



FSCL

FINANCIAL SERVICES COMPLAINTS LTD

INDEPENDENT DISPUTE RESOLUTION

**GUIDE TO
COMPENSATION
FOR
CONSUMERS**

MAY 2020

HOW CAN WE HELP TO RESOLVE YOUR COMPLAINT?

We can decide that your financial service provider* (your provider) should pay you compensation for direct loss and inconvenience. We can also decide that your provider should take action to put you back in the position you would have been in if the events had not occurred.

If we do not think your provider should pay you any compensation for direct loss or inconvenience, we will tell you why.

WHAT IS DIRECT LOSS?

Direct loss is actual money you have lost as a result of something your provider has done. For example, you might have lost money because:

- > your insurer declined your claim
- > you were charged more in interest and fees than you should have been
- > you were charged a one-off fee that you did not agree to
- > your credit, debit, or travel card has been stolen and used by a thief
- > you paid for something you did not receive.

If we think your provider has caused you a direct loss, we can require your provider to pay you compensation for what you have lost, up to \$200,000.

WHAT IS INCONVENIENCE?

Inconvenience is something you experience because of something your provider has done wrong. You might not be able to put a dollar value on the damage caused, but you might have:

- > experienced stress, or anxiety, and perhaps lost sleep
- > experienced disappointment because you have lost an opportunity
- > had to change your plans because of something that happened to you.

If we think your provider has caused you inconvenience, we can require your financial service provider to pay you compensation, up to \$2,000.

When considering compensation for inconvenience we ask you to bear in mind that, from time to time, everyone makes mistakes and everyday life can be inconvenient.

* Your financial service provider could be your insurer, lender, mortgage broker, insurance broker, financial adviser, KiwiSaver trustee, transactional service provider, credit union, or anyone who has provided you with a financial service.

HOW DO WE WORK OUT HOW MUCH COMPENSATION FOR INCONVENIENCE YOUR PROVIDER HAS TO PAY?

Just because your provider has done something wrong, we will not automatically require it to pay you compensation. We need some evidence that what happened was out of the ordinary. There is no strict formula for how we assess compensation. Each case before us is considered on its individual circumstances, but we may take into consideration:

- > the amount of money involved
- > the length of time the problem has been going on for
- > whether there was any impact on your health, and the severity of the impact
- > other consequences for you, for example, perhaps you were unable to pay a debt when due
- > how much you will be affected by the inconvenience in the future.

DOES MY PROVIDER HAVE TO PAY THE COMPENSATION?

Yes. Our final decisions are binding on your provider, but not binding on you. This means that if we find in your favour your provider must pay you the recommended compensation, as long as you accept the compensation in final resolution of your complaint. If you do not agree with our decision, you may decline to accept the proposed settlement and pursue your complaint through any other avenue that may be open to you, for example the disputes tribunal or court.

ARE THERE ANY OTHER WAYS WE CAN HELP?

Yes. We can recommend your provider:

- > write off debt
- > release security for debt
- > refund fees
- > reinstate a contract
- > reconsider an insurance claim
- > reconsider a hardship application.

IS THERE ANY COMPENSATION WE CANNOT AWARD?

Yes. We cannot award “punitive” damages to punish a provider. We also cannot award compensation for consequential loss (for example lost income) or lost property, except to the extent that consequential loss may be covered by compensation for inconvenience.

WHAT ABOUT LEGAL COSTS?

We generally do not ask your provider to pay your legal costs after you have referred a complaint to us. Our service is free, and you should not need to use a lawyer for us to help you. If you decide you want to consult your lawyer, you will have to pay for your lawyer’s advice yourself.

We may direct your provider to compensate you for legal expenses you incurred before your complaint reached us.

WHAT ABOUT INTEREST?

We may find that your provider should pay you interest on compensation for direct loss. We are more likely to recommend interest be paid if we think you would have earned interest on the money if there had not been a dispute.