

Disputes Outside Terms of Reference

The Terms of Reference sets out the Ombudsman's jurisdiction to consider disputes.

There are certain categories of dispute that the Ombudsman is unable to consider. These include disputes about:

- Bank policy – such as levels of interest rates or fees or branch closures; and
- Commercial decisions – such as decisions not to provide finance, where there is no pre-existing obligation to lend.

The Year In Review

This year, a total of 12.8 per cent of telephone enquiries answered were considered to be outside the Ombudsman's Terms of Reference ('OTR') compared to 18.7 per cent in the last reporting period. The percentage of closed written decisions that were OTR also decreased from 16.6 per cent last year to 10.7 per cent this year.

This downward trend, which has continued over the last five years, can be attributed to factors including:

- The BIIA joint telephone referral centre which directs callers through to the participating scheme with the most appropriate jurisdiction;
- Consumers' increasing use of the telephone to make enquiries about the Scheme's jurisdiction before lodging written disputes;
- Consumers' increasing use of the Scheme's website and the 'jurisdiction checker'; and
- The expansion of the Scheme's jurisdiction on 11 March 2002, which has resulted in more consumers gaining access to the Scheme.





Main OTR Categories

The tables below show the main OTR categories for disputes from both individuals and small businesses this year.

Disputes from individual consumers about bank policy were the largest category, being 21.8 per cent of OTR disputes. It is notable that this year, BFSO was of the view that 18.5 per cent of OTR cases were more appropriately dealt with in another jurisdiction. In relation to telephone enquiries that were OTR, 23.1 per cent involved non bank financial institutions, a significant decrease from 51.7 per cent

the previous year. The decrease may be explained by the work of the BIIA in directing calls about non-bank financial institutions to the appropriate forum.

In relation to small business complaints, the main reasons such cases were OTR last year was because they involved a trustee company. However, as a result of the less restrictive definition of 'small business' in the new Terms of Reference, which became operative on 11 March 2002, companies acting as trustees can now lodge disputes with the Ombudsman.

Individuals

Closed Cases		Telephone Enquiries	
Bank Policy	21.8%	Non Bank Financial Institution	23.1%
Non Bank Financial Institution	19.1%	Bank Policy	18.4%
Other Jurisdiction More Appropriate	18.5%	General Complaint Only	17.3%
Commercial Decision	13.2%	Commercial Decision	13.5%

Small Business

Closed Cases		Telephone Enquiries	
Commercial Decision	18.8%	Bank Policy	22.3%
Bank Policy	14.4%	No Financial Service	19.1%
No Financial Service	13.5%	Commercial Decision	18.4%
Trustee Company	12.5%	General Complaint Only	9.6%