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EDR Review Secretariat  
Review of the External Dispute Resolution Framework  
Supplementary Issues Paper  
The Treasury  
Langton Crescent  
PARKES ACT 2600

***By email: EDRreview@treasury.gov.au***

We are grateful for the opportunity to be able to make a public submission regarding our experience with the Financial Ombudsman Service (FOS); a last resort dispute resolution scheme.

Our submission addresses our experiences with the FOS that concern a lack of transparency and accountability, the negative effect efficiency has on outcomes and the ability to handle complex issues.

### **FOS Case [REDACTED]**

In March 2014, we lodged a complaint with FOS concerning Farm Debt Mediation and financial hardship in relation to a loan facility we have with [REDACTED].

#### *Extensions of time limits*

[REDACTED] was granted 14 extra weeks *to prepare* for the phone conciliation. This is most unusual. Our requests, prior to any Determination, for a 2-week extension were denied.

In the circumstances where extensions on time limits have been requested, we suggest both parties are granted the same opportunities to promote equity and fairness.

### *Mental Health assistance*

FOS did not offer any assistance for mental health issues. FOS was aware police had reported me as a missing person by my family (pressure from [REDACTED] resulted in [REDACTED]). [REDACTED] was also raised during the FOS conciliation. As such, FOS was aware of mental health issues prior to the Ombudsman's determination.

FOS stated they were not aware of these issues prior to the Ombudsman's determination and could not offer any assistance.

In the circumstances where FOS becomes aware an Applicant may suffer from Mental Health Issues, we suggest FOS should offer the Applicant assistance.

### *Conciliation time limits*

This phone conciliation was allocated 2-hours yet we were not able to discuss all the issues. My request to book a date to continue the conciliation was refused. FOS advised us this decision could not be disputed.

In the circumstances where FOS becomes aware of outstanding issues, the Applicant should be given the opportunity to raise these.

### *Supply of documentation*

FOS provided all of our documents to [REDACTED] *prior* to the conciliation. Some of [REDACTED]'s documents were provided to us only *after* conciliation.

FOS did not provide all of [REDACTED]'s documents to us at any point in the dispute. FOS sent a number of documents to [landofgold@yahoo.com](mailto:landofgold@yahoo.com). FOS was aware this was not our email address. Over a numerous months, FOS received several undelivered messages stating this email address did not exist. Despite this, the email address continued to be used. These undelivered emails were not redirected to our correct address.

It is important to note that whilst the incorrect email address was used on a number of occasions before the Determination was issued, the correct email address was used after the Determination was issued.

In the circumstances where an Applicant's email address is incorrect, we suggest FOS should confirm the Applicant's contact details.

### *Breach of privacy*

Documentation relating to a separate case with [REDACTED] was sent to [REDACTED]. FOS notes suggest this breached our privacy. We were never notified of this.

In the circumstances where an Applicant's privacy may have been breached, we suggest FOS should notify the Applicant/s of this.

### **FOS Case [REDACTED]**

#### *Inaccurate facts*

On 8 December 2016, we lodged a complaint with FOS concerning maladministration in relation to a loan facility we have with [REDACTED].

In our submission we stated "...whilst we have lodged a claim with FOS in relation to [REDACTED] [REDACTED] previously it had absolutely nothing to do with the basis of this claim...This particular issue has never been raised with FOS before. We have been advised we could make a complaint... if it is a completely separate issue."

In response FOS stated "FOS cannot consider a dispute if it has already been dealt with by us or by one of our predecessor schemes..."

FOS further stated "The dispute falls outside of our Terms of Reference", "the funds were used for investment purposes", "the line of credit was not regulated under the Consumer Credit Code", "the credit provided relates to an unregulated credit contract" and "we cannot consider your dispute because it was lodged outside of our time limits".

These reasons for closing the dispute were not true. After a number of emails to FOS, this *mistake* was later acknowledged.

We suggest the FOS obtain a level of efficiency that does not require resorting to close an Applicant's case file to finalise a dispute.

#### *Unreasonable processes*

On 22 May 2017, FOS closed the file. They stated the reason for this was because we had not supplied the 10 years of tax returns requested, amongst other documents.

In the circumstances where maladministration is raised by an Applicant, we suggest the FOS should first determine on whether an FSP has engaged in maladministration before requesting documents to calculate the loss and expenses the Applicant may have incurred as a result of the maladministration.

It is important to note, the file was closed after [REDACTED] admitted to irresponsible lending.

Our dispute remains unresolved. As such, this dispute will be subject to legal proceedings. As with most people who have defaulted on their loan, there is a large possibility we will have no legal representation in court.

We appreciate the opportunity to participate in this review. Should the Panel require further information on any aspect, we would be happy to supply this.

Kind regards

Craig and Moeroa Caulfield