

Independent Assessor

Who is, and what is the role of, the Independent Assessor?

The Independent Assessor independently reviews and assesses, on a case by case basis, complaints by users regarding the standard of service provided by the Financial Ombudsman Service (FOS) Australia in resolving financial disputes. The Independent Assessor does not review the merits or substance of a FOS decision.

Appointed by the FOS Board and operating in accordance with the Independent Assessor's Terms of Reference, the Independent Assessor of FOS is [John Warde](#).

Who can complain to the Independent Assessor?

Any person or business that has had a dispute handled by FOS and is dissatisfied with the standard of service provided can make a complaint to FOS. If the complaint is not resolved at that stage to the satisfaction of the complainant, the person or business can then refer the complaint to the Independent Assessor for a review and assessment.

When can a complaint be made to the Independent Assessor?

Once you have given FOS the opportunity to respond to a complaint about the level of service it has provided, if you are dissatisfied with FOS's final response to your complaint, you can contact the office of the Independent Assessor for a further review of the matter. Complaints must be made within 3 months of FOS completing its own internal complaints process.

How will the Independent Assessor decide whether I have a valid complaint?

If your complaint falls within the Independent Assessor's Terms of Reference, the Independent Assessor considers the information you provide and reviews the relevant papers on the FOS dispute file.

The Independent Assessor may ask for more information from you and/or FOS if he considers that to be necessary. After considering the information and submissions provided by you and FOS about the complaint, the Independent Assessor will then decide in writing whether your complaint about the standard of service provided by FOS is justified and will provide that written decision to you and to FOS.

If the Independent Assessor considers the service FOS provided was satisfactory, the decision will explain why. If, on the other hand, the Independent Assessor agrees with you that FOS's service was unsatisfactory, the Independent Assessor's written decision will explain why and recommend what FOS should do to put things right.

What are the Independent Assessor's Terms of Reference?

The scope of the Independent Assessor's function is described in Terms of Reference (ToR). This is separate from FOS's own ToR. The Independent Assessor's ToR sets out the role of the Independent Assessor and the process to be followed when a complaint is made, including:

- the types of complaints that can be considered;
- the complaint process;
- the remedies that the Independent Assessor may recommend; and
- the process to be followed in any case where the Chief Ombudsman of FOS may disagree with the Independent Assessor's recommendations.

How do I contact the Independent Assessor?

The Independent Assessor's office only deals with complaints in writing.

The Independent Assessor **only assesses complaints against FOS** about its standard of service in handling a dispute, after the completion of FOS's internal complaint resolution process. The Independent Assessor **does not deal with complaints against financial service providers**. You must quote a six digit **FOS complaint reference number** (as well as a FOS dispute case number) when you write to or email the Independent Assessor. Failure to quote a FOS complaint reference number when you write to or email the Independent Assessor, may result in your letter or email not receiving a response.

Complaints can be submitted by using the online form or by post. It will assist the Independent Assessor's office in processing your complaint if you can complete the information set out on the [online form](#) (including your FOS complaint reference number), which can then be sent by email (see the online form for details) or by post.

The postal address is:

Complaints can also be submitted without formatting by letter or email.

A copy of your complaint/feedback form will also be provided to the Complaints Manager/the Quality, Knowledge & Improvement Senior Manager at FOS.

Terms of Reference

1. The Independent Assessor is appointed by the Board of FOS.

Escalating a complaint to the Independent Assessor

2. Any person or business directly affected by how FOS deals with a dispute or complaint can complain to the Independent Assessor.

3. Before a complaint can be made to the Independent Assessor, FOS must have had a reasonable opportunity to respond through its own internal process for dealing with service complaints.

4. A complaint to the Independent Assessor must be made within three months of FOS completing its own internal process for dealing with complaints, unless special circumstances apply.

Complaints that the Independent Assessor can consider

5. The Independent Assessor can consider complaints about the standard of service provided by FOS in handling a dispute.

6. The Independent Assessor does not consider the merits or the substantive outcome of a dispute, such as a determination or other finding issued by FOS about the merits of a dispute, or our jurisdiction. The role is not an appeal or review mechanism for FOS's decision and judgments on the facts or merits of a dispute.

7. The Independent Assessor cannot comment on the facts or outcome of a dispute. This includes FOS's finding about:

- whether a dispute is within FOS' jurisdiction;
- whether to dismiss, reject or uphold a dispute; or
- any compensation awarded or corrective action taken.

8. The Independent Assessor will not consider a complaint where:

- (a) a complainant has previously made a complaint to the Independent Assessor about the same issue;
- (b) A complaint is frivolous, vexatious or malicious;
- (c) A complaint relates solely to matters other than FOS's handling of a dispute.

9. In most circumstances, the Independent Assessor will only consider a complaint about our handling of a dispute once FOS has completed its investigation of the dispute against the Financial Service Provider (FSP). In exceptional circumstances, however, the Independent Assessor can request FOS to put its investigation on hold while the Independent Assessor considers the service complaint.

Assessment of a complaint

10. Where the Independent Assessor forms the view that a complaint falls within these Terms of Reference, the Independent Assessor may, depending on the nature, extent and circumstances of the complaint, notify both the complainant and FOS in writing of the issues his/her review and assessment will consider.

11. FOS will provide the Independent Assessor with all its files relating to the service complaint, together with its comments (if any) on the issues raised by the complaint.

12. The Independent Assessor may ask the individual or business or FOS for any further information that the Independent Assessor considers necessary to complete his/her assessment.

Outcome of an Assessment

13. The Independent Assessor will provide his/her findings in writing to the complainant and to FOS. There is no further appeal against the Independent Assessor's findings and recommendations.

14. If the Independent Assessor finds that FOS has not met its service standards, he/she can make a recommendation in writing to the Chief Ombudsman and copied to the complainant. This might be that FOS should offer an apology, should pay compensation for any distress or inconvenience caused by the poor service (non-financial loss) or take other action. Compensation will be equivalent to what FOS might award an Applicant for non-financial loss against a Financial Services Provider in similar circumstances under the FOS Terms of Reference clause 9.3 b). For the avoidance of doubt, the Independent Assessor cannot make a recommendation to the Chief Ombudsman that FOS give consideration to re-opening, changing or correcting a determination or other finding issued by FOS about the merits of a dispute, or our jurisdiction.

15. If the Chief Ombudsman accepts a recommendation from the Independent Assessor, the Chief Ombudsman will communicate this to the Independent Assessor who will notify the complainant of the outcome.

16. In cases where the Chief Ombudsman does not agree with the recommendations from the Independent Assessor, the matter will be referred to the Chair of the FOS Board. The Chair of the FOS Board may make a final decision or alternatively refer to the Board for final decision.

17. The Chair of the FOS Board will communicate acceptance or rejection of the recommendations to the complainant, the Independent Assessor and to the Chief Ombudsman.

Reporting

18. The Independent Assessor will report annually in writing to the FOS Board on the number and nature of the complaints the Independent Assessor's office has received, the findings made, and the outcomes of any recommendations made to the Chief Ombudsman, including the outcome of any escalation to the Chair of the FOS Board.

19. The Independent Assessor's annual report will be published within the FOS Annual Review, available on the FOS Australia website at www.fos.org.au/annualreview and in hard copy (to order, please email publications@fos.org.au).