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# Review of the Financial Industry Complaints Service 2002 – **Implementation Plan**

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## **Introduction April 2003**

The Service's response to the Review of the Financial Industry Complaints Service 2002 has been to carefully consider all the recommendations. This included holding a two-day workshop involving the Board's Review Committee and most staff, which formed the basis of this Implementation Plan. The approach has been to attempt to positively respond to the recommendations.

The Implementation Plan restates in full all the recommendations of the Review. In some cases subheadings have been added, in the interests of clarity.

The "Comments" column contains the Service's responses to the recommendations. A large number of the recommendations have simply been agreed to. The response to other recommendations has been to implement them in a modified way, as described, or to initiate further investigations. Where a recommendation has been rejected, brief reasons for doing so have been given.

A priority has been allocated to each recommendation that has not been rejected or has not already been implemented. Those priorities are as follows:

- short term -- to be completed within 6 months;
- medium-term -- to be completed within 6 to 18 months; and
- long-term -- to be completed in 18 months or over.

The need for a Rules change in order to implement the recommendations that have been accepted is indicated in the fourth column.

The main responses to the Review's recommendations are:

- An investigation is to be carried out into the best practices and timeframes for conciliation.

- The recommendation to trial mediation is rejected.
- The current Advisory Letter process, of which the Review was critical and which finalised just over half of the Service's cases, is to be discontinued, except in relation to complaints that are deemed to have no merit. Advisory Letters, when used, are to be supervised by senior management. Complaints not resolved by the Case Manager to be automatically referred to a Panel or Adjudicator.
- The determination of jurisdictional issues is to be expedited.
- Reconsideration of Panel or Adjudicator decisions in very limited circumstances is to be investigated, but the recommendation that all decisions be reviewed by the Panel Chair within 14 days is rejected.
- A greater focus on educating new Members and those who have a FICS complaint for the first time.
- The part-time consumer advisor recommendation is rejected. Instead, Case Managers are to be more pro-active in assisting consumers.
- The recommendation that a telephone conference take place prior to the Service receiving the member's initial written response to the complaint is rejected.
- There is to be full exchange of documentation during the complaint handling process in all but exceptional cases.
- The recommendations that additional fees be levied on members who fail to cooperate with the Service is rejected. The current process will be used, which is to refer a complaint for determination if no response from the Member is received.
- Greater distribution of information.
- The Senior Staff Committee recommendation is modified to a small group of senior staff performing the recommended functions relating to the vetting of complaints.

In carrying out this Implementation Plan it may well be necessary to review the contractual arrangements between the Service and its Members, rewrite the Rules and amend the Constitution of the Service.

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# Review of the Financial Industry Complaints Service 2002 – Implementation Plan

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RECOMMENDATION	COMMENTS	PRIORITY - SHORT, MEDIUM OR LONG TERM	RULE CHANGE YES/NO
<p>Chapter 2 - Processes used by FICS</p> <p><b>R 2.1 Telephone conciliation</b></p> <p>Telephone conciliation should be used in most matters that are dealt with by FICS (see case management - Chapter 5). The primary purpose of an initial telephone conciliation conference will be to encourage parties to reach agreement (see R 5.5) however a telephone conciliation will also be used to ensure that appropriate directions are made so that the parties are well informed about the future progress of a matter.</p> <p>Telephone conciliation should involve a simultaneous telephone conference and should comply with the definition of conciliation (see Chapter 2, page 9). It may be that in some matters more than one simultaneous telephone conciliation conference is held.</p> <p>All Case Managers should attend or have attended a 3-4 day recognised training course in conciliation or mediation.</p>	<p>Agree to investigate best practice and timeframes for conciliation with a view to increasing the use of telephone conciliation. A telephone conference before the Member's response is received is considered unnecessary.</p>	<p>Short</p>	<p>No</p>
<p><b>R 2.2 Face to face conciliation</b></p> <p>In addition , where both parties agree, 'face to face' conciliation processes should be available. Such conciliation should take place in Sydney and Melbourne upon request and case managers should provide face to face</p>	<p>To be included in the investigation of best practice and timeframes for conciliation.</p>	<p>Short</p>	<p>No</p>

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<p>conciliation meeting opportunities - for example on a monthly circuit to Sydney and every 12–20 weeks in Brisbane (see generally case management Chapter 5 and R 4.5). Face to face conciliation circuits should operate in Perth, Adelaide, Hobart and Darwin whenever possible and could take place in conjunction with FICS liaison meetings or FICS industry seminars. The Reviewers note that some cost sharing should be possible with other organisations and also consider that the decision to use face to face conciliation should involve a consideration of the costs and likely time frame involved.</p>			
<p><b>R 2.3 Monitoring conciliation and mediation processes</b>  A Case Manager should be appointed as the head conciliator to monitor quality and to determine whether the conciliation and mediation processes are meeting identified performance indicators. The head conciliator should provide monthly feedback to the executive and case managers about conciliation and mediation processes.</p>	<p>To be included in the investigation of best practice and timeframes for conciliation.</p>	<p>Short</p>	<p>No</p>
<p><b>R 2.4 Cooling off period</b>  If a matter is resolved at a mediation or conciliation conference, the agreement should be reduced to writing and provided to the parties, after which there should be a 7 day ‘cooling-off’ period in which the consumer is able to reconsider the terms of settlement.</p> <p>Once both parties settle on the terms of the conciliation agreement and the cooling off period has expired then the agreement reached should be regarded as final and binding.</p> <p>The Reviewers note that the ‘cooling off’ period recommendation will require amendments to the FICS Rules. The Reviewers consider that other recommendations relating to conciliation do not require the amendment of FICS Rules however the Reviewers note that the definition of conciliation</p>	<p>A formal cooling-off period is not warranted as it is inconsistent with the conciliation process.</p>		<p>No</p>

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should be embodied in the Rules.			
<p><b>R 2.5 Mediation processes</b></p> <p>Mediation processes should be trialled over a twelve month period. In order for mediation to take place all parties should agree. After a twelve month trial FICS should consider whether there are any benefits in continuing with mediation or making mediation processes mandatory in some (or in all) categories of matters. Parties should be encouraged to attempt mediation where matters are complex.</p> <p>Mediation should be conducted by mediators who have recognised mediation training, have expertise in the subject matter and who have extensive mediation expertise.</p> <p>Case Managers could be appointed as mediators with the consent of the CEO and the parties. The rules and guidelines that apply in many other mediation schemes should be adapted for FICS purposes.</p> <p>The reviewers note that mediators could also be appointed through the establishment of a protocol (perhaps similar to the new protocol that operates in the Supreme Court of New South Wales) where, by rotation, the CEO's of organisations such as IAMA, LEADR and professional bodies (the Law Institute of Victoria, the Law Society of New South Wales etc) appoint a suitably qualified person in the most appropriate capital city. Mediators appointed under this system should be paid an hourly rate that is equivalent to the rates paid to Panel members (up to five hours for mediation time).</p> <p>The Reviewers note that it may be necessary for the Rules to be amended to enable a mediation trial to take place and that if it decided at the end of the trial, that mediation is an appropriate technique for FICS to use in complaint resolution, the definition of mediation should be embodied in the Rules. In which event Rule 3 and Section B of the Rules is likely to require</p>	<p>The Service will focus on conciliation as mediation is inconsistent with an industry based ADR process.</p>		<p>No</p>

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amendment.			
<p><b>R 2.6 Advisory Letter process</b> FICS should thoroughly review the Advisory Letter process. In undertaking the Review, FICS should consider the following changes as recommendations from the Reviewers.</p> <ul style="list-style-type: none"> <li>▪ Prior to a Case Manager making a recommendation and sending an advisory letter, the Case Manager should conduct a telephone conference with the parties and indicate: <ul style="list-style-type: none"> <li>- What material has been considered by the Case Manager and what material is held by FICS</li> <li>- What the primary issues in dispute appear to be</li> <li>- What the advice of the Case Manager is likely to be</li> <li>- Why the Case Manager is likely to adopt a particular approach (the Case Manager may refer to decisions of the Panel in other matters, industry guidelines and practices or other relevant matters)</li> <li>- What options may follow the issue of the advisory letter (these may include referral of the matter to an Arbitrator or to the Panel).</li> </ul> </li> <li>▪ The Case Manager should ask parties whether there are any additional matters that should be considered or whether there is any additional material that should be considered or could be put before the Arbitrator/Panel. In addition the Case Manager should assist to facilitate the settlement of the matter if possible.</li> <li>▪ The advisory letter should be sent out within seven days of the telephone conference (unless additional material is identified as relevant by the parties) and should set out the recommendations made, a list of the material presented by each party (and the date it was received by FICS) and details about the Arbitrator and Panel process. A list of the material presented by each party will be retained as a case management tool and may be used by the Arbitrator or Panel should the matter</li> </ul>	<p>Agreed. Will review advisory letter process. An Advisory Letter will not be used except in a small minority of complaints where a Case Manager has a firm opinion that a complaint has no merit and all Advisory Letters will be reviewed by senior management. The party who is to receive an adverse opinion will receive prior notification by telephone. The main aim will be for Case Managers to resolve cases, rather than form an opinion on the merits. Parties in cases not resolved by Case Managers will receive a letter setting out the cases of both parties and notifying them that as the complaint has not been resolved, it has been referred to the Panel or Adjudicator. A list of material presented by each party will be provided to the parties.</p>	<p>Short/ Medium</p>	<p>Yes</p>

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<p>proceed to the determination.</p> <p>If, at the conclusion of this Review, it is decided to retain the Advisory Letter process in some form, the FICS Rules require amendment to reflect the inclusion of the advisory letter process. A definition of the process should also be included.</p>			
<p><b>R 2.7 Panel – Preliminary process and jurisdictional decisions</b> Matters should be referred to the Chair of the Panel at the earliest possible time to make single decisions in matters involving jurisdictional issues. In such matters, a preliminary decision may be made concerning jurisdiction and if it is determined that FICS has jurisdiction to deal with the matter, the matter will be referred back to the case management process.</p> <p><b>Panel to Conduct Face to Face or Telephone Hearings</b> The Panel should seek out opportunities where a face to face or telephone hearing is likely to increase the effectiveness and efficiency of their decision making process, or the satisfaction levels of the participants.</p> <p><b>List of Documentation</b> A list of all documents relied upon by the Panel and the Adjudicator should be provided to the consumer and member.</p> <p><b>Setting Out of Decisions</b> Panel and Adjudicator decisions should set out (with subheadings):</p> <ul style="list-style-type: none"> <li>▪ the issues in the dispute</li> <li>▪ a summary of the evidence relied upon</li> <li>▪ brief reasons for the decision.</li> </ul>	<p>Members will be requested to immediately raise issues of jurisdiction. This will be trialled for a three month period and may involve a Rule change. The Service will use the appropriate method to decide on jurisdictional issues.</p> <p>Already available at Panel's discretion.</p> <p>Agreed.</p> <p>Agreed.</p>	<p>Short/ Medium</p> <p>Short</p> <p>Short</p>	<p>Yes</p> <p>No</p> <p>No</p>

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<p><b>Promulgation of Decisions</b> All decisions should be published on the web and a short case summary example should be made available on the web. The reviewers note that such recommendations may not require an amendment to the Rules.</p>	<p>Already underway. Improved search facility being investigated. Summaries are unnecessary.</p>		<p>No</p>
<p><b>R 2.8 Panel Chair review</b> <b>Reconsideration of Decisions</b> Panel decisions should be reviewed by the Panel Chair within 14 days of a decision being made under limited circumstances (below) and not with regard to the merits of the decision. Decisions could be remitted to the Panel for further consideration if the Chair considers:</p> <ul style="list-style-type: none"> <li>▪ relevant evidence was not put forward</li> <li>▪ a mistake has been made in respect of a calculation.</li> </ul> <p><b>New Areas of Jurisdiction</b> The Panel Chair should carefully consider new areas in FICS jurisdiction and be empowered to seek advice, as the Chair may think fit, to better inform the Panel about industry practices and guidelines. Such advice may for example, take the form of hearing or taking evidence from an industry body about practices in a particular industry.</p> <p><b>Non -Compliance with Decisions</b> In addition, where a member has not complied with a decision made, the Panel Chair should have the discretion to make an order concerning continuing interest payments (See R 4.7). FICS should also consider the possibility of amending its Rules so that if payments are not made within 28</p>	<p>Amendment to the Rules, to permit reconsideration of decisions in very limited circumstances, will be investigated.</p> <p>Already done</p> <p>Already done. Suggested Rule amendment to be investigated.</p>	<p>Medium</p> <p>Medium</p>	<p>Yes</p> <p>No</p> <p>Yes</p>





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<ul style="list-style-type: none"> <li>• what processes were used to ensure that open communication took place,</li> <li>• how the role of the Case Manager was explained,</li> <li>• how FICS processes were explained,</li> <li>• how the Case Manager clarified issues and identified areas of agreement,</li> <li>• how the Case Manager facilitated direct communication between the parties and the parties explanation of issues,</li> <li>• how cooperative problem solving was encouraged and,</li> <li>• how possible outcomes were explored.</li> </ul> <p><b>Attendance of CEO at Peer Review</b></p> <ul style="list-style-type: none"> <li>▪ The CEO should attend such peer review processes when possible.</li> </ul> <p><b>Appointment of Senior Conciliation Case Manager</b></p> <ul style="list-style-type: none"> <li>▪ In addition, a Senior Conciliation Case Manager should be appointed who is trained in conflict management approaches and is able to mentor and develop skills in other Case Managers. The Conciliation Case Manager should provide statistical information to the CEO about conciliation processes, review best practice developments in the field and provide feedback to Case Managers about skills development. A key criteria for appointment of Case Managers should include training in conciliation skills and relevant experience in conciliation.</li> </ul> <p><b>Members' Education Programme</b></p> <ul style="list-style-type: none"> <li>▪ In 'newer' areas of FICS jurisdiction, where fairness may be a particular issue, FICS is already playing a key role in educating members about FICS processes. This should be extended and the ways in which FICS can play a more effective role in member education should be explored by the CEO (see industry liaison at Chapter 6).</li> </ul> <p><b>FICS Staff Education Programme</b></p> <ul style="list-style-type: none"> <li>▪ Industry members should be encouraged to present short seminars to all FICS staff and Panel members about practices and issues within the particular industry (see industry liaison at Chapter 6).</li> </ul>	<p>Agreed.</p> <p>Will be considered in the overall review of the conciliation process.</p> <p>Agreed, with particular emphasis on Members who are new to the Service or who have a complaint for the first time.</p> <p>Agreed.</p>	<p>Medium</p> <p>Short</p> <p>Short</p> <p>Short</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p>

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<p><b>R 3.3 Implementation audit</b> FICS should monitor the implementation of recommendations made as part of this Review and publish the results of this work within 18 months.</p>	<p>Agreed that FICS should monitor implementation of recommendations which the Board has accepted.</p>	<p>Medium</p>	<p>No</p>
<p><b>Chapter 4 - Accessibility</b> <b>R 4.1 Demographic information</b> The assumptions about why certain demographic groups are under represented in the profile of users of FICS assumptions should be tested in the future with an examination of the demographic profile of the users of financial products that are the subject of FICS's jurisdiction. Where possible, FICS members should supply FICS with demographic information that would assist with this task.</p> <p><b>Service to Approach ATSI Representative Organisations</b> ATSI representative organisations should be approached to seek advice about how FICS might provide services to ATSI complainants.</p> <p><b>Appointment of Communications Officer</b> FICS should approach the ABIO and IEC regarding the employment of a joint Communications Officer.</p>	<p>Agreed. The availability of this type of information will be researched.</p> <p>Agreed.</p> <p>Agreed.</p>	<p>Long</p> <p>Medium</p> <p>Long</p>	<p>No</p> <p>No</p> <p>No</p>
<p><b>R 4.2 Consumer awareness programs</b> Targeted consumer awareness programs should continue to include:</p> <ul style="list-style-type: none"> <li>▪ Promotion of FICS to the media and to professional publications (through the preparation of brief articles and paragraph case summaries).</li> </ul>	<p>Agreed.</p>	<p>Medium</p>	<p>No</p>

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<ul style="list-style-type: none"> <li>▪ Information about FICS being provided to agencies with high levels of contact with low income earners, in particular, financial counsellors and consumer support workers; and</li> <li>▪ Provision of information about FICS to unions (who could direct the information to members who may receive redundancy and other lump sum payments).</li> </ul>			
<p><b>R 4.3 Member awareness programs</b> The FICS member awareness program should include the following</p> <p><b>Presentation to Members</b></p> <ul style="list-style-type: none"> <li>▪ Continuation of the FICS staff presentations to member meetings</li> </ul> <p><b>Publications to Broader Audience</b></p> <ul style="list-style-type: none"> <li>▪ Provision of the FICS bulletin to a broader audience within members, such that it is delivered to front line staff as well as dedicated complaints handling staff;</li> </ul> <p><b>Promotion of Service</b></p> <ul style="list-style-type: none"> <li>▪ The development of clear and improved standard front of house brochures and promotional material publicising the existence of FICS, for placement at member premises;</li> </ul> <p><b>Advice to Complainants</b></p> <ul style="list-style-type: none"> <li>▪ Additional brochures need to be developed for those who have entered the FICS process and which outline the processes, the timelines, and support information;</li> </ul> <p><b>Development of Dispute Resolution</b></p> <ul style="list-style-type: none"> <li>▪ In conjunction with members, the development of their internal dispute resolution procedures, including a specific requirement to advise consumers of the existence of FICS at the time of an inquiry or complaint to the member.</li> </ul>	<p>Agreed.</p> <p>Agreed to encourage Members to distribute.</p> <p>Already done.</p> <p>Agreed.</p> <p>Agreed, but limited role for FICS because of resources. Rule 7 already requires Members to</p>	<p>Short</p> <p>Medium</p> <p>Long</p>	<p>No</p> <p>No</p> <p>No</p>

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<p><b>R 4.4 Single point phone access</b> FICS should review the operation of the single point of access phone system after 6 months of operation and then again at yearly intervals. The review should include collecting information on speed of answer (targets or performance indicators relevant).</p>	<p>advise of the existence of FICS.</p> <p>Agreed.</p>	<p>Short</p>	<p>No</p>
<p><b>R 4.5 'Circuit' system</b> To improve access to FICS, a 'circuit' system should be trialled over the next twelve months in all States in Australia, except the Northern Territory. At the end of the trial, an evaluation should occur to determine whether the circuit system has improved access for non-Melbourne based complainants and members (see R 2.2).</p>	<p>Disagree with a formal 'circuit' system. Ways of providing an Australia-wide service will be considered in the overall review of the conciliation process.</p>	<p>Short</p>	<p>No</p>
<p><b>R 4.6 Additional levy fee</b></p> <p><b>Failure to Co-Operate</b> FICS should develop and implement an additional fee levy for members who fail to cooperate with the scheme or who cause significant delays in the resolution of complaints. In determining what constitutes 'significant delays', consideration should be given to the data provided in the Issues Paper as to the normal time frames experienced by a complaint proceeding through the FICS process. The Panel Chair and the CEO should be empowered to make decisions about when such fees should be imposed and FICS should determine the parameters of such a fee increase system after consultation with members.</p> <p><b>Review of Fee Structure</b> FICS should continue to review fee structures for members on an annual basis. It may be that fees will not increase for 'complying' members if an additional fee levy system is implemented in respect of recalcitrant</p>	<p>Not agreed. The current process will be used, which is to refer a complaint for determination if no response from the Member is received. At Panel/Adjudicator level, if a decision cannot be made, the matter is to be referred to the CEO. The Service also deals with Members who fail to comply by using the Service's systemic issues and serious misconduct procedures.</p> <p>First sentence agreed. Second sentence not agreed.</p>	<p>No</p>	<p>No</p>

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members.			
<p><b>R 4.7 Monetary compensation and consequential loss</b>  FICS should develop and implement a system that allows the awarding of monetary compensation or consequential loss to complainants who incur additional expenses or loss as a result of delays or lack of cooperation by members. This should apply only in exceptional circumstances for example, where a member has, in the view of the Panel Chair repeatedly delayed and the consumer is able to provide evidence in relation to their loss. This will require Rule changes within FICS to enable the Panel Chair to make such orders (See also later comments this Chapter relating to consequential loss).</p>	<p>Await the Treasury review of “Compensation for Loss in the Financial Services Sector”.</p>		<p>Possible in the future</p>
<p><b>R 4.8 Part time consumer advisor</b>  FICS should appoint a part time consumer adviser, skilled in dispute resolution with an understanding and awareness of consumer issues, for a trial period of 12 months, to be located in the FICS Melbourne office. The consumer adviser would be available to assist consumers to prepare their complaints and submissions (where required) and generally to assist them to explore options for the resolution of their dispute having regard to the strengths and weaknesses of their case. The consumer adviser may be a person who is seconded from a consumer centre and the role of the adviser should be separate from that of other Case Managers and staff.</p>	<p>Not agreed. The Service will implement a more pro-active role for Case Managers in assisting consumers to formulate their complaints and meet the requirements of the complaints handling process.</p>	<p>Short</p>	<p>No</p>
<p><b>R 4.9 Jurisdictional changes</b>  The FICS Board, in considering jurisdictional matters, should carefully consider the impact of jurisdictional changes on FICS day to day operations.</p>	<p>Already done.</p>		<p>No</p>
<p><b>R 4.10 Monetary limits review</b>  FICS should consider and should work towards increasing the monetary</p>	<p>Monetary limits are reviewed by the Board which discusses with</p>		<p>Possible in the future</p>

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<p>limits in FICS to match those of the ABIO.</p> <p>FICS should also consider annual or bi annual CPI indexing of jurisdictional limits. However the Reviewers consider that CPI indexing may have drawbacks that include jurisdictional uncertainty, and would require additional resources to be expended.</p>	<p>stakeholders.</p>		
<p><b>R 4.11 Monthly amounts - jurisdictional limits</b></p> <p>The Reviewers consider that the issue of increasing FICS jurisdiction in relation to the monthly amount that can be claimed by consumers should be reconsidered by the FICS Board having regard to the number of consumers who may currently be unable to access FICS as a result of income stream monthly jurisdictional limits, and after seeking advice from members.</p>	<p>Monetary limits are reviewed by the Board which discusses with stakeholders.</p>		<p>Possible in the future</p>
<p><b>R 4.12 Rule changes – discussions with stakeholders</b></p> <p>That FICS continue discussions with the ASX, the ASXF and the FPA to determine how any rule changes could assist in addressing the issue of the broking industry being fully represented in decision making and with regard to Rule 49 matters.</p>	<p>Agreed.</p>	<p>Medium</p>	<p>Yes</p>
<p><b>R 4.13 Expanded jurisdiction consultation</b></p> <p>The Reviewers recommend that FICS consult with members regarding possible new areas of jurisdiction after consideration of the possible impacts such areas may have on FICS.</p>	<p>Agreed.</p>	<p>Short/ Medium/ Long</p>	<p>No</p>

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<p><b>R 4.14 Coverage for new and exiting members</b> That FICS uses the Combined Consumer submission proposals as a basis for developing mechanisms which ensure that appropriate coverage is maintained for consumers when members are exiting and entering the FICS jurisdiction.</p>	<p>The Board is monitoring this issue in liaison with ASIC. The Combined Consumer proposals will be considered.</p>	<p>Medium</p>	<p>Yes</p>
<p><b>R 4.15 Compliance with directions and determinations</b> The Reviewers recognise that FICS may not have control over all areas where members do not pay consumers in accord with a determination made. However the Reviewers consider that FICS should implement a system to:</p> <p><b>Compliance with Decisions</b></p> <ul style="list-style-type: none"> <li>▪ check to ensure that its decisions are complied with.</li> </ul> <p><b>Imposition of Penalties</b></p> <ul style="list-style-type: none"> <li>▪ remit a matter to the Panel Chair if a member has not complied with a decision within the timeframe required to consider whether additional orders should be made relating to consequential loss in respect of the late payment (see R 4.7 in relation to interest).</li> </ul>	<p>Agreed.</p> <p>Await the Treasury review of “Compensation for Loss in the Financial Services Sector”.</p>	<p>Medium</p>	<p>No</p> <p>Possible in the future</p>
<p>Chapter 5 - Efficiency and Timeliness</p> <p><b>R 5.1 Case management – immediate referral of some matters to the Panel</b> All matters that enter the FICS system should be case managed so that some matters, particularly those relating to jurisdictional, issues are immediately referred to the Panel.</p>	<p>Agreed.</p>	<p>Medium</p>	<p>Yes</p>
<p><b>R 5.2 Case Manager to telephone complainants after receiving complaint</b> The Case Manager allocated to the matter should telephone complainants and the member within 7 days of the receipt of a complaint and indicate</p>	<p>Agreed. To be included in the investigation of best practice and</p>	<p>Short</p>	<p>No</p>



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<p>what steps will be taken by FICS and provide complainants and the member with a date on which the telephone conciliation conference will take place.</p>	<p>timeframes for conciliation.</p>		
<p><b>R 5.3 Follow up information to be provided by Case Managers</b>  Following the initial telephone contact and within 7 days of the initial receipt of the complaint, Case Managers should provide written information to complainants and members with:</p> <p><b>FICS Process to be Explained</b></p> <ul style="list-style-type: none"> <li>▪ Information relating to the FICS process (including information about indicative timelines and the required exchange of documentation)</li> </ul> <p><b>Timing of Conciliation Compliance</b></p> <ul style="list-style-type: none"> <li>▪ The agreed date of a first telephone conciliation conference</li> </ul> <p><b>Consumer and Member Support Options</b></p> <ul style="list-style-type: none"> <li>▪ Information about consumer and member support options (see consumer support at Chapter 4).</li> </ul> <p><b>Copy of Complaint to be Provided to the Member</b></p> <ul style="list-style-type: none"> <li>▪ A copy of the complaint (for the member).</li> </ul>	<p>Agree to investigate best practice and timeframes for conciliation with a view to increasing the use of telephone conciliation. A telephone conference before the Member's response is received is considered unnecessary.</p>	<p>Short</p>	<p>No</p>
<p><b>R 5.4 Exchange of documentation</b>  In some circumstances, the Case Manager could require the member to provide documentation to the complainant and FICS that supports their position. In other circumstances, the Case Manager could decide to proceed immediately to the first telephone conciliation conference and use that opportunity to clarify the documentation required of the member (and the complainant).</p>	<p>Agreed that there should be full exchange of documentation in all but exceptional cases. Disagree with telephone conciliation to set directions. Agree to investigate best practice and timeframes for conciliation with a view to increasing the use of telephone</p>	<p>Short</p>	<p>No</p>

RECOMMENDATION	COMMENTS	PRIORITY - SHORT, MEDIUM OR LONG TERM	RULE CHANGE YES/NO
	conciliation. A telephone conference before the Member's response is received is considered unnecessary.		
<p><b>R 5.5 Timing and purpose of telephone conciliation conference</b>  A first telephone conciliation should take place 21 - 28 days after receipt of the complaint (at least 21 days after the member has received the initial complaint advice). A telephone conciliation conference of no less than 20 minutes with both parties should be attempted.</p> <p>In the conference, the Case Manager should assist to identify disputed issues and endeavour to assist the parties to reach an agreement. The Case Manager may play an advisory role however the role should primarily be a facilitative role. In some circumstances the Case Manager and the consumer will have no additional material relating to the members perspective. In these cases, in the telephone conciliation conference the Case Manager should make directions about the exchange of documentation (R 4.5). If some documentation has been exchanged, directions should be made about any additional documentation needed.</p> <p>Members and their representatives should seek to be in a position to discuss the issues, the appropriate timeframes and processes that should occur and to discuss options to resolve the dispute. FICS should consider increasing fees to members after this stage if there is a lack of compliance with directions.</p>	Not agreed. A telephone conference before the Member's response is received is considered unnecessary. The objectives of this process are currently met by the use of a standard form letter.		No
<p><b>R 5.6 Action following telephone conciliation</b>  Following the first telephone conciliation conference, Case Managers may:</p> <ul style="list-style-type: none"> <li>▪ Reduce the terms of any agreement to writing and send the agreement</li> </ul>	Not agreed. A telephone		No

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<p>to the parties for checking</p> <ul style="list-style-type: none"> <li>▪ Make directions regarding the exchange of written documents. These may differ from the time lines currently used by FICS for the exchange of material. For example, in income protection disputes where a complainant is without income, a considerably shorter time line for the exchange of documentation may be used</li> <li>▪ Undertake an amended Advisory process (see Advisory Process recommendations R 2.6)</li> <li>▪ Refer a matter for an additional telephone or to face to face conciliation (see R 2.1 and R 2.2). Such conciliation should take place within 28 days (however this period may be longer if a 'circuit conciliation' takes place)</li> <li>▪ Refer a matter to mediation by consent (see R 2.5)</li> <li>▪ Refer a matter to a Case Manager advisory process where it will be considered by a different case manager (see advisory process R 2.6)</li> <li>▪ Refer a matter to an Adjudicator if it appears that the agreed quantum is less than \$10,000.</li> <li>▪ Refer a matter to the Panel (see Chapter 2).</li> </ul> <p>Case Managers will seek information at the telephone conference about the preferences of the parties in relation to the preferred dispute resolution process options and the further case management of the matter.</p>	<p>conference before the Member's response is received is considered unnecessary. The objectives of this process are currently met by the use of a standard form letter.</p>		
<p><b>R 5.7 Case Management Directions to consumers and members</b></p> <p>Current guidelines used by FICS in relation to the exchange of material should be considered by Case Managers when directions are made. Departure from current guidelines will be considered by Case Managers where cases are simple, complex or involve medical and/or other expert evidence. Directions should be made at the telephone conciliation conference. Directions about the exchange of written documents will be posted to each party following a telephone conciliation conference.</p>	<p>Not agreed. A telephone conference before the Member's response is received is considered unnecessary. The objectives of this process are currently met by the use of a standard form letter.</p>		<p>No</p>

RECOMMENDATION	COMMENTS	PRIORITY - SHORT, MEDIUM OR LONG TERM	RULE CHANGE YES/NO
<p><b>R 5.8 Failure to comply with directions</b> If a member fails to comply with directions the matter will be referred to the CEO of FICS who may recommend:</p> <ul style="list-style-type: none"> <li>▪ that additional fees be paid by the member (see Chapter 4 and R 4.6).</li> <li>▪ the matter be referred to the Panel or Panel Chair to make orders concerning additional fees or to list a matter for hearing before the Panel</li> <li>▪ that the matter and the conduct of the member be referred to ASIC.</li> </ul>	<p>Not agreed. The current process will be used, which is to refer a complaint for determination if no response from the Member is received. At Panel/Adjudicator level, if a decision cannot be made, the matter is to be referred to the CEO. The Service also deals with Members who fail to comply by using the Service's systemic issues and serious misconduct procedures.</p>		<p>No</p>
<p>Chapter 6 - Accountability and liaison</p> <p><b>R 6.1 Review of email processes</b> FICS should review its email processes to ensure that members and consumers are appropriately targeted in respect of information dissemination. FICS should also set benchmarks in relation to replies to telephone, email and correspondence and should report on how and to what extent those benchmarks have been met in Bulletins.</p>	<p>Agreed.</p>	<p>Short</p>	<p>No</p>
<p><b>R 6.2 Member liaison meetings</b> FICS should continue the member liaison meetings as regular events across Australia, and introduce a more interactive format for member liaison meetings.</p>	<p>Agreed.</p>	<p>Short</p>	<p>No</p>
<p><b>R 6.3 Working with peak groups</b> FICS should work with peak groups such as the FPA, the ASX to jointly develop communication strategies for smaller member groups.</p>	<p>Already being done.</p>		<p>No</p>

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<p><b>R 6.4 National consumer meeting</b> FICS should organise and resource an annual national consumer meeting (perhaps in conjunction with IEC and ABIO), and when organising member liaison meetings through the states and territories, should also meet with consumer and financial counselling organisations.</p>	Already being done.		No
<p><b>R 6.5 Communication with consumers</b> The recommendations of the communications research should continue to be implemented as a matter of priority (see also generally comments and recommendations in respect of case management Chapter 5 and consumer support Chapter 4).</p>	Agreed.	Medium	No
<p><b>R 6.6 Provision of information about systemic issues</b> That PS139 and the FICS Rules be amended to require FICS to provide information about systemic issues to key peak industry and consumer bodies, with the consent of ASIC, at the same time as it is provided to ASIC.</p>	Not agreed. However, anonymised information about systemic issues will be more widely distributed.		No
<p><b>R 6.7 Senior Staff Committee</b> FICS should trial the introduction of a Senior Staff Committee comprised of the CEO, the Conciliation Case Manager, Case Managers and enquiry staff to:</p> <ul style="list-style-type: none"> <li>▪ provide support and advice to Case Managers involved in case management activities, especially telephone and face to face conciliation and the trialling of mediation.</li> </ul>	Not agreed as recommended committee size is impractical. The Service will assign a small group of senior staff to perform these functions.	Short/ Medium	No

RECOMMENDATION	COMMENTS	PRIORITY - SHORT, MEDIUM OR LONG TERM	RULE CHANGE YES/NO
<ul style="list-style-type: none"> <li>▪ identify trends and systemic issues arising from the complaints and adjust data collection where appropriate.</li> <li>▪ develop training and education initiatives.</li> <li>▪ discuss general jurisdictional issues.</li> <li>▪ assist to analyse emergent case management issues.</li> <li>▪ discuss issues relating to member fees and conduct.</li> <li>▪ plan areas where specialist Case Manager expertise benefit from a 'filtering' approach in relation to the initial allocation of cases. For example, it may be that certain types of matters could be managed by Case Managers with particular expertise (for example insurance matters may be best managed by a Case Manager with significant industry experience in insurance).</li> </ul>			
<p><b>R 6.8 Guidelines on commonly occurring issues</b></p> <p>FICS should consider publishing guidelines on particular commonly occurring issues, which are circulated to members and stakeholders and appear on the FICS website, and are distributed to complainants on a regular basis. Further consultation about what guidelines are appropriate should take place. The Guidelines should:</p> <ul style="list-style-type: none"> <li>▪ Set out the nature of the particular problem.</li> <li>▪ Discuss the scope of the problem and how widespread it is.</li> <li>▪ Set out several case studies (de-identified).</li> <li>▪ Describe how FICS will deal with complaints in this area.</li> <li>▪ Provide examples of law and practice which have influenced this approach.</li> <li>▪ Recommend best practice.</li> </ul> <p>FICS should publish Case Management Guidelines that set out the case management processes, establish indicative timeframes, provide case study examples and definitions. Such guidelines should be supported with visual diagrams.</p>	Agreed, where such emerge.	Medium	No

RECOMMENDATION	COMMENTS	PRIORITY - SHORT, MEDIUM OR LONG TERM	RULE CHANGE YES/NO
<p><b>R 6.9 Cost per file information</b>  FICS should provide information in the Annual Report on the cost per file as well as information relating to the FICS budget. FICS should consider the material published by the Productivity Commission on the activity of Courts and Tribunals as a possible guide.</p> <p><b>Annual Report</b>  In the Annual Report, FICS should name members who have been the subject of complaint, and information about the finalisation of those complaints (including information about timeliness and the processes used). In addition FICS should consider reporting best practice IDR schemes that exist amongst its members as part of its ongoing educative role.</p>	<p>Agreed.</p> <p>Not agreed. The Service has difficulty in ascertaining how this can be done in a fair and reasonable way. A particular problem being the availability of market share data. Furthermore, the Service doesn't have access to the necessary IDR information. However, the Service remains committed to promoting best practice in IDR.</p>	<p>Short</p>	<p>No</p> <p>No</p>
<p><b>R 6.10 Web site indexing system</b>  The FICS website should include a better indexing system for the determinations, and consider ways of improving the presentation of determination information to make it easier to access.</p> <p>All the key information on the web site should be available in user friendly format as part of a paper-based information kit provided to each new complainant (see R 6.8 and Chapter 4 ).</p>	<p>Already being done.</p>		<p>No</p>
<p>Chapter 7 - Independence and future planning</p> <p><b>R 7.1 Review of internal complaints process</b></p>			

RECOMMENDATION	COMMENTS	PRIORITY - SHORT, MEDIUM OR LONG TERM	RULE CHANGE YES/NO
FICS should review its own internal complaints process for members and consumers, and subsequently ensure that all those who use FICS are informed about it.	Agreed to implement a more formal system for dealing with complaints about the Service, which clearly excludes complaints about the outcome of Panel or Adjudicator decisions.	Medium	No
<p><b>R 7.2 Board appointment processes</b></p> <p>As part of normal governance responsibilities, the Board of FICS should regularly review appointment processes and articulate desirable criteria for Board appointments in terms of skills and expertise of Board members.</p>	Agreed.	Medium	Possible in the future
<p><b>R 7.3 Development of a code of conduct and ethics</b></p> <p>FICS should develop a code of conduct and ethics that includes all matters referred to in the framework located at Appendix C. The Code should bind all staff, Panel members and any external third parties interacting with FICS on a regular basis.</p>	Agreed	Long	No
<p><b>R 7.4 Ongoing training and education</b></p> <p>Ongoing training and education should address issues relating to:</p> <ul style="list-style-type: none"> <li>▪ Knowledge requirements – knowledge about conflict, industry practice and cultures, aspects of negotiation, communication, procedural elements, self knowledge, decision making, and ADR.</li> <li>▪ Skills – assessing a dispute for ADR, gathering and using information, defining a dispute, communication, managing a process, managing interaction between parties, negotiation, being impartial, making a decision, concluding a process.</li> <li>▪ Ethics – promoting the service and processes accurately, eliciting and exchanging information, managing termination of a process, exhibiting a lack of bias, maintaining impartiality, ensuring appropriate outcomes.</li> </ul>	Agreed.	Medium	No



RECOMMENDATION	COMMENTS	PRIORITY - SHORT, MEDIUM OR LONG TERM	RULE CHANGE YES/NO
<p>These matters are set out more fully in Appendix D.</p>			
<p><b>R 7.5 Future planning</b>  The recommendations of this Review should provide the basis for Strategic Planning for the next three years.   Strategic Planning should be undertaken in a deliberative manner, and involve the staff, Board and members, and seek input from other stakeholder groups as appropriate.</p>	<p>Agreed that where recommendations have been accepted by the Board they will form the basis of strategic planning.</p>	<p>Medium</p>	<p>No</p>
<p><b>R 7.6 Future independent reviews</b>  Subsequent Reviews should be overseen by a Review Committee comprised of independent consumer and industry representatives, representation from ASIC and from the body being reviewed. A dispute resolution process should be included in the contract with the Reviewers.   The funding for subsequent Reviews should be channelled through a separate body and managed by the Review Committee. Funding for Reviews of this nature should involve a recurrent line amount that is CPI indexed.   The consultancy brief for subsequent FICS Reviews should include greater detail as to the collection and reflection of qualitative data. It would be useful to consider the views of consumer organisations and ASIC in drafting such a brief.   Prior to subsequent FICS Reviews, FICS should consult with members regarding the most effective ways of canvassing views and gaining</p>	<p>The Board will consider this recommendation at the time of implementing the next independent review.</p>		<p>No</p>

RECOMMENDATION	COMMENTS	PRIORITY - SHORT, MEDIUM OR LONG TERM	RULE CHANGE YES/NO
feedback.			