

MCA Complaints Manual (June 2010)

- **RESOLVING A CLIENT COMPLAINT (INTERNAL)**

Purpose of complaints mechanisms

The client complaints procedures developed by the Licensee have been designed to offer an efficient and fair resolution to complaints lodged by clients.

All complaints lodged with the Licensee will be monitored to ensure that they are resolved efficiently and quickly and that any procedural problems that may arise will be dealt with immediately.

Commitment to the complaints handling process

Management, staff and Authorised Representatives of the Licensee are committed to the efficient and fair operations of the complaints handling process.

All management, staff and Authorised Representatives are to respond positively to all complaints and are to acknowledge that the Licensee is an organisation which respects the rights of a client to complain and to obtain feedback.

Any person dealing with client complaints must ensure they are referred on to the Compliance Consultant and ensure that all complaints are recorded on the Client Complaints Register. The Compliance Consultant will then make certain that all parties concerned with the complaint are informed.

All team members who will be concerned with the procedure will be made aware of the processes of complaints handling and will be informed from time to time of any amendments to those processes.

All parties concerned with the complaint handling process will be informed of any complaint that relate directly to their individual provision of product or service.

Fairness when handling complaints

The complaints handling process recognises the need to be fair to both the client and the Licensee. The complaints handling processes will be based on the client's right to:

- Be heard.
- Know whether the Licensee's Guidelines have been followed.
- Be provided with, at their request, all relevant material to support their complaint.
- Be informed of alternative avenues available in dealing with the complaint.
- Be informed of the response of the Licensee to the complaint.
- Be informed of the decision of the Licensee and the reason behind the decision reached.

Visibility of, and access to, complaints handling procedures

ASIC requires that all clients be informed of the complaints handling mechanisms available in the event they wish to complain. The complaint handling procedure should be outlined in the FSG and be provided to the client prior to the financial service being provided. The process is to be easy to understand and in plain English.

Access to this complaints handling process is readily available by telephone, facsimile, letter or in person.

Responsiveness

Complaints are to be dealt with quickly and complainants are to be treated courteously.

Charges

The complaints process is to be free of charge to any complainant.

Systematic

There is to be an appropriate and systematic recording of complaints. Complaints need to be classified and analysed for the identification and rectification of recurrent problems.

Client Complaints Register

The Client Complaints Register is maintained by the Compliance Consultant and is held at the Head Office of the Licensee. All complaints must be directed to the Compliance Consultant within 24 hours of their receipt by management, staff or Authorised Representatives.

For the purposes of the Register, the following information should be collected and recorded:

- the date of the complaint;
- the nature of the complaint;
- details of the products and/or services provided to the client which are now the subject of the complaint;
- the name of the person designated to handle the complaint (usually delegated by the Compliance Consultant);
- the time frame in which the complaint is to be handled;
- details as to whether the problem is of a procedural nature; and
- details as to whether the subject matter of the complaint has occurred in the past or potential to occur in the future.

This last point is to identify the likelihood of a systemic deficiency. A systemic deficiency is for example a situation where you have issued a brochure to your clients (which was relied upon by your clients) and it contained inaccurate or wrong information.

Resources

The Compliance Consultant is responsible for handling all complaints made by clients.

Processing client complaints

- A. All Client Complaints received must be made in writing and be addressed to the Compliance Consultant of the Licensee (or as specified in the FSG). Complaints received via the telephone should **be** recorded and a request made to the client to document the complaint in writing and forward it to the appropriate person.
- B. At the time of receiving the complaint, the required details must be entered into the Complaint Register. Within three (3) working days of receipt of the complaint, the client should **be** informed of the receipt. (NB: These records must be kept for six (6) years from the date the complaint was finalised.)
- C. The management of the Licensee will inform the Professional Indemnity Insurers (if necessary) and will discuss the nature of the complaint with the Authorised Representative and staff involved.
- D. If the Authorised Representative meets with the client, they are to calmly discuss the situation and take detailed file notes of the conversation. They are to empathise with the client and not **be** defensive about the complaint. *At no time during discussions with the client is liability of the Licensee or the Authorised Representative to be admitted.*
- E. The client file should **be** sent to Head Office for review by management, the Compliance Consultant and the insurers.
- F. If it is decided that compensation should be made to the client, the recommendation must be put to the Licensee for approval. It will then be decided whether compensation is to **be** made from insurance or internal funds (see "Remedies for client complaints" detailed below).
- G. All complaints should be resolved or responded to substantially within 21 days for an initial response to the complainant. If this is not possible the complainant should be notified that the complaint will be addressed within 45 days of initial receipt of the complaint. Clients are to be informed of this time frame at the time the complaint is lodged, it is also to be recorded on the FSG.
- H. If the complaint is not resolved satisfactorily within 45 days from the date of complaint, the Licensee must notify the client of their entitlement to make a formal complaint to the Financial Ombudsman Service. A copy of the FSG is also to be made available to the Client.

Charges concerning complaints

A client will not incur a charge as a result of any complaint lodged against the Licensee or its Authorised Representatives. Additionally, there is to be no charge incurred by the client for accessing information relating to the complaint handling procedure.

Remedies for client complaints

In all cases, the Licensee will attempt to resolve complaints within the internal dispute resolution guidelines detailed above. Possible remedies available to resolve a complaint include:

- correcting the problem that occurred;
- waiving of charges;
- compensation (without admission of liability);
- refunds;
- apology; and
- any other assistance that will alleviate the complaint.

In addressing the complaint and any other inherent problems the complaint has identified, consideration may be given to whether other clients may have been affected by the same problem. If such a situation is apparent, it may be appropriate to offer the other clients affected the same remedy despite no formal complaint being made.

Dealing with clients who complain

Handling a difficult client complaint efficiently requires patience and skill to avoid any initial 'negative' situation becoming more negative and degenerating into a dispute.

The two main elements in most complaint situations are:

dealing with the client's feelings:

listen;

acknowledge how the client feels about the situation;

empathise; and

do not offer excuses or argue with the client.

dealing with the specifics of the complaint:

ask the necessary questions in a polite and even-handed manner;

agree on a solution (or avenue of resolution);

set a timetable; and

take action on the agreed solution.

These two issues must be effectively managed to achieve the best possible result for the client and the providing entity.

Follow up and review

Once the client complaint has been resolved, the Compliance Consultant will contact the client to ensure they are satisfied with the outcome of the complaint. This is also an opportunity to assure the client that the Licensee is committed to providing the best possible service to the client, which includes the complaints handling process.

The internal complaints handling procedure will be reviewed on a regular basis consistent with the frequency and nature of client complaints that are received.

RESOLVING A DISPUTE (EXTERNAL)

One of the conditions on the Licence is that the Licensee must be a member of an external disputes resolution scheme. The Licensee is a member of the Financial Ombudsman service (*FOS*) *membership no. 11301*. The external complaint resolution procedure is available to clients if they believe a complaint has not been satisfactorily dealt with by the internal procedures of the Licensee.

Who has a right to be heard by FICS?

The procedures of FICS are available to any person that has a complaint regarding any dealings or transaction he or she has had directly or indirectly with members of the Service. Individuals with a special or beneficial interest in a dealing or transaction may also apply.

Contact details

FOS contact details are as follows:
Financial Ombudmans Service Ltd (FOS)
GPO Box 3 Melbourne Vic 3001
Phone: 1300 780 808
Fax: (03) 9613 6399
Email: info@fos.org.au
Website www.fos.org.au