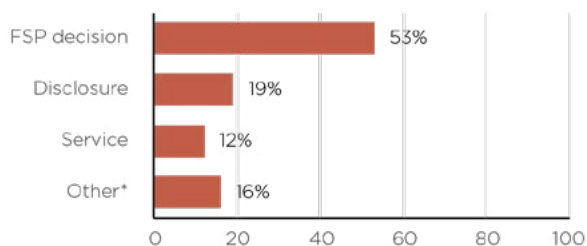
We also questioned whether cash provided by insurers in some cases is a fair way to settle claims. Often these settlements were insufficient to carry out repairs, and transferred risk to the insured person. Any cash settlement must be sufficient for the applicant to be returned to the position they were in before the loss or damage. Cash settlements must be based on fairness and reasonableness, consistent with the principles of utmost good faith.

Extended warranty

Extended warranties are available for motor vehicles, whitegoods and brown goods (for example, TVs, radios and computers). We accepted 43 disputes about extended warranties in 2017-18.

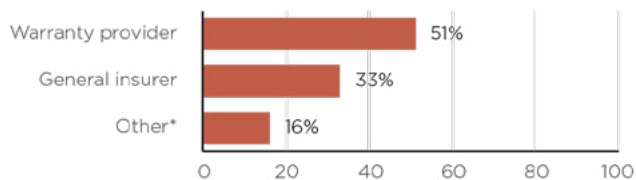
About half (51%) involved warranty providers and one-third (33%) related to general insurers. More than half (53%) were about decisions made by the FSP.

Accepted extended warranty disputes by issue



* Advice, instructions, charges, outside Terms of Reference, privacy and confidentiality

Accepted extended warranty disputes by sales and service channel



* Credit provider, finance broker, administration services provider, underwriting agency

General insurance brokers

Across all general insurance disputes in 2017-18, a total of 170 were between general insurance brokers and their customers.

The most common insurance products in these disputes were commercial property, motor vehicle (comprehensive), home building and residential strata title disputes. The main issue was claim amount.

Case study

Small business covered for flood damage

A dispute about whether the Murwillumbah business premises of an applicant, Mr A, were insured for flood following inundation as a result of Cyclone Debbie, was determined in his favour.

Mr A held two business insurance policies – for building cover and contents and stock. The insurer said flood was excluded from cover.

The policy was arranged through an agent of the insurer. The Certificate of Insurance provided did not refer to the exclusion for flood. The PDS identified flood cover was optional and did not clearly identify whether the option had been refused.

FOS said the insurer was liable under both policies to meet Mr A's claim and cover the losses caused by the inundation. This was because his business was classified as a small business and all small businesses are deemed to have flood cover unless stated otherwise.

Under regulation 29B of the Insurance Contracts Regulations 1985, if the total number of hours worked by employees of the business is no more than 190 (the equivalent of five full-time employees), it is classified as a small business. Mr A's business employed one full-time employee.

In the February 2018 determination, FOS said that Mr A's policies, which provided cover for loss of equipment, stock, inventory and premises, were prescribed contracts under regulation 29C and so provided cover for flood damage.

FOS found the insurer failed to clearly inform Mr A in writing before the policies were established about whether they provided cover for loss or damage caused or resulting from flood (as required under section 37C of the *Insurance Contracts Act 1984*).

As part of the determination, FOS examined hydrology reports of the time Mr A said his building premises were inundated (on or about 31 March 2017). FOS said the water that inundated the property was likely to have been a combination of floodwater escaping the Tweed River and Condong Creek, and stormwater runoff from intense rainfall. The determination pointed out that stormwater mixed with floodwater is flood by definition.

The determination highlights the importance of providing clear documentation setting out the cover under the terms of a policy.

See also: Ombudsmen visit businesses to resolve Cyclone Debbie disputes, page 49.



Case study

Mismanagement of storm claim leads to dispute over mould damage

A dispute about an insurer's management of a building claim, following water inundation and storm-related damage to a property, was determined in favour of the applicants, Mr and Mrs K.

The insurer recommended Mr and Mrs K pump water out of the flooded basement and settled the claim. About 12 months later, they lodged a further claim for damage to the building after noticing cracks develop.

This claim resulted in a dispute being lodged with FOS, and we determined that the insurer repair the property based on a scope of works provided.

Four years later, another dispute was lodged with FOS after Mr and Mrs K lodged a further claim for contents damage and remediation of damage caused by mould. The original claim had been left open for these possibilities.

Mr and Mrs K said continued mould damage was due to the insurer's negligence and mismanagement of the claim.

The insurer denied the claim and said:

- › there was no evidence of contents damage beyond the amount already paid
- › the spread of mould was caused by failure to dispose of water-damaged contents
- › the policy excluded cover for toxic mould.

FOS said the insurer was not entitled to deny Mr and Mrs K's claim because on the balance of probabilities:

- › the mould damage arose as a result of inundation of the property
- › the insurer's failure to properly manage and remediate the water damage caused the mould growth and proliferation

- › the insurer did not establish that Mr and Mrs K failed to take reasonable precautions to avoid loss or damage to the contents.

Expert reports established mould damage to the property. One such report confirmed the presence of mould in the property, especially the basement, and another said the basement area had an unacceptable level of airborne spores and that items there should not be used or moved until they had been decontaminated.

FOS said in the January 2018 determination: 'The insurer appears to have misunderstood these reports or ignored them.'

The insurer relied on another report that was limited to a visual inspection, without air or surface testing for mould. This report, which identified visible mould, found that the original inundation may be affecting the indoor environment of Mr and Mrs K's home and leaks were continuing in periods of heavy rain.

FOS said the insurer was aware that mould remediation was urgently required before the original building claim was settled but did not undertake appropriate works and failed to properly assess the potential growth and proliferation of mould.

'If the insurer had acted promptly in its remediation of the mould, then it is likely that the extent of the loss would have been limited,' the determination said.

FOS ordered that settlement of the claim include total payment of more than \$160,000 – for remediation of mould, damage to the property and contents and compensation for non-salvageable contents.

➤ Deposit-taking disputes

In 2017-18 we accepted 2,195 deposit-taking disputes. This was 18% more than last year. These disputes comprise two main product categories:

- Current accounts including business transaction, foreign currency, mortgage offset, passbook and personal transaction accounts
- Savings accounts including term deposits, online, cash management and first home buyer accounts.

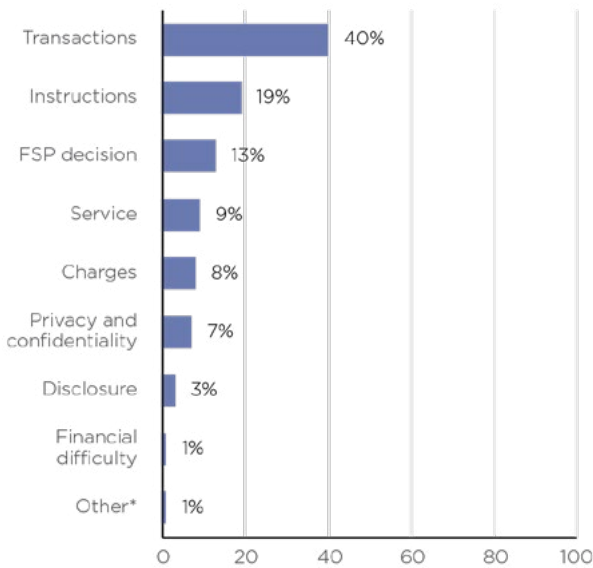
	2015-16		2016-17		2017-18	
	Total	%	Total	%	Total	%
Current accounts	1,218	79	1,470	79	1,739	79
Savings accounts	255	17	263	14	333	15
Safe custody	15	1	8	0	15	1
Not yet determined	54	3	120	6	108	5
Total	1,542	100	1,861	100	2,195	100

Current accounts

We accepted 1,739 current account disputes in 2017-18. The most common issues were disputed transactions (40%), failure to follow instructions (19%) and decisions made by FSPs (13%).

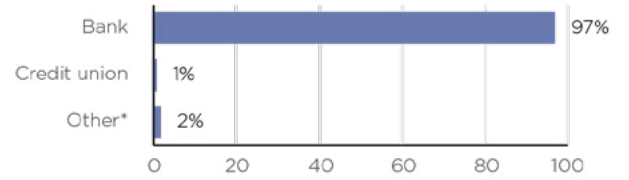
The vast majority (97%) of current account disputes involved banks, which is to be expected because banks are the main supplier of deposit-taking products.

Accepted current account disputes by issue



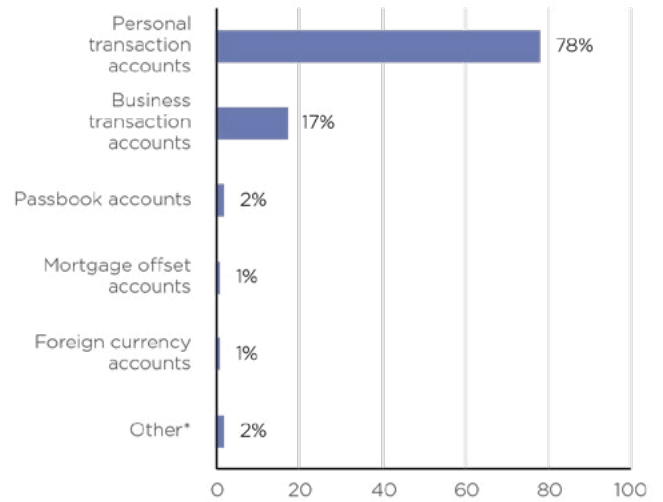
* Advice, outside Terms of Reference

Accepted current account disputes by sales and service channel



* Debt collector or buyer, product distributor, product issuer, non-cash payment system provider, administration services provider, credit provider, financial advisor/planner, life insurer, not yet determined

Accepted current account disputes by product



* Not yet determined

Case study

Refusal to cancel direct debit breached code

A dispute concerning an FSP that referred the applicant, Miss P, to a merchant when she asked for a direct debit to be cancelled was determined substantially in her favour.

FOS found that the FSP breached its obligations under clause 21 of the Code of Banking Practice by suggesting she contact the merchant rather than accepting and acting promptly on her request.

In the February 2018 determination, FOS said Miss P made two attempts to cancel the direct debit through her FSP. The first was at a branch and the second when she lodged the dispute with FOS after emailing the merchant.

Despite her attempts, the FSP allowed the direct debit, which overdraw her transaction account, leading to Miss P being charged a dishonour fee.

Under clause 21 of the Code of Banking Practice, an FSP is required to take a customer's request to cancel a direct debit and act on it promptly, and cannot suggest that a customer first raise the request with the debit user (merchant).

'When Miss P said she wanted to cancel the direct debit, the FSP should have told her that it could action that for her and she could also contact the merchant to cancel it,' the determination said.

The FSP's internal service level agreement provides 48 hours to action a request to cancel a direct debit. FOS said that if the FSP had accepted and acted promptly on the first request, the direct debit would not have been processed. It also found that the FSP took seven days to cancel the direct debit after the second request.

FOS determined that the FSP should pay Miss P \$1,000 compensation for the stress and inconvenience caused by failing to comply with its obligations to act on her request promptly, and refund the dishonour fee.

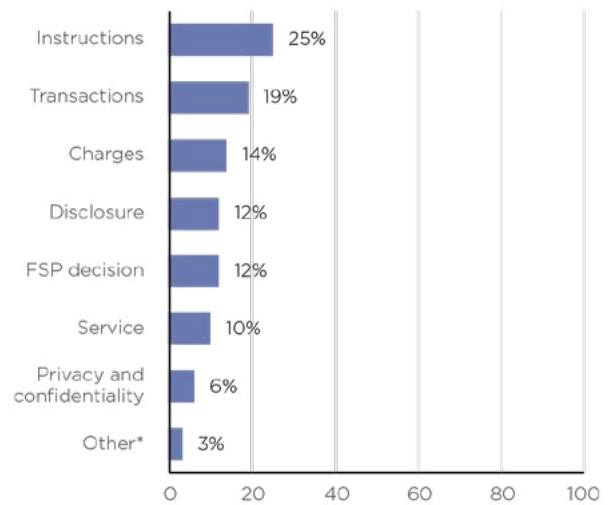
See also: Direct debits cancellation still a problem, page 134

Savings accounts

We accepted 333 savings account disputes in 2017-18. The most common issues in dispute were failure to follow instructions (25%), transactions (19%) and charges (14%).

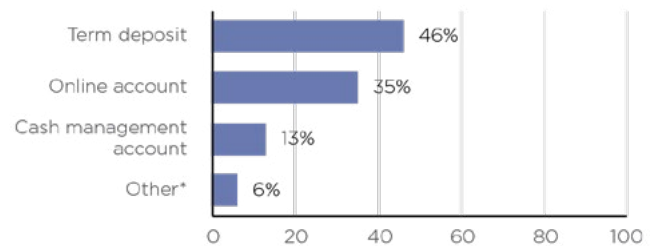
The products consumers complained about most were term deposits (46%) and online accounts (35%).

Accepted savings account disputes by issue



* Advice, financial difficulty, outside Terms of Reference

Accepted savings account disputes by product



* First home buyer account, not yet determined

Safe custody

Safe custody is the storage of valuable possessions, such as jewellery and important documents, in a secure vault at a bank. Of the 15 safe custody disputes we accepted in 2017-18, 9 involved service.

Case study

Wind-up notice should have prevented loss

A self-managed superannuation fund (SMSF) account was opened for the applicants, Mr and Mrs R, by an FSP on the instruction of a financial advisor.

In the ensuing dispute, FOS found that Mr and Mrs R's superannuation balances were initially transferred into the SMSF account. Then, a few days later and again on the advisor's instructions, the FSP transferred these amounts into accounts owned by entities controlled by the advisor.

The SMSF account was opened in accordance with Mr and Mrs R's instructions, and the account-opening form signed by them both and emailed to the FSP. Mr and Mrs R authorised the advisor to operate the account.

The dispute centred on a wind-up application of the advisor's company made by the Australian Taxation Office. ASIC informed the FSP that the company had failed to meet a statutory demand (relating to a tax debt). The FSP received the wind-up notice more than two weeks before Mr and Mrs R signed the form to open the SMSF account.

The FSP contacted the advisor who apparently said that the tax debt would be paid. The FSP considered this a reasonable explanation.

The dispute was determined in favour of Mr and Mrs R because under the Corporations Act, where a company has not met a statutory demand, it is presumed to be insolvent.

In the August 2017 determination, FOS said the FSP should have automatically revoked the advisor's authority to operate the account when it became aware of the wind-up notice.

'Given the account was set up after the notice was received, the FSP should not have allowed the advisor to operate the account at all,' FOS said.

'At the very least, the FSP should have suspended the advisor's operation of the account until it received confirmation that the debt had been paid and the application withdrawn. This is because a company can still be wound up for failing to satisfy a statutory demand, even if it pays the debt later.'

FOS said the FSP had 'paid away its own money' and should reinstate transfers, of about \$250,000, from the SMSF account.



➤ Payment system disputes

In 2017-18 we accepted 1,656 payment system disputes. This was 24% more than last year.

The majority (59%) related to direct transfer systems and 38% were non-cash disputes.

	2015-16		2016-17		2017-18	
	Total	%	Total	%	Total	%
Direct transfer	775	66	811	61	972	59
Non-cash	361	31	419	31	621	38
Not yet determined	31	3	101	8	63	4
Total	1,167	100	1,331	100	1,656	100

Case study

Attempted recall of international transfer unreasonably delayed

A dispute about an international monetary transfer made by the applicant, Mr B, to a supplier from an FSP branch was determined in his favour.

Mr B said he provided the supplier's invoice to the teller to help make the transfer. The teller asked Mr B to check the details on the transfer form carefully before signing.

Mr B said he realised the account number on the form was wrong by one digit soon after leaving the branch. He contacted staff at the FSP to provide the correct account number and was assured that the transfer would be amended.

Based on available information, FOS said it seemed that Mr B realised the account number was wrong two days after initiating the transfer, and then he informed the FSP. The FSP acted immediately, asking the intermediary bank to amend the account number. In the next fortnight, Mr B regularly contacted the FSP, explaining that the supplier had not received the funds.

The FSP liaised with the intermediary bank to try to find out where the transfer had gone. The intermediary bank kept replying that the funds were credited to 'the account' one month after the original transaction, but did not confirm the account number. It transpired that the funds were credited to the initial wrong account and the FSP was unable to recover the funds for Mr B.

It was six weeks after the initial transaction before the FSP tried to recall the transfer but the beneficiary bank did not cooperate.

FOS said in the December 2017 determination that the FSP unreasonably delayed trying to recall the transfer.

'It was the FSP's responsibility to attempt a recall when it knew that despite providing the amended account number to the beneficiary bank, the transfer had still not been credited to the supplier's account,' FOS said. The transfer was not credited to the incorrect account for a month, so it was more likely than not that if a recall had been attempted earlier, it would have been successful.

FOS said the FSP should reimburse Mr B the lost transfer funds, since the loss would most likely have been avoided if it had not unreasonably delayed attempting a recall.

Direct transfer

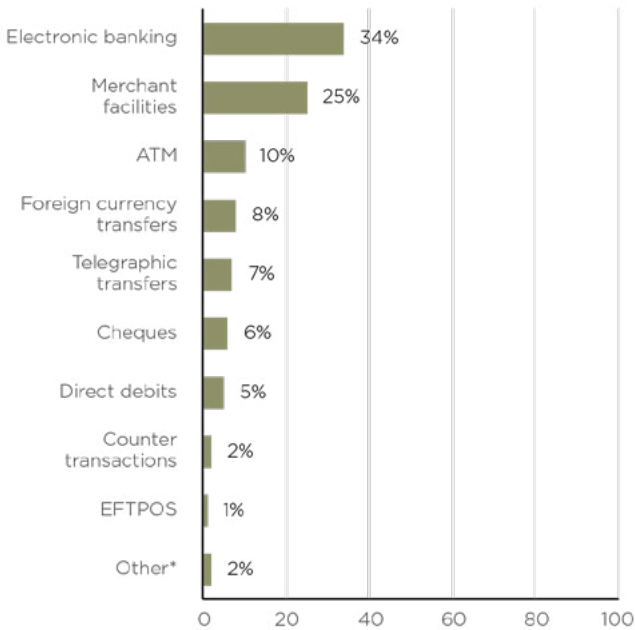
We accepted 972 direct transfer disputes in 2017-18. Of these disputes, more than one-third (34%) were about electronic banking, one-quarter (25%) about merchant facilities and 10% about ATMs.

We accepted 331 electronic banking disputes, 17% more than last year. In terms of the rapid increase in electronic banking transactions, these dispute numbers are still very small.

Mistaken internet payments (47%) and unauthorised transactions (15%) were the most common issues within electronic banking disputes. Unauthorised transaction disputes increased 61% from last year and mistaken internet payment disputes increased 5%.

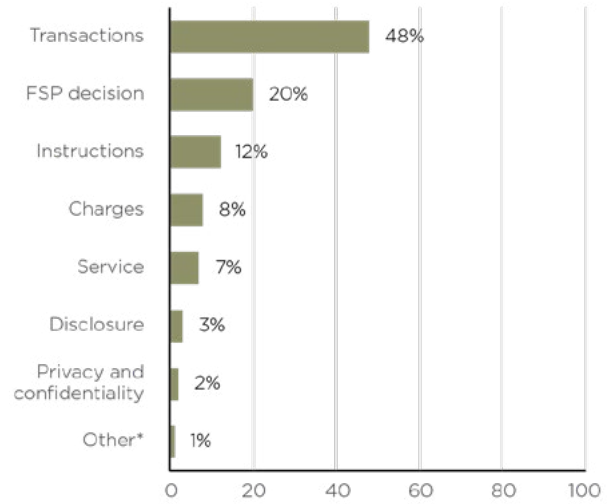
Banks are the main supplier of direct transfer payment systems and were involved in 79% of direct transfer disputes.

Accepted direct transfer disputes by product



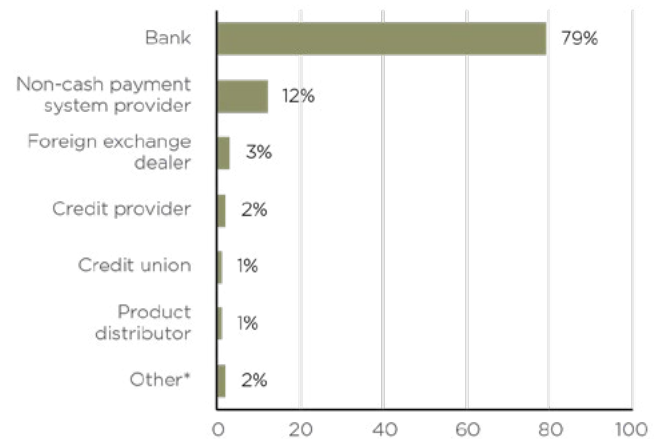
* Bank drafts, not yet determined

Accepted direct transfer disputes by issue



* Outside Terms of Reference, financial difficulty

Accepted direct transfer disputes by sales and service channel



* Clearing/settlement house, debt collector or buyer, product issuer, building society, travellers' cheques/foreign currency transfer provider, stockbroker, not yet determined

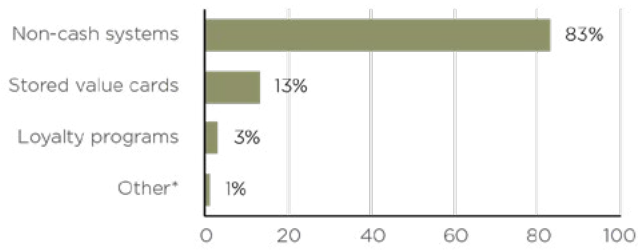
Non-cash

Disputes in this category involve non-cash transactions, which often use internet-based systems. The category also includes loyalty programs and stored value cards.

We accepted 621 non-cash payment system disputes in 2017-18. This was 48% more than last year. The main reason for this increase was disputes involving online purchases. Within these disputes, denial of applicant claims by FSPs increased significantly. We accepted 164 disputes about denial of claims in 2017-18 compared with only 11 last year.

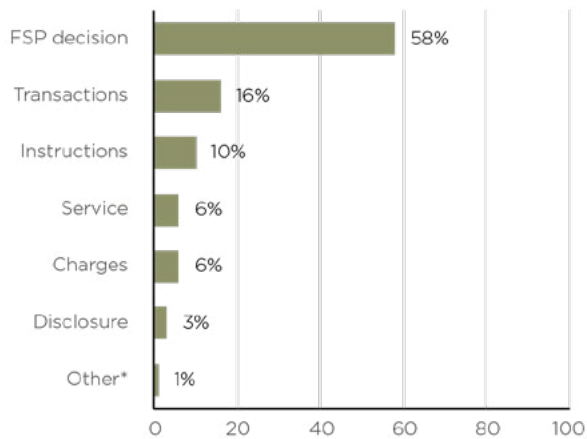
The majority (58%) of non-cash disputes involved an FSP decision. Of all non-cash disputes, 83% were about non-cash systems and 13% about stored value cards.

Accepted non-cash disputes by product



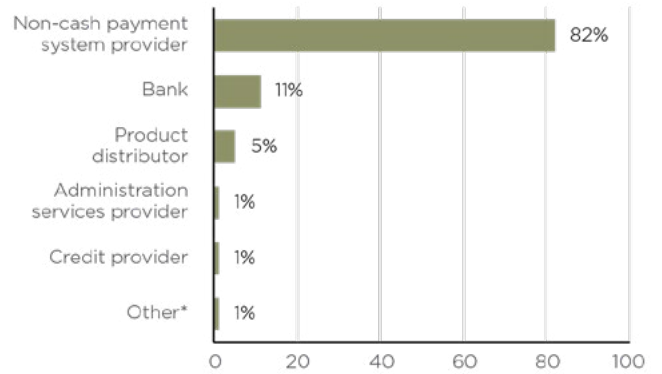
* Travellers' cheques, not yet determined

Accepted non-cash disputes by issue



* Privacy and confidentiality, financial difficulty

Accepted non-cash disputes by sales and service channel



* FinTech, product issuer, clearing/settlement house, travellers' cheques/foreign currency transfer provider, not yet determined

Case study

Passcodes disclosed mistakenly in scam transactions

An applicant, Mr H, disputed liability for transactions totalling more than \$5,000 after falling victim to a scam.

Mr H received an email about taking part in an online cash survey using an enclosed weblink. He clicked on the link to complete the survey.

He entered his credit card account information as part of the survey. By entering his number, or by clicking on the link, this information was remotely accessible on his computer.

It transpired that fraudsters asked him to enter one-time PINs that the FSP sent to his mobile number after he entered his credit card details. Mr H entered the one-time PINs, not realising they were secret passcodes. He thought they were required to complete the survey to win cash.

The resulting transactions were to offshore merchants, from whom Mr H received no goods or services.

Mr H lodged a dispute with FOS, saying that he did not authorise the transactions.

Under the ePayments Code, if a customer disputes liability for an electronic payment, the FSP bears the onus of proving:

- › the customer authorised the transaction by performing it, or by a third party performing it with the customer's knowledge or consent
- › if the customer did not authorise the transaction, the customer breached certain security provisions of the code and is liable for the transaction.

In the June 2018 determination, FOS said that Mr H did not voluntarily disclose the one-time PINs, as argued by the FSP, or breach the passcode security requirements in the ePayments Code.

The passcode sent to the applicant did not also say that it was to be kept a secret and not disclosed to anyone.

FOS found Mr H did not know the one-time PINs were, in fact, secret passcodes and that he did not intend to disclose them and thought he was responding only to a survey. As a result, FOS found that he did not voluntarily disclose the one-time passcodes and therefore had not contributed to his loss under the ePayments Code.

FOS said the FSP must compensate Mr H for his financial loss, after allowing for his limited liability of \$150 under the code. Further, the FSP must pay \$250 non-financial loss for stress and inconvenience caused because the FSP sent him several text messages after the FOS dispute was lodged about his 'liability' for the transactions.



➤ Investments and advice disputes

We accepted 1,524 investments and advice disputes in 2017-18. This was 18% more than last year, following a 13% increase the previous year.

More than half (55%) of these disputes in 2017-18 were about managed investments and superannuation.

The most common issues in investments and advice disputes were inappropriate advice (25%) and failure to follow instructions/agreement (20%).

	2015-16		2016-17		2017-18	
	Total	%	Total	%	Total	%
Managed investments	427	37	434	34	478	31
Superannuation	324	28	347	27	372	24
Derivatives/hedging	118	10	113	9	323	21
Securities	204	18	255	20	281	18
Real property	16	1	16	1	31	2
Not yet determined	52	5	127	10	39	3
Total	1,141	100	1,292	100	1,524	100

Managed investments

We accepted 478 managed investment disputes in 2017-18. These accounted for about one-third (31%) of investments and advice disputes.

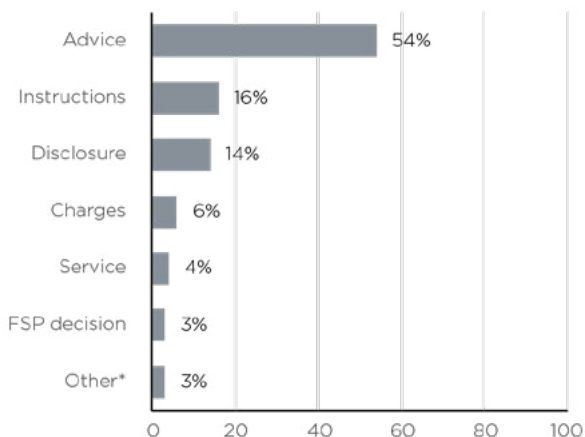
Mixed asset funds (investing in multiple asset classes such as cash, bonds, shares and property) continued to be the most common managed investment product about which people lodged disputes. In 2017-18, mixed asset funds represented more than half (58%) of managed investment disputes. The main issue related to mixed asset funds was inappropriate advice (49%).

Inappropriate advice accounted for more than half (54%) of the issues in managed investment disputes followed by failure to follow instructions (16%) and disclosure (14%).

Many investors complained that the advice they received was not suitable for their goals, objectives, risk tolerance or that risks were not always adequately disclosed or explained. We see many instances of confusion between personal and general advice and between the client's expectations of advisory services and the service actually provided.

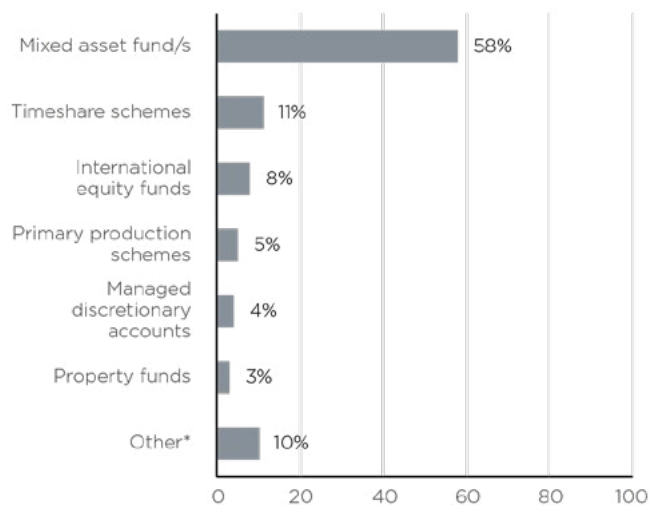
About half (48%) of managed investment disputes involved a financial advisor/planner and 13% involved a bank.

Accepted managed investment disputes by issue



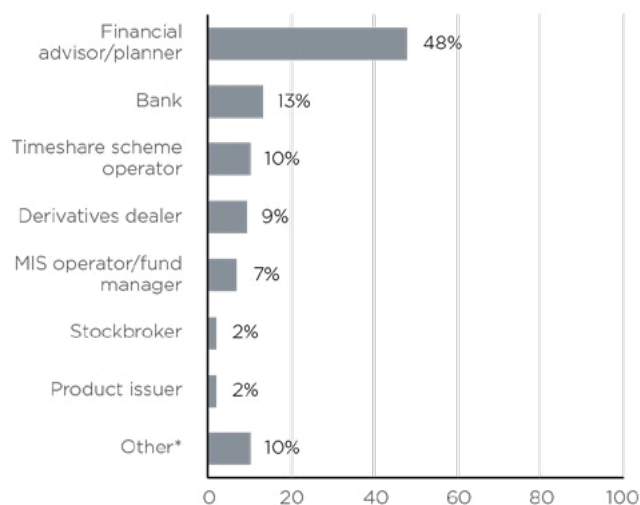
* Transactions, privacy and confidentiality, financial difficulty, outside Terms of Reference

Accepted managed investment disputes by product



* Cash management accounts, charitable/educational schemes, mortgage schemes, trustee common funds, Australian equity funds, investor direct portfolio services, not yet determined

Accepted managed investment disputes by sales and service channel



* Administration services provider, make a market, custodial and depository services, friendly society, managed discretionary account operator, research house, superannuation fund trustee/advisor, trustee, life insurer, credit union, FinTech, foreign exchange dealer, not yet determined

Superannuation

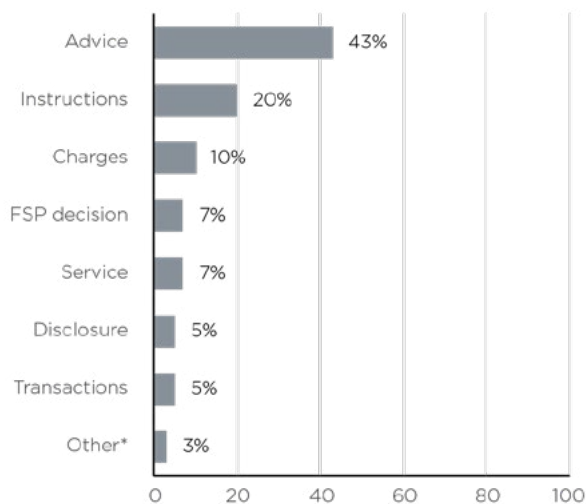
We accepted 372 disputes about superannuation in 2017-18, representing almost one-quarter (24%) of investments and advice disputes. Most of these disputes concerned self-managed funds (47%), retail funds (19%) and industry funds (10%).

The most common issue in superannuation disputes was inappropriate advice (43%). These disputes included inadequate super switching and rollover advice. Many concerned the loss of life insurance policies held in the existing fund or a decrease in the cover held as a result of inadequate understanding by the financial planner of the client's needs and personal circumstances, or a failure to make adequate enquiries about cover held in existing super funds prior to rollover.

For self-managed funds, the most common issue was inappropriate advice (41%), including inappropriate recommendations to establish an SMSF when it was not suitable to do so and inappropriate asset allocation, failing to take into account the objective of the SMSF to fund the retirement or its beneficiaries. Another prevalent issue was personal advice to SMSFs to undertake limited recourse borrowing and purchase property.

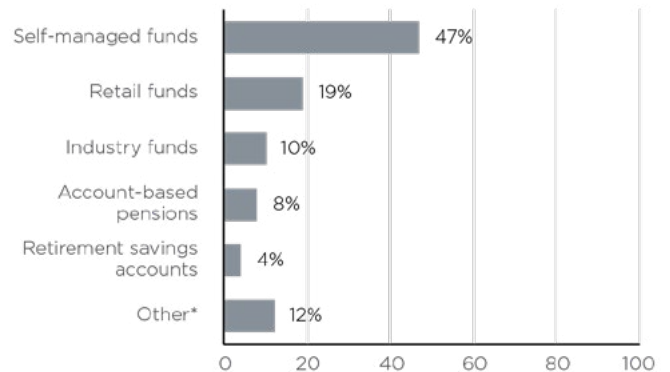
Failure to follow instructions/agreement was the most common issue for industry funds (31%) and retail funds (21%).

Accepted superannuation disputes by issue



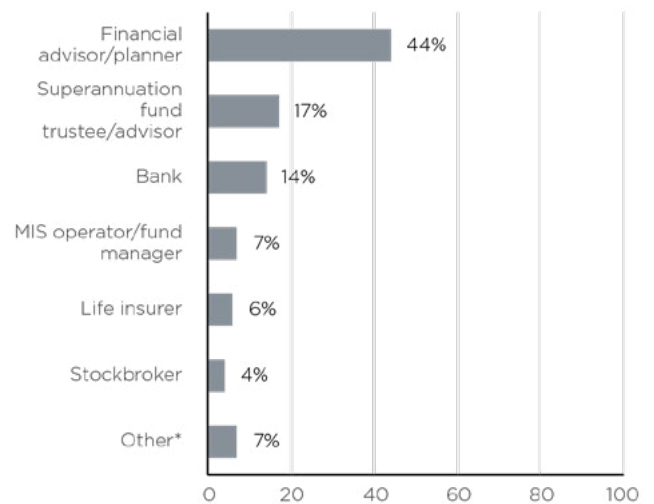
* Privacy and confidentiality, financial difficulty, outside Terms of Reference, not yet determined

Accepted superannuation disputes by product



* Corporate funds, approved deposit funds, not yet determined

Accepted superannuation disputes by sales and service channel



* Administration services provider, custodial and depository services, securities dealer, managed discretionary account operator, corporate advisor, derivatives dealer, product issuer



Consumers awarded \$1.17 million as a result of remediation disputes

FOS accepted 68 disputes in 2017-18 (compared with 75 last year) as a result of 11 FSP remediation programs.

Remediation programs, which are established by the financial advice industry and signed off by ASIC, provide a way for FSPs to identify issues that may have occurred in their business and to compensate affected consumers. Well-run remediation programs can help restore trust between FSPs and their customers.

In 2017-18, the remediation disputes we handled mainly concerned the quality of financial advice provided to consumers.

Consumers who are dissatisfied with the outcome of an FSP remediation program can approach us to independently review the FSP's decision about its liability for bad advice or unfair treatment, and whether and what amount of compensation should be paid. We engage closely with FSPs to ensure that our independent assessment occurs as efficiently as possible.

We recognise that before the dispute is lodged with us, applicants have engaged with their FSP and the FSP has assessed its liability and whether compensation should be paid. Our role is to ensure the FSP's assessment is fair and adequate. The onus is on FSPs to demonstrate that they made reasonable decisions based on our approach to the issues in dispute.

We utilise industry and consumer panel members to independently review FSP remediation program decisions. In 2017-18, more than two-thirds (69%) of the remediation disputes on which we made a determination went to a panel.

The most common types of remediation disputes we received concerned inappropriate advice on mixed asset fund investments and superannuation fund investments, and failure to act in clients' best interests.

Of the 36 remediation disputes on which we made a determination, more than half (56%) were decided in favour of the applicant. We awarded compensation on all of these disputes totalling more than \$1.17 million (excluding interest).

Derivatives/hedging

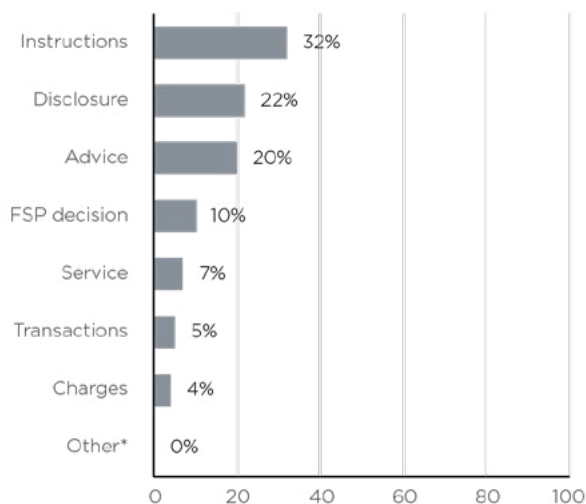
Derivatives and hedging products include contracts for difference (CFDs), foreign currencies, forwards, futures, options, cryptocurrency and swaps.

In 2017-18, we accepted 323 disputes about these products, accounting for 21% of investments and advice disputes. The number of derivatives/hedging disputes was almost three times more than last year (113).

The most common issues in dispute were failure to follow instructions (32%), disclosure (22%) and inappropriate advice (20%). Half (50%) involved foreign exchange transactions.

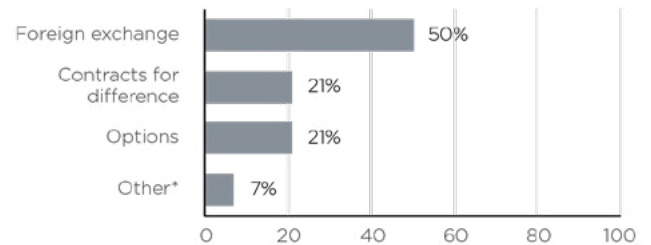
Many disputes concerned a failure by the financial firm to action a request from the applicant to withdraw funds from the account in a timely manner. Growing areas of disputes include account opening procedures to trade foreign exchange, CFDs and cryptocurrency, and failure of the FSP to adequately assess the applicant's knowledge and experience in trading in these high-risk products before opening an account.

Accepted derivatives/hedging disputes by issue



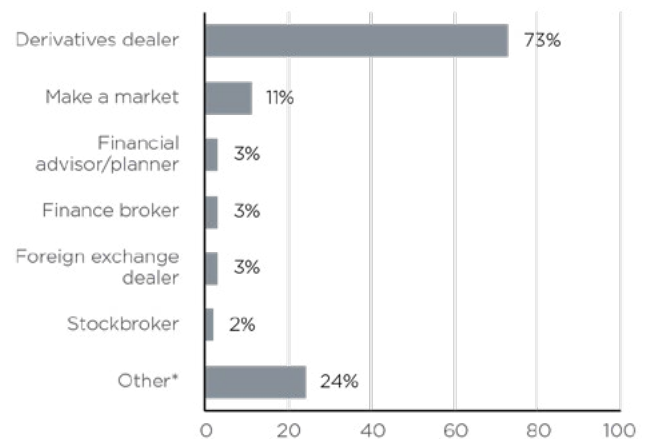
* Outside Terms of Reference

Accepted derivatives/hedging disputes by product



* Cryptocurrency, futures, swaps, not yet determined

Accepted derivatives/hedging disputes by sales and service channel



* FinTech, product issuer, managed discretionary account operator, securities dealer, not yet determined

Cryptocurrency disputes on the way up

Cryptocurrency (or digital currency) disputes were lodged with FOS in increasing but still small numbers in 2017-18 as public interest in bitcoin and other cryptocurrencies grew along with their price volatility.

Disputes were generally about FSP terms and conditions, and included some CFD (contracts for difference) disputes, in which two parties, typically described as 'buyer' and 'seller', agree that the seller will pay to the buyer the difference between the current value of the underlying cryptocurrency and its value at contract time (if the difference is negative, the buyer pays instead to the seller).

Key issues included the bitcoin 'hard fork' – so called because there was a divergence in the blockchain in 2017 resulting in multiple and separate cryptocurrencies.

Disputes were also lodged about pricing and transactions. These included disputes where the price of a particular cryptocurrency provided by the FSP was different than available elsewhere. Other issues included 'stolen' or hacked cryptocurrency holdings.

Our Ombudsmen, case managers and case analysts utilise the same skills and experience on cryptocurrency disputes as they use in managing disputes such as those involving unauthorised transactions, mistaken internet payments and financial products such as CFDs.

During the year, FOS staff attended training about cryptocurrency, to better understand the blockchain technology that underpins these currencies, how the market and digital currency products work, and to learn about the increased popularity of cryptocurrencies. We also met the Australian Digital Commerce Association to discuss cryptocurrency developments.

There are hundreds of cryptocurrencies, which operate independently of the banking system and use encryption techniques to regulate the generation of currency units and verify funds transfer.

In the same way as other disputes, FOS can consider cryptocurrency disputes lodged by consumers against an FSP that is a FOS member and involved in the exchange of cryptocurrencies.

Case study

Advisor received fees from super fund without authority

A dispute in which the applicants, Mr and Mrs T, sought refunds of fees paid to their advisor, was determined in their favour.

Mr and Mrs T were trustees of a self-managed superannuation fund (SMSF), which invested in five managed funds on their advisor's recommendation. Their advisor, an authorised representative of an FSP, received application and trailing fees for these investments for almost four years. The fees were ultimately paid by the SMSF.

Mr and Mrs T said the advisor told them no such fees would apply and the SMSF did not authorise the fees to be paid.

Mr and Mrs T said that at the commencement of their relationship, the advisor told them the only fee the SMSF would pay was a percentage of funds under management, even when asked specifically about 'kickbacks' or trailing fees.

They discovered that the advisor had been receiving the fees after the investments matured or redeemed, when they received financial information from the product provider to finalise the SMSF's tax requirements.

The FSP said that in signing the application form in the Product Disclosure Statement (PDS), Mr and Mrs T declared they had read and fully understood its contents. The PDSs for each product used different terminology for the application and trailing fees, but in each instance said the fees could be waived or rebated by the advisor.

Mr and Mrs T said they never received PDSs. They provided a copy of an email from the advisor demonstrating that he sent them only the relevant execution pages of the application form. FOS accepted that Mr and Mrs T did not receive the PDS. A Statement of Advice, which would have set out the fees, was also not provided to them.

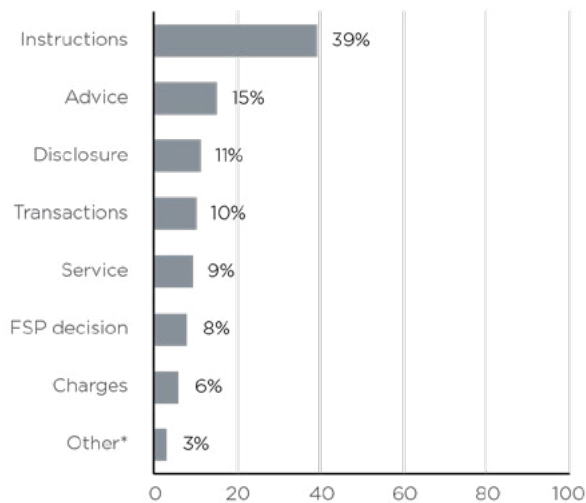
In the April 2018 determination, FOS said the advisor failed to disclose the fees and received them without Mr and Mrs T's authority. It said the FSP must repay the SMSF almost \$50,000 (including interest).

Securities

We accepted 281 securities disputes, with more than three-quarters (78%) relating to shares. Securities disputes account for almost one-fifth (18%) of investments and advice disputes.

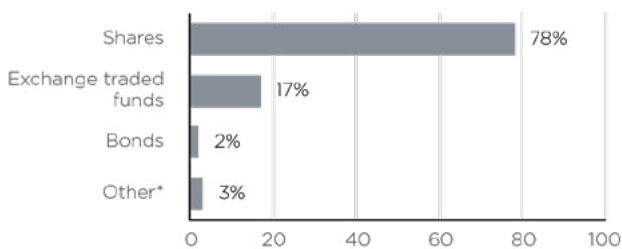
The key issues in this category were failure to follow instructions (39%) and inappropriate advice (15%). Of these disputes, one-third (33%) involved derivatives dealers, more than one-quarter (28%) related to stockbrokers and 13% to financial advisors/planners.

Accepted securities disputes by issue



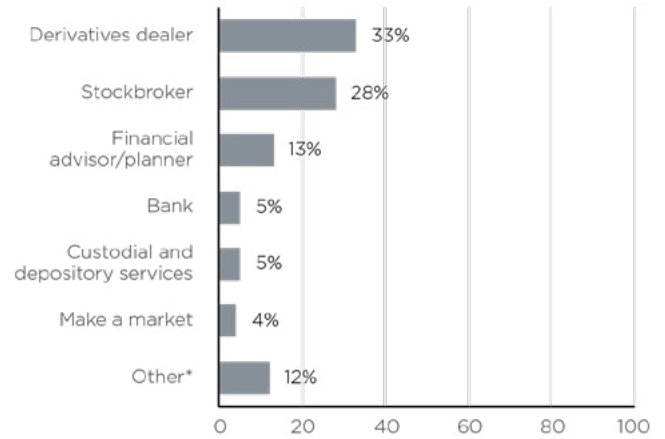
* Privacy and confidentiality, outside Terms of Reference

Accepted securities disputes by product



* Debentures, not yet determined

Accepted securities disputes by sales and service channel



* FinTech, MIS operator/fund manager, foreign exchange dealer, product distributor, research house, securities dealer, finance broker, friendly society, general insurer, product issuer, corporate advisor, life insurer, not yet determined

Real property

Real property is land and the residential or commercial property on it. In 2017-18, we accepted 31 disputes about real property, of which 24 were about advice.



Case study

Advice to set up SMSF for property investment inappropriate

A dispute over advice that led to the applicants, Mr and Mrs S, setting up a self-managed superannuation fund (SMSF) which borrowed to invest in property, was determined in their favour.

A FOS panel found that the advice, from an authorised representative of an FSP, was extremely risky and not in the best interests of Mr and Mrs S. It found that the FSP was responsible for the advice given by its representative.

The panel said in its determination, made in April 2018, that Mr and Mrs S:

- > were renting accommodation
- > did not own their home
- > had low superannuation balances and no savings
- > could not afford the cost of running an SMSF and paying a loan on an investment property
- > were charged almost \$6,000 for the advice.

They also had personal debt, elimination of which should have been the first priority.

The FSP said the advisor provided no personal advice because Mr and Mrs S already wanted to buy a property with their super when they were introduced to him, and the advisor's only involvement was to set up the SMSF. The FSP said this limited the scope of the advice to the establishment of the SMSF.

However, the panel found that the advisor gave the applicants financial planning, superannuation and rollover advice, as stated in the Statement of Advice (SOA). Advice to retail clients about rolling over superannuation and setting up an SMSF constitutes personal financial product advice.

The SOA said that Mr and Mrs S completed a risk profiling questionnaire and chose a high-growth risk profile. The FSP did not provide a copy of any risk profiling documents, although these were requested, and Mr and Mrs S did not recall answering a risk profiling questionnaire. The panel considered it more likely than not that a risk profiling questionnaire was not completed.

The panel said an advisor has:

- > a best interests duty which includes making reasonable enquiries into the applicants' circumstances to ensure that an SMSF and its overall investment strategy is appropriate
- > an obligation to assess whether the intended investments in the proposed SMSF are appropriate to the clients' circumstances and objectives.

'We cannot accept that an advisor can separate advice about setting up an SMSF from consideration of the overall strategy for investment by the SMSF,' the panel said.

The panel found the FSP liable to compensate Mr and Mrs S for loss of more than \$200,000 plus interest.

➤ Life insurance disputes

FOS accepted 1,117 life insurance disputes in 2017-18. This was 10% more than last year.

We split life insurance disputes into income stream and non-income stream (lump sum) risk products.

Income stream risk typically involves income protection insurance products and non-income stream risk products typically paid on death, total and permanent disability or critical illness (also called trauma).

This increase in life insurance disputes was driven by a 45% rise in those involving non-income stream risk products: term life, total and permanent disability, trauma and funeral plans.

Denial of claim (19%) was the most common reason people lodged life insurance disputes. Denial of claim was also a more common reason within non-income stream risk disputes (53%) than income stream risk disputes (47%).

	2015-16		2016-17		2017-18	
	Total	%	Total	%	Total	%
Income stream risk	603	55	533	52	461	41
Non-income stream risk	462	42	424	42	616	55
Not yet determined	30	3	61	6	40	4
Total	1,095	100	1,018	100	1,117	100

Case study

Income protection benefits should not have been cut off

A dispute about an income protection insurance claim made by an applicant, Mr B, who suffered from anxiety and depression, was determined in his favour.

Initially, the insurer paid him some benefits under the policy but then cut them off for about 18 months. The insurer said that during that time, Mr B was not suffering from a mental illness and was not getting regular medical treatment as required by the policy.

Medical reports supported both sides of the case. A FOS panel preferred the reports of Mr B's long-term treating doctor, which was backed by a consultant psychiatrist's report. Both said that his condition prevented him from being able to work. FOS often prefers the reports of treating doctors because they know the patient better.

The panel found that section 54 of the Insurance Contracts Act prevented the insurer from relying on the policy provision requiring regular medical treatment, and said that Mr B could not afford treatment because the insurer had cut off his benefits.

It also found that there was nothing to show that his condition would have resolved if he had received treatment. He had not recovered even after resuming treatment, when the insurer reinstated his benefits.

In its November 2017 determination, the panel awarded Mr B income protection benefits of \$8,300 per month, plus interest, a waiver of premiums, and a contribution towards his legal costs.

Income stream risk

We accepted 461 disputes relating to income stream risk products in 2017-18. Of these disputes, 383 (83%) involved income protection insurance.

Income protection insurance pays a monthly benefit if the person insured is unable to work due to injury or illness.

Disputes about denial of claim, delays in claim handling and claim amounts were key themes associated with income protection insurance. Common issues in income protection disputes were that FSPs gave insufficient warning before ceasing benefits, did not adequately explain why benefits would cease or requested too much or irrelevant information from policyholders, before making a claims decision.

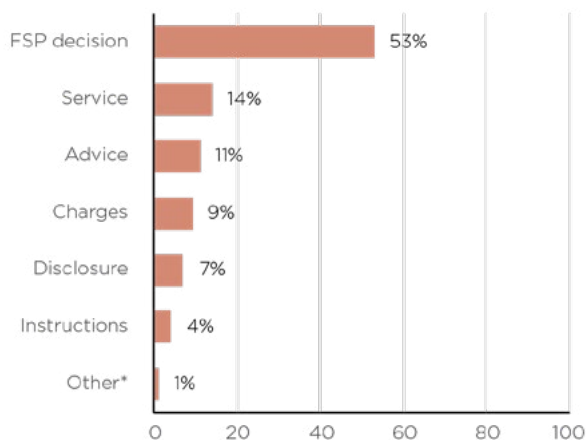
In addition, we have seen a continuing trend by life insurers who rely on incorrect policy terms or definitions when making claims decisions. In our experience, this often arises because an incorrect version of the policy is referred to. Errors such as these are easily avoided by ensuring that the correct version of the policy document and schedule is included and retained on file when the claim is made.

We also continue to request that FSPs provide relevant policy documents and schedules to us, when notified of a dispute.

We accepted 74 disputes about consumer credit insurance in 2017-18. This was almost three-quarters (72%) more than last year. This insurance is designed to cover policyholders for their loan or credit card obligations. The life insurance cover of consumer credit insurance protects the borrower in the event of specified disability or death.

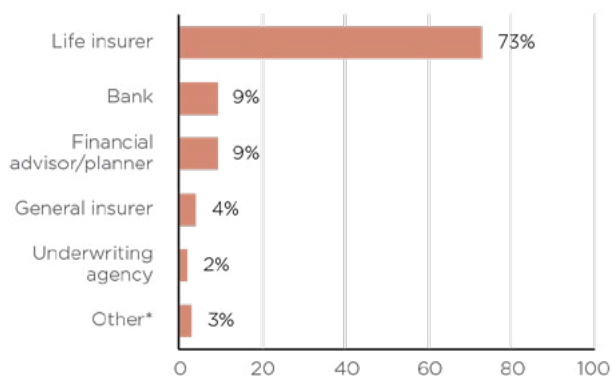
It is FOS practice to unbundle the life insurance component of these policies from the general insurance component, if appropriate, when assessing whether the policy should respond to a consumer claim.

Accepted income stream risk disputes by issue



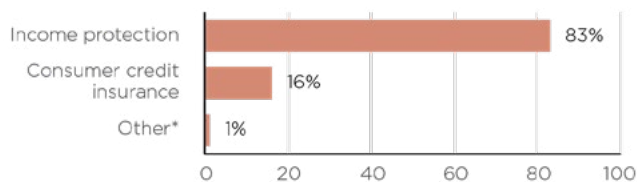
* Transactions, not yet determined, outside Terms of Reference, financial difficulty

Accepted income stream risk disputes by sales and service channel



* Product distributor, superannuation fund trustee/advisor, administration services provider, finance broker, general insurance broker, life insurance broker, MIS operator/fund manager, product issuer

Accepted income stream risk disputes by product



* Not yet determined



When insurers cannot rely on the fine print

Section 54 of the *Insurance Contracts Act 1984* can prevent an insurer from relying on the fine print in an insurance policy to refuse benefits.

If an act or omission, by the insured or someone else, triggers exclusions or limitations of cover, the insurer can refuse to pay the claim only if the act might have caused or contributed to the loss.

In a dispute determined in February 2018, an applicant, Mr J, was being paid income protection benefits for a serious and chronic gastroenterological condition. His insurer cut off the benefits when he travelled to India, relying on a worldwide cover clause in the policy that limited benefits if a person was not continuously living in Australia or another approved country. He lodged the dispute with FOS, saying the insurer could not cut off his benefits and should pay him.

Mr J supplied evidence that, in India, he received regular healthcare which his Australian doctors described as high quality.

FOS said it was satisfied that Mr J not being in an approved country did not cause or contribute to the loss. We said the insurer could not rely on Mr J's absence from an approved country to refuse to pay him benefits.

In another income protection insurance dispute, involving total and partial disability benefits, the insurer said the applicant, Mr F, was not under regular medical care and attendance of a medical practitioner, as required by the totally disabled definition.

Mr F, a commercial pilot, said it was difficult to be seen by the same medical practitioner because he was living in rural Western Australia. Clinical notes confirmed there were periods when Mr F did not attend a medical practitioner.

This was because he believed his condition would improve but attempts had been made to find the reason for his symptoms of fatigue and depression.

This dispute, determined in March 2018, centred on Mr F's ability to work for a period of 32 months. The insurer said Mr F did not meet the requirements of the policy because a medical practitioner had not certified him as totally disabled during that period.

FOS said section 54 of the Act did not permit the insurer to rely on Mr F's omission and refuse to pay benefits. FOS was satisfied the omission did not cause or contribute to Mr F's loss and said the totality of the evidence supported the view that Mr F was not fit to work as a commercial pilot during that time.

In February 2018, we released the *FOS Approach to Section 54 of the Insurance Contracts Act*, which outlines our position on disputes involving this section of the Act.

Non-income stream risk (lump sum)

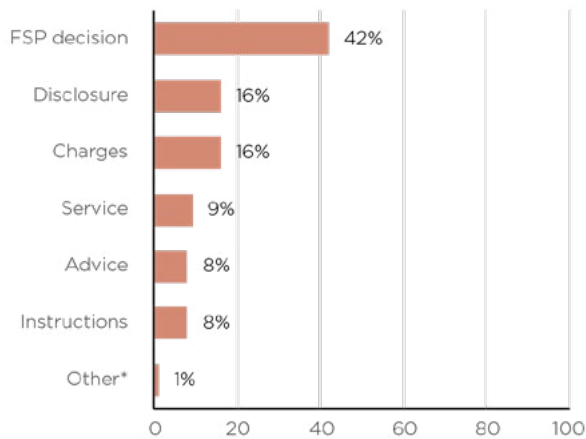
There were 616 non-income stream risk (lump sum) disputes in 2017-18. More than four in ten (42%) of the disputes related to a decision made by the FSP.

In this category, more than one-third (34%) of disputes related to term life insurance products. The most common issues for term life products were denial of claim and charging of incorrect premiums.

One-quarter (24%) of these disputes concerned total and permanent disability insurance. Denial of claim was the most common reason people lodged disputes about this product, followed by claim handling delays.

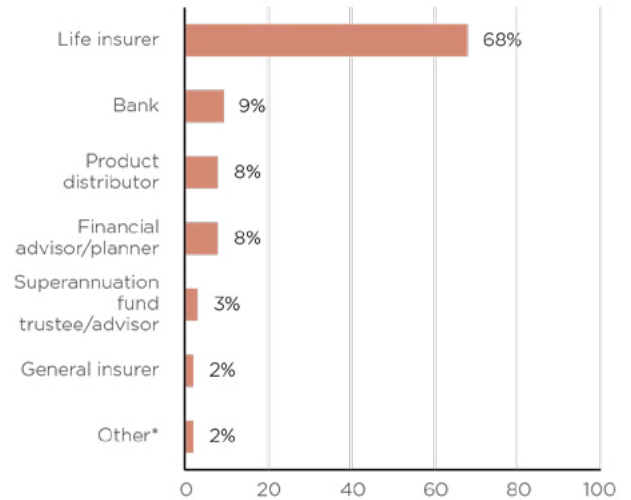
We also accepted 99 disputes related to trauma insurance products. Denial of claim was the most common issue.

Accepted non-income stream risk disputes by issue



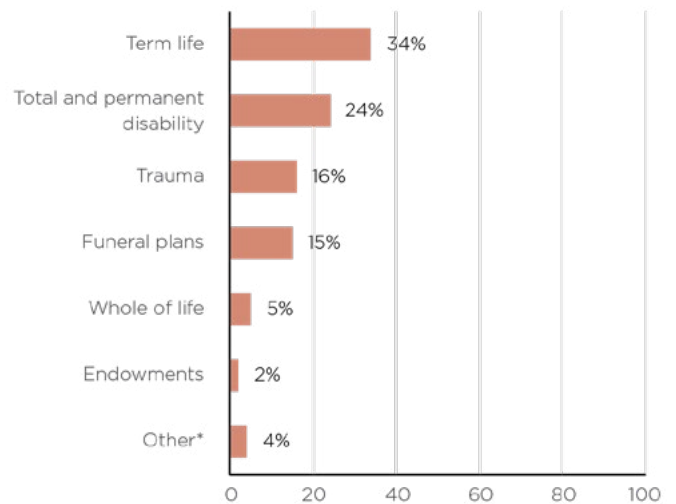
* Transactions, privacy and confidentiality, financial difficulty, outside Terms of Reference, not yet determined

Accepted non-income stream risk disputes by sales and service channel



* Friendly society, product issuer, administration services provider, life insurance broker, credit union, custodial and depository services, stockbroker, underwriting agency

Accepted non-income stream risk disputes by product



* Not yet determined, annuities



Case study

Inappropriate advice to roll over super leads to loss of insurance cover

A dispute in which an applicant, Mr S, lost his total and permanent disability and income protection insurance cover by following advice to roll over his superannuation into a new superannuation product was determined in his favour.

The dispute relates to inappropriate advice provided by an authorised representative of an FSP.

Mr S had pre-existing medical conditions and had previously made a claim under his income protection policy.

Mr S said the FSP ought to have made enquiries about his existing insurance cover before recommending to roll it over to a different superannuation account. He sought to be put back in the position he was in before the advice was implemented.

A FOS panel found that neither the FSP nor Mr S seemed to be aware that he held insurance policies with his original super account, but it was the FSP's responsibility to make reasonable enquiries about his personal circumstances and gather other relevant information about him and his insurance policies before recommending to roll over his super account.

In the January 2018 determination, the panel said the FSP conducted a fact find with Mr S, which should have put the FSP on notice that he had pre-existing medical conditions and to follow up with him about these conditions, especially given that its advice included recommendations about changes to life insurance cover.

Also, the panel noted that both super products were held with the same FSP, which meant it was simpler to make enquiries about the original accounts. Attempts by Mr S to have the original comprehensive insurance policies reinstated on his new superannuation account or to obtain similar cover have been unsuccessful.

The panel accepted that Mr S would have maintained his former insurance policies but for the advice. It said estimating his loss was difficult but that compensation should comprise:

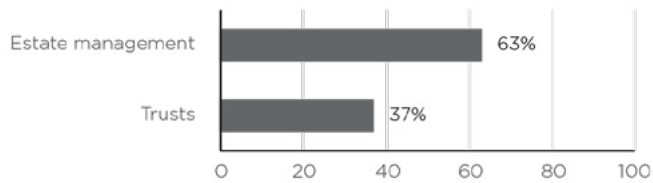
- › compensation for loss of the total and permanent disability comprehensive insurance
- › compensation for loss of the income protection comprehensive insurance
- › non-financial loss for the FSP's inappropriate conduct in progressing the dispute
- › further non-financial loss for Mr S's emotional stress and loss of enjoyment of life
- › reinstatement of some professional fees incurred by Mr S in the course of the dispute
- › refund of FSP fees associated with the advice.

➤ Traditional trustee service disputes

Our first full year of dealing with traditional trustee service disputes was 2012-13, and we see a very small number of such matters each year.

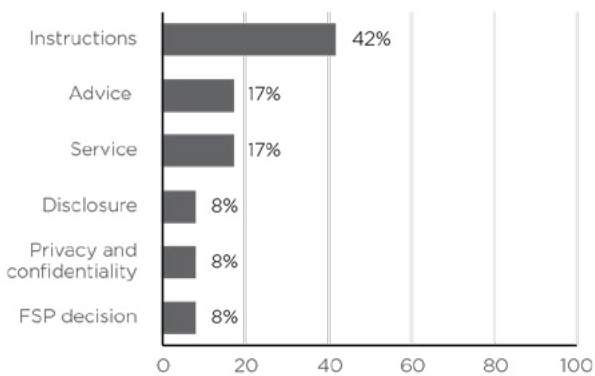
In 2017-18, we accepted 19 traditional trustee service disputes, the same as last year. Of these disputes, 12 related to estate management products and 7 to trusts.

Accepted traditional trustee disputes by product category

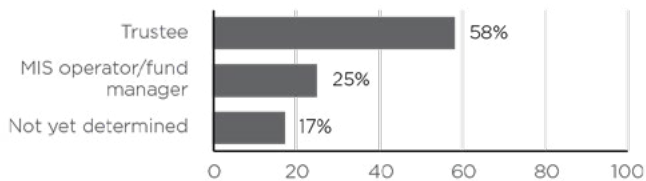


The key issue in estate management disputes was instructions (42%).

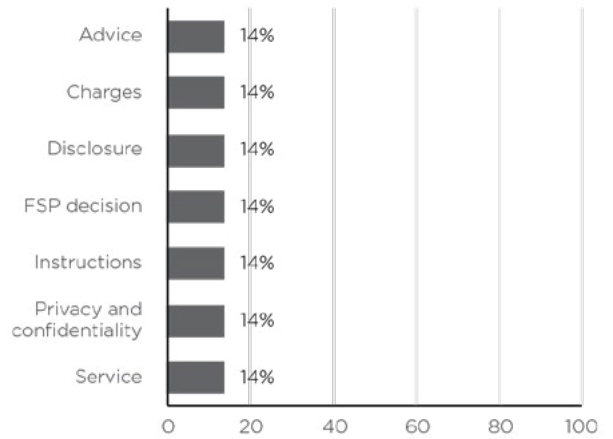
Accepted estate management disputes by issue



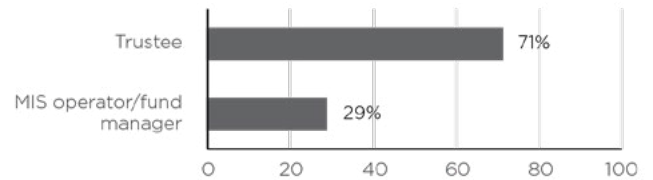
Accepted estate management disputes by sales and service channel



Accepted trust disputes by issue



Accepted trust disputes by sales and service channel



Financial difficulty disputes

Financial difficulty occurs when consumers unexpectedly cannot meet their repayment obligations. This can be as a result of an accident, separation, death of a family member, medical or funeral expenses, business downturn, reduction of work hours, redundancy or other factors.

We can consider financial difficulty disputes from individuals and small businesses.

In 2017-18, we accepted 2,752 disputes relating to financial difficulty, which was almost the same as last year's 2,742. Due to changes we made to our dispute resolution process from 1 July 2015, dispute numbers for 2014-15 and prior years are not directly comparable. We have seen a general trend of declining financial difficulty disputes in recent years, although this trend seems to be slowing.

The reduction in these disputes in recent years is most likely due to:

- › improvements FSPs have made in managing hardship requests and complaints from customers in financial difficulty
- › consistently low interest rates, which have reduced repayment pressure for many borrowers.

We are pleased with how our process is performing. Financial difficulty disputes are being resolved more efficiently and we are providing greater contact and support to parties throughout the dispute.

Under our dispute resolution process, all financial difficulty disputes lodged are initially referred to the FSP. This provides another opportunity for the parties to work together to resolve their dispute quickly.

For those disputes that progress to Case Management, experienced staff are involved early in the process, engaging with the dispute parties over the phone.

We have safeguards to ensure our process is tailored to the circumstances of the parties involved. These safeguards allow us to support applicants who may require greater assistance in gathering information and identifying viable options.

We also have an online form which allows applicants to provide us with details of their financial position electronically. The form is available via the consumers' section of our website.

Why disputes are lodged

In 2017-18, almost all (99%) financial difficulty disputes related to credit products.

The most common financial difficulty disputes were those involving FSPs failing to respond to a request for assistance (33%, up from 22% last year) and FSPs declining financial difficulty assistance to consumers (also 33%, down from 52% last year).

The total proportion of disputes involving an FSP declining a request for assistance or failing to respond to a request for assistance has declined from 74% last year to 66%. This is consistent with the improvements we have seen in the way FSPs manage hardship requests and enhancements in our own processes.

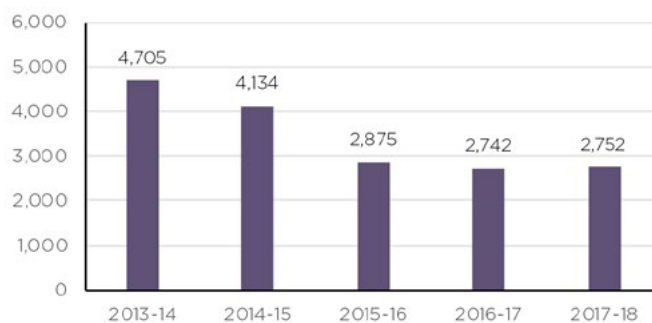
If a consumer requests an FSP to provide financial difficulty assistance, the FSP is required to communicate the outcome of its assessment of the request. This may be a decision to decline further assistance. If this occurs and the loan facility involved is regulated by the National Credit Code, the consumer must be provided with reasons and the name and contact details of the FSP's approved external dispute resolution scheme.

It is then up to the consumer to initiate contact with the dispute resolution scheme if they want the decision to be reviewed. Our data illustrates that this is the main reason for financial difficulty disputes being lodged with us.

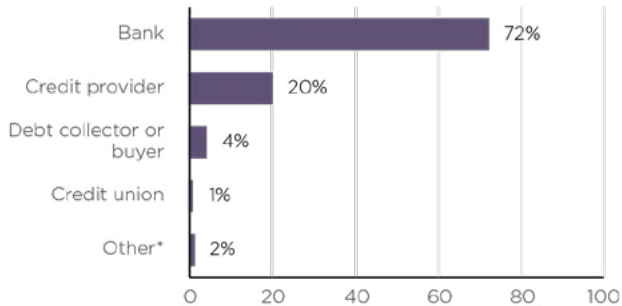
The proportion of financial difficulty disputes lodged as a result of a request to suspend enforcement proceedings was up from 15% last year to 21% in 2017-18. These figures reflect an increase in the number of legal proceedings disputes involving financial difficulty that we accepted (see page 112).

Almost three-quarters (72%) of financial difficulty disputes involved banks and one-fifth (20%) involved credit providers.

Accepted financial difficulty disputes by year

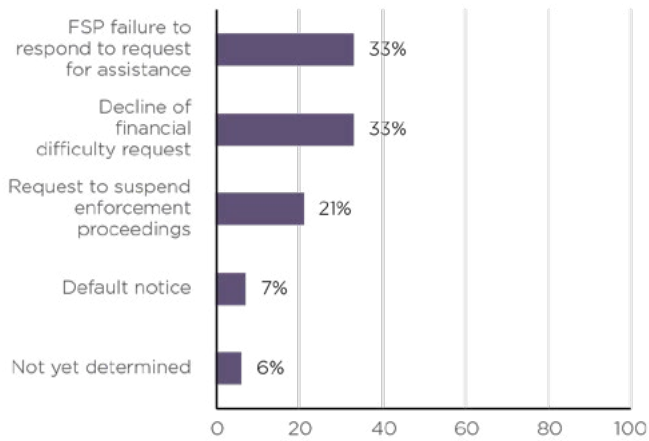


Accepted financial difficulty disputes by sales and service channel



* Finance broker, MIS operator/fund manager, building society, FinTech, general insurer, non-cash payment system provider, trustee, administration services provider, product distributor, superannuation fund trustee/advisor, timeshare scheme operator, financial advisor/planner, foreign exchange dealer, friendly society, mortgage manager, mortgage originator, stockbroker

Accepted financial difficulty disputes by issue



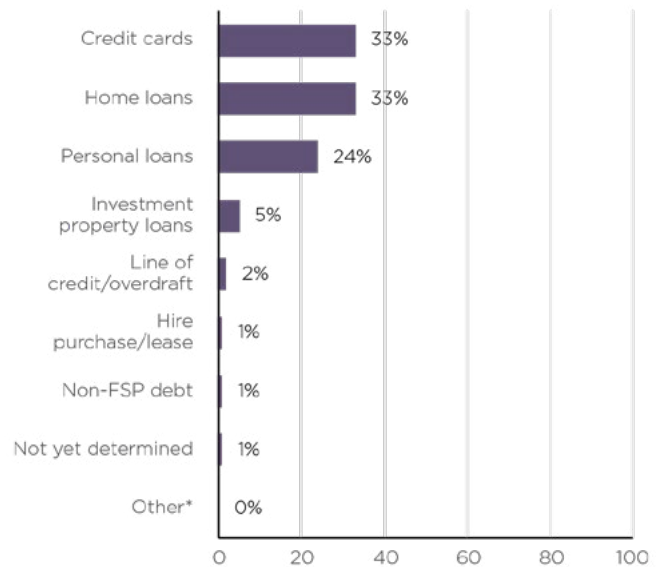
Financial difficulty – products

Consumer credit

Most financial difficulty disputes are lodged with us by individuals, and most of the financial difficulty disputes we accepted in 2017-18 related to consumer credit facilities (89%). Of these, 33% related to credit cards, 33% to home loans, and 24% to personal loans. This product split is consistent with last year.

It is not uncommon for applicants to lodge financial difficulty disputes in relation to multiple loan facilities, with one or multiple FSPs. For this reason, it is important that we are aware of all the facilities applicants hold to ensure that options being considered are appropriate and consistent with the level of difficulty the applicant may be experiencing. It is also important that applicants are willing to share information about their financial position with their FSPs, because this can help to resolve disputes earlier.

Accepted consumer credit financial difficulty disputes by product



* Short-term finance, construction loans, interest-free finance



Case study

Home owner given longer to repay loan

An applicant, Ms J, who experienced financial difficulty meeting her loan repayments after losing her job, lodged a dispute with FOS about seeking more time to make payments.

Ms J obtained a home loan through her FSP, with whom she was a long-term customer. When she moved interstate for work, she rented out her property, and the FSP changed the loan to an investment loan.

Ms J experienced financial difficulty when she was made redundant, and under the contract, her repayments changed from interest only to principal and interest.

The FSP offered more than nine months of reduced payments, giving her time to find another job.

When this period ended, she asked for more time to make reduced payments. The FSP declined her request.

Ms J lodged the dispute because she wanted to keep her investment property. It was the only property she owned, and she intended to live in it again at some stage. She said she had found a new job and, combined with rental income, could afford payments on the investment loan if the term was extended.

The FSP said that it was not its practice to extend loan terms because in its view assistance was short term only. It also was concerned about whether Ms J could meet repayments on an extended loan. It offered to give her a year to repay the arrears in addition to keeping up with normal repayments, but she could not afford that.

We explained to the FSP that financial difficulty is not always short term, and it is important to explore options for longer-term assistance where appropriate.

In this case, we said that the loan term should be extended because this would reduce Ms J's monthly repayments to an amount she could afford.

We also said the FSP should conduct a six-month serviceability test to show that she could afford the loan before the FSP changed the contract by capitalising the arrears.

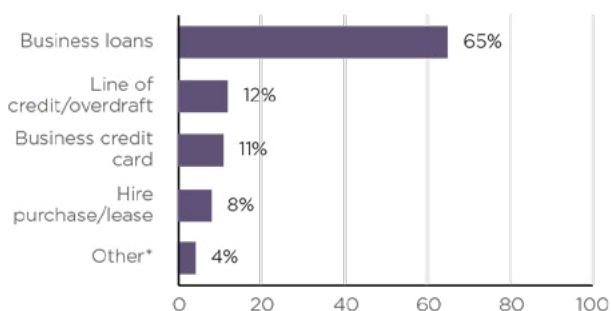
The dispute was resolved in December 2017 when the FSP agreed to this and extended the remaining loan term from 14 years to 30 years.

Business finance

Business finance disputes accounted for 10% of all financial difficulty disputes accepted in 2017-18. Of these, almost two-thirds (65%) related to business loans, 12% to lines of credit/overdrafts and 11% to business credit cards.

While the volume of financial difficulty disputes involving business facilities was small compared with consumer credit facilities, we have found that dealing with financial difficulty disputes involving business finance facilities can be complex. The applicants may represent multiple entities and the value of some facilities can be high.

Accepted business finance financial difficulty disputes by product



* Not yet determined, non-FSP debt, commercial bills, letter of credit

Financial difficulty outcomes

Most financial difficulty disputes are resolved when both parties work together, with our assistance, to reach agreement. An agreed outcome can include initiatives such as:

- repayments placed on hold for a reasonable period to allow the applicant time to return to work
- credit contracts varied to capitalise arrears so that they can be repaid over the term of the loan
- a reasonable timeframe to sell a property if it appears that the applicant/s will not be able to meet their repayment obligations.

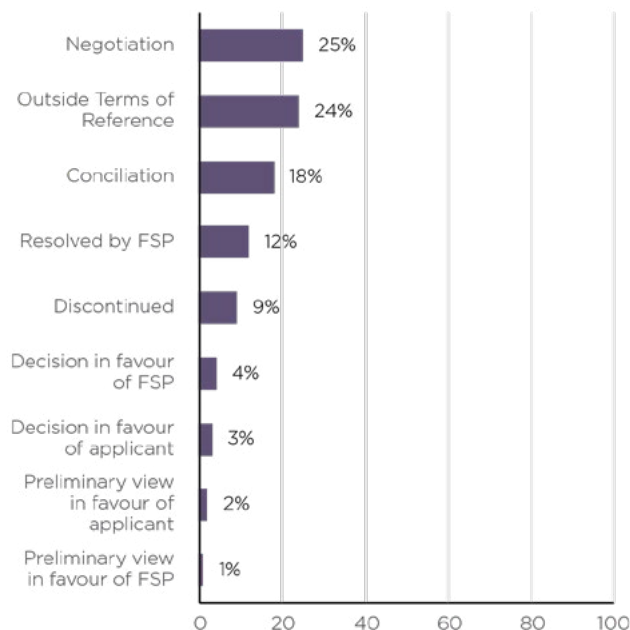
In 2017-18, 25% of financial difficulty disputes reached an outcome via negotiation facilitated by us. Conciliation was used to reach an outcome in 18% of disputes. This is an increase from 16% last year and 10% the previous year, and reflects an increased focus on resolving disputes by conciliation where possible (see page 113).

Experience has shown us that conciliation is particularly suited to financial difficulty disputes because it provides an opportunity for the parties to openly discuss all available options. In 2017-18, the Financial Difficulty team conducted 682 conciliations, more than two-thirds (68%) of which were resolved by agreement between the parties.

Disputes that were outside our Terms of Reference represented 24% of financial difficulty cases. The most common reason why disputes were excluded was as a result of debt recovery legal proceedings progressing beyond a point where we can consider the dispute (see page 112).

For more information, please see the *FOS Approach to Excluding Disputes* at www.fos.org.au/approach. This and other FOS Approach documents contain detailed information about dealing with financial difficulty disputes.

Outcomes of accepted financial difficulty disputes



Case study

Conciliation helps vulnerable borrower with credit card debt

An applicant, Ms G, lodged a dispute with FOS after experiencing financial difficulty making credit card repayments.

She had been suffering health problems, and had incurred some costly medical expenses. She was supporting her husband, who also had health problems and had been unemployed for several years, as well as their three school-age children.

Before coming to FOS, Ms G and her FSP had discussed options for repaying the debt, but they had been unable to reach an agreement.

When Ms G lodged her dispute, she completed a Statement of Financial Position. This helped FOS and the FSP better understand her financial situation. It was clear that even though she was employed full time, she was not earning enough income to cover all of the family's expenses.

We arranged a conciliation conference, which brought together Ms G and the FSP and enabled them to understand the issues. The conciliation also provided Ms G with a safe space to explain the actions she was taking to repay her other debts, her plans for reducing her family's expenses and her husband's job prospects.

The dispute resolved at the conciliation conference in May 2018.

The FSP agreed to allow Ms G five months with no repayments, followed by a long-term reduced payment arrangement. It also agreed to stop charging interest to the account.

Financial difficulty – about our applicants

State by state

In the tables below, we align the total number of financial difficulty disputes with the population data on page 50. We use received disputes in this section.

Victoria, New South Wales and Queensland residents were the most likely to lodge financial difficulty disputes in 2017-18. This is consistent with the overall geographic distribution of disputes received.

A higher proportion of applicants from Queensland and Western Australia lodged financial difficulty disputes compared with other issues.

In financial difficulty disputes, more than three-quarters of applicants (78%) lodge their dispute with us through our website. Applicants are more than twice as likely to lodge a financial difficulty dispute by phone compared with other disputes.

Received financial difficulty (FD) disputes – geographic breakdown

	FD	% FD	All	All excl. FD	% all excl. FD
VIC	1,380	31	12,594	11,214	29
NSW	1,053	24	12,736	11,683	30
QLD	897	20	7,459	6,562	17
WA	495	11	3,740	3,245	8
SA	316	7	2,496	2,180	6
ACT	59	1	614	555	1
TAS	43	1	541	498	1
NT	35	1	265	230	1
Other country	32	1	645	613	2
Not provided	125	3	2,594	2,469	6
Total	4,435	100	43,684	39,249	100

How applicants in financial difficulty heard about FOS

More than one-quarter (27%, four percentage points more than last year) of applicants in financial difficulty had already heard about us. Others found out about our service through their financial counsellor (8%) or the internet (7%).

In 2017-18, 40% of all dispute referrals to us from financial counsellors and 29% of dispute referrals from a charity or church organisation were for reasons of financial difficulty.

Received financial difficulty disputes by how applicant heard about FOS

	Total	%
Already knew about FOS	1,208	27
Not provided	1,079	24
Unknown	545	12
Financial counsellor	346	8
Internet	320	7
Family/friend/colleague (word of mouth)	252	6
Legal aid/free legal service	155	3
Another dispute resolution scheme	137	3
FSP I have a dispute with	98	2
Solicitor/legal professional	88	2
Government agency	50	1
Community centre/consumer representative	44	1
Charity/church organisation	27	1
Industry association	23	1
Financial planner	21	0
Media (newspaper/magazine)	17	0
Member of Parliament	14	0
Other*	11	0
Total	4,435	100

* Phone directory, event/trade fair/presentation, welfare/migrant service

Characteristics of financial difficulty applicants compared with all applicants

Applicants in financial difficulty disputes are most likely to be in the 40-59 age bracket.

Where applicants in financial difficulty disputes appoint a representative, the representative is more likely to be a financial counsellor compared with other disputes. This reflects the important role financial counsellors play in helping consumers deal with financial difficulty.

Our records show that financial difficulty disputes are more likely to be lodged by a male than female applicant, and that applicants in financial difficulty disputes are more likely to report that they have a mental health issue compared with applicants in other disputes.

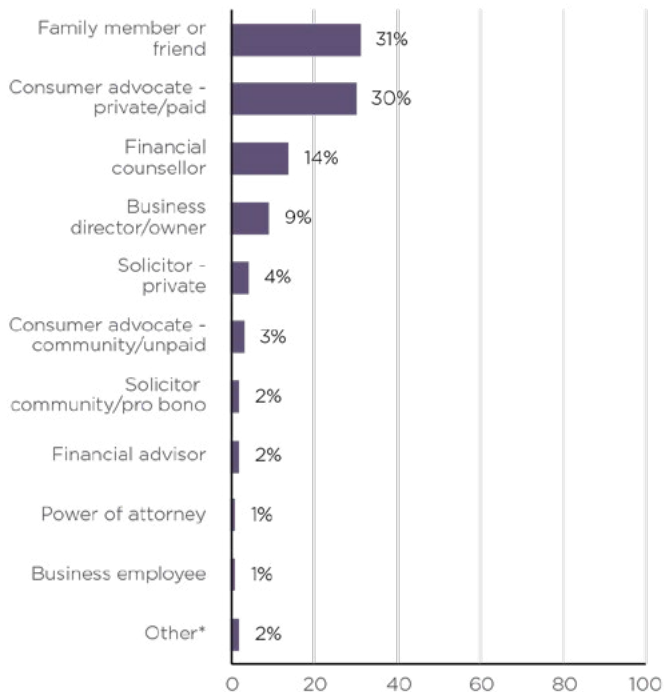
During the year we continued to work to improve support and access for applicants who need additional assistance (see page 40).

Received financial difficulty (FD) disputes by age of applicant

Age	FD	% FD	All	All excl. FD	% all excl. FD
0-17	35	1	363	328	1
18-24	105	2	1,288	1,183	3
25-29	261	5	2,962	2,701	6
30-39	1,145	24	10,198	9,053	22
40-59	2,188	46	18,126	15,938	38
60+	570	12	7,691	7,121	17
Not provided	446	9	5,899	5,453	13
Total	4,750*	100	46,527	41,777	100

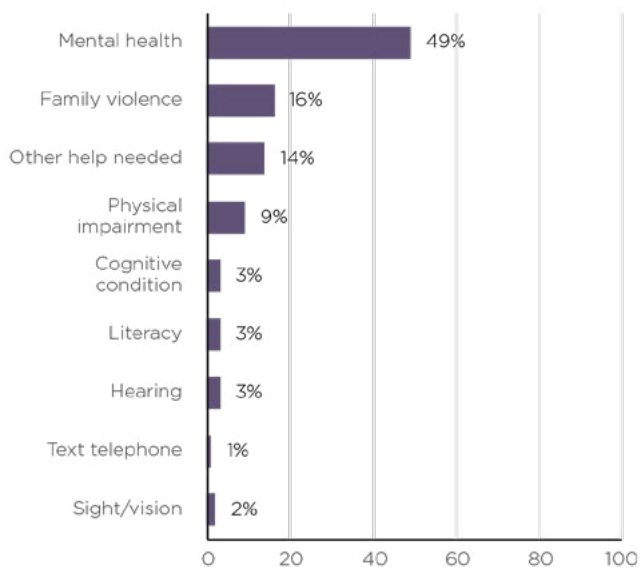
* Joint applicants are counted twice for gender so this total is higher than total number of disputes received (4,435)

Received financial difficulty disputes by type of representative



* Accountant, executor, trustee-affected party, co-trustee, insurance broker

Received financial difficulty disputes by type of special assistance



Legal proceedings disputes

In 2017-18, we accepted 970 legal proceedings disputes. This was 5% less than last year.

Legal proceedings disputes are where an FSP has begun debt recovery legal proceedings against an applicant in court before the dispute is lodged with us.

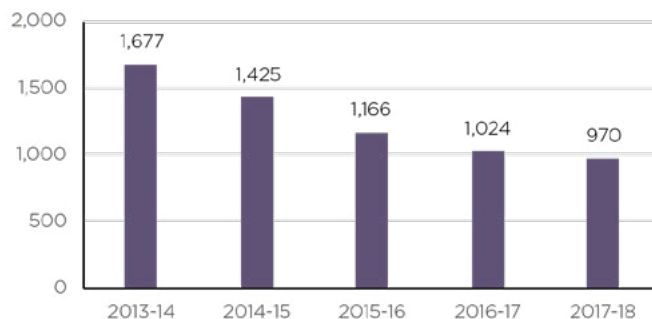
Because legal proceedings disputes relate to debt recovery, financial difficulty (57%) remained the most common issue in these disputes. Another major issue was FSP decision (25%).

Almost three-quarters (72%) of accepted legal proceedings disputes involved banks and a further 14% involved credit providers. The products involved in most of these disputes were consumer credit (81%) and business finance (9%).

During 2017-18, we determined that 43% of legal proceedings disputes were outside our jurisdiction. The most common reason for this was that a court order had been issued before the dispute was lodged.

Of the legal proceedings disputes that we considered, a significant number were resolved when FOS negotiated settlements (16%) or conciliated outcomes (14%).

Accepted legal proceedings disputes by year



Conciliation conferences

FOS has a team of specialist conciliators who conduct telephone conferences to resolve disputes involving financial difficulty, general insurance, investments, superannuation, life insurance, stockbroking, and banking and finance matters. Some conciliations are conducted by other accredited FOS case workers (see below).

Conciliation conferences provide an informal forum in which we facilitate discussions between the applicant and FSP on all issues, and help them develop and assess options for resolving the dispute.

Maintaining dialogue between the parties enables a shared understanding of the issues involved and the alternative viewpoint, provides opportunities to clarify existing information and reveal new information.

Conciliation gives people an opportunity to be heard. The chance to speak directly to their FSP and have their issues acknowledged can be a valuable experience. It also provides the opportunity for the parties to develop their own resolution to the dispute.

Training members and staff

FOS is keen to keep expanding the use of conciliation as a tool to effectively resolve disputes.

In 2017-18, we continued our focus on engaging with members to improve their understanding of the benefits of conciliation and encourage its wider use. In the second half of the year, we developed a training session targeted at building the skills and confidence of members' staff, with the aim of improving their effectiveness at FOS conciliations. So far, we have run the training session for three of our members, and expect to run more sessions in the coming year.

At the same time, we have developed an intensive training and accreditation program for our own staff, to ensure more FOS case workers acquire the skills required to conduct conciliations on their own files. As at 30 June 2018, 31 case workers had completed the accreditation program.


In 2017-18, we conducted 2,349 telephone conciliation conferences, one-third (35%) more than last year's 1,738. Of the disputes that went to conciliation, 39% resolved at conciliation (49% last year).

Resolution rates vary, depending on the issues in dispute. For example, financial difficulty disputes tend to have a higher resolution rate than other banking and finance disputes where financial difficulty is not a factor. In complex disputes, a conciliation conference can help resolve some of the issues, so that any further investigation we need to conduct can be more limited in scope.

Year at a glance

2,349

Telephone conciliation conferences

35% 

from 2016-17

39%

Disputes resolved at conciliation

Pilot project

In 2016-17, we began a pilot project with several FSPs to test the benefits of making conciliation a required step in our dispute process. The pilot ended in the second half of 2017. One of the key findings was that disputes included in the pilot tended to resolve at an earlier stage in our process than disputes that were not part of the pilot.

Even when disputes didn't resolve during the conciliation itself, the discussions helped to narrow the issues, increasing the likelihood of the dispute resolving by negotiation at a later stage.

Eight in ten applicants (80%) participating in the pilot said that it was a positive experience and 87% thought the process and conciliator were fair. FSPs also gave positive feedback, saying that cases that would not normally have been resolved had been closed more quickly.

While conciliation as a required step may in some cases put a strain on FSP resourcing, the results showed that increased emphasis on conciliation in the early stages of the process increases the timeliness and efficiency of dispute resolution.

Based on the positive results of the pilot project, we will continue expanding the use of conciliation as a dispute resolution tool.

Case study

Apology proves crucial in resolving dispute over cyclone damage

In March 2017, Tropical Cyclone Debbie hit the Whitsundays region, causing significant damage. The applicant, Mr H, who lived in the area, was staying elsewhere during the storm.

When he was able to return home, he found that his house was unliveable. The roof had been blown off, the outside walls had been torn away, windows were broken and fences destroyed.

Mr H made a claim under his home insurance policy. The insurer handled the contents claim well, but made numerous errors and delays in progressing the building claim.

Over the next 10 months, the insurer made several offers ranging from \$75,000 to \$115,000. It increased its offer to \$137,000 after Mr H's builder noticed that the scope of works did not include replacement of the roof. However, the amount offered was still about \$100,000 less than the builder's quote.

Mr H and the insurer could not agree on a settlement amount, so Mr H lodged a dispute with FOS in February 2018. He was becoming anxious because the temporary accommodation benefit included in his policy was about to expire and he was still unable to move back into his house.

FOS arranged a telephone conciliation conference to allow Mr H and the insurer to discuss the claim and scope of works. Mr H was nervous about the conciliation, and so the FOS conciliator called him the previous day to introduce herself and explain what would happen.

At the conciliation conference, the insurer began by acknowledging what Mr H had been through. It apologised for the delays and changing offers. The conciliator felt that this apology was a turning point in the negotiations, and provided the basis for the parties to work together and reach agreement.

The dispute resolved at the conciliation, with Mr H accepting the insurer's offer of a cash settlement of \$240,000. This included amounts for landscaping and additional rent, as well as compensation for Mr H's poor claims experience.





Service complaints and feedback about FOS

FOS has a robust and systematic method for dealing with complaints about our service ('service complaints'). In October 2017, the FOS board introduced the function of an Independent Assessor (see page 118) for dealing with complainants that remained dissatisfied with our service after receiving a response to their complaint.

Details and feedback

We received 652 service complaints in 2017-18, representing 1.5% of the total disputes we received. (Last year, we received 480 service complaints, representing 1.2% of all disputes received.)

Of these 652 service complaints, 52 were escalated to the Independent Assessor (representing 8% of total service complaints and 0.12% of all disputes received by FOS in 2017-18).

In 2017-18, we received 132 expressions of dissatisfaction (172 last year). An expression of dissatisfaction is feedback that does not require a response. It may be received via our website or a staff member may log feedback based on an email or telephone conversation.

We also regularly receive compliments for the service we provide. In 2017-18 we received 253 compliments (278 last year). Positive feedback included compliments about our staff and their care and empathy when handling disputes, and comments from applicants who said they were satisfied that they had achieved an outcome they were not sure they could have achieved without our involvement. Feedback was also provided about FOS providing a balanced and fair process.

FOS service complaint	No. of service issues
Determination	352
Membership/finance	25
Service	712
Total	1,089

Note: Some service complaints have more than one issue, so this total (1,089) is greater than the number of service complaints received (652).

Service issues

The most common issues raised in service complaints were about delays in our service, allegations of bias and failing to take into account certain information. Service issues may relate to the general service we provided and the process we followed in dealing with a dispute. They may also concern the service provided when we issued a determination or relate to membership services, including dispute fees charged.

In 2017-18, we resolved 635 service complaints (29% more than last year). Of these complaints, 89% were not upheld compared with 87% last year.

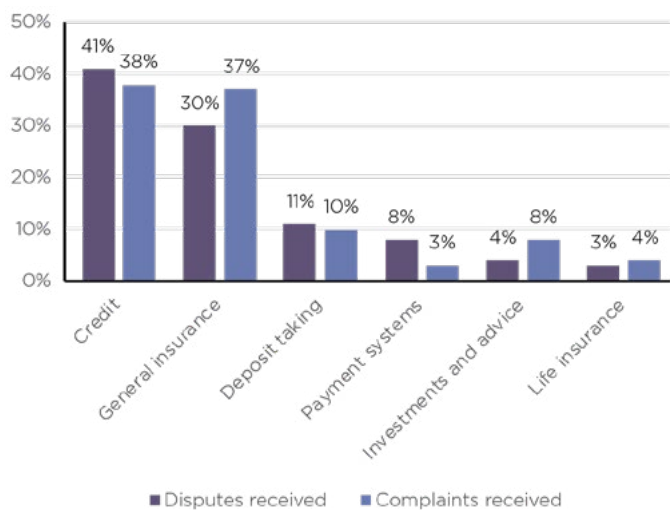
Of the 117 service complaint issues upheld, the overwhelming majority related to aspects of how we engaged with the parties during our handling of their dispute. The most common service-related complaints upheld were about delays. A significant portion were due to delays at the final decision stage as a result of higher than expected disputes received.

Outcomes and timeframes

Common outcomes for service complaints we upheld included an apology to the person or FSP involved, escalation of the dispute through our process and further explanation to the parties about our decision-making or process.

We resolved 75% of service complaints within our timeframes compared with 70% last year. Average days to resolve a service complaint improved from 24 days last year to 22 days in 2017-18.

Service complaints received by product



The proportion of service complaints received by product line was broadly consistent with the proportions of overall disputes received, with an increase in general insurance and investments and advice and a reduction in credit-related and payment system service complaints.

Product	Total
Credit	245
General insurance	239
Deposit taking	62
Investments and advice	49
Life insurance	26
Payment systems	20

Note: Eleven service complaints were not about one of the above product lines.

How we are responding

In 2017-18, we worked to enhance our dispute process by:

- introducing initiatives to reduce delays, particularly at the decision stage of our process, leading to significant improvements
- introducing initiatives to improve how we engage with parties throughout our dispute process (for example, self-assessment of call recordings with applicants)
- continuing to focus on staff training to improve our communication and engagement with the parties throughout our handling of disputes (for example, launching an elearning module designed for case workers to better understand the needs of applicants through active listening and effective questioning)
- analysing, considering and in some cases implementing the Independent Assessor's recommendations for improvements to our processes and service.

Key service complaints data	Total
Number of service complaints received	652
Number of service complaints resolved	635
Proportion of service complaints not upheld	89%
Proportion of service complaints resolved within service timeframes	75%
Proportion of service complaints by applicants	89%
Proportion of service complaints by FSPs	8%
Proportion of service complaints by a third party (e.g. representative)	3%
Expressions of dissatisfaction received	132
Compliments received	253

Independent Assessor's report



John Warde,
Independent Assessor

Complaints received and resolved

My appointment as the first Independent Assessor of FOS was announced publicly on 4 October 2017. From that date to 30 June 2018, the Office of the Independent Assessor received 52 service complaints from consumers, small businesses and financial services providers (FSPs) in relation to FOS's conduct of financial disputes.

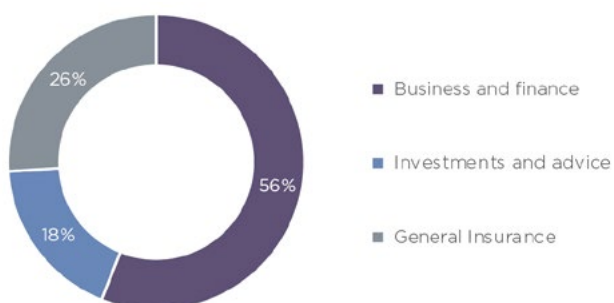
I resolved 26 of those service complaints during that period. In some cases, this required a detailed review of the underlying evidence, preparing written reasons (known as Assessments) for the findings I made and making recommendations to the Chief Ombudsman. In other cases, it required an examination of whether the complaint concerned only the merits or outcome of an underlying dispute – and therefore fell outside the Independent Assessor's Terms of Reference – or fell outside my jurisdiction for other reasons.

In addition, on 36 occasions my Office provided information and assistance to individuals and small businesses, who contacted me seeking information about a range of issues, such as the requirements for lodging complaints or commencing disputes.

Nature of complaints received

Complaints that progress to the Independent Assessor often tend to involve more complex underlying disputes, which required detailed investigations and communications by FOS and longer timelines than 'single issue' disputes and claims involving lower monetary amounts.

Service complaints lodged by product line



Service complaints by conduct or omission category

Category	Total
Delay	17
Failure to take into account relevant information	12
Lack of expertise	12
Bias	12
Biased process	8
Decision contained errors	6
Incorrect assessment of fact or law	5
Failure to reply to calls or correspondence	5
Discourteous	5
Disagree with decision to discontinue dispute	5
Failure to keep parties informed of progress	3
Incorrect or insufficient information provided	3
Breach of procedural fairness	2
Pressure to settle dispute	2
Technical issues – online or phone	2
Unable to understand information provided	1

Note: Service complaints may include more than one type of alleged conduct or omission by FOS in handling a dispute.

While delay was a common complaint, it was usually not the primary complaint made. Often the asserted delay (when measured against FOS's estimated timeframes) was not established upon examination, or the delay involved was not material. In other instances, FOS had provided an appropriate apology before the complaint was escalated to my Office, or I recommended that an apology be provided.

I also received complaints regarding failures to take into account relevant information, sometimes coupled with claims of a lack of expertise. While some of these complaints have been merits-related only and therefore outside my jurisdiction, there were some instances where complainants asserted that information they provided was not acknowledged or not afforded due weight.

Findings

Of the complaints resolved by my Office during the year, 16 were finalised on the basis that they fell outside the Independent Assessor's Terms of Reference, for reasons including being merits-based only, or the complaint was made out of time or the requirement to first participate in the internal FOS complaint resolution process had not been undertaken.

Of the 10 cases where a detailed assessment of the evidence underlying the complaint was required, in summary the outcomes were:

- › service standards fully met: 5
- › service standards largely met: 4
- › service standards substantially not met: 1

Recommendations

Under clause 14 of my Terms of Reference, where I find that FOS has not met its service standards, I may make recommendations to the Chief Ombudsman, which must be copied to the complainant.

In one case (see case study, right) where I made a finding that FOS had substantially not met its service standards, I recommended that FOS pay the complainant \$1,000 compensation for distress and inconvenience caused and that FOS revisit its procedural safeguards relating to document management.

In other cases where FOS had largely met its service standards, but there were instances of minor or relatively low-level departures from those standards, I made recommendations such as:

- › provision of a written apology to the affected complainants
- › counselling FOS staff in relation to poor responsiveness
- › avoiding the use of standard wording in correspondence which could be interpreted as overly abrupt or inflexible.

In all instances where I made recommendations, the Chief Ombudsman accepted those recommendations in full.

Continuous improvement

I liaised with FOS's Quality, Knowledge and Improvement team as well as communicating with the Board, regarding the work of the Independent Assessor's Office. This has included commenting in relation to ways of working and opportunities for continuous improvement of the service FOS provides. These discussions have been informed by issues raised with me by complainants regarding their individual experiences and from my own observations.

Opportunities identified and progressed included:

- › improving the terminology used in some FOS communications
- › improvements to FOS document management systems
- › enhancing communication techniques in the course of investigating a dispute
- › considering new processes for exchanging documents between applicants and FSPs
- › setting a reasonable limitation period for complaints to FOS's internal complaints service.

Case study

Evidence overlooked

Ms A complained that in investigating her dispute against Bank X regarding disputed credit card transactions, FOS omitted to take into account documents she had supplied evidencing relevant transactions. Ms A had raised this concern with FOS several times. The FOS determination stated that there was no information to substantiate that the transactions had occurred.

On review, I concluded that documents which Ms A had supplied to FOS and which had been scanned into FOS's electronic records system had either been overlooked or given inadequate weight. Further, FOS had not adequately engaged with Ms A to understand and follow up on her concerns.

I recommended that FOS apologise for the oversight and pay \$1,000 for distress and inconvenience caused. FOS also engaged with Bank X, which elected to make a further payment to Ms A in relation to the disputed transactions.

Independent Assessor initiatives

As the first Independent Assessor of FOS, I have had the privilege and challenge of formulating and putting into effect the operational approach and day-to-day practices of this Office, in providing an external review of service complaints made against FOS.

In doing so, I have had regard to the objectives for the Independent Assessor role outlined and contemplated in the 2017 report to Treasury reviewing the financial system's external dispute resolution and complaints framework (the Ramsay Review). Those objectives include improving the standards of dispute handling, as well as enhancing accountability and transparency. I have taken into account procedural fairness requirements and practices adopted by other bodies with similar functions, including the Office of the Independent Assessor of the UK's Financial Ombudsman Service.

In formulating an overall operational approach, I have taken the view that transparency is an essential element of the functioning of and the maintenance of confidence in this Office. I have accordingly put in place a practice of ensuring that substantive written communications from the Independent Assessor's Office, in the course of reviewing a complaint, are shared with both the complainant and FOS, usually simultaneously.

Case study

Bias claims not substantiated

Mr B complained that FOS's handling of his dispute was biased towards a financial markets trading services provider. He also asserted that FOS had improperly impugned his character and integrity.

On review, I found that the evidence did not support a conclusion of bias on the part of FOS, and gave written reasons for that finding. I also found that language in the FOS determination identified by Mr B in support of his assertions that FOS had impugned his character was unexceptional and did not support his assertions. Nor did the language used by FOS in responding to his complaint evidence any bias in favour of the services provider. I made no recommendations to the Chief Ombudsman in relation to Mr B's complaint.

I created 21 template standardised communications from this Office, relating to various stages of the Independent Assessor review and assessment process, from the complaint lodgement stage, to the jurisdiction stage, through to the complaint investigation stage and the issuing of a final assessment.

In my Assessments, I have sought to specifically identify the particular FOS 'service standard' (by reference to FOS's own publications) that is applicable to the complaint made and to give adequate reasons addressing how FOS's conduct met or did not meet that standard. I have also adopted a practice of anonymising the identities of complainants, FSPs and individual FOS officers, for the convenience of the parties and to facilitate any future publication.

I also visited the UK and met with the Independent Assessor of FOS UK, Ms Amerdeep Somal. This was an invaluable opportunity to gain an understanding of the UK experience, approach and operational practices in relation to independent, external complaint reviews. We expect to grow and maintain cross-jurisdictional exchanges of views and non-confidential information of mutual interest.

In conclusion

The primary focus of my Office is on ensuring that service complaints are heard and determined with fairness and efficiency, while meeting the important objectives of accountability, transparency and continuous improvement in the delivery of FOS's service.

I would like to thank all the individual complainants and FOS officers with whom I have had contact in the course of this year, for their contribution towards meeting these objectives.

John Warde

The Independent Assessor

Systemic issues and serious misconduct



Systemic issues and serious misconduct

FOS is regulated by *ASIC Regulatory Guide 139* to identify, resolve and report on systemic issues and notify ASIC of cases of serious misconduct.

A systemic issue is defined in our Terms of Reference as an issue that will have an effect on people beyond the parties to a dispute. Serious misconduct is defined as conduct that may be fraudulent or grossly negligent or may involve wilful breaches of applicable laws or obligations.

Identifying systemic issues gives us the chance to help FSPs fix the issues, raise industry standards, and help consumers obtain fair compensation for financial losses.

Our systemic issues process

1 IDENTIFY a possible systemic issue (1,037 referrals in 2017-18)

Our staff consider whether each dispute raises any issues that could affect a wider group of people. Systemic issues can be identified by staff at any stage of the dispute resolution process.

2 REFER the issue to the FSP (306 cases in 2017-18)

Once a possible systemic issue is identified, we provide details of the issue to the relevant FSP, ask for further information and invite the FSP to respond formally.

3 ASSESS whether it is a definite systemic issue (123 cases in 2017-18)

We assess the FSP's response and determine whether the issue is definitely systemic. Our systemic issues staff carry out investigations in consultation with the relevant Ombudsman.

If we decide that it is a systemic issue, we manage its resolution with the FSP.

If we decide that an issue is not systemic (136 cases in 2017-18), the matter is concluded, although we may reconsider it if new information becomes available.

4 RESOLVE the issue through collaboration with the FSP (91 cases in 2017-18)

We work with the FSP to resolve the systemic issue. This requires the FSP, where appropriate, to:

- › identify all affected customers
- › compensate the affected customers fairly for any financial loss
- › implement a strategy to prevent the problem recurring.

5 REPORT the issue to ASIC

We provide quarterly reports to ASIC on the numbers of possible and definite systemic issues we have identified, and the nature, progress and resolution of definite systemic issues. FSPs are not named in these reports.

We identify an FSP in a report to ASIC only if the FSP has not dealt with a definite systemic issue to the satisfaction of the relevant Ombudsman or if it is a case of serious misconduct.

Systemic issues and serious misconduct cases this year

The Systemic Issues team received 1,037 referrals of possible systemic issues from our dispute handling teams in 2017-18 (compared with 1,476 last year). This included multiple referrals of the same issues. Staff are regularly reminded of our systemic issues obligation and encouraged to refer any disputes of concern. We focused on the quality of referrals in 2017-18 and introduced a triage step earlier in the referral process.

The Systemic Issues team uses a thorough assessment process to decide whether a matter should be referred to an FSP for response. This means that some referrals are escalated and some are not.

In 2017-18, we identified and referred 306 possible systemic issues to FSPs for response (192 last year), and resolved 91 definite systemic issues (66 last year).

We closed 186 systemic issue investigations at the preliminary stage in 2017-18. This continues our process of contacting FSPs to obtain further information before referring the matter as possibly systemic.

Some of the possible and definite systemic issues identified in 2017-18 were still being investigated at the end of year and it is difficult to quantify how many customers were affected by systemic issues and remediated. Nevertheless, we estimate that more than 295,000 customers were identified by FSPs as having been affected by systemic issues investigated by FOS.

Outcomes reached

Key outcomes of systemic issues resolved were:

- refunds following direct FOS involvement (or in some cases the issues identified from FOS disputes may have already been remediated by the FSP or been subject to ASIC involvement) – more than \$42 million
- credit listings – more than 2,800 amended or removed.

Other outcomes included:

- updating policies and procedures, and improving monitoring and control of authorised representatives providing investment advice to clients
- extending policies for dealing with customers in financial difficulty, to consider individual requests for assistance where there are joint facilities
- improving sales practices to ensure that staff notify customers of employment eligibility criteria when selling loan protection insurance

- improving mobile internet banking to reduce the number of outages and provide better notification to customers when issues arise
- improving claims handling processes for motor vehicle insurance where exclusion clauses were relied on incorrectly to deny the claims
- improving processes and staff training to identify instances of potential elder abuse
- adopting a more favourable policy interpretation for life insurance claims made by customers, where the policy was ambiguous and open to interpretation
- rectifying an error where transactions undertaken in foreign currency were converting to 10 times the equivalent Australian dollar amount.

Improvements and amendments

We determined that 136 referred issues were not systemic but in many cases a positive outcome was achieved from the referral, including:

- removing late payment fees where non-hardship payment arrangements had been agreed with customers
- improving processes for checking whether customers can make a claim under a related insurance policy where they are experiencing financial difficulty in repaying the facilities
- updating processes to notify all insured parties where a request is made by one co-insured to cancel an insurance policy
- increasing resources and improving engagement in internal and external dispute resolution to handle disputes in a responsive and timely manner
- allowing more time for premiums to be paid to avoid cancellation of insurance contracts
- ceasing to charge an administration fee where a privacy request for information was made by customers
- revising a policy to no longer permit minors under the age of 12 to solely operate a bank account
- amending correspondence to customers where requests for hardship assistance are made, to make it clearer and easier to understand what information is required, and what types of solutions can be considered.



Case study

Advice dispute uncovers broader compliance concerns

FOS received a dispute that raised concerns about whether an FSP was complying with its obligations to provide clients with appropriate investment advice.

Our investigation initially focused on the advice of an authorised representative of an FSP to a client to establish a self-managed superannuation fund, and use of the fund to borrow funds to buy an investment property. The client had a low level of financial literacy and a small amount of superannuation available.

The review expanded to consider how the FSP monitors, supervises and trains its representatives, and whether the FSP was meeting its obligations under the *Corporations Act 2001*.

The FSP advised that:

- › it had remediated 14 matters where inappropriate advice had been provided to clients to invest in a self-managed superannuation fund. This included paying compensation of more than \$200,000
- › it monitors and supervises representatives through its annual advice review process
- › under this process, the FSP does not require representatives to seek compliance with identified concerns for 12 months
- › several audits indicated that past issues had not been addressed
- › it was seeking to implement a wider compliance monitoring program over the following 12 months.

Based on the information, and broader concerns that the FSP's existing monitoring mechanisms were infrequent, leaving potential for unchecked behaviour to continue over long periods, our Lead Ombudsman, Investments and Advice, considered it to be a definite systemic issue.

The FSP participated in a telephone conference with FOS in November 2017, in which it outlined the expanded representative monitoring program it was implementing, which comprised 23 additional monitoring activities focused on addressing key compliance risks associated with its representatives.

Along with the FSP's existing advice review process, which included annual audits of all representatives, the FSP confirmed it would complete targeted ongoing monitoring, which would include selecting a sample of annual reviews and obtaining the full files to identify any material issues.

The FSP also updated all relevant policies and procedures to reflect that its representatives are required to inform the compliance manager of all complaints they receive, regardless of whether the complaint is resolved before escalation.

Based on the FSP's improvements, the matter was considered to be resolved. The FSP agreed to provide FOS with confirmation once its expanded monitoring program is implemented, and confirm any steps it may add beyond those previously confirmed with FOS.

Common issues continue to be:

- › compliance with the National Credit Code
- › conduct of employees and authorised representatives
- › processing errors
- › suitability of insurance products, such as the sale of add-on insurance
- › compliance with the ePayments Code.

We reported 11 cases of serious misconduct to ASIC (compared with 9 last year). Misconduct reporting in 2017-18 related mainly to FSPs failing to comply with FOS determinations.

Examples of definite systemic issues:

- › failing to correctly identify unauthorised transactions and when the provisions of the ePayments Code will be applicable in determining whether a customer is liable for the transaction
- › authorised representatives providing advice to clients outside the authority permitted under their licence or client agreement
- › Initiating legal proceedings against debtors in recovery of debt regulated by the National Credit Code, in a state or territory outside where the debtor lives.

Working together with FSPs and ASIC

In 2017-18, we continued to interact with ASIC on investigations of systemic issues.

A number of matters we identified and referred to FSPs as systemic had been or subsequently were self-reported to ASIC by the FSP.

Several other issues that we raised as possibly systemic had already been or were subject to investigation by ASIC.

Case study

Customers receive \$1 million compensation over unauthorised transactions

A number of disputes lodged with FOS suggested that an FSP did not appropriately consider its obligations under the ePayments Code when a customer disputed an unauthorised transaction.

The FSP had relied on chargeback claims for disputed transactions. Where the claims were unsuccessful, it had advised customers that no further claim could be made because the transactions were out of time.

The FSP had failed to take account of clause 10 of the ePayments Code which provides that a customer will not be liable for 'card not present' transactions, irrespective of when the claim is made.

The FSP acknowledged that customers were incorrectly sent system-generated letters which suggested that, because customers' claims were raised outside a permitted time period (120 days), it had no further obligations in relation to their claims. The FSP advised that, as a result of our notification, it intended to lodge a significant breach report with ASIC.

On this basis, the Lead Ombudsman, Banking and Finance, considered that the matter represented a definite systemic issue and required the FSP to compensate customers for the loss incurred.

The FSP undertook a remediation program which included changing its dispute processes within its core operation and fraud areas, updating impact letters, and providing training across its call centre and operations teams.

By the end of the program, in September 2017, the FSP had paid more than \$1 million compensation to 4,500 affected customers.

Based on the information provided, particularly that all impacted customers had been remediated and the FSP's processes amended, the Lead Ombudsman considered the matter resolved.



Case study

Car warranty complaints lead to changes in refund policies

A systemic issue arose after we received a referral from a FOS Consumer Liaison Group (CLG) member, who raised concerns about the sale of warranty plans through motor vehicle dealers.

The warranty plans, also known as add-on insurance products, were administered by an insurer. The issue centred on whether the insurer had sufficiently robust policies and procedures to administer the plans.

The CLG member provided details of several complaints which FOS raised with the insurer about its administration of the products including:

- › denial of claims based on the consumer having failed to meet the warranty requirements of servicing the vehicle despite the requirements exceeding those of the vehicle manufacturer
- › denial of claims without any causal connection between the mechanical failure of a component of a motor vehicle and its service history
- › decline of consumer requests to cancel warranty plans soon after purchase: the cooling-off period being excluded because the plans were issued by the dealer.

The referral coincided with the publication in August 2017 of an ASIC Consultation Paper on the sale of add-on insurance and warranties through motor vehicle dealerships in August 2017. The paper identified the issue of warranties covering the risk of mechanical failure.

The insurer advised that the Australian Competition and Consumer Commission had raised similar issues. The insurer reached agreement with the ACCC to make several changes to the terms and conditions of its warranty products, and to apply the changes across the other dealer-issued warranties. The insurer's view was that the concerns raised by FOS had been addressed following its dealings with the ACCC.

Based on the complaints raised with FOS about the warranty products and the involvement of the ACCC, our Lead Ombudsman, General Insurance, considered the matter to be a definite systemic issue.

The Lead Ombudsman advised the insurer that any FOS investigation of the matter was independent of the agreement reached with the ACCC, especially because some issues had not been considered as part of that agreement.

FOS wrote to the insurer and requested details of the agreement reached with the ACCC and confirmation that the recommended changes had been implemented.

The insurer responded that it had:

- › updated its refunds policy by removing reliance on exclusions for the purchase of extension to manufacturers' warranties
- › communicated to staff that in denying claims there must be a causal connection between failure to service the vehicle and mechanical failure of the component.

The Lead Ombudsman was satisfied that the insurer had complied with the ACCC's requirement to ensure that dealers were aware of the updated refunds policy, but was not satisfied that the insurer's customers had been made fully aware of the issue and their entitlement to claim a refund if appropriate.

Given that the insurer retained more than 137,000 warranty products held by customers, the Lead Ombudsman considered it appropriate for it to place a prominent advertisement in major daily newspapers in each state to notify warranty holders of the new refund policy.

The advertisements were placed in state and territory newspapers on 6 July 2018.

Code compliance and monitoring



Code team: 2017-18 at a glance

Codes of practice	5	Onsite visits and verification teleconferences	67
Independent code compliance committees	5	Own motion inquiries	5
Committee meetings	39	New investigations of alleged breaches of industry codes of practice	292
FSPs subscribing to the codes	578	Investigations cases closed	236
Annual reports published	4	Breaches of codes identified through investigations	98
Special report (see page 131)	1	Meetings with regulators, industry associations, consumer advocates and other stakeholders	57
Annual compliance statements, self-certifications, annual returns and desktop audits reviewed	547	Information bulletins and other publications issued	23
Code breaches self-identified	22,550	Presentations and training sessions conducted	28
Code breaches assessed as significant	79	Conferences and forums attended	10

Code compliance and monitoring

The Code Compliance and Monitoring team (Code team) is a separately operated and funded business unit of FOS.

We work on behalf of independent committees that monitor compliance with industry codes of practice in the Australian financial services industry. Our services are funded by the industry associations responsible for these codes of practice.

We provide code compliance monitoring, investigation and secretariat services to five committees and help FSPs improve their services and achieve standards consumers can trust.

Each code compliance committee publishes a number of reports during the year, including details of inquiries. See the publications section of the FOS website.

Codes of practice

Codes of practice set standards of good industry practice for FSPs when dealing with people who are, or who may become, individual or small business customers in areas relating to service provision, standards of professional conduct, practice standards and ethical behaviour.

The Code team administers and monitors compliance with five industry codes of practice:

- › Code of Banking Practice
- › General Insurance Code of Practice
- › Customer Owned Banking Code of Practice
- › Insurance Brokers Code of Practice
- › Life Insurance Code of Practice.

These codes are voluntary and FSPs can decide whether to subscribe. An FSP that has decided to subscribe to a code is required to comply with it.

A total of 578 FSPs subscribed to the five codes in 2017-18. By subscribing to a code, each subscriber has made a commitment to:

- › work to improve standards of practice and service in their industry
- › promote informed decisions about their products and services
- › act fairly and reasonably in delivering those products and services.

Therefore, the codes play an important self-regulatory role in the industry's consumer protection framework.

Through our work supporting the committees, our aim is to help FSPs comply with their code obligations and to:

- › maintain good relationships with their customers
- › improve complaints handling
- › reduce the number of customer disputes through improved service delivery.

Code compliance committees

Monitoring of the five industry codes is overseen by separate independent code compliance committees, each of which consists of an independent Chair, a consumer representative and an industry representative. The code compliance committees are independent of the industries that are responsible for each code and have powers to identify and address breaches of code obligations. In 2017-18, the code compliance committees met a total of 39 times.

The Code team supported and enhanced various committee operations including through initiatives to raise awareness of the industry codes within FOS and among external stakeholders.

For example, the Code team:

- › improved knowledge of codes of practice and their position within the broader consumer protection framework
- › delivered training programs to FOS staff to assist referrals of alleged code breaches to the Code team.

The codes we monitor and administer, as at 30 June 2018

Code of Banking Practice

Subscribers 14 banking groups (19 banks)

Coverage Individual and small business customers

Overseen by Banking Code Compliance Monitoring Committee

General Insurance Code of Practice

Subscribers 174 code subscribers (48 general insurers and 126 Lloyd's Australia coverholders and claims administrators)

Coverage Policyholders, third party beneficiaries and uninsured third parties (debt recovery)

Overseen by General Insurance Code Governance Committee

Customer Owned Banking Code of Practice

Subscribers 64 institutions

Coverage Individual and small business customers

Overseen by Customer Owned Banking Code Compliance Committee

Insurance Brokers Code of Practice

Subscribers 300 insurance brokers

Coverage Individual and small business clients

Overseen by Insurance Brokers Code Compliance Committee

Life Insurance Code of Practice*

Subscribers 26 life insurers

Coverage Policyowners, life insureds and third party beneficiaries

Overseen by Life Code Compliance Committee

Monitoring compliance with codes

In 2017-18, a total of 547 code subscribers responded to an annual compliance statement, self-certification, annual return or desktop audit relevant to their code's obligations for 2016-17. The questionnaires asked them to report on the operation and effectiveness of the code monitoring frameworks within their organisations.

During this process, code subscribers self-identified 22,550 breaches of code obligations for the previous reporting year. Results of the annual compliance program and the trends and emerging risks in code compliance were reported back to industry and other stakeholders in the committees' annual reports.

Highlights of the annual compliance statement programs included:

Banking

- 11,191* self-reported breaches of the code, of which 4,178 (37%) were about provision of credit
- 1.2 million complaints received by banks, 92% of which were resolved within five days
- 303,635 requests for assistance from customers in financial difficulty, almost three-quarters (73%) of which were granted.

** Eight banks amended their breach data for 2016-17, leading to an overall increase of 789 breaches, as a result of an own motion inquiry (see page 132)*

General insurance

- 8,772 self-reported breaches of the code, a 75% increase from the previous year
- 27,919 retail insurance disputes lodged with insurers
- 4,022,089 claims lodged with insurers relating to retail insurance policies, of which 89% were settled.

Customer owned banking

- 1,216 self-reported breaches of the code, of which almost one-quarter (24%) were about privacy obligations
- 6 self-reported significant breaches of the code
- 18,662 self-reported internal dispute resolution complaints, of which almost one-quarter (24%) related to customer service and one-fifth (21%) related to decisions made by the customer owned bank.

* Subscribers became bound to the Life Insurance Code of Practice from 30 June 2017

Insurance brokers

- › 1,359 self-reported breaches of the code, of which more than half (52%) were about obligations related to buying insurance
- › 17 self-reported significant breaches of the code
- › 1,047 self-reported internal dispute resolution complaints received by insurance brokers, of which 20% related to small business.

Life insurance

The Life Insurance Code of Practice came into effect on 1 July 2017, so subscribers have not responded to an annual compliance statement for the previous year like the other code compliance committees. Insurers will complete the Life Code Compliance Committee's inaugural annual compliance data return in 2018-19. Nevertheless, insurers self-reported 12 breaches of the code in 2017-18.

Significant code breaches

A 'significant' breach of code obligations usually involves a number of customers who have been impacted by the conduct or activity and who have suffered loss. Significant breaches also require more extensive remedial action by the code subscriber to correct the non-compliant conduct and to reduce the likelihood of recurrence.

During 2017-18, a total of 79 code breaches were assessed as significant (95 last year): 30 in general insurance, 17 in insurance broking, 16 in banking, 10 in life insurance and 6 in customer owned banking.

Special report examines how major banks serve Indigenous customers

Aboriginal and Torres Strait Islander people are about twice as likely as non-Indigenous Australians to lack access to appropriate and affordable banking services and products, according to a special report published by the Banking Code Compliance Monitoring Committee.

However, the report found that Australia's four major banks had devoted considerable effort and resources to initiatives to help Aboriginal and Torres Strait Islander customers.

'In doing so, these banks comply with – and often exceed – code obligations concerning customers in remote Indigenous communities,' the report said.

The report, *Access to Banking Services by Indigenous Customers*, gave examples of good practice in financial inclusion, financial literacy and building cultural awareness within their businesses.

The banks had increased access to transaction accounts and safe and appropriate credit by:

- › promoting basic (low or no-fee) bank accounts
- › introducing flexible identification processes to open accounts
- › speeding up activation of replacement cards
- › fee-free ATMs

- › providing microfinance loans to Aboriginal and Torres Strait Islander customers and businesses
- › offering matched savings programs.

The banks had worked with Indigenous organisations to help Aboriginal and Torres Strait Islander peoples understand and manage their money, using locally employed mentors to work directly with clients, and train Aboriginal and Torres Strait Islander financial counsellors.

The report, published in July 2017, said banks had built cultural awareness by recognising, understanding, respecting and celebrating Aboriginal and Torres Strait Islander culture through staff training and by employing Aboriginal and Torres Strait Islander staff.

All four banks had also developed Reconciliation Action Plans setting out their commitments and specific actions to help Aboriginal and Torres Strait Islander peoples.

The banks' obligations to Aboriginal and Torres Strait Islander customers were expanded following recommendations in an independent review of the Code of Banking Practice published in January 2017. The revised code was approved by ASIC on 31 July 2018 and published the same day. It applies from 1 July 2019.

Compliance investigations

Each code contains standards that form part of the Australian consumer protection framework. Consumers may contact the committees to allege that a code subscriber may have breached its obligations under its industry code.

At the discretion or instruction of the committees, the Code team uses the information obtained from receiving and reviewing code breach allegations in several ways. When a breach is established, we work with the code subscriber and review the steps that it takes to minimise recurrence of a similar event. Information obtained from code breach investigations also informs the committees' broader compliance and monitoring, including identifying particular risk trends and areas for industry improvement.

Code breach investigations are independent, fair, efficient and transparent (subject to confidentiality and privacy obligations). Although each investigation depends on its particular facts, as a guide we take into account:

- › the supporting material available to us
- › the law
- › previous committee decisions or guidance
- › decisions or guidance developed by other entities (such as FOS or ASIC)
- › if the issue could affect other consumers
- › how the code subscriber has responded to the issue.

In 2017-18, we registered 292 matters (273 last year) in response to reports of alleged code breaches – 193 in general insurance, 56 in life insurance, 32 in banking, 9 in insurance broking and 2 in customer owned banking.

Own motion inquiries

When a code compliance committee identifies a particular area of risk, through its monitoring and investigations, breaches self-reported by code subscribers or concerns raised by key stakeholders, it may conduct an own motion inquiry.

These inquiries are an in-depth look at a specific area of concern. We use methodologies such as questionnaires and onsite visits to code subscribers, survey consumer advocates and other interested parties or conduct 'mystery shopping' exercises.

In 2017-18, the Code team finalised and published the following five own motion inquiries on behalf of the relevant committees:

Who is selling add-on insurance? – general insurance

The add-on insurance business is much larger than previously recognised, with about two million add-on insurance products sold across 28 categories in the past year, according to a General Insurance Code Governance Committee inquiry.

Add-on insurance is so-called because it is added, usually at the checkout, after consumers have decided to buy a major product or service. Add-on insurance products have been widely criticised in the past few years, especially in connection with sales practices.

The inquiry found that almost one-third of add-on insurance products were sold by external sellers not covered by the General Insurance Code of Practice. Among 22 recommendations, the report called for the code to be extended to cover all add-on insurance sales.

The committee undertook the inquiry to:

- › determine who is selling add-on insurance
- › better understand add-on insurance products and sales
- › recommend improvements to industry practice and the General Insurance Code of Practice.

Breach data report – banking

An inquiry into breaches of the Code of Banking Practice self-reported by subscribing banks in 2016-17 found that their compliance performance is inconsistently and sometimes inadequately reported.

The Banking Code Compliance Monitoring Committee (CCMC) inquiry report said that details of banks' remediation for customers was a particular concern. For about one-quarter (26%) of breaches, banks did not report any associated corrective action. Banks also provided minimal or no information about how they monitor and test their systems.

As a result of the inquiry, banks revised the number of breaches previously reported, leading to an increase of 789 breaches from the 9,083 reported in the annual compliance statement. This was mainly due to an increase in the number of debt collection breaches reported by one bank.

Code breaches were largely due to human error, and in response, the CCMC suggested that banks should examine ways to develop systems and system controls that prevent repeated errors.

The most commonly breached code obligation was provision of credit (42%). Other major breach categories were privacy and confidentiality (28%) and debt collection (21%).

The breaches impacted more than 150,000 customers. Almost two-thirds (64%) of breaches were identified through call monitoring activities, and 15% through credit control or credit quality assurance activities.

The inquiry aims to help improve the quality, consistency and reliability of data provided by the banks.

Privacy – customer owned banking

Institutions' privacy policies and processes seem to be compliant and available to customers but specific information regarding certain areas (for example, obligations concerning disclosure to guarantors) and regular staff training need to be improved, a Customer Owned Banking Code Compliance Committee inquiry found.

It said that institutions could improve standards of practice in managing the use of personal information, for example, giving customers more control of how their data is used by making it easier to opt out of direct marketing, ensuring customers understand and meaningfully consent to any disclosure of their information to third parties and better controlling employee access to personal or sensitive information to protect it from theft, unauthorised access, disclosure or loss.

Breaches resulting from human error suggested that policies and procedures were not always successfully translated into compliant practices. Institutions reported that three-quarters (76%) of privacy breaches involve the mistaken disclosure of personal information.

Improving banks' compliance with direct debit cancellation obligations – banking

See page 134.

Direct debit follow-up – customer owned banking

Only a minority of institutions were achieving best practice performance in relation to their code compliance obligations for cancelling direct debits, a Customer Owned Banking Code Compliance Committee inquiry found. Code compliance was patchy across institutions, and this finding was disappointing given two earlier inquiries (2010 and 2012) on the same obligations.

The committee made six recommendations for improvements to policy and procedures, customer information and compliance monitoring.

Life insurance committee off to a busy start

The Life Code Compliance Committee (Life CCC) had a busy first year, setting up processes and procedures for its operations and code monitoring, investigating code breach allegations, engaging with stakeholders and launching its Annual Data and Compliance program.

As part of the Life CCC's engagement work, it provided guidance to subscribing insurers about the information they need to give when self-reporting a breach, and the information about the Life Insurance Code of Practice they are required to display on their websites.

The Life CCC also received a bulk referral of more than 700 code breach allegations from a plaintiff law firm, an unprecedented number across all codes, and began investigating a snapshot of these allegations towards the end of 2017-18.

The Life CCC will be a key stakeholder as part of a code review being conducted by the Financial Services Council (FSC). It will provide feedback on issues such as clarifying the point from which subscribers begin measuring the duration of claim assessments.

The Life Insurance Code of Practice came into effect on 1 October 2016 and subscribers had a period of transition before having to adopt the code by 30 June 2017. There were 26 subscribers as at 30 June 2018.

The code, which is independently monitored by the Life CCC, is binding on life insurance companies who are members of the FSC. Code subscribers can be sanctioned if they do not correct code breaches.

Insurance data report 2016-17

Retail insurance policies issued	Car insurance products	Home insurance products
41 million	37%	28%
Retail insurance claims lodged	Retail insurance claims declined	Retail insurance claims withdrawn
4 million	158,546	279,698
<i>Up 7% from 2015-16</i>	<i>Up 11% from 2015-16</i>	<i>Up 3% from 2015-16</i>

Direct debit cancellations still a problem

Bank staff are still providing incorrect information about cancellation of direct debits, according to a Banking Code Compliance Monitoring Committee report released in October 2017.

The report was based on a 'mystery shopper' study, which found that more than half (54%) of bank staff gave customers incorrect (non-compliant) responses to questions about cancellation of direct debits.

Under the Code of Banking Practice, banks are required to accept and promptly process a customer's request to cancel a direct debit.

The non-compliant responses were that the customer should contact the merchant first (or that would be easier) or that the bank could not cancel the direct debit.

A bank's failure to accept or process a cancellation request could be particularly difficult for vulnerable customers on lower or fixed incomes.

The study, of 15 bank brands representing 12 banking groups, found that contact or call centre staff were more likely to offer compliant information than those in bank branches.

It follows research in 2008, in which 80% of staff responses regarding cancellation of direct debits were non-compliant, and 2011, when results improved slightly (66% non-compliance).

The report said that information about cancelling direct debits was difficult to find on bank websites, although two banks provided additional guidance on a webpage or as part of frequently asked questions.

It identified staff training as a particular weakness, with one bank failing to train its entire branch network on its direct debit obligations.

The report made seven recommendations about banks' obligations for cancelling direct debits, including clear and simple guidance on websites, exploring ways to cancel direct debits through online banking, and vastly improved communication and training of frontline staff.

The Banking Code Compliance Monitoring Committee has intensified its compliance monitoring of banks' direct debit obligations through ongoing mystery shopping exercises and requests for updates on the implementation of the report recommendations.

Tens of thousands of direct debit cancellation requests are made each year in Australia. Direct debits are bank transfers using a BSB and account number, for example to pay bills, and not recurring card payments.

Sharing experience with stakeholders

In 2017-18, the Code team continued to engage with stakeholders to help improve industry practice, including providing submissions and feedback to industry associations for code reviews.

The Australian Banking Association provided the draft revised banking code to ASIC in December 2017. We engaged with ASIC while it considered approval of the code.

We also shared experience of code compliance with stakeholders and discussed changes in the external dispute resolution environment.

The team undertook more than 180 stakeholder liaison meetings and other activities including:

- › outlining and discussing obligations under the codes, code monitoring and compliance, code of practice reviews, own motion inquiry outcomes and training with code subscribers, regulators, consumer representatives and industry associations
- › participating or presenting at industry forums and conferences such as the ASIC forum, Credit Law Conference, Banking and Wealth Summit, the Financial Services Council life insurance, financial counselling and elder abuse conferences
- › updating subscribers by preparing articles for insurance industry and other sector publications including *The FOS Circular*.



Sally Davis, General Manager, Code Compliance and Monitoring, addresses delegates at the Financial Counselling Australia conference in Hobart in May 2018

Case study

Delay in financial difficulty assistance breached code

A bank breached the Code of Banking Practice when it caused an unnecessary delay in a customer's request for financial difficulty assistance.

The customer, Mr S, approached the bank for assistance when he began experiencing financial difficulty. The bank forwarded his request to his personal banker who was on leave at the time and did not receive the request until he returned to work.

Mr S's application for assistance was ultimately considered by the bank and approved, and he received the service he required. However, the bank's internal processes and the personal banker's leave caused a delay that resulted in the bank failing to meet the timeframes for responses set out in clause 28.6 of the code.

In a separate case where a bank did not properly assess the customer's request for financial difficulty assistance, a bank's customer, Mr H, advised the bank that he had been homeless and ill for some time but had got a job and wanted to resume paying off his loan.

A bank staff member told Mr H that a default had been registered with a credit agency because of an earlier non-payment. This upset Mr H, who was then referred to FOS.

The bank staff member did not address the possibility that he was or had been in financial difficulty nor make a genuine attempt to work with him to overcome those difficulties. This failure led to the bank breaching clauses 28.2 and 28.7 of the code.

Under the code, banks are required to try to help customers overcome their financial difficulties. In addition, banks are required to respond promptly to any requests for assistance, and respond in writing detailing the decision made.

In 2017-18, the Banking Code Compliance Monitoring Committee began an inquiry into banks' compliance with their financial difficulty obligations in which it is asking banks to detail how they identify, consider and respond to customer requests for financial difficulty assistance. The CCMC expects to report on its findings by 30 September 2018.



Case study

Driver's exclusion should have been listed in policy document

An insurer who told a consumer, Mr G, during a phone call that he would not be covered for comprehensive motor vehicle insurance because of his driving history, breached the General Insurance Code of Practice by not listing him as an excluded driver in the policy documentation.

Mr G rang the insurer to arrange comprehensive motor vehicle insurance for his car, which he and Mrs G would be driving.

The insurer advised him during the telephone call that he would not be covered and then issued policy documentation for the insurance to Mr and Mrs G as co-insured (policyholders). The documentation did not list Mr G as an excluded driver.

Seven months later, Mr G lodged a claim for damage caused to the car while driving it. The insurer denied the claim on the basis that Mr G was excluded from cover (as advised during the phone call). The insurer said it was entitled to rely on the verbal notification made to Mr G that he would not be covered as a driver.

The General Insurance Code Governance Committee found that the insurer had breached subsection 4.4 of the code. This subsection requires code subscribers to conduct their sales process in a fair and transparent manner.

The committee found that the phone conversation with the insurer's staff member resulted in an unfair sales process. Mr and Mrs G would have proceeded on the basis that because they were listed as co-insured on the policy documentation, Mr G was covered when driving the car.

The committee said it was unfair to expect a consumer who had bought an insurance product to remember what was discussed over the phone, possibly months previously, particularly when the consumer was excluded from cover, and not reflected in the policy documentation. To avoid confusion, the insurer should have endorsed the policy documentation by listing Mr G as an excluded driver.

The committee is discussing with the insurer how to prevent this happening again.

Corporate governance

FOS prides itself on independence, integrity and transparency in all aspects of its operations, and applies the principles of good corporate governance to the running of the company.

We consider that the *Australian Stock Exchange's Corporate Governance Principles and Recommendations*, 3rd edition, sets the benchmark for a high standard of corporate governance in Australia.

This section explains how we apply these principles and recommendations, issued by the ASX Corporate Governance Council, to our operations.

Principle 1: Lay solid foundations for management and oversight

Functions reserved by the Board and those delegated to management

Since the inception of the company, the FOS Board has adopted a charter that governs its operations and clearly delineates the responsibilities of the Board and senior management.

The role of the Board is to monitor our performance, provide direction to the Chief Ombudsman on policy matters, set the budget, and review from time to time the Terms of Reference, including our jurisdictional limits.

The Board does not involve itself in the detail of disputes lodged with us, because that would prejudice the independence of the Ombudsmen. The decisions of the Ombudsmen are free of interference from the Board.

The Board has two standing committees to assist it in its role – the Finance and Risk Management Committee and the Nominations and Remuneration Committee.

The role of management is to implement the strategic direction provided by the Board and to ensure that we provide external dispute resolution (EDR) services within the terms of our approval from ASIC.

Appointment of directors

The Nominations and Remuneration Committee Charter sets out the process to be followed by the Board when appointing or reappointing directors and other Board appointees.

Written terms of appointment

Written agreements set out the terms of each appointment of our Board directors and senior executives.

Direct accountability of Company Secretary to Board for proper functioning of the Board

As set out in the Board Charter, our Company Secretary is appointed by, and accountable to, the Board and may advise the Chair, the Board, its committees and individual directors on matters of governance process.

Diversity policy

FOS is committed to ensuring the integration of the principles of equal opportunity for all staff. Our commitment to diversity in the workplace is set out in our Diversity Inclusion Policy and Procedure and regular diversity reporting.

Evaluation of performance of FOS Board

The Nominations and Remuneration Committee of the Board ensures a robust system of performance evaluation is in place for Board appointees and the Board itself.

In 2017-18, the Board undertook a self-assessment process. This self-evaluation suggested some minor enhancements of the Board's processes, which have since been implemented.

An external performance evaluation is scheduled to be conducted every three years.

Evaluation of performance of FOS senior management

Since we began operating in 2008, all employees, including senior managers, have been subject to a performance evaluation process.

The line manager of an employee conducts the performance evaluation, with the Chief Ombudsman responsible for the performance evaluation of the senior managers reporting to him. The Chair of the Board conducts the performance evaluation of the Chief Ombudsman.

Principle 2: Structure the Board to add value

FOS Board of Directors

Professor The Honourable Michael Lavarch AO – LLB (QUT)



Michael Lavarch was appointed a transition director on incorporation of the company, for a term expiring on 31 May 2009. When the new Board was formed on 1 June 2009, he was appointed a director and Independent Chair of the Board. He was reappointed as Chair of the Board on 20 February

2015 for a further term commencing on 1 June 2015.

Michael is the Commissioner, Risk Analysis and Investigation, for the Australian Skills Quality Authority, and formerly Executive Dean of the Faculty of Law at the Queensland University of Technology. He is a former Federal Attorney-General and a former Secretary-General of the Law Council of Australia. He has extensive board experience, having held public and private company directorships, and is currently Chief Adjudicator of the Alcohol Beverages Advertising Code adjudication panel and a director of the Telecommunications Industry Ombudsman.

In 2012, Michael was appointed an Officer of the Order of Australia for distinguished service to law, education and human rights.

Robert Belleville – MBA



Robert Belleville was appointed an industry director on 25 February 2010 and reappointed for a further term on 25 February 2016.

Robert is a member of the Insurance Manufacturers of Australia (IMA) Board, Chair of the IMA Board Risk Committee and a member of its Audit Committee. He is also the Chair of the Insurance Council of Australia's Consumer Liaison Forum.

He was employed by AAMI for more than 37 years, culminating in his appointment as Chief Executive in 2002. Soon afterwards he took on the position of Chief Executive of Promina's Direct Division, adding APIA, Shannons and Just Car Insurance to his responsibilities. Following the successful offer by Suncorp to take over Promina, Robert was appointed Group Executive, Personal Lines, which added GIO and Suncorp portfolios to his oversight. Despite retiring in December 2008, Robert stayed on with Suncorp as a part-time consultant until September 2009.

David Coorey – BA, LLB (UNSW)



David Coorey was appointed a consumers' director on 1 June 2009 and reappointed on 20 February 2015 for a further two-year term commencing on 1 June 2015. This was extended by a further two years and his term expired in May 2018.

He is a senior lawyer with the Civil Division section of the Legal Aid Commission of NSW, which he joined in 2002. Since commencing with the Legal Aid Commission, he has been actively involved in policy work in consumer law, with particular interest in issues that affect consumers of insurance products.

David previously worked with the law firm Freehills for more than three years, including a one-year pro bono secondment to Kingsford Legal Centre. He is also a former member of the Insurance Council of Australia Consumer Reference Group. He has worked in various areas of civil law including insurance, credit, consumer and trade practices litigation, as well as human rights and discrimination law.

Jennifer Darbyshire – BA, LLB (Hons), LLM (London), GAICD



Jennifer Darbyshire was appointed an industry director on 8 June 2012 and reappointed on 20 February 2015 for a further term commencing on 1 June 2015.

Jennifer joined National Australia Bank in 2006 and was appointed General Counsel, Corporate in March 2016. From late 2014 to early 2016, Jennifer was the General Manager, Group Regulatory Strategy & Affairs. From mid-2012 to late 2014, she was General Counsel and Company Secretary for NAB's UK banking operations.

Jennifer has previously worked in private legal practice (including Mallesons in Melbourne and Linklaters in London) and in major Australian corporations (including Coles Myer). She has a corporate legal and executive background with extensive governance, regulatory and transactional experience.

Jennifer was the Chair of Heide Museum of Modern Art until January 2016 (and a director since 2006). Previous directorships include St Vincent's & Mercy Private Hospital (2006 to 2011) and St Vincent's Advisory Council Melbourne (2011 to 2012).

Carmel Franklin – BEd., Dip (Financial Counselling)



Carmel Franklin was appointed a consumers' director for a term commencing on 1 June 2015.

Carmel has been involved with consumer issues for a number of years, including as the Director of Care Financial Counselling and the

Consumer Law Centre of the ACT, as the Chair of Financial Counselling Australia and through her role on the boards of the National Information Centre on Retirement Investments and the Welfare Rights and Legal Centre. In addition to these positions, she is a director of the ACT Gambling and Racing Commission.

She is a former member of the ASIC Consumer Advisory Panel as well as the FOS Consumer Liaison Group.

Elissa Freeman – BA (UNSW), GAICD



Elissa Freeman was appointed a consumers' director on 21 February 2014 and commenced her three-year term on 1 June 2014. She was reappointed in May 2017 for a further term commencing on 1 June 2017.

Elissa has advocated for consumer rights in financial services, telecommunications and the energy and water industries in her roles at CHOICE, the Australian Communications Consumer Action Network and the Public Interest Advocacy Centre.

She has represented consumers at the ASIC Consumer Advisory Panel, the ACCC Consumer Consultative Committee and as a council member of the Energy and Water Ombudsman of NSW.

Elissa was previously Chair of the Financial Rights Legal Centre (then the Consumer Credit Legal Centre of NSW) and Manager of Consumer Policy at CHOICE.

Louise Lakomy – MBA, GDPFP, JP, CFP, GAICD



Louise Lakomy was appointed an industry director for a term commencing on 1 June 2015. She is a certified financial planner with more than 15 years' experience in financial planning. In her current role, she is a director with Crystal Wealth Partners, a boutique financial planning

business offering holistic investment and strategic advice to their clients.

Louise holds a Masters of Business Administration (MBA) majoring in finance and funds management, and is a

Graduate of the Institute of Company Directors (GAICD).

She previously served on the Board of the Financial Planning Association (FPA) of Australia for the maximum term of six years and is a former member of the Financial Planning Education Council, the FPA Risk and Audit Committee and the FPA's Professionalism Committee. Louise has also held senior roles with large institutions including Westpac and St George bank and several smaller advisory firms.

Catriona Lowe – LLB (QLD)



Catriona Lowe was appointed a consumers' director on 1 June 2009 and reappointed on 20 February 2015 for a further term commencing on 1 June 2015.

Catriona is a member of the Boards of the Telecommunications Industry

Ombudsman and Legal Practice Liability Committee.

She is also a director of the Financial Adviser Standards and Ethics Authority and Chair of the ACCC Consumer Consultative Committee.

She is formerly the Treasurer of the Consumers' Federation of Australia and Co-Chief Executive Officer of the Consumer Action Law Centre. Before joining Consumer Action, she was a director in the Australian Competition and Consumer Commission's Policy and Liaison Branch. Catriona was deputy director and the first principal solicitor of the legal practice at Consumer Law Centre Victoria and spent five years in private practice as a litigation lawyer.

Catriona has also served on the Board of the National Information Centre on Retirement Investment, ASIC's External Advisory Panel, the National Australia Bank Social Responsibility Advisory Council, the Insurance Council of Australia Consumer Reference Group, and the Motor Car Traders' Guarantee Fund Claims Committee.

Johanna Turner – BALLB (Macquarie), GAICD



Johanna Turner was appointed an industry director on 17 November 2016.

Johanna has gained extensive executive experience in the financial services industry over the past 25 years, working in domestic and international banks, exchanges and

regulatory bodies. She has expertise in risk management, compliance, regulation, policy and corporate governance. She combines this with extensive industry experience in consumer banking, consumer credit, wealth management, corporate and investment banking, exchange-traded funds and derivative markets. As a Managing Director of Citibank, Johanna held the positions of Chief Risk Officer and Chief

Country Compliance Officer. She has also held senior roles at Macquarie Bank, the Australian Stock Exchange, the Sydney Futures Exchange and ASIC.

Johanna is an independent compliance committee member for Blackrock Investment Management (Australia) Limited and Fundhost Limited. She is also a member of the NSW Government Council for Women's Economic Opportunity. Johanna was formerly a board member of Women in Banking and Finance and Chair of its Audit, Risk and Governance Committee.

Company Secretary

Nicolas Crowhurst – BA, LLB (Hons), FCIS, FCSA



Nicolas Crowhurst was appointed Company Secretary on 23 September 2010, after serving as Assistant Company Secretary. He was also previously a Director of Financial Services Compensation Scheme Pty Ltd.

Nicolas qualified as a barrister in the United Kingdom in 2000 and previously served as Legal Counsel to the Financial Industry Complaints Service Limited and the company.

He is a Fellow of the Governance Institute of Australia and of the Institute of Chartered Secretaries and Administrators.

Disclosures regarding Nominations and Remuneration Committee

The Nominations and Remuneration Committee comprises the Chair of the Board, one industry director (Jennifer Darbyshire) and one consumers' director (David Coorey). This composition satisfies the constitutional requirements for board committees to maintain equal membership between industry and consumers' directors.

However, where thought necessary, the committee has engaged additional assistance from relevant internal and external stakeholder groups to provide advice and guidance on its duties and responsibilities.

The following table sets out the meetings and attendances for the Nominations and Remuneration Committee in 2017-18:

	Actual attendance	Eligible to attend
Michael Lavarch	2	2
David Coorey	2	2
Jennifer Darbyshire	2	2

Skills matrix of the FOS Board of Directors

The Board Charter states that examples of the core technical competencies that should be found across the Board include:

- accounting and finance (directors who have expertise in financial accounting)
- business judgment (directors who have a record of making good business decisions)
- governance (directors who understand and keep abreast of good governance practices)
- knowledge of consumer issues and needs (directors with appropriate and relevant consumer movement knowledge and experience)
- industry knowledge (directors with appropriate and relevant industry-specific knowledge and experience)
- knowledge of internal and external dispute resolution
- human resource management (directors who have experience and interests in human resource management and staff welfare).

To assist the Nominations and Remuneration Committee, we also have a skills matrix listing the core competencies of each director, as well as other organisational competencies, allowing easy identification of the strengths and weaknesses of the Board as a whole.

Independent directors

The Chair is required by our constitution to be independent and our Board Charter prohibits a single individual from occupying the roles of Chair and Chief Ombudsman.

Our Board comprises individuals with expertise and knowledge as required by our constitution. There are no executive directors.

While the directors, with the exception of the Chair, are required to represent the interests of industry or consumers, each understands his or her legal obligation as a director to put the best interests of FOS before those of their own 'constituents'.

Induction and training of directors

Upon appointment, each director is provided with a comprehensive induction to FOS and our operations.

The directors are also permitted to request and receive all reasonable training necessary for them to perform their role as directors effectively and a suitable budget has been allowed for this to occur.

Principle 3: Promote ethical and responsible decision making

Code of Conduct

The standards of behaviour expected of our directors and employees are set out in the Board Charter, our Code of Conduct, and our values: respectful, efficient, trustworthy and forward thinking.

Principle 4: Safeguard integrity in financial reporting

Audit committee

The functions of an audit committee are carried out by the Finance and Risk Management Committee. Catriona Lowe is the Chair of this committee, and Robert Belleville, Elissa Freeman and Johanna Turner are the other members.

Since its inception in 2008, the committee has had a formal charter governing its area of responsibility.

The Charter was last revised in October 2015 and approved by the Board.

The following table sets out the meetings and attendances for the Finance and Risk Management Committee in 2017-18:

	Actual attendance	Eligible to attend
Robert Belleville	4	4
Elissa Freeman	3	4
Catriona Lowe	4	4
Johanna Turner	4	4

CEO and CFO declarations

Prior to the Board approving the annual financial reports contained within our General Purpose Financial Report, the Board receives from the Chief Ombudsman and Chief Financial Officer a declaration that, in their opinion, the financial records have been properly maintained and that the financial statements comply with appropriate accounting standards.

These declarations also state that the financial statements give a true and fair view of our financial position and performance and that these opinions have been formed on the basis of a sound system of risk management and internal control which is operating effectively.

Attendance of the external auditor at Annual General Meeting

The external auditor receives an invitation to attend each AGM, but attendance has not, to date, been required by the membership.

Principle 5: Make timely and balanced disclosure

Disclosure Policy

This principle applies to companies that are subject to the ASX Listing Rule disclosure requirements, and as such has no direct relevance to us.

However, we have various policies and procedures which, in combination, cover many of the same areas as the recommended Disclosure Policy and we are committed to open and transparent communication with our stakeholders.

Principle 6: Respect the rights of shareholders

As a public company limited by guarantee, we do not have shareholders. As a result, this principle has no direct relevance to us.

However, we are committed to respecting the rights of our stakeholders, particularly the financial services providers (FSPs) that are members of the scheme and consumers who use the service.

Information about FOS and its governance

Information about us can be found on our website (www.fos.org.au), by email (info@fos.org.au), or by telephone 1800 367 287 freecall (1800 FOS AUS) or 1300 56 55 62 for members.

Stakeholder relations program

We have a Stakeholder Engagement Strategy which sets out our approach to liaison with members, consumers, ASIC and the broader community.

Activities that promote two-way communication include industry and consumer forums, our national conference, our online magazine *The FOS Circular* and accessibility initiatives.

Meetings of stakeholders

The Annual General Meeting is held and run in accordance with the *Corporations Act 2001* and our constitution.

Our Stakeholder Engagement Strategy encourages participation at general stakeholder meetings.

Electronic communications

We have developed Secure Services, a secure part of the website for FSPs and consumer representatives to manage disputes and information exchange electronically.

In addition, consumers are able to lodge disputes electronically through our website (www.fos.org.au).

Principle 7: Recognise and manage risk

Oversight of risk

While ultimate responsibility for risk oversight and risk management rests with the full Board, the Finance and Risk Management Committee has operational oversight of these activities and the Senior Leadership Group has day-to-day operational responsibility for risk oversight and management.

Given the nature of our material business risks, the Senior Leadership Group is supported and advised by a Risk Management Working Group, chaired by the Company Secretary and consists of the:

- › Chief Financial Officer
- › Chief Information Officer
- › Executive General Manager – Corporate Services and Strategy
- › Facilities and Procurement Manager
- › Senior Manager – Community and Corporate Communications
- › Senior Manager – People and Development
- › Senior Manager – Quality, Knowledge and Improvement
- › Senior Manager – Strategy and Policy.

A risk management report is presented to the Finance and Risk Management Committee at the end of each quarter, with significant issues being advised as necessary.

Review of risk management framework

The risk management framework and approach to strategic risk within the organisation was last fully reviewed in 2015-16 and is subject to continual monitoring and improvement.

Internal audit

During 2017-18, our internal audit function (outsourced to Pitcher Partners) reviewed our performance management and knowledge management processes and has supported the transition of the organisation to the Australian Financial Complaints Authority.

Material exposure

At the time of publication, we have no known material exposure to any economic, environmental or social sustainability risks.

Principle 8: Remunerate fairly and responsibly

Remuneration committee

The main functions of a remuneration committee are performed by the Nominations and Remuneration Committee.

The Board sets its remuneration in accordance with clause 4.15 of our constitution and on advice from the Nominations and Remuneration Committee. The Board also sets the remuneration of the Chief Ombudsman.

Responsibility for the company's remuneration, recruitment, retention and termination policies for all other employees has been delegated to the Chief Ombudsman, but significant changes to these policies are ratified by the Board.

The remaining aspects of this principle are applicable to companies that are subject to the ASX Listing Rules, and as such have no relevance to us.

Remuneration of non-executive directors and executive directors

All our directors are non-executive directors and, aside from the Chair, are paid equally, with a small additional payment being made to members of the Finance and Risk Management Committee.

Equity-based remuneration

We do not offer equity-based remuneration to any employee.

Glossary

Term	Explanation
accepted dispute	a dispute that has progressed through Registration and Referral and been accepted into Case Management at FOS (compare with received dispute)
ACR	authorised credit representative – a business that is authorised to engage in specified credit activities on behalf of a business with an Australian credit licence from ASIC
AFCA	Australian Financial Complaints Authority – the new single financial sector dispute resolution scheme that will begin accepting new disputes from 1 November 2018
alternative dispute resolution	ways of resolving disputes that do not involve going to court, such as conciliation and negotiation
applicant	consumer who brings a dispute to FOS
ASIC	Australian Securities and Investments Commission
<i>ASIC Regulatory Guide 139 (RG 139)</i>	a document that sets out the requirements of how organisations such as FOS can become an ASIC-approved EDR scheme and how they must operate and report to maintain that approval
closed dispute	a dispute is closed once our handling of it is complete – this can be achieved through an agreement between the parties involved, through a decision by FOS, or because the dispute is discontinued or outside our Terms of Reference
consumer	individual or small business owner who uses the services of a financial services provider
determination	a final decision in a dispute by an Ombudsman, Adjudicator or panel
EDR	external dispute resolution – dispute resolution managed by an independent third party (the Financial Ombudsman Service is an EDR service)
financial difficulty	consumers may experience financial difficulty if they are unexpectedly unable to meet their repayment obligations on a credit contract
FOS	Financial Ombudsman Service Australia
FSP	financial services provider
IDR	internal dispute resolution – every member should have IDR processes in place to handle disputes they receive about their business
member	a financial services provider that is a member of the Financial Ombudsman Service
ombudsman	someone who investigates disputes between aggrieved parties (eg consumers and small businesses) and organisations (eg financial services providers) and mediates a fair settlement or makes a final decision on the matter
outcome	the way in which a dispute has been resolved or finalised
outcome type	the result or consequences of the resolution or finalisation of a dispute
product	a specific type of product within a product category (eg shares are a product within the securities product category)
product category	a group of products within a particular product line (eg securities are a product category within the Investments and Advice product line)
product line	a broad line of products (eg Investments and Advice)
received dispute	a dispute that has entered the Registration and Referral stage of our dispute resolution process (compare with accepted dispute)
sales and service channel	the channel a consumer used to purchase or get advice about the product in dispute



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ABN 38 620 494 340

Published September 2018