

Credit Ombudsman Service

Member News Issue 27

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In this issue of Member News, we explain recent changes to our complaint fees. We also touch on how this will affect Members and the way in which we calculate and invoice complaint fees.

New Complaint Fees

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Introduction

COSL is a not-for-profit public company. It is not Government-funded. Rather, it is funded by a combination of membership and complaint fees levied on its Members. This is necessary because ASIC's Regulatory Guide 139 requires COSL and other approved EDR schemes to provide their services to consumers without charge.

We last changed our complaint fees on 26 March 2008, but have found it necessary to review them. The new complaint fee schedule comes into effect on 1 April 2010.

However, every COSL Member is still entitled to a free complaint voucher. This means that the overwhelming majority of our Members will continue not to be charged complaint fees. Importantly, we continue not to charge our Members any fee for the multitude of phone enquiries we receive. We also do not charge our Members for phone calls that we make to or receive from Members.

Changes to complaint fees

The new complaint fee schedule differs from the previous one in the following ways:

1. We have introduced an administration fee of \$165 for every complaint received and recorded by us. This is intended to cover our costs in:
 - (a) registering complaints (data entry);
 - (b) acknowledging receipt of the complaint;
 - (c) notifying the Member that a complaint has been received and that legal proceedings must not be commenced or continued;
 - (d) initial review of the complaint to ascertain if it has any merit or if it is patently out of COSL's jurisdiction;
 - (e) depending on the circumstances, liaising with the Member and Complainant at a preliminary level; and
 - (f) closing the complaint, where appropriate, and providing written reasons for doing so.
2. We have also introduced a specific fee for complaints dealt with under our new expedited process for claims under \$3000 and for each Order issued by the Ombudsman.

The expedited process is intended to limit the complaint fees that may be charged to a Member where the loss claimed by a Complainant is for a relatively small amount.

3. A separate fee schedule will apply to complaints about financial hardship. These complaints are resource intensive, accorded first priority in our system and are relevant only to our Lender Members. Our cost in dealing with them expeditiously and effectively (particularly necessary because legal proceedings must be discontinued while the complaint is with us), should not therefore be disproportionately subsidised by our non-lender Members.

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4. There were previously four categories of complaint fees - Group A to D. The new complaint fee schedule removes Groups B and C. Group D (now referred to Group B) will apply where the Member has received 4 or more complaints in a membership year (as opposed to more than 12 complaints a year).

COSL's smaller Members seldom receive more than 3 complaints a year and so will not be affected by this change.

5. A reduced Conciliation fee has been introduced for complaints which we close very soon after the complaint has been moved to the Conciliation stage. This will reduce the costs of more complex cases where they can be closed earlier.

FAQ

Below we answer some expected frequently asked questions.

Can I still use my free voucher?

Yes you can. As noted earlier, every COSL Member receives a free complaint voucher each membership year. If a Member wishes to use their free complaint voucher in relation to a particular closed complaint, we will refund any complaint fees we received for that complaint.

Details about the free complaint voucher can be found at www.cosl.com.au.

Why are complaint fees charged?

Complaint fees are a necessary component of COSL's funding of its operational costs. The extent of COSL's operational costs is in turn determined by ASIC's requirement that EDR schemes are properly resourced to undertake the dispute resolution function. Because of the size of COSL's membership, there has been a tendency for membership fees to subsidise our costs in dealing with complaints. The new complaint fees are more user pays based than the previous model, but continue to be subsidised to some extent.

Will I be affected by the change?

The overwhelming majority of our Members will not be affected by the change in our complaint fees either because they do not receive complaints or they receive no more than one complaint a year and are able to rely on the free complaint voucher to avoid the cost of the complaint fees.

Why should I pay complaint fees if the complaint isn't substantiated or is outside COSL's jurisdiction?

We resolve a great many complaints without having to declare a clear "winner" or "loser". It should also be borne in mind that many of the complaints we receive are not straightforward and involve complex facts and legal issues. If complaint fees were only charged if a complaint was substantiated, complaint fees would have to be much higher to fund our work on other complaints.

Another way of looking at it: you still have to pay a medical practitioner or a legal adviser for an inconclusive diagnosis or an untested legal opinion. It is often the service that one is paying for, not necessarily the outcome.

Furthermore, complaint fees will generally be much less than the costs involved in defending a claim in Court, where negative publicity may also damage a Member's business reputation.

Calculation of complaint fees

Members are charged complaint fees for each complaint received and dealt with by COSL.

Complaint fees are charged based on the number of complaints received about a Member in a membership year, and the stage at which we are able to close it. A membership year is the 12 month period commencing on the effective date of COSL membership or renewal.

Complaints about financial hardship are not charged the same way and have their own fee category. Further, if a complaint involves financial hardship as well as one or more other issues, the financial hardship aspect of the complaint will be dealt with separately from the other issues and will be invoiced separately.

Complaint fee schedule

The following complaint fees will apply on and from 1 April 2010. A complaint fee is invoiced according to the fee category applicable at the date of the invoice.

Stage		A	B	Financial Hardship
		1-3 complaints	4 + complaints	
Enquiries		\$0	\$0	\$0
Registration		\$165	\$165	\$165 Assessment letter - \$250
Referral		\$0	\$500	\$500
Conciliation	Early Case Closure	\$220	\$1,000	Conciliation conference - \$500
	Late Stage/Case Closure	\$550	\$2,500	
Determination		\$2,000	\$5,500	Variation of credit contract - \$500

Additional Fees

Expedited process (for complaints under \$3,000)	\$300
Order (each)	\$200

Additional fees may be charged for specified activities as set out below:

1. The actual costs of expert advice obtained by COSL may be invoiced to the Member. This would be a rare occurrence.

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2. The actual costs of third party mediation, if agreed, may also be invoiced to the Member.

Conditions

Fee Category A will only apply if a Member has paid all fees owing by their due date. Category B will apply otherwise.

When complaint fees are invoiced

Complaint fees are billed at the end of each stage, process, or on the closure of a complaint.

The applicable complaint fee will be invoiced at the following times:

Registration:

1. if the complaint is closed before Referral, at the time the complaint is closed; or
2. if the complaint is referred to the Member, at the time the complaint is referred to the Member; or
3. if a financial hardship assessment letter has been issued and the complaint is closed, at the time the complaint is closed.

Referral:

- (a) if the complaint is closed during the Referral stage, at the time the complaint is closed; or
- (b) if the complaint proceeds to the Conciliation stage, at the end of the Referral stage.

Conciliation:

1. Early Case Closure
 - (a) if the complaint is closed prior to a comprehensive investigation, Case Summary and/or Case Assessment, at the time the complaint is closed;
2. Late Stage/Case Closure
 - (a) if a Case Summary is prepared, at the time the Case Summary is issued;
 - (b) if a Case Assessment is prepared and a Case Summary was not previously issued, at the time the Case Assessment is issued; or
 - (c) if the complaint is closed before a Case Summary or Case Assessment is prepared, at the time the complaint is closed.
3. Hardship
 - (a) at the time the conciliation conference is completed.

Determination:

- (a) on the completion of a Determination by the Ombudsman;
- (b) any time during the Determination stage, on closure of the complaint; or
- (c) For hardship cases only, at the time we direct a Member to vary a credit contract.

Expedited process:

At the time the complaint is closed.

Order:

At the time the Order is issued.

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