

DISPUTE RESOLUTION

Another Example of the Credit Union Difference



Credit unions, like other financial institutions, typically do not want to draw attention to service problems: member satisfaction is a sensitive topic for all institutions, and this is particularly true for credit unions who pride themselves on offering better services. The sensitive nature of this issue has led to a split in methodology as to how to best resolve member disputes in credit unions. One school of thought believes that disputes can be dealt with at the credit union level. The other reflects the legal trend to utilize alternative dispute resolution (ADR) techniques such as mediation and ombuds services. Often, a combination of the two methods provides both members and credit unions with the best path to resolution and allows a credit union to settle disputes at costs that are much lower than typical court litigation cases.

To better understand resolution options it is necessary to define mediation and ombuds services. As a basic principle, both mediators and ombudspersons are neutral, independent parties who retain confidential information, assist the involved parties in addressing their concerns to develop mutually acceptable solutions. The ombudsperson might make use of a wider array of tools, such as information gathering, discussion and negotiation.

Let's take a closer look at how resolution techniques are being used by credit unions and leagues around the globe.

Australia

According to Louise Petschler, head of public affairs for Credit Union Services Corp. in Australia, "Credit unions in Australia have been strong supporters of ADR schemes for many years." The Credit Union Dispute Resolution Centre (CUDRC), created in 1996, offers independent and impartial dispute resolution services for credit unions and members. Following the growing trend of alternative dispute resolution, a federal law called the Financial Services Reform Act was passed in 2002, requiring all financial service providers in Australia to offer an approved ADR scheme.

The CUDRC is a professional service run under contract by the provider that operates the Banking and Financial Service Ombudsman service in Australia. As a benefit to credit union members, participating credit unions fund services provided by the CUDRC through an annual asset-based levy and hourly charges so CUDRC services are free to credit union members.

The CUDRC assists credit union members in several ways: it can provide general information about the Credit Union Code of practice in Australia, it can instruct members how to make a complaint to the credit union and it offers free, independent and impartial consideration of the complaint without prejudice. This means that the credit union member does not lose any legal rights, can withdraw

from the process at any-time and can pursue a complaint in a different jurisdiction if he or she is not satisfied with the CUDRC's decision. However, the decision of the CUDRC is binding on the credit union.

Petschler further explains, "Our data show that—as you would expect—credit unions have a lower proportion of complaints than banks. The CUDRC gets lots of inquiries and calls but generally deals with about 150 genuine complaints a year. Last year, outcomes of these complaints evenly favored credit union concerns, member concerns, and compromises between the two views."

Typically, complaints addressed to the CUDRC are related to payment systems such as ATM withdrawals or electronic payments. Petschler adds, "The CUDRC program requires a real commitment from the credit union industry, and it is one more example of a continued commitment to service and to members in Australia."



Canada

During the 1998 Credit Union Act re-write process in Saskatchewan, a commitment was made to introduce an effective complaint handling mechanism. In response, complaint handling became one component of a new Market Practices Code initiative. Although not officially approved, its focus is to ensure that credit unions can develop policies and practices to better protect members.

According to Chad Boyko, director of governance and compliance at SaskCentral, “the proposed complaint handling process was developed to be consistent with the cooperative structure and shared values of the credit union system.”

This complaint handling and dispute resolution system involves a three-step resolution process. The first resolution attempt is made at the credit union, where ideally the matter should be resolved. If the complaint cannot be satisfactorily resolved, it is sent to SaskCentral, where the Governance and Compliance manager functions as the internal ombudsman to resolve concerns between the member and the credit union. Finally if the complaint cannot be satisfactorily resolved at SaskCentral, it is sent to the Ombudsman for Banking Services and Investments (OBSI), an independent organization that offers complaint management services to financial industry participants.

Ireland

The passage of the Credit Union Act 1997 in the Republic of Ireland and more notably the introduction of the Standard Rules for credit unions under the act formally outlined the process for handling disputes. This process included initial resolution

at the credit union level followed by an Irish League of Credit Unions (ILCU) subcommittee review and arbitration under the Arbitration Acts, if necessary.

Realizing the value of alternative dispute resolution procedures already established by the credit union system in Ireland, the Central Banks & Financial Services Authority Act of Ireland 2004 created a statutory position of Financial Services Ombudsman. As a result of this legislation, credit unions in Ireland will be required to use the Ombudsman’s services for disputes brought by credit union members.

Given the legislation’s recent passage, the terms and conditions for referring a complaint to the Ombudsman’s office and the manner in which complaints will be handled have not been finalized. Most likely, credit unions will continue to try to resolve disputes at the credit union level before proceeding to the Ombudsman Office at the national level for investigation and/or mediation.

According to Liam O’Dwyer, ILCU chief executive officer, “ILCU looks forward to the appointment of the first Financial Services Ombudsman and our members look forward to establishing a close working relationship for the benefit of all credit union members.”

United Kingdom

Just over two years ago, credit unions in the United Kingdom agreed to participate in the Financial Ombudsman Service (FOS), an independent dispute resolution service for financial providers. Credit unions believed that the availability of an ombuds service would improve consumer confidence and help protect the reputation of credit unions and the credit union movement. To date, no credit union member complaints have been decided by the FOS—a real testament to credit union service and member commitment.


As a result, the FOS has discounted the rate it charges credit unions to participate in its services.

The FOS resolution process includes several steps. First, a FOS assessment team reviews the complaint to determine if the subject matter can be resolved through mediation. If it cannot, the case will be assigned to an adjudicator who considers the facts and writes an opinion letter on the best method to resolve the complaint. The FOS’ ombudsmen will assist and advise the adjudicators and decide complaints that the adjudicators cannot settle. According to the FOS, 45% of the cases are resolved during mediation, 40% are resolved through adjudicator investigation and 15% are resolved by the ombudsmen.

Mark Lyonette, chief executive officer the Association of British Credit Unions, Ltd. (ABCUL) believes that “packaged with proper regulation through the Financial Services Authority and with access to the Financial Services Compensation Scheme, the FOS adds credibility to the movement and gives credit union members the same protection as other financial services consumers in Britain.”

Concluding Thoughts

Despite the negativity associated with complaints, strong credit unions will benefit from open dialogue with their members. Complaints can be an opportunity for honest feedback and provide a chance to learn and improve. In the end, this will strengthen credit unions, allow us to provide even better services and products for members, and give us another way to make the Credit Union Difference.

For more information on alternative dispute resolution for credit unions, please contact Karen Cak Niederkohr at kcnieiderkohr@woccu.org. 

—by Karen Cak Niederkohr
Credit Union Analyst, WOCU