

The Banking Ombudsman
Annual Report

07
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Office of the Banking Ombudsman

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About the Banking Ombudsman

The Banking Ombudsman scheme was established on 1 July 1992
– the first such scheme in the private sector in New Zealand

- We investigate complaints about banking services supplied by participating banks
- We are independent and impartial
- Our service is free, efficient, and informal
- Banks must comply with awards of compensation made by the Banking Ombudsman

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of the Banking Ombudsman **20**

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What issues
does the Banking
Ombudsman
deal with ?

My cheque was stolen and cashed by
someone else. The bank says there is
nothing they can do

My credit
card didn't
work
overseas

Can anyone make
a complaint ?
Yes, but you must complain
to the bank first

Can I email
my problem
to them?

How much time
does a person
have to stop a
cheque?

What do I do if my
bank has charged
me too much in
bank fees?

The bank won't let me
take money out of our
joint account

Is my bank
part of the
scheme ?
(See inside back
cover for list of
banks)



Chairman's preface

The Board of Banking Ombudsman Scheme Ltd has responsibility for the independent and sound governance of the scheme, without being involved in the investigative and management functions of the Banking Ombudsman.



Sir Ian Barker QC Chairman

Enhanced independence of the scheme

Last year's annual report recorded the last year of operation of the Banking Ombudsman Commission. With effect from 1 July 2007, a new legal entity known as Banking Ombudsman Scheme Ltd took over the running of the Banking Ombudsman Scheme. This renaming and incorporation was designed to enhance the independence of the Scheme which, for 16 years, has been the leading industry-based complaint resolution organisation in New Zealand. This change and others flowed from an independent review of the scheme conducted by the Hon Anand Satyanand PCNZM.

Governance and management – separation of powers

The Board of Banking Ombudsman Scheme Ltd has responsibility for the independent and sound governance of the scheme, without being involved in the investigative and management functions of the Banking Ombudsman.

Membership of the Board of the Banking Ombudsman Scheme Ltd is similar to that of the Commission, with two consumer representatives, two senior bankers and an independent chair. Board decisions are characterised by consensus. All Board members are committed to the independence, wellbeing, and efficiency of the Scheme.

Change and continuity

The year under review began with the incorporation and has been one of consolidation, after the changes flowing from incorporation. I express my sincere appreciation for the hard work and commitment of my fellow board members Ms Suzanne Chetwin, Mr Graham Hodges, Mr Sam Knowles, and Ms Helen Walch. In the coming year, the Board will give consideration to the future of the Scheme in a changing legislative and banking environment.

In reviewing strategic options, the Board will take account of the recommendations of the independent review. Our distinguished reviewer's findings and recommendations can be found at <http://www.bankombudsman.org.nz/documents/bank-ombudsman-review.pdf>

The Board will revisit these findings and recommendations, covering accessibility, independence, fairness, accountability, efficiency, and effectiveness. Those recommendations which were susceptible to prompt action have been implemented; others will require ongoing consideration.

The scheme's accessibility

The Board is concerned with the Scheme's accessibility in a society, the demographic diversity of which changes frequently. As the year under review drew to a close, the Banking Ombudsman had almost finished work on a survey on the extent to which the Scheme is accessible to all New Zealand bank customers, irrespective of age, income, education, and ethnicity. This survey will provide much material for consideration in the year ahead.

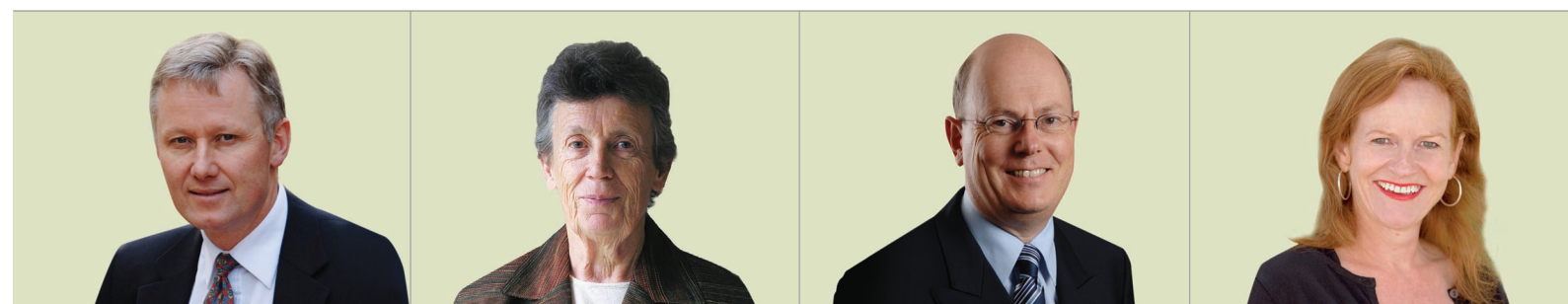
I was pleased to note from a 2007 survey of bank branches that some banks have improved staff understanding and awareness of their own complaints processes, and of the right of recourse to the Banking Ombudsman. The Banking Ombudsman's training DVD for bank staff seems to have sharpened banks' awareness of this important dimension of staff training. Bank staff need to be aware of the Scheme's role in the complaints process, in order to inform customers of their right, under the Code of Banking Practice, to have unresolved complaints investigated independently. I am looking forward to further evidence of banks' enhanced commitment to training staff in complaints handling in the year ahead.

A tribute

In conclusion, I again pay tribute to the integrity, acumen, and dedication of Liz Brown, the Banking Ombudsman, and her staff. The high standing of the Banking Ombudsman scheme in the community and the banking industry is the result of their professionalism. A surge in complaints, including those related to investments, has placed the office under considerable pressure in recent months.

In the coming year I anticipate various challenges, including a move to a new office and the likelihood of a continuing high workload, at least in part attributable to the current economic downturn.

The Deputy Banking Ombudsman, Susan Taylor, was responsible for much of the detailed implementation of the recommendations of the Review. She deserves special thanks for this work, which was undertaken on top of her other responsibilities.



Mr Sam Knowles

Ms Helen Walch

Mr Graham Hodges

Ms Suzanne Chetwin

Report of the Banking Ombudsman



Liz Brown Banking Ombudsman

The first six months of the reporting year went very much according to plan, but by March 2008 it was apparent that turmoil in the international financial markets was affecting New Zealanders' investments and the by the end of June 2008 we had a 37% increase in caseload, caused almost entirely by an influx of complaints about investment advice.

Some longer term projects have had to be put on hold, and we have concentrated on ensuring that complainants and banks are not subject to undue delay in the investigation of complaints.

The support of the Board has been vital during the difficulties of the past months, and I would like to express particular appreciation of Sir Ian Barker's calm wisdom and his ready availability when troubles needed to be shared. My most sincere thanks to him and to all Board members.

2007-8 was to have been a year of consolidation after a period of change. 2006-7 had seen the Banking Ombudsman Commission implement most of the recommendations made by the Hon Anand Satyanand in his 2006 review of the Banking Ombudsman scheme, culminating in the establishment of Banking Ombudsman Scheme Ltd which commenced operations on 1 July 2007.

Equally importantly, my thanks to staff at the office who have seen their individual workloads increase well beyond reasonable and desirable levels, but who have continued to uphold our tradition of high quality work and sympathetic handling of complainants. It is an achievement that we have continued to function as a team with a high level of mutual support.

My special thanks to Susan Taylor, Deputy Banking Ombudsman, who has carried a great part of the extra load.

Accessibility

The reviewer identified the accessibility of the Banking Ombudsman scheme as an area where improvement was required. In 2007-8 we continued the programme we began the previous year with the aim of making the Banking Ombudsman service truly accessible to all who may have need of it.

There are two parts to the programme. One is aimed at assisting banks to fulfil their obligation to advise their customers

about the Banking Ombudsman and to have easily accessible information about their own internal complaints process and about the Banking Ombudsman. The other is aimed at providing information to advisory organisations in the community so that they are in a position to give accurate advice to clients who seek their assistance with a banking problem.

We continue to promote the use of our training DVD for bank staff and find it has also had an enthusiastic reception from community groups.

We also increased our work with bank staff. For several years we have held twice yearly forums for bank complaints-handling staff and this year we extended the programme to include a forum for bank staff who come into contact with complainants, but whose main role is not complaints handling. The forum was held in Auckland in June 2008 and we have plans for a similar forum in Wellington later in the year.

We also held a seminar for FINSIA members in New Plymouth in conjunction with the community organisations' forum and individual seminars for bank staff in several venues.

In association with the Insurance & Savings Ombudsman and the Electricity and Gas Complaints Commissioner, we held forums for community organisations in New Plymouth, Wanganui, Palmerston North, Porirua, Westport, Greymouth, Tauranga and Rotorua.

We also reviewed our website and have engaged consultants to redesign it to make it more useful to existing users and

... by the end of June 2008 we had a 37% increase in caseload, caused almost entirely by an influx of complaints about investment advice.

more accessible to a wider range of users. At its heart will be a searchable database of casenotes which we hope will be a valuable resource for both banks and the general public.

Also with accessibility in mind we have undertaken plain English training and many of our standard letters and other documentation have been redrafted.

An ombudsman you can bank on

Liz Brown, the Banking Ombudsman, will be in Rotorua on June 9 to discuss banking needs. The meeting, which will take place by the lake-side in Rotorua between 11am and 2:30pm is being organised with the assistance of Debbie Tangohau and Richard Totton of the Rotorua Council of Social Services.

Participation is free.

Though not a public meeting, it is for the many groups and individuals advising and supporting citizens with financial or budgetary problems.

As lunch is provided, it is important that participants give notice of their intention to come. It costs nothing to raise a complaint with the ombudsman.

The Banking Ombudsman scheme is independent of both banks and consumers. Its purpose is to consider complaints by consumers who are dissatisfied with banking services.

Anyone may complain to the Banking Ombudsman about a service they have received from any bank, including a bank which is not their own. However, they must first give the bank a chance to resolve the complaint through its own processes.

The Banking Ombudsman's services are free to bank customers, and the processes are informal and easy to use. Many cases can be resolved quickly and informally through a facilitation process, although cases that raise more complex issues may need investigation and take longer to resolve.

Findings and recommendations are based on a scrupulous examination of facts and arguments. Contact can be made with PO Box 10-573, Wellington, Freephone: 0800 805 950.

Email: help@bankombudsman.org.nz. Fax: 04 471 0548.

Website: www.bankombudsman.org.nz.



LIZ BROWN

The survey indicates that younger New Zealanders with moderate to low incomes and lacking tertiary education are generally making little or no use of the scheme ...



... an as yet unquantifiable proportion of the adult population either knows little or nothing of the scheme, or is unwilling or unable to use it ...

Survey of the Banking Ombudsman scheme's accessibility

During the year 2007, at the invitation of the Banking Ombudsman Commission, the Banking Ombudsman surveyed former complainants whose cases had been closed.

Background

The background to the survey was the 2006 independent review of the Banking Ombudsman scheme. The following accessibility benchmark had been defined by the Commission for the review: "Is it [the scheme] easily accessible to, and easy to use for, consumers regardless of their location, resources (intellectual and material), literacy, language skills, health status and other personal circumstances?"

In his key accessibility-related recommendation the reviewer found that: "More needs to be done to ensure that the Banking Ombudsman's services are easily accessible to consumers. There is insufficient knowledge about recourse to the Banking Ombudsman and there should be a shift undertaken so that knowledge of availability of recourse to the Banking Ombudsman is more actively promoted."

The Banking Ombudsman survey and the independent review

The Banking Ombudsman's accessibility survey of former complainants has confirmed the continuing validity of the independent reviewer's findings and recommendations on accessibility, while also unearthing some interesting detail about the demographic profile of those who do and do not bring their complaints to the Banking Ombudsman. To place the survey into the context of New Zealand society in general, data was related to equivalent data about the same groups from the 2006 census.

General findings of survey

The majority of the respondents to the survey could be distinguished from the general population in the following ways:

- they were considerably older
- they earned considerably more
- they were much more likely to have some tertiary education
- younger people aged between 15 and 30 were seriously under-represented, with only three respondents aged 20 or less.

These findings also held good when respondents were compared with the profile of the ethnic groups to which they belonged. Perhaps most unexpectedly, the 26 Asian respondents (mostly with some tertiary education) had high median incomes in the range \$40,000-\$60,000 – more than three times the median income of \$14,500 for their group in the general population. They were therefore unrepresentative of their group.

Although only one of the six Maori and Pacific peoples respondents had a tertiary education, their incomes were also considerably higher than the median for their groups in the general population.

The survey indicates that younger New Zealanders with moderate to low incomes and lacking tertiary education are generally making little or no use of the scheme, irrespective of their ethnicity. It also appeared as though those ethnic groups – Maori, Pacific peoples, Asian, and those from Latin America, the Middle East, or Africa – which generally have lower incomes and are less likely to have tertiary education, are even less likely to know of the scheme and to make use of it.

If the median data from the 2006 census is applied, this could mean that a large but as yet unquantifiable proportion of the adult population either knows little or nothing of the scheme, or is unwilling or unable to use it, for reasons that can only be speculated about at this stage.

Two survey tables, on ethnicity, incomes and age

Two tables from the survey are reproduced here that paint a fascinating picture of the extent to which Banking Ombudsman survey respondents do not reflect patterns of income and age distribution in the general population.

Median personal income by ethnicity for NZ population and Banking Ombudsman respondents (i.e. not median household income)

	2006 NZ census	Banking Ombudsman survey
Europeans, including persons defining themselves as New Zealanders	\$25,400	Median income range \$40,000 - \$50,000
Maori	\$20,900	Only four responses, income range \$20,000 - \$80,000
Pacific peoples	\$20,900	Only two responses, income range \$20,000 - \$80,000
Asian	\$14,500 (58% earning less than \$20,000 – record for all ethnic groups)	Median income range \$40,000 - \$60,000
Latin America, Middle East, Africa	\$16,100	Only three responses, income range \$40,000 - \$80,000

Key findings were:

- The overwhelming majority of Banking Ombudsman respondents earn two to three times more than the median income for their ethnic group in the 2006 census.

- Sixty-five, or 37%, of respondents from all ethnic groups reported income above \$60,000 per annum. As only 7% of adult New Zealanders earned more than \$70,000 per annum in 2006, according to the census, the higher income group is significantly over-represented among survey respondents. While this is the group that is likely to make more extensive use of banking services, and also to have the confidence to complain, the disparity is still striking.



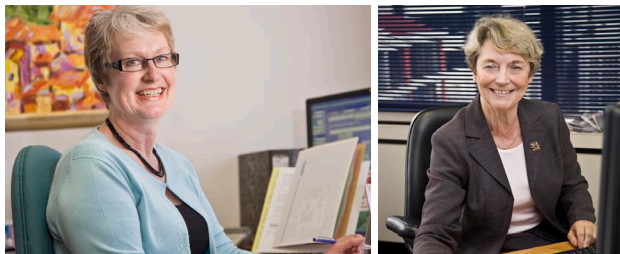
	2006 NZ census	Respondent median age range
Europeans, including persons defining themselves as New Zealanders	39	50-60
Maori	22	40-50
Pacific peoples	21	50-60
Asian	28	30-40
Latin America, Middle East, Africa	26	40-50

The median age of Banking Ombudsman respondents was almost 20 years older than the median age for each of the ethnic groups in the general population. In the case of Pacific peoples, the median age range of the few respondents was almost 30 years more than the census median of 21.

On the other hand, only 17, or 9.7%, of Banking Ombudsman respondents were less than 30 years old. Only three of 175 respondents were younger than 20. All were "Europeans".

The future of the scheme – a strategic reappraisal

As the Chairman has indicated in his preface to this annual report, the issue of accessibility will lie at the heart of the Banking Ombudsman scheme's strategic discussion and decision-making in the challenging year that lies ahead.



My Terms of Reference do not give me the power to decline to investigate a complaint on the grounds that it has little chance of success.

Interim process review

In February 2008 Minter Ellison Rudd Watts reported on their interim review of our investigation process.

Full process reviews are now to be carried out at four yearly intervals with an interim review every two years. The reviewer considers a random selection of investigation files along with all those files where a complainant has expressed any concern about the investigation process. The main difference between the interim review and the full review is in the number of files considered.

The process review is an integral part of our quality assurance and its purpose is to help ensure that our processes:

- Are fair and impartial
- Meet commonly accepted standards of natural justice
- Comply with the Banking Ombudsman's Terms of Reference

The reviewer was satisfied that the Banking Ombudsman's processes accord with the Banking Ombudsman's Terms of Reference and the principles of fairness and natural justice.

In particular it was found that:

- Both parties, the participating bank and the complainant, were afforded sufficient opportunity to be heard and put forward their point of view.
- The Banking Ombudsman conducted investigations in an impartial manner, and avoided prejudging matters.
- Disputes were resolved in a timely manner.
- The Banking Ombudsman's administrative procedures assisted in the fair and timely resolution of complaints.
- The Banking Ombudsman determined issues relating to the Banking Ombudsman's Terms of Reference accurately and acted in accordance with the Terms of Reference.

The reviewer also found that some limited aspects of the processes applied during a small number of the investigations could have been undertaken in a way more consistent with the key principles of natural justice. In this respect the reviewer made six recommendations, all of which have now been implemented.

The review report can be found on our website at www.bankombudsman.org.nz

Complaints handling in banks

One of the functions of the Banking Ombudsman is to provide advice to banks on the development and maintenance of good complaint handling practices. Much of this is done on an ad hoc basis, but I also write to chief executives of banks every six months to advise them on the numbers and types of complaints received about their bank and also about complaint handling practices.

Complaints that may fall outside the Terms of Reference

I have had to remind banks that even if the bank is of the view that a complaint falls outside the Banking Ombudsman's Terms of Reference, complainants should not be told that the Banking Ombudsman will not be able to consider their complaints. It is appropriate for the bank to tell the customer about the limitations that may apply and to indicate that the bank will make representations about jurisdiction, but it is for the Banking Ombudsman to decide whether the complaint falls within the Terms of Reference.

Good practice on making an offer of settlement

In discussing complaints statistics for the year, I have noted a likelihood that more complaints are being directed to banks' internal complaints processes rather than coming (inappropriately) to the Banking Ombudsman before the bank has had an opportunity to consider the complaint.

We have, however, had a resurgence of an undesirable practice on which I have commented in the past. In quite a number of cases, involving several banks, I have seen correspondence from a bank's complaints handler that explains the events that led to the complaint and may include an offer of settlement, but does not tell the complainant about the next step in the complaint process if the explanation or offer is not accepted. There is usually an invitation to contact the writer of the letter if the complainant wishes to discuss the complaint further, but this in itself is not sufficient, especially if the complainant feels that he or she has already said everything that can be said about the complaint.

If the bank is not prepared to provide any further explanation or to make an increased offer of settlement, then it must comply with its obligation under the Code of Banking Practice and advise the complainant about the right to take the complaint to the Banking Ombudsman if the explanation or offer is not accepted.

If the bank is prepared to give further consideration to the complaint, then it should explain to the complainant what needs to be done before it can consider the complaint further. It is not enough to tell the complainant what to do if the bank's offer or explanation is accepted but to give no advice on the process if it is not accepted.

I will continue to monitor this issue during the coming year.

Complaints of dubious merit

Bank complaint handlers are sometimes concerned when I commence an investigation of a complaint that has been through their processes and that, in their view, has no merit whatsoever.

My Terms of Reference do not give me the power to decline to investigate a complaint on the grounds that it has little chance of success. Sometimes such complaints are excluded from consideration on other jurisdictional grounds, but there are

always a few complaints that are not excluded but appear very unlikely to succeed. Sometimes it is possible to facilitate the withdrawal of the complaint by giving a further explanation of normal banking practice, but more often than not it is necessary to investigate the complaint. The complainant is entitled to an investigation and from time to time an investigation uncovers information that was not previously known to the bank and changes its views on the complaint.

December 2007 survey of bank branches

The Banking Ombudsman has organised a mystery shopper survey of bank branches in each of the last five years, to monitor the extent to which banks are complying with their obligation, under the Code of Banking Practice, to display in all of their branches brochures about their complaints procedures and the Banking Ombudsman's services.

The Code also requires banks to make sure that their staff are aware of the Code and of the minimum standards of good banking practice that are relevant to their area of work, including possible recourse to the Banking Ombudsman. This means that bank staff should be able to respond appropriately to customers wanting information about the complaints process.

Individual banks are not identified in the reports on these exercises, although each bank receives a confidential detailed breakdown on the performance of its own branches.

An encouraging improvement in banks' general performance

The year 2007 marked an encouraging improvement in the performance of most banks. Performance was better right across the banking industry, and it was particularly good to see all the larger banks recording an increase in the number of branches where the Banking Ombudsman information leaflet was found on display.

If bank staff lack a sound understanding of the complaints process ... there is a real risk of customer dissatisfaction, ranging from mild discomfort to an entrenched and enduring sense of grievance ...



The survey showed that several individual branches achieved across-the-board perfect scores, including some branches of banks whose overall performance was less positive than most. Three out of five larger banks rated highly. This can probably be attributed to their commitment to raising awareness among branch staff of the importance of identifying and resolving complaints at the earliest possible opportunity.

One larger bank scored results not surpassed by any bank since this survey began. Two other larger banks also achieved very high ratings. The more mixed performance of the remaining two larger banks and some smaller banks perhaps attests to the less effective implementation of their training programmes.

With a couple of exceptions, the Code of Banking Practice was also found more often, with a quite dramatic improvement in its availability in some cases. It is good practice for branches to display it prominently, even if copies to take away are available only on request. The existence of the Code is not so well known that customers can be expected to know of it and to ask for a copy.

Need for bank staff to have a sound understanding of complaints processes

The survey is also useful in establishing what sort of information a complainant is likely to have before approaching us with a complaint, including how well the Banking Ombudsman scheme is known to bank staff confronted with a problem or a potential complaint.

If bank staff lack a sound understanding of the complaints process, and if printed information about it is not readily accessible to them and bank customers, there is a real risk of customer dissatisfaction, ranging from mild discomfort to an entrenched and enduring sense of grievance, with adverse implications for a bank's reputation for customer service.

All frontline bank staff should at the very least know that their bank has a customer complaints process and that information

about it is required to be available in printed form. Too many staff in the branches surveyed have still not reached this basic level of knowledge.

Decreased gap between staff willingness to help and knowledgeability

In the test of bank staff willingness to help and knowledgeability of their banks' complaints processes, it was heartening to note that, while average achievement on both counts has improved only slightly since 2006, the median ratings for 2007 have increased by approximately 10% over the same period – revealing a much greater concentration of branches rated at the high end of the scale. Even so, survey statistics, backed up by detailed accounts of staff behaviour compiled by the mystery shoppers, continue to reveal a significant gap between the expectations raised by the friendliness and helpfulness of the overwhelming majority of branch staff and the disappointment that can result if the expectations raised by this behaviour are not fulfilled.

A further encouraging development was the greatly decreased number of branches receiving the lowest rating. Of the results for the five larger banks, only three branches received the lowest rating for willingness to help – down from nine in 2006, while two-thirds fewer branches received the lowest possible rating for knowledgeability – down from 21 to 7.

It was also heartening to note that branch staff made available printed information on their banks' complaints processes in 13% more cases than in 2006 (up from 56% to 69%). This shows that more banks are training their staff, not simply to display documents to technically fulfil the minimum requirements of the Code, but more importantly, to view them as a useful resource for their interaction with customers.

The survey records a substantial improvement of 16% in the proportion of branches displaying the Banking Ombudsman leaflet, in compliance with banks' obligation under the Code.

It was, however, not all good news for the banks, with the 2007 report finding that banks' own information leaflets were absent from the display stands of 31% of branches surveyed. If there is a demonstrable lack of available information about the complaints process, the quality of the process itself will suffer. This is an area that urgently needs to be addressed.

In this context I would like to repeat the proposal, already made in my last annual report, that the NZ Bankers' Association give favourable consideration to making the Code easier to understand and more accessible to the public, amongst other things by simplifying its language and considerably reducing its length. While it is important for the Code to be available for all bank customers, if it is written in a manner that can make it inaccessible even to literate native speakers of English, the probability that it will be widely used as a handy reference tool is greatly diminished.

A balanced selection of mystery shoppers' observations on branches surveyed

"Staff member was very kind and helpful and suggested various things I could do. Best experience of all the banks."

"Not a good experience. I felt threatened by her manner. I think she over-reacted, was unprofessional and clearly untrained."

"As soon as I mentioned the word 'complaint', her tone changed."

"Good customer service – thoughtful and caring. Helpful in providing info."

"She was snarly, unsmiling, and rude."

"The manner was fantastic. Definitely willing to bend over backwards to help. Succeeded in making me feel as if I had a valid enquiry that needed assistance."

"I was in line behind another customer with a complaint and noticed that the lady really did bend over backwards to help them, asking other staff and eventually coming up with a solution to the problem. Those customers looked satisfied."

"She also said that [her bank] hardly has any complaints as far as the Ombudsman is concerned, and that [another named bank] was the worst for having them go that far."

"Prompt, helpful, clear, and concise."

"To be honest, they were not very friendly, but they did tell me what I needed to know when I asked."

"Even though I was not given any information on the complaints process or the Banking Ombudsman, I found this bank most helpful."

"Staff couldn't even find brochures when asked. The Code of Banking Practice was located by the back bench among the women's magazines."

"They were very helpful and said that the bank would do whatever it could do to help. Referred to the leaflet throughout the whole conversation."



The Code of Banking Practice requires a bank to give notice to its customer before sending a debt to a collection agency and to explain the effect it may have on the customer's future ability to obtain credit.

Interim review of Code of Banking Practice

The New Zealand Bankers' Association conducted an interim review of section 8 (internet banking) of the Code of Banking Practice in July 2007. Concern had been expressed about the provision that customers could be liable for loss caused by internet banking fraud if appropriate protective software and operating systems are not installed and up to date or if protective systems are not up to date. There was also concern about banks reserving the right to request access to computers in order to verify that customers had taken reasonable steps to protect them.

We have received no complaints where it has been necessary to refer to the internet banking section of the Code and have yet to see how the new provisions operate in practice. They do, however, appear to meet most of the objections expressed by the public when the 2007 edition of the Code was published.

Complaint issues

Lending issues

We have had a small increase in complaints about loans to customers who are now unable to meet their commitments and complain that the loan application should never have been accepted. The complaints often come from the anxious parents of young adults, but we are also seeing a few from customers who borrowed to invest in dubious investments that have now failed.

Clause 5.1(c) of the Code of Banking Practice provides:

(c) We will only provide credit to you or increase your credit limit when the information available to us leads us to believe you will be able to meet the terms of the credit facility. We have the right to decide not to provide credit to you".

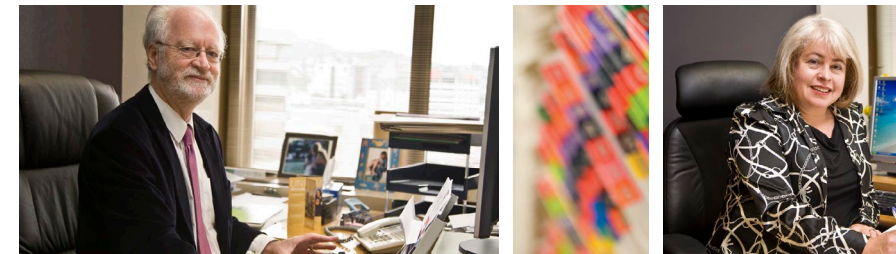
I will investigate a complaint of a breach of the Code in this respect, but the investigation is limited to a consideration of the administrative process by which the application was assessed and accepted. My Terms of Reference preclude me from questioning the bank's exercise of its commercial judgment in a matter of lending.

It would be highly unusual to find that a bank ought not to have offered a loan to an adult applicant who has actively sought the loan and is not under any sort of disability. Different considerations apply when there is an unsolicited credit increase or when there is lending to customers who the bank knew, or ought to have known, were not capable of understanding their commitment. Each case, however, is different and each is considered on its own merits.

Default listings

The Code of Banking Practice requires a bank to give notice to its customer before sending a debt to a collection agency and to explain the effect it may have on the customer's future ability to obtain credit. However, we are seeing cases where customers are surprised to discover a default listing when they apply for further credit and a credit check is done. In some such cases it is unlikely that notice has been given.

Sometimes the customer is one of joint borrowers where recovery action has been directed at the other borrower(s). It is not unusual for one of joint borrowers to assume responsibility for debt repayment and the other borrowers may be unaware of any failure to make repayments or other defaults. The bank will usually first pursue the customer who was servicing the loan, but if it is unable to recover then it will pursue the other borrowers. Before passing such a debt to an agency for collection, it is important to ensure that as far as possible, all borrowers have been notified of the proposed action and that at least a reasonable attempt has been made to trace all borrowers.



Systemic issues

In my report for the 2006-2007 year I noted our processes for dealing with issues that may or will affect bank customers (or other persons entitled to complain) in addition to the complainant who has made a complaint to the Banking Ombudsman. I am pleased to report that all systemic issues that came to my attention this year have been satisfactorily resolved. Two examples follow:

1. This issue arose out of a complaint by a customer who had made a payment to his bank on a Friday for a credit card account with the due date of Sunday. The funds were not credited to the account until Monday, and he incurred interest and a late payment fee.

The bank resolved the complaint by refunding the interest and fee, but I was concerned about other customers who could find themselves in a similar situation.

The bank agreed to investigate the possibility of changing its system and has now made a change whereby the system takes into account funds in transit on the due date.

2. Another complaint raised concerns as to the adequacy of the advice and explanations about disclosure requirements given by a bank staff member to the customer at the time she completed an insurance proposal. A failure to disclose relevant information may entitle the insurer to decline a claim and declare the policy void.

I suggested the bank might wish to review its staff training practices to ensure that all staff members involved in selling insurance products take care to explain to customers the insured's duty of disclosure, what matters need to be disclosed to the insurer and the consequences of non-disclosure.

The bank reviewed its staff training practices and made changes so that insurance managers were required to study towards the New Zealand Diploma in Financial Services (Insurers), changed its induction programme for new insurance managers and took other steps to ensure that insurance managers were fully aware of their duty to inform customers about matters related to disclosure.

Investment advice

Almost all the complaints about investment advice related to advice to invest in one of two funds provided by ING (NZ) Ltd. The funds encountered difficulties in the latter part of 2007, and withdrawals were suspended in March 2008.

ING (NZ) Ltd is not a member of the Banking Ombudsman scheme and I have no power to consider complaints about the management of funds, the decision to suspend withdrawals or the communication between ING (NZ) Ltd and its investors. A substantial number of complaints, however, were received from bank customers who had bought into the investment through their banks and now complained that they had been poorly advised, that the features of the investment had been misrepresented or inadequately explained and/or that the investment was not suitable for their purposes.

The complaints themselves were of a familiar kind. At any one time we will normally be investigating three or four claims of inappropriate or misleading investment advice, and such claims tend to increase when markets encounter difficulties. The unusual features this time have been the novel nature of the investment and the large number of complaints.

The funds offered by ING (NZ) Ltd were unit trusts containing a diversified portfolio of structured credit assets, principally collateralised debt obligations and collateralised loan obligations. While fixed interest investments are generally lower risk investments, these were at least low to medium risk. There is therefore a question as to their suitability for some conservative or defensive investors and also a question as to the way they were presented to customers by individual advisers.

As at 30 June we had not concluded any investigations into these complaints, although we had facilitated the settlement of a few of them. We had also assisted the bank most affected to identify cases where its customers were suffering financial hardship and to offer some assistance.

The intake of new complaints and enquiries remained at a very similar level to the previous year, but new disputes increased by 18%.

International networks

The Banking Ombudsman scheme in New Zealand continues to play its part in international networks of ombudsman schemes. We remain a member of the Australian and New Zealand Ombudsman Association (ANZOA) and in April 2008 I was delighted to lead a team of Board members and staff to ANZOA's first conference, held in Melbourne. It was a valuable opportunity to reflect on the past, present and future of ombudsman schemes across Australia and New Zealand, to network with other ombudsman, their governing bodies and their staff and to exchange practical information and advice.

Board member Helen Walch presented a paper on accessibility in ombudsman schemes and I presented a similar paper on accountability.

In September 2007 a previously informal network of financial services ombudsman schemes from around the world became formally constituted as the International Network of Financial Ombudsman Services. The Banking Ombudsman scheme of New Zealand was a founder member of this organisation.

Also in September 2007, Susan Taylor and I attended the International Network of Financial Services Ombudsmen conference in London where we had the opportunity to meet, listen to and exchange news and views with delegates from more than 30 countries, all with an interest in resolving disputes about financial services.

Staff

July 2007 was a month of comings and goings for the office. We were sorry to lose both Bob Welsh and Pat Caughley during this month. Both had worked for us as part time investigators and had brought the benefit of considerable and varied experience to their role.

Kylie Scott joined us as a full time investigator in August 2007 and has already used her legal experience and background to very good effect in connection with the influx of complaints about investment advice.

Angela Trotter joined us as administrator in July 2007, bringing us back to a full complement in the administration area after the departure of Janet Boag earlier in the year.

Finally, the increasing workload led us to reinstate the position of enquiries assistant/assistant investigator which has been ably filled by Kate Kenworthy since March 2008.

Staff as at 30 June 2008

- Liz Brown – Banking Ombudsman
- Susan Taylor – Deputy Banking Ombudsman
- Meryn Gates – Investigator
- Jane Ireland – Investigator
- Kate Kenworthy – Enquiries Assistant / Assistant Investigator
- Katrina McLaughlin – Senior Administrator
- Ross Miller – Investigator
- Bob Rigg – Communications Adviser
- Kylie Scott – Investigator
- Rhonda Singleton – Enquiries Officer
- Angela Trotter – Administrator
- Alan Westbury – Finance & Administration Manager



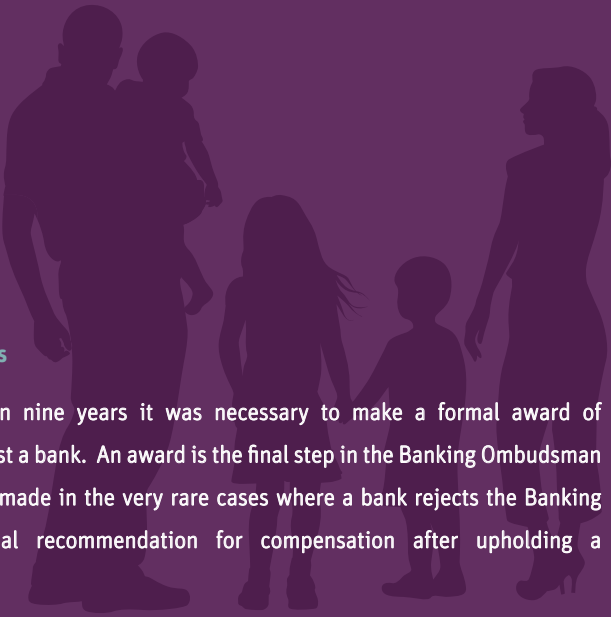
Complaint statistics

The intake of new complaints and enquiries remained at a very similar level to the previous year, but new disputes increased by 18%. The survey of bank branches indicated some improvement in the availability of information about the complaint process and this, coupled with anecdotal evidence of a busy year for bank complaint handlers, leads me to believe that there may have been an overall increase in complaints about banks but that the complaints are more likely to be directed to banks' internal complaints processes in the first instance. If so, this is pleasing evidence of more commitment on the part of banks to provide easily accessible complaints processes to their customers.

There has been a reduction in telephone enquiries this year, reflecting a continuing shift to email communication. In addition to the 1773 telephone enquiries received, there were 690 email enquiries that are not otherwise recorded.

What are the complaints about?

How long do cases take to resolve?



Complaint outcomes

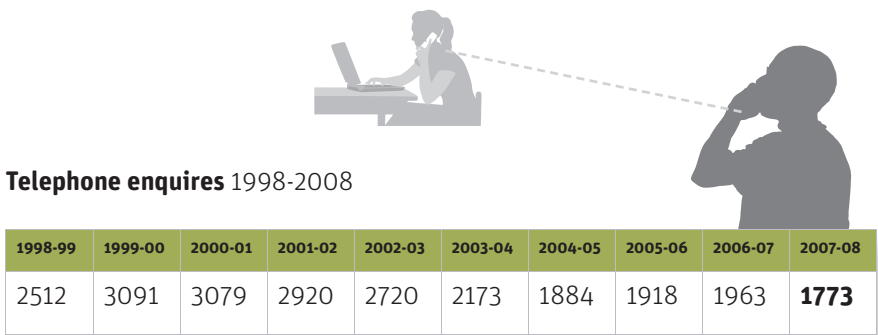
For the first time in nine years it was necessary to make a formal award of compensation against a bank. An award is the final step in the Banking Ombudsman process and is only made in the very rare cases where a bank rejects the Banking Ombudsman's formal recommendation for compensation after upholding a complaint.

Comparatively few cases reached the point of a formal recommendation this year and in fact there is now only a 3% probability of a complaint made to us having to go right through the complaints process as far as the recommendation stage. By far the majority of complaints are referred to banks and satisfactorily resolved within their own processes, but of those that do come to the Banking Ombudsman for investigation, over half reach an agreed settlement or are withdrawn by the complainant after discussion or after an initial assessment of the complaint.

We continue to increase the number of complaints resolved by facilitation in the early stages of the investigation. 81 disputes and 19 complaints reached a facilitated resolution.

The facilitation process has now been in place for three years and may be regarded as successful on several fronts. In particular it provides a speedier resolution to a complainant and allows investigators to concentrate their efforts on the more contentious or complex cases.

While the facilitation of deadlocked complaints (disputes) is now very much part of our process, we are seeing fewer cases where we are asked to assist in facilitating the resolution of a case that is still within a bank's own process. The complaint facilitation process offers an opportunity to resolve a complaint by a referral to the Banking Ombudsman as an independent third party at the first possible opportunity, and I encourage banks to use it in cases where the relationship with the complainant is one of discomfort or distrust.



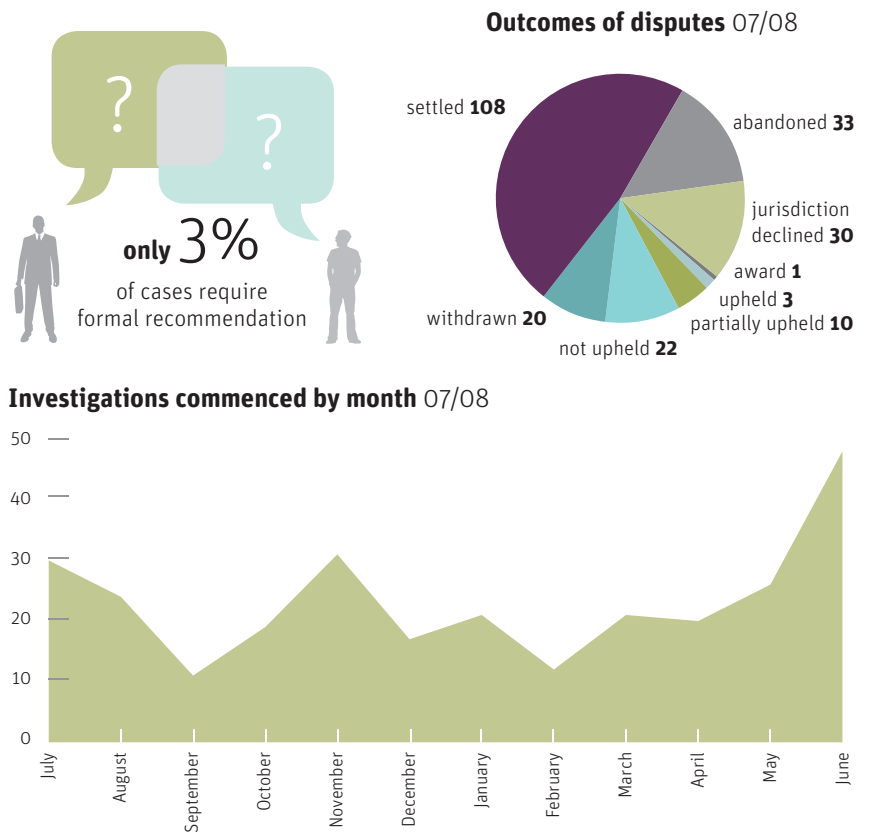
Annual complaints statistics by number of cases 1997-2008

	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
Received	801	1061	1113	1112	1102	1228	997	766	774	913	949
Completed	779	1006	1093	1118	1103	1250	1080	799	780	906	913
Carried over	165	220	240	234	233	211	128	95	89	96	132

Subject matter of complaints

I have already referred to the influx of complaints about investment advice, which more than tripled compared to the number received last year. Most of these complaints had been referred to banks and were still under consideration in their internal complaints processes at the end of the year, so the increase is not yet reflected in the dispute figures.

We also saw a small increase in complaints about consumer finance and about credit and debit cards, both of which are probably linked to deteriorating economic circumstances. We have certainly received a number of complaints from customers unable to meet their commitment to repay personal loans or credit card borrowing. However, complaints about secured lending, usually home loans, have decreased very slightly.



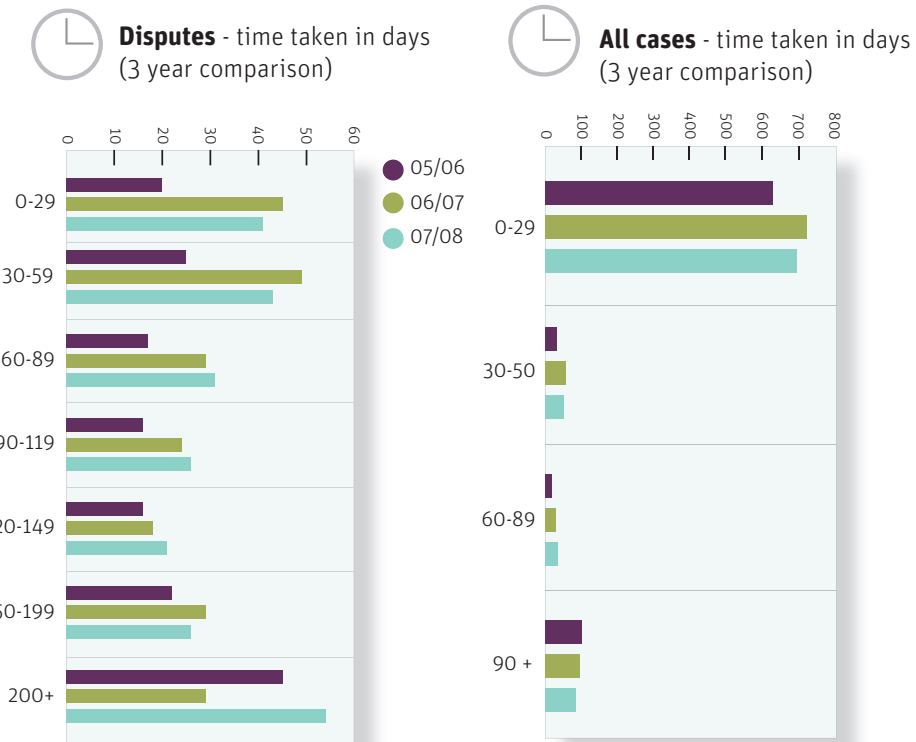
Disputes by bank

B	Jurisdiction Declined		Abandoned		Settled		Withdrawn		Not Upheld		Partially Upheld		Upheld		Award	
	06/7	07/8	06/7	07/8	06/7	07/8	06/7	07/8	06/7	07/8	06/7	07/8	06/7	07/8	06/7	07/8
ANZ	3	2	3	2	8	13	3	2	1	2	4	1	2	-	-	-
ASB Bank	5	5	7	5	19	18	3	4	5	4	5	1	2	-	-	-
BNZ	8	5	5	10	8	25	6	5	2	6	2	2	-	2	-	-
Citibank	-	-	1	-	7	-	1	-	-	-	-	-	-	-	-	-
HSBC	1	-	1	1	6	3	1	-	-	-	-	-	-	-	-	-
KiwiBank	12	2	2	2	13	3	2	2	4	1	7	-	-	-	-	-
National Bank	-	10	-	3	-	16	-	2	1	6	-	2	-	-	-	-
Rabobank	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-
TSB Bank	-	-	-	1	1	2	-	-	-	1	-	-	-	-	-	-
Westpac	6	6	8	9	24	27	5	5	4	2	9	4	1	1	-	1
TOTAL	35	30	28	33	86	108	21	20	18	22	27	10	5	3	-	1

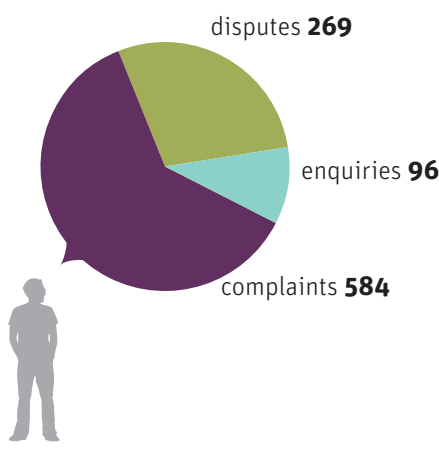
There has been a reversal of the steady increase in the past three years of complaints about payment systems. For some years I have been encouraging banks to provide their customers with more detailed information about the systems whereby funds are transferred into, out of, and between accounts, with particular emphasis on the point at which a transaction becomes irreversible. I hope the figures demonstrate an improvement in the information available.

Compensation

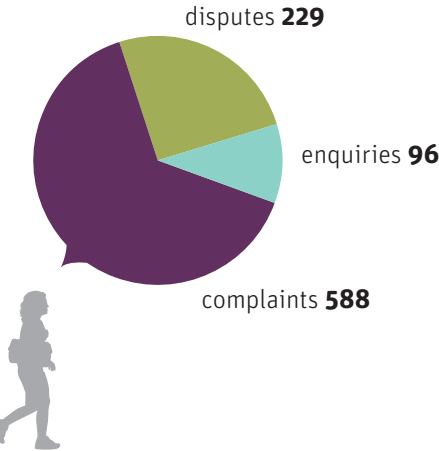
It has been possible to establish that banks paid a total of \$887,877.79 by way of compensation to members of the public who had complained to my office. The true figure will be rather higher, as we are aware of some cases where agreement was reached between the bank and the complainant after a referral from my office, but where neither party has given us the details of the agreement.



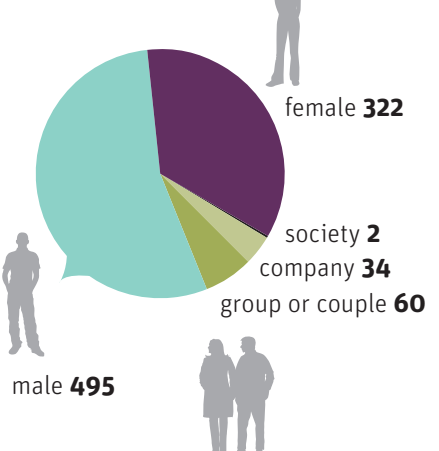
Cases received 07/08 949



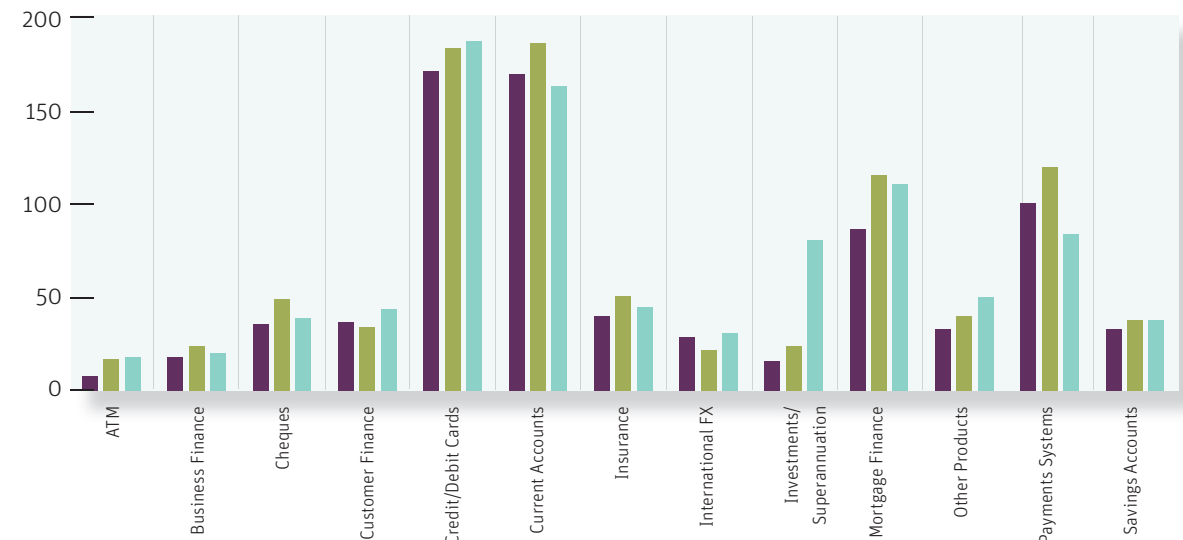
Cases completed 07/08 913



Who complained? 07/08 913



Completed cases by area of business



Timeliness

During the year we revised our timeliness standards, and I am very pleased to report that we are now meeting the more stringent standards.

60% of cases (defined as all disputes, including dispute facilitations, together with all complaint facilitations) were resolved within 60 working days. Target: 50%. **Last year 49%**

86% of disputes were resolved or had an initial assessment issued within 120 working days ocommencement of the investigation. Target 80%. **Last year 82%**

98% of disputes were resolved or had had an initial assessment issued within 200 working days of commencement of the investigation. Target 95%. **Last year 93%**

98% of investigations were completed within 300 working days. Target 95% (to include all cases with lower complexity ratings). **Last year 91%**

79 disputes
21 complaints
Resolved by facilitation 07/08



18%
increase in
disputes

Cases received by bank

B	2006/07				2007/08			
	Enquiry	Complaint	Dispute	TOTAL	Enquiry	Complaint	Dispute	TOTAL
ANZ	21	95	18	134	17	130	89	236
ASB	11	91	40	142	18	90	37	145
BNZ	9	92	46	147	9	83	51	143
Citibank	-	-	-	-	-	-	-	-
HSBC	2	11	9	22	2	7	3	12
KiwiBank	6	58	11	75	8	72	8	88
National Bank	10	101	45	156	13	74	29	116
RaboBank	2	3	-	5	-	-	-	-
SuperBank	-	5	2	7	-	-	-	-
TSB	1	12	3	16	-	6	2	8
Westpac	22	133	54	209	13	122	50	185
Bank not specified	-	-	-	-	16	-	-	16
TOTAL	84	601	228	913	96	584	269	949

Snapshots from the everyday work of the Banking Ombudsman

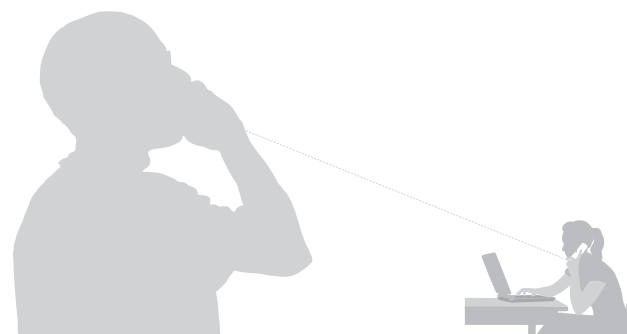
The case notes selected for this chapter of our annual report show something of the diversity, challenge, and interest of the Banking Ombudsman's everyday investigative work. Please look through the volume of case notes accompanying this annual report, which is also available in electronic form in the publications section of our website.

The first of these four case notes touches on the dominant theme of our work in recent months – complaints relating to investments in funds chosen with the help of advice from bank advisers.

The issues featured in the remaining three case notes arise on a regular basis, and highlight some common misunderstandings:

- How much time does a person have to stop a cheque?
- Are banks justified in assuming that the misuse of a PIN by a third party means that the card holder has not taken “reasonable care” of the PIN?
- When may a bank legitimately refer a debt to a collection agency?

When the next annual report is published our new website should be up and running. The ready availability of several years' case notes in searchable electronic form will undoubtedly assist banks' complaints handling teams. We hope that, as the accessibility of this valuable resource becomes more widely known, community organisations and others advising and assisting bank customers will also begin to appreciate its usefulness. In this way we will be serving our three principal constituencies – potential complainants and those who advise them, and bank staff who are handling complaints.



The fund into which Mrs C had invested her entire savings was unexpectedly “frozen”. She was unable to withdraw any money for any reason, and suffered considerable hardship.

Case 1

In mid 2006, Mrs C received a lump sum of approximately \$125,000 from her late husband's retirement scheme.

Mrs C, her late husband and their three children had come to New Zealand as refugees. The money from Mr C's retirement scheme represented all of their savings.

After giving \$20,000 to each of her children, Mrs C decided to invest the balance of the money (\$60,000) with her bank. She met with the bank's investment adviser, who recommended that she put the money in a fixed interest unit trust investment fund. According to Mrs C, the adviser told her that she would earn a little more interest than if she had her money on term deposit. No mention was made of any risk attached to the investment.

Mrs C asked whether her children could also invest in the fund. On the basis of the advice she received, two of them later invested in it.

After a while, Mrs C noticed that her investment was not earning the interest that she had expected. At about the same time she had major problems with a leaking roof to her home and an old hot water cylinder. She was also planning a trip to her country of origin to try to establish her pension rights there. She booked her travel and applied to withdraw her money from the fund, to pay for the overseas trip and the home repairs.

Unfortunately, a few days before Mrs C was due to receive her money, all withdrawals from the fund were suspended. Mrs C was devastated, as this meant that she was unable to carry out the vital repairs to her home or to visit her country of origin. She lost the deposit on her return airfares, as well as the opportunity to establish her pension rights, because she had only limited time to do so.

When the bank was notified of Mrs C's complaint, it accepted that she had been left in a very difficult situation because the investment fund had been “frozen”.

After some negotiation, facilitated by my office, the bank offered to buy out Mrs C's interest in the investment fund, and that of her two children as well. It offered to:

- pay the amounts of the original capital sums invested by Mrs C and her children, less any interest payments they had received during the life of the investments
- refund the implementation fees
- pay Mrs C \$2,500 compensation for inconvenience, including severe stress.

When Mrs C accepted the bank's offer, her complaint was settled.



When a conman used Mr S's credit card and PIN to steal money from his account, the bank refused to reimburse Mr S, arguing that he had not taken reasonable care.

Case 2

Mr S lived in a block of units. One day Mr S met someone who was waiting for a unit to become available where he lived, and invited that person to stay with him while he waited for his unit. Unbeknown to Mr S, the person was an experienced conman.

The conman watched Mr S enter his PIN at a crowded bar. The terminal he used did not have a guard to prevent PIN entry being seen. The conman subsequently used Mr S's credit card and PIN to obtain \$6,300 without his knowledge.

Mr S typically left his card in his wallet in one of his drawers. One day he was unable to find his wallet. He found it the next day in a different part of his home. Mr S did not notice that his card was missing from the wallet until he went to make a purchase three days later. Mr S reported his card missing approximately 45 minutes later, after he had walked home. The last fraudulent transaction occurred during those 45 minutes.

The bank declined to reimburse Mr S because it thought he had not taken reasonable care of his card and PIN, and he had delayed in reporting the loss of the card.

I found that the bank had failed to put forward enough evidence to support its refusal to reimburse Mr S. In particular:

- (a) not being able to immediately locate one's wallet is not the same as having lost it. Mr S had no reason to believe that his card had been stolen when it seemed that he had merely misplaced his wallet at home, and therefore he had no obligation to report its loss. Banks issue credit cards with the expectation that people will use these cards in their daily lives, and will take ordinary everyday care of them
- (b) given that the conman was experienced, it would have been simple for him to have seen PIN entry, even in a darkened bar. The fact that Mr S in hindsight was able to identify how the PIN was obtained does not disqualify him from reimbursement
- (c) it was reasonable for Mr S to walk home before reporting to the bank that his card was missing.

I recommended that the bank reimburse Mr S for his loss, less \$50. The bank accepted my recommendation.



After Mr and Mrs L's bank told them that they could stop a cheque within three days of it being presented, they were very upset to discover that this advice had been incorrect.

Case 3

In November 2007, Mr and Mrs L gave a cheque for \$3,000 to their former accountants for payment of fees. The cheque was hand delivered on a Thursday with strict instructions not to bank it until the next day. The cheque was presented the next day, Friday.

The following Monday, because of a dispute with the former accountants, Mrs L contacted her bank to get urgent information about the process for stopping personal cheques. A bank staff member advised Mrs L that the cheque could be stopped and that they had three business days from when the cheque was presented in which to do so. Mrs L told the bank that she would discuss the matter with Mr L and that if they decided to stop the cheque they would do so the next day.

The next day, Tuesday, Mr L contacted the bank and instructed it to stop the cheque. The bank advised Mr L that the \$3,000 would be credited back to their account within a few business days.

One week later Mr and Mrs L contacted the bank, as the funds had not been credited to their account. They were told that the bank had stopped the wrong cheque, and that the cheque for \$3,000 had been cleared. Mr and Mrs L tried unsuccessfully to obtain important records from their former accountants and had to instruct new accountants to reconstruct their accounts.

The bank agreed that it gave incorrect advice about the timeframe for stopping cheques. It told Mr and Mrs L that:

- in exceptional circumstances only, the bank has 24 hours to stop cheques
- even if they had been given correct advice, it would not have been able to stop the cheque. This was because Mrs L first contacted the bank outside the 24 hour period for stopping cheques.

Mr and Mrs L were not satisfied with the bank's response and complained to me.

The bank confirmed it had given Mrs L incorrect advice about stopping cheques. Had Mrs L been correctly advised of the very limited opportunity to stop a cheque, she could have asked the bank to stop payment on the cheque on the Monday and it would almost certainly have been stopped.

In those circumstances, I considered it reasonable that the bank reimburse Mr and Mrs L \$4,500. This included compensation for inconvenience as well as the new accountants' fee for reconstructing the accounts.

After further negotiation between the bank and Mr and Mrs L, the complaint was resolved on this basis.



Although Ms T had headed off overseas without ensuring that there were enough funds in her account to cover her loan payments, the bank failed to give notice of its intention to refer the debt to a collection agency.

Case 4

Ms T took out a personal loan with a bank and arranged for the loan repayments to be paid by automatic payment from another account with the bank. Ms T then left New Zealand to take up an employment opportunity and asked her parents to look after her accounts while she was overseas. She did not tell the bank about her departure or make any arrangements to ensure that there were enough funds in her account to meet the loan repayments.

The loan fell into arrears because of insufficient funds to meet the automatic payments. The bank was unable to contact Ms T. It wrote to her on a number of occasions and left messages at the contact number it held for her. A formal demand was then sent to Ms T and when she did not respond, the outstanding balances on the loan account and funding account were referred to a collection agency.

Ms T's father complained to my office about the bank's decision to refer the debt to a collection agent without contacting him or his wife to advise there was a problem with the accounts.

After a full investigation I concluded that Ms T had left New Zealand without making any arrangements with the bank to allow her parents to manage her accounts on her behalf. I noted that the last contact address for Ms T before she left the country was her parents' address and that a number of letters had been sent to her at that address. The bank had provided copies of the templates for the relevant letters and I had no reason to doubt that the letters, including the demand letter, had been sent. I was satisfied that the bank had taken all reasonable steps to contact Ms T before it made the decision to refer the debt for collection.

However, when I examined the demand letter and the other letters sent to Ms T, I noticed that none of the letters explained that a possible consequence of failing to respond to the bank's request for repayment of the loan was referral of the debt for collection. This failure was a breach of the Code of Banking Practice.

I concluded that Ms T failed in her obligation to repay her debt to the bank and that the bank was entitled to take appropriate recovery action. However, the bank had not fulfilled its obligation to inform Ms T of the possibility that the debt would be referred to a collection agent and the consequence of such a referral. Therefore, in this particular case, the bank's decision to refer the debt for collection was unreasonable.

I proposed that the bank should recall the debt and remove the debt listing. The bank submitted that it had provided me with the wrong template and that the demand letter sent to Ms T did in fact comply with the Code of Banking Practice. Because Ms T's father did not respond to my findings, the case was concluded without any further action being taken.

Financial Statements

For the period ended 30 June 2008

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Statutory Information

For the period ended 30 June 2008

The Board of Directors present their Annual Report including the financial statements of the Company for the period ended 30 June 2008 and the auditor's report thereon.

The shareholder of the Company has exercised his right under section 211 (3) of the Companies Act 1993 and agreed that this Annual Report need not comply with paragraph (a) and (e) to (j) of section 211 (1) of the Act.

For and on behalf of the Board:



Sir Ian Barker

Chairman

10 October 2008



Auditor's Report

To the Shareholder of Banking Ombudsman Scheme Limited ("the Company")

We have audited the financial statements on pages 28 to 34. The financial statements provide information about the past financial performance of the company and its financial position as at 30 June 2008. This information is stated in accordance with the accounting policies set out on pages 31 to 33.

This report is made solely to the company's shareholder, as a body, in accordance with Section 205(1) of the Companies Act 1993. Our audit has been undertaken so that we might state to the company's shareholder those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company and the company's shareholder as a body, for our audit work, for this report, or for the opinions we have formed.

Directors' Responsibilities

The directors are responsible for the preparation of financial statements which comply with generally accepted accounting practice in New Zealand and give a true and fair view of the financial position of the company as at 30 June 2008 and of its financial performance for the period ended on that date.

Auditor's Responsibilities

It is our responsibility to express an independent opinion on the financial statements presented by the directors and report our opinion to you.

Basis of Opinion

An audit includes examining, on a test basis, evidence relevant to the amounts and disclosures in the financial statements. It also includes assessing:

- the significant estimates and judgements made by the directors in the preparation of the financial statements; and
- whether the accounting policies are appropriate to the company's circumstances, consistently applied and adequately disclosed.

We conducted our audit in accordance with generally accepted auditing standards in New Zealand. We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatements, whether caused by fraud or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

Other than in our capacity as auditor and tax advisor we have no relationship with, or interest in, the company.

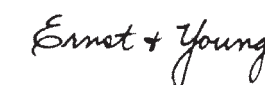
Unqualified Opinion

We have obtained all the information and explanations we have required.

In our opinion:

- proper accounting records have been kept by the company as far as appears from our examination of those records; and
- the financial statements on pages 28 to 34:
 - comply with generally accepted accounting practice in New Zealand; and
 - give a true and fair view of the financial position of the company as at 30 June 2008 and its financial performance for the period ended on that date.

Our audit was completed on 10 October 2008 and our unqualified opinion is expressed as at that date.



Wellington

The Banking Ombudsman Scheme

2008

Balance Sheet	Note	
As at 30 June 2008		
Current Assets		
Bank - Cheque Account		643
Bank - On Call Account		664,439
Accounts Receivable	9	22,164
Prepayments	10	24,744
		711,990
Property, Plant and Equipment	5	59,311
Intangibles	6	23,700
Total Assets		\$795,001
Current Liabilities		
Sundry Payables and Accruals	8	118,032
Levies in Advance		445,000
Goods and Services Tax Payable		45,007
Banking Ombudsman Commission	13	196,815
Provision for taxation		8,114
Total Liabilities		\$812,968
Net Liabilities		\$(17,967)
Equity		
Contributed equity		1
Current loss		(17,968)
Shareholder's deficit		\$(17,967)

For and on behalf of the Banking Ombudsman Scheme Limited which approved the issue of these financial statements on 10 October 2008.



Chairman

Date: 10 October 2008



Director

Date: 10 October 2008

The Banking Ombudsman Scheme

2008

Income Statement	Note	
For the period ended 30 June 2008		
Income		
Levies		1,562,855
Interest		27,483
Other income		3,750
Total Operating Income		\$ 1,594,088
Expenses		
Accident Compensation		3,400
Accounting Fees		410
Audit Fees		13,075
Bank Fees		357
Board Expenses		9,552
Cleaning		12,619
Chairman's Expenses		1,300
Commission Reviews		17,425
Conference Expenses		23,973
Consulting		8,770
Depreciation	5	21,653
Amortisation of Intangibles	6	21,643
Directors' Remuneration	12	92,240
Electricity		4,848
Entertainment		4,322
Fringe Benefit Tax		5,012
General Expenses		5,337
Healthcare		7,607
Insurance		917
Office Supplies		11,106
Photocopying		2,480
Postage		5,924
Printing		44,468
Professional Expenses and Subscriptions		6,556
Promotions & Publicity		28,334
Publications & Periodicals		24,874
Recruitment Costs		7,125
Rent		133,063
Repairs & Maintenance		1,408
Salaries		937,997
Special project		5,800
Superannuation		39,864
Technology		20,151
Telephone & Tolls		15,875
Temporary Office Staff		3,157
Training		19,019
Travel		30,635
Impairment of Goodwill	13	1,000
Total Expenses		\$ 1,593,296
Operating Surplus Before Taxation		792
Taxation	11	(18,760)
Net Loss after Taxation		\$ (17,968)

2008	
Statement of Movements in Equity	
For the period ended 30 June 2008	
Equity at beginning of period	-
Loss for the period	(17,968)
Total recognised income and expense for the period	(17,968)
Issue of Share Capital	1
Equity at end of the period	\$ (17,967)

Notes to the Financial Statements

For the period ended 30 June 2008

1. Corporate information

The financial statements of the Company for the period ended 30 June 2008 were authorised for issue in accordance with a resolution of the directors on 10 October 2008.

The Company was incorporated on 19 June 2007 and is incorporated and domiciled in New Zealand.

The Company provides a free, independent and impartial dispute mechanism for those receiving “banking services” from the participating banks in New Zealand.

No comparative figures are provided as this is the first set of financial statements for the Company since the date of its incorporation.

The assets and liabilities of the Banking Ombudsman Commission as at the 30 June 2007 were acquired by the Banking Ombudsman Scheme Limited. The net value of the assets and liabilities plus the payment of \$1,000 for goodwill are listed in the Balance Sheet. The goodwill was written off during the year.

2. Summary of significant accounting policies

(a) Basis of preparation

The financial statements have been prepared in accordance with generally accepted accounting practice in New Zealand and the requirements of the Companies Act 1993 and the Financial Reporting Act 1993.

The financial statements are presented in New Zealand dollars (\$).

Differential reporting

The Company qualifies for Differential Reporting exemptions as it has no public accountability, and its shareholder is a director of the Company. All available reporting exemptions allowed under the framework for Differential Reporting have been adopted.

(b) Statement of compliance

The financial statements have been prepared in accordance with generally accepted accounting practice in New Zealand (NZ GAAP). They comply with the New Zealand equivalents to International Financial Reporting Standards, and other applicable Financial Reporting Standards, as appropriate for profit oriented entities that qualify for and apply differential reporting concessions.

(c) Basis of measurement

The accounting principles recognised as appropriate for the measurement and reporting of earnings and financial position on a historical cost basis are followed by the Company.

3. Accounting policies

The following specific accounting policies which materially affect the measurement of financial performance and financial position have been applied;

(a) Cash and cash equivalents in the balance sheet comprise cash at the bank and in hand.

(b) Loans and receivables are non derivative financial assets with fixed or determinable payments that are not quoted in an active market. Such assets are carried at amortised cost. Gains or losses are recognised in profit or loss when the receivables are derecognised or impaired. They are included in current assets, except for those with maturities greater than 12 months after balance date, which are classified as non-current.

(c) Property, plant and equipment are stated at cost less accumulated depreciation. Such cost includes the cost of replacing parts that are eligible for capitalisation when the cost of replacing the parts is incurred. Similarly, when each major inspection is performed, its cost is recognised in the carrying amount of the plant and equipment as a replacement only if it is eligible for capitalisation. All other repairs and maintenance are recognised in profit or loss as incurred.

The Banking Ombudsman Scheme

Depreciation has been calculated on plant, property and equipment on a diminishing value basis using the rates permitted for income tax purposes. Depreciation rates are as follows:

Furniture, Fixtures and Fittings	7.5%-28.0%
Office Equipment	18.0%-60.0%
Hardware	33.0%-48.0%
Other Property, Plant & Equipment	9.5%-48.0%

Gains and losses on disposals are determined by comparing proceeds with the carrying amount. Theses are included in the income statement.

(d) Intangibles - Computer Software

Computer software licences are capitalised on the basis of the costs incurred to acquire and bring into use the specific software. Amortisation rates for software are 40% to 48%.

(e) Sundry payables and accruals are carried at amortised cost and due to their short term nature they are not discounted. They represent liabilities for good and services provided to the company prior to the end of the financial year that are unpaid and arise when the Company becomes obliged to make future payments in respect of the purchase of these goods and services. The amounts are unsecured and are usually paid within 30 days of recognition.

(f) Leases

The Company leases its office premises. Operating lease payments are recognised as an expense in the income statement on a straight line basis over the lease term.

(g) The financial statements have been prepared on a GST exclusive basis except for receivables and payables which are shown gross when billed.

(h) Provisions and employee benefits

Provisions are recognised when the Company has a present obligation (legal or constructive) as a result of a past event, it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

(1) Wages, salaries, annual leave and sick leave.

Liabilities for wages and salaries, including non monetary benefits, annual leave and accumulated sick leave expected to be settled within 12 months of the reporting date are recognised in respect of the employees' service up to the reporting date. They are measured at the amounts expected to be paid when the liabilities are settled. Expenses for non accumulating sick leave are recognised when the leave is taken and are measured at the rates paid or payable.

(2) Defined contribution pension plans.

Obligations for contributions to defined contribution pension plans are recognised as an expense in the Income Statement when they are due.

(i) Revenue recognition

(1) Levy revenue

Revenue from members of the Scheme is recognised on an accrual basis. Levies are paid on a quarterly basis.

(2) Interest revenue

Revenue is recognised as interest accrues during the life of the investment.

(j) Income tax and other taxes

Income tax is accounted for using the taxes payable method. The income tax expense recorded in the income statement for the period represents the income tax payable for the period.

The current income tax asset or liability recognised in the balance sheet represents the current income tax balance due from or obligation to the Inland Revenue Department at balance date.

Other taxes

Revenues, expenses and assets are recognised net of the amount GST except:

When the GST incurred on the purchases of goods and services is not recoverable from the taxation authority, in which case the GST is recognised as part of the acquisition of the asset or part of the expense item as applicable; and

The Banking Ombudsman Scheme

Receivables and Payables, which are stated with the amount of GST inclusive.

The net amount of GST recoverable from, or payable to, the taxation authority is included as part of the receivables or payables in the balance sheet.

Commitments and contingencies are disclosed net of the amount of GST recoverable from, or payable to, the taxation authority.

4. Changes in accounting policies

There have been no changes in accounting policies during the year.

5. Property, Plant and Equipment

	Cost	2008 Accumulated Depreciation	Book Value
Fittings	19,335	2,863	16,472
Furniture	17,721	2,910	14,811
Office Equipment	13,463	5,402	8,061
Hardware	21,527	8,352	13,175
Other Property, Plant and Equipment	8,918	2,126	6,792
	\$80,964	\$21,653	\$59,311

	2008 Depreciation
Fittings	2,863
Furniture	2,910
Office Equipment	5,402
Hardware	8,352
Other Property, Plant and Equipment	2,126
	\$21,653

6. Intangibles

	Cost	2008 Accumulated Amortisation	Book Value
Computer software	\$45,343	\$21,643	\$23,700

	2008 Amortisation
Computer software	\$21,643

7. Lease Commitments

Lease commitments under non-cancellable operating leases:

	2008
Current	147,427
Non current	61,427
	\$208,854

8. Sundry Payables and Accruals

	2008
Sundry Payables	30,302
Accruals	43,026
Provision for holiday pay	44,704
	\$118,032

9. Accounts Receivable

	2008
Levy funding receivable	\$22,164

10. Prepayments

	2008
Travel expenses	11,760
Healthcare	2,518
Staff salaries	8,160
Other	2,306
Balance 30 June 2008	\$24,744

11. Income Tax Expense

	2008
Operating surplus before tax	792
Tax at statutory income tax rate of 33%	261
Add tax effect of non deductible expenditure	
Entertainment expenses	713
Professional fees	1,213
Other accrued expenses	16,243
Impairment of goodwill	330
Current year taxation as per income statement	\$18,760

The Banking Ombudsman Scheme

12. Directors’ Remuneration

The directors had remuneration due or paid during the year of \$92,240.

13. Business combination

On 30 June 2007 the Company acquired the assets and liabilities of the Banking Ombudsman Commission.

The fair value of the identified assets and liabilities as at the date of acquisition were as follows:-

Cash and cash equivalents	121,939
Accounts receivable	38,057
Prepayments	19,531
Property, plant & equipment	99,507
Total assets	279,034
Sundry Payables and accruals	83,219
Fair value of identified assets	195,815
Goodwill arising from acquisition	1,000
Balance 30 June 2008	\$196,815

Goodwill acquired was written off to the income statement during the year.

14. Contingent Assets and Liabilities

There are no contingent assets or liabilities at year end.

15. Transactions with related parties

There have been no transactions other than those disclosed in the financial statements with related parties during the year.

16. Financial Instruments

The carrying amounts of categories of financial assets and liabilities are as follows:-

	2008
Loans and Receivables	22,164
Accounts Receivables	665,082
Bank	\$687,246
Financial Liabilities Measured at Amortised Cost	
Sundry Payables	30,302
Banking Ombudsman Commission Payable	196,815
	\$227,117

Directors

Hon Sir Ian Barker
Ms Suzanne Chetwin
Mr Graham Hodges
Mr Sam Knowles
Ms Helen Walch

Banking Ombudsman

Liz Brown

Registered Office

Level 11
Gen-i House
109 Featherston Street
Wellington
Telephone 04 471 0006
Facsimile 04 471 0548

Banker

The National Bank
Wellington

Auditor

Ernst & Young

Business Location

Wellington

Banks in the Scheme

ANZ National Bank Limited
(ANZ and The National Bank)

ASB Bank Limited

Bank of New Zealand

Citibank NA

Hongkong and Shanghai Banking Corporation Limited

Kiwibank Ltd

Rabobank New Zealand Ltd

TSB Bank Limited

Westpac New Zealand Limited