



Internal Dispute Resolution (IDR) of Consumer Complaints

Member IDR Handbook

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What is IDR?

Internal Dispute Resolution (“IDR”) is a mechanism for resolving a consumer’s complaint against you before Credit Ombudsman Service (“COS”) becomes involved.

COS has approved **IDR Procedures** which are rules that govern how a consumer can make a complaint against you and how you have to deal with that complaint.

IDR is preliminary to a consumer bringing a complaint to COS. In fact, a complaint cannot be dealt with by COS until you have had an opportunity to resolve the consumer’s complaint through these IDR Procedures.

Do I have to comply with these IDR Procedures?

Yes, every Member of COS must comply with the IDR Procedures.

What complaints do these IDR Procedures apply to?

The IDR Procedures apply to every **complaint** made by a consumer against you.

A consumer can make a complaint against you if the consumer believes that you have:

- breached relevant laws
- breached the MIAA Code of Practice or another Recognized Code of Practice
- not met the standards of good practice in the Credit Industry, or
- acted unfairly towards that consumer.

Every consumer who is a “Retail Client” can make use of the IDR Procedures. When a consumer does so, you must comply with them.

A “Retail Client” is:

- an individual, or
- a “small business”.

A “small business” is a business employing less than 100 people (if the business is or includes the manufacture of goods) or 20 people in any other case. In some circumstances an individual is not a “Retail Client” for the purposes of the IDR Procedures because that person is not a “Retail Client” for the purposes of the Corporations Act 2001.

However, a consumer can make use of the IDR Procedures only if the consumer dealt with you:

- as a borrower or prospective borrower
- as a guarantor or prospective guarantor.

IDR – what’s in it for me?

IDR gives you the opportunity to:

- build or re-build your business relationship with the consumer
- nip in the bud something that might simply be a misunderstanding
- resolve a problem before it gets to COS, and you have to pay COS Service Fees
- resolve a problem before it goes to Court, and you have to pay legal expenses.

What’s this IDR Handbook all about?

This Handbook contains a model IDR Complaints Record and a Checklist so you can make sure you comply with the IDR Procedures. It also contains the IDR Procedures approved by COS.

Do I have to review my IDR Procedures, or can I “set and forget”?

You have to review your IDR Procedures every 3 years (from the date COS sends this Handbook to you) to make sure that IDR is working effectively for the consumer and you.

What if I’m not sure about what I have to do, or just want some help with IDR?

Contact COS, or your credit industry representative body, such as MIAA or FBAA.

COS runs seminars and other education sessions about IDR and EDR from time to time. If COS thinks it’s appropriate, COS will arrange for a seminar or other education session about IDR and EDR for you and your staff.

What makes a good response to a consumer's complaint?

Here are some tips on making your response to a consumer's complaint a good response -

The Consumers complaint -

- read the consumer's complaint in full and identify the relevant issues raised by the consumer - if necessary, ask the consumer for clarification
- make a list of the issues raised and prepare a chronology of events
- obtain all relevant information and documents including internal diary notes

- if delays are likely in obtaining information and documents or in giving your response to the consumer, contact the consumer to acknowledge receipt of their complaint and tell them why there could be a delay and when you expect to be able to respond to the complaint

Your response -

- in your response, give the consumer all information which is relevant to the complaint, even if you think it might not be "favourable to your case"
- make your response;
 - clear
 - concise
 - understandable - use "Plain English" or if the consumer has difficulty with English, attach a translation in the consumer's first language
 - professional, not emotive, abusive or argumentative
- if it will make your response easier for the consumer to follow:
 - attach or include a chronology of events
 - attach or include a list of the facts on which you and the consumer both agree - this might alleviate any "them and us" focus of the complaint
 - respond paragraph by paragraph to the complaint or,
 - respond issue by issue or,
 - respond in chronological order
- attach all relevant supporting documentation, even if you think it might not be "favourable to your case" - in your response, clearly identify the document and explain why it is relevant
- clearly state:
 - if you are accepting the complaint without offering redress
 - give your reasons
 - if you are accepting the complaint and offering redress
 - what redress you are offering - form, amount
 - give your reasons
 - if you do not accept the complaint but are offering redress
 - what redress you are offering - form, amount
 - give your reasons
 - if you are rejecting the complaint
 - give your reasons

Things to avoid in your response

- a response that jumps from point to point without any order or relevance
- a response that does not respond to all the issues raised
- emotive, haranguing, abusive or argumentative language
- personal attacks on the consumer

- swamping the consumer with documents - giving a copy of your file to the consumer without identifying relevant documents and explaining their relevance

How should I respond to a consumer's complaint that is sent to me by COS?

Follow the tips above!

A good response to COS will:

- help COS better understand the issues, and your "case"
- speed up the dispute resolution process
- reduce the risk of parties becoming frustrated and "digging in"
- demonstrate that you are committed to acting in a professional manner at all times - even if you are the subject of a complaint
- increase your opportunity to retrieve what might otherwise be a lost business relationship.

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IDR Complaints Record

Important notice: by completing this record you are not and are not be regarded as making any admission of any liability to the complainant or any other person or any fact alleged by the complainant.

(1) **When** was the complaint received? _____ dd/ _____ mm/20 _____

(2) **How** was the complaint made?

phone fax email letter

other: _____ (specify)

(3) **Type of complainant:**

borrower prospective borrower loan guarantor prospective loan guarantor?

(4) Give a **brief summary** of the complaint:

(5) What **kind of "Member Service"** did you provide to the complainant?

standard loan bridging loan construction loan debt consolidation
 line of credit low doc/no doc offset account split loan mortgage reduction
 credit card commercial loan insurance car loan

other _____ (specify)

(6) What best describes the **type of complaint?**

failure to disclose fee or commission delay in settlement of new loan delay in discharge/refinance failure to use skill care diligence inappropriate finance for consumer failure to comply with consumer's instructions breach of relevant law (see Appendix B for list - specify alleged breach here _____)

breach of code of practice (see Appendix B for list - specify alleged breach here _____)

(whose code? - MIAA code FBAA code other Recognised Code of Practice _____ (specify)

(7) Was the complaint **resolved**?

yes no

(8) **When** was the complaint **resolved**? _____ **dd/** _____ **mm/20** _____

(9) What was the **outcome**?

you accepted the complaint without offering redress

you accepted the complaint and offered redress in the form of:

money compensation and/ or

other _____ (specify)

did the complainant accept the redress you offered?

yes no

without accepting the complaint you offered redress in the form of:

money compensation and/ or

other _____ (specify)

did the complainant accept the redress you offered?

yes no

you rejected the complaint

CHECKLIST

Setting up your IDR

- Familiarise yourself with the IDR Procedures.**

- Appoint a Complaints Contact Person and at least one Deputy Complaints Contact Person (your “CCPs”)**
 - if you are a corporation, your CCPs must be a director, officer or senior employee
 - in any other case, your CCP must be you or a senior employee
 - your CCPs must have sufficient experience with your business and products to adequately understand a consumer’s complaint

- Authorise your CCPs to make decisions about consumer complaints**
 - your authority must bind you to those decisions
 - your authority must be in writing

- Authorise your CCPs to access all records necessary to properly investigate consumer complaints**
 - your authority must be in writing

- Instruct your CCPs not to deal with any complaint that they are involved in**

- Authorise and instruct your CCPs to give the consumer whatever assistance is reasonable to enable the consumer to make the complaint**
 - your authority and instruction must be in writing

- Train/instruct your staff about your CCPs**
 - give your CCPs’ name, title, and business phone number to all staff who deal with or are likely to deal with consumer complaints
 - give all staff who deal with or are likely to deal with consumer complaints a written instruction:
 - how to transfer a consumer who has a complaint to your CCPs
 - to record consumer details if none of your CCPs are then available to deal with the complaint – details must include:
 - consumer’s name and phone number
 - adequate description of the product or transaction the complaint relates to

Publicise your IDR

- include these details of your CCPs in your first correspondence to a consumer about their complaint:-
- your CCPs' names, postal addresses, direct business phone contact numbers, business fax numbers and email addresses
- post these details prominently on your website

CHECKLIST

Responding to consumer complaints

- don't insist on the complaint being in writing**
 - it can be given to you by any reasonable means including letter, phone, fax, in person or email
 - give an instruction to this effect to your CCPs and staff who deal with or are likely to deal with consumer complaints
- don't demand that the consumer pay you or anyone else a fee for dealing with the complaint**
 - give an instruction to this effect to your CCPs and staff who deal with or are likely to deal with consumer complaints
- write to the consumer to acknowledge receipt of their complaint -**
 - unless it's resolved in the meantime
- if you accept the complaint and think it's appropriate to offer redress to the consumer -**
 - that redress can be financial and/or non-financial
 - financial redress can be compensation for direct loss suffered by the consumer
- in deciding what remedy you will give, and the extent of the consumer's loss -**
 - consider relevant codes of practice (eg. MIAA Code of Practice), concepts of fairness, and good practice in the Credit Industry
- give the consumer a written response within 45 days**
 - give an instruction to this effect to your CCPs and staff who deal with or are likely to deal with consumer complaints
 - your response must be a "substantive response"
 - your response is a "substantive response" if:
 - you accept the complaint and, if appropriate, offer redress
 - you offer redress without accepting the complaint
 - you reject the complaint
 - give reasons for the decision you've reached that adequately address the issues raised in the complaint
 - if you can, refer to relevant laws, codes of practice, industry standards or procedures

- if you can't give the consumer a response to their complaint within 45 days -**
 - tell the consumer why
 - tell the consumer they can refer their complaint to COS

- if you want to provide consumers with "on line" IDR, eg. via Internet -**
 - contact COS to find out if COS has any further requirements

CHECKLIST

Setting up your IDR data collection and reporting

- Establish your IDR data collection**
 - set up systems and forms to record all complaints you receive
 - see the **model IDR Complaints Record** above
 - make sure to record:
 - type of consumer making the complaint
 - * see the model
 - subject of the complaint
 - * see the model
 - outcome of complaint
 - * see the model
 - timeliness of your response to the consumer
 - * see the model
 - provisions of relevant laws and/or codes of practice the consumer says you have breached
 - * see the MIAA list in **Appendix A**
 - instruct all staff who receive or handle or are likely to receive or handle complaints -
 - how to complete the IDR Complaints Record
 - to fill in the details required as soon as practicable
- When COSL notifies you that a complaint has been made against you, attach to your response to COSL a photocopy of the IDR Complaints Record that applies to the particular complainant**
- If COS asks you to report on your IDR procedures either generally or in a particular case or in a particular respect:**
 - send COS the IDR Report to COS within the time COS specifies
 - provide all the data required in whatever form COSL specifies
 - sign to verify the completeness and accuracy of the data

APPENDIX "A"

MIAA CODE OF PRACTICE

Item no.	Code paragraph no.	Topic
1	21A	Appropriate finance
2	21B	Churning
3	23	Disclose all relevant details
4	25	Submit loan application promptly
5	27	Keep loan applicant informed
6	33	Disclose commission
7	35	Act with due skill, care, diligence
8	38	Timely settlement of loan
9	39	Honest and honourable dealings
10	42	Misleading etc. acts or omissions
11		Other - specify Code paragraph no.

RELEVANT LAWS

1. Corporations Act 2001
2. Australian Securities and Investments Commission Act 2001
3. Trade Practices Act 1974
4. Uniform Consumer Credit Code
5. Other - specify relevant law