

Insurance Council of New Zealand Submission on discussion document: *Effective financial dispute resolution*

Your name and organisation

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Overall comments

Thank you for the opportunity to submit on MBIE’s Discussion Document ‘Effective financial dispute resolution’ (**Discussion Document**).

Te Kāhui Inihua o Aotearoa / The Insurance Council of New Zealand (**ICNZ**) is the representative organisation for general insurance companies in New Zealand. Our members collectively write more than 95 percent of all general insurance in New Zealand and protect well over \$1 trillion of New Zealanders’ assets and liabilities. ICNZ members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, and motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, cyber insurance, commercial property insurance, and directors and officers insurance).

In relation to consumer awareness of and access to dispute resolution, ICNZ is not persuaded that the Discussion Document establishes that there is an issue that needs to be addressed.

What is important is that consumers can access information about dispute resolution schemes when they need it, i.e. when they are not satisfied with how a complaint to their financial services provider has been handled. This is not information that consumers need to have a general awareness of at all times. We consider the disjointed nature of the potential complaint pathways available to consumers is more of an issue, particularly in relation to complaints about EQC claims.

We believe the internal complaints processes across the insurance industry are reasonably accessible to customers. The Discussion Document’s ‘single front door’ option of an 0800 number to funnel complaints through would add an additional unnecessary step and further cost and may cause further confusion for customers.

We consider the focus should remain on ensuring customers are aware of the schemes at the time at which they might want to use them (i.e. they have made a complaint which has not been resolved by the entity through its complaint processes).

Responses to discussion document questions

Issue 1: Consumer awareness of and access to dispute resolution

1

Do you think there is a problem with low consumer awareness and access to dispute resolution?

When a customer makes a complaint, insurers are obliged to advise customers of the complaint pathways available. A complaint may have aspects which could be considered through multiple disputes resolution pathways. Where a complaint encompasses a claim under the NHI Act, a customer may be able to bring a complaint to an External Dispute Resolution (**EDR**) Scheme such as the Insurance & Financial Services Ombudsman Scheme (**IFSO**), for example in relation to the insurer's decision on the over-cap aspect of the claim. The customer may also have available multiple additional complaints resolution pathways including the dispute resolution scheme under the NHI Act (provided by Fairway), an independent review of decisions about breaches of the Code of Insured Persons' Rights, a review by the Parliamentary Ombudsman, and court proceedings.

This can cause confusion for all parties. Rather than awareness being the problem, the disjointed nature of the complaint pathways is more of an issue, particularly in relation to complaints about EQC claims under the Natural Disaster Response Model.

The number of overlapping schemes is likely to make it difficult to increase customer awareness. Likewise, the complicated way in which the schemes interact makes it challenging to educate customers around their options in any meaningful way.

Although the Discussion Document cites two surveys suggesting low consumer awareness of the individual EDR schemes, we question whether this is indicative of a problem that needs to be resolved. What is important is that consumers can access information about the EDR schemes when they need it, i.e. when they are not satisfied with how a complaint to their financial services provider has been handled. This is not information that consumers need to have a general awareness of at all times,

We understand that EDR schemes survey customers so they may have more information about the scope of the problem.

2

Do you think the recent increase in the volume of disputes indicates better awareness and access to the schemes?

This increase could be for a range of reasons. In the general insurance sector, the recent increase could be attributed to higher claims volumes in the past 12 months due to Cyclone Gabrielle and the Auckland flooding events in early 2023. IFSO have also advised this increase could be attributed to the cost-of-living crisis.

3

What are the barriers for consumers in accessing financial service providers' internal complaints processes?

We believe the internal complaints processes across the insurance industry are reasonably accessible to customers. The details are well publicised on websites and included in key collateral sent to customers. Most members offer multiple channels for customers to make complaints such as the ability to call, email or write a letter to their insurance provider.

4

What are the barriers for consumers in accessing dispute resolution schemes?

A more accurate assessment of the problem may be to survey customers who have an internal complaint and gauge the awareness of dispute resolution schemes for this group. While access to individual schemes may not be an issue, deciphering which aspects of a

complaint go to which scheme could be challenging for customers, particularly for complaints under the Natural Disaster Response Model.

5

Do you have any specific examples or case studies of situations where consumers have experienced issues accessing a financial dispute resolution scheme?

We do not have examples of issues specifically around customers accessing schemes but customers may have confusion around which scheme to go to and then how long it takes for a scheme to make a decision.

Issue 2: Enhancing scheme effectiveness through improved oversight and accountability

6

Do you think that current oversight and accountability mechanisms are sufficient to ensure schemes' effectiveness? Why/why not?

Overall, we believe the EDR schemes are effective and oversight and accountability mechanisms appropriate.

General insurers are required to comply with timeframes set out in the Fair Insurance Code. EDR Schemes are not held to any timeframes. There have been some recent delays in complaints being allocated to case managers at EDR schemes which has sometimes taken 2-3 months. This is a poor customer experience especially given the nature of some of these complaints. While it is important that EDR schemes take appropriate time to fully consider the complaint, customers may benefit from EDR schemes implementing timeframes for resolving complaints.

7

Do you think that the schemes are as effective as they could be? Why/why not?

See our response to Question 6 above.

8

Do you agree with these criteria for assessing the options? Why/why not?

We agree with the criteria.

Status quo: Retain existing model and monitor the impact of aligning the schemes' rules

9

Do you think that the new regulations will be sufficient to achieve the objectives set out above?

Yes. It would be best to wait for the Financial Service Providers (Rules for Approved Dispute Resolution Schemes) Regulations 2024 changes to bed in before a further review of the dispute resolution schemes is conducted. A review towards the end of 2025/early 2026 for example may identify areas that are operating better than expected or further areas where change is required.

Option to address issue 1: Supporting consumer access and awareness of schemes

10

Which of the options we have described above would be most effective to support consumers to resolve issues with their financial service provider?

We believe the internal complaints processes across the insurance industry are reasonably accessible to customers. A review and update of all customer-facing collateral would be an

excessively costly process for members. The 'single front door' option of an 0800 number to funnel complaints through would add an additional unnecessary step and further cost and may cause further confusion for customers.

We consider the focus should remain on ensuring customers are aware of the schemes at the time at which they might want to use them (i.e. have made a complaint which has not been resolved by the entity through its complaint processes). However, we do not see the relative value in promoting the existing schemes at all times given they are not relevant to most customers most of the time.

11 *What are the likely costs of implementing these options?*

At paragraph 46 of the Discussion Document, there is a proposal to display availability of dispute resolution schemes clearly and prominently in *all* communications with consumers. We strongly submit this should only be included in *relevant* information provided to customers e.g. on websites, claim declinature letters, and complaint resources.

Insurers already have requirements around complaints and the Fair Insurance Code about which insurers must provide information to customers at relevant touchpoints.

In general, insurers are supportive of EDR processes which can be very effective in resolving customer complaints where insurers have been unable to do so through their own internal processes. Insurers tell customers about EDR options at relevant touchpoints. Insurers also support education and awareness programmes across industry for the benefit of consumers. However, we do not support a change that would require updates to *all* documentation which would have a significant compliance costs without any clear benefit for consumers, and when insurers are trying to make their communication of key points for customers clearer and more concise.

One member has advised updating *all* customer communications would cost approximately \$200,000. ICNZ strongly opposes requiring the availability of EDR schemes to be on all customer facing collateral.

12 *Should these options be led by government, or the schemes themselves?*

We do not have an issue with the EDR schemes promoting their services but should additional options such as a 'single front door' approach be adopted this should be managed independently of the schemes.

It would be important to undertake customer testing to identify whether this would add any value or whether it might further confuse customers by adding another point of contact.

13 *Are there any other approaches that would improve consumer access to and awareness of dispute resolution options?*

No comment.

Option to address issue 2: Enhancing scheme effectiveness through improved oversight and accountability

14 *Do you think that there is a need for dispute resolution schemes to be more accountable?*

Published case studies do not always provide enough detail or outline the facts to an extent that they are of value. This makes it difficult for the industry to adapt its processes and

	improve customer service as the rationale for outcomes is sometimes unclear. Reporting of outcomes could be improved so there is better consistency and understanding of EDR decisions.
15	<i>Do you think there are issues with the performance or effectiveness of the schemes?</i>
	See our responses to Question 6 and Question 14 above.
16	<i>Do you think there should be consistency in how the schemes carry out independent reviews? What would be the best approach for achieving this consistency?</i>
	Yes. There should be consistency.
17	<i>Do you think government should set further scheme rules? If yes, what areas of the scheme rules should be set by government?</i>
	No. It would be preferable to wait for the Financial Service Providers (Rules for Approved Dispute Resolution Schemes) Regulations 2024 changes to bed in before a further review of the scheme rules is conducted.
	We note that there are complex cases that are currently referred to the IFSO which we believe require a level of consideration over and above the current process of being resolved on the papers. We believe, in the first instance, that IFSO should consider the effectiveness of this process in consultation with providers. The types of cases involved here included disputed declinatures for fraud or arson, declinatures based on expert evidence about cause of loss or damage, and indemnity quantum disputes based on disputes costings.
18	<i>Do you think it is necessary for government to make changes to ensure effective and impartial governance of the schemes? If yes, what changes would best meet this aim?</i>
	We note that there is not specific evidence in the Discussion Document on the issues with the governance of the existing schemes, simply commentary on where there is an absence of government control and rule setting. Such evidence would be useful to inform whether change is required, and if so what.
	In the absence of information on current boards not being suitably qualified, it seems unnecessary for the Government to intervene to set qualification criteria for board member appointments.
	We note Government appointed board members may create a conflict where attempts may be made to introduce quasi-regulation through scheme changes rather than through regulation and proper consultation processes.
19	<i>Do you think the schemes should have to report against performance targets or standards? If yes, how should these standards be reported and what metrics should be used?</i>
	No comment.
20	<i>Are there any risks or unintended consequences associated with the options we are considering?</i>
	No comment.

21 *Will any of these proposals result in significant additional costs for the schemes, scheme participants and/or consumers? If yes, please describe the magnitude of these costs.*

One member has advised updating all customer communication would cost approximately \$200,000. These compliance costs may ultimately be passed on to customers.

22 *Are there any other ways to improve schemes' accountability and effectiveness?*

No comment.

Other options

23 *Do you agree that the impact of regulations to align scheme rules, along with any other improvements proposed in this document, should be assessed before considering changes to the current scheme model? Why/why not?*

It may be best to wait a period of 12 months or more for the Financial Service Providers (Rules for Approved Dispute Resolution Schemes) Regulations 2024 to bed in before any further review of the scheme model is conducted.

24 *Are there any other areas and options for change that we should consider that have not been addressed in this discussion document?*

No comment.