

## **Banking Ombudsman Scheme Independent Review 2019**

### **Banking Ombudsman Scheme**

#### **Te Ope Whakaora – The Salvation Army New Zealand Fiji Tonga and Samoa Territory Submission**

#### **Executive Summary**

1. Te Ope Whakaora is supportive of the role and use of disputes resolutions schemes like the Banking Ombudsman Scheme (BOS). However, our view is these schemes are often a ‘stretch’ for the people that we serve to use, understand, differentiate and navigate through. These views are based on our engagement with our clients across various services we provide, but primarily through the national network of financial mentors and staff we have. Therefore, we submit that simplifying these processes is crucial. Additionally, we believe there is merit in exploring if one scheme might better serve communities given the numerous complaints schemes available in New Zealand.
2. We have opted to submit on this Review because we believe it is crucial that the voices and experiences of our clients are represented in such reviews. Many of our clients are whom Government departments have loosely and conveniently defined as vulnerable. This is not a term that we use regularly in our church and organisation. Yet we know many of the 120,000 New Zealanders we walk alongside, and support are facing very complex issues that create real hardship for them. It is these realities we report on in this submission.

#### **Background:**

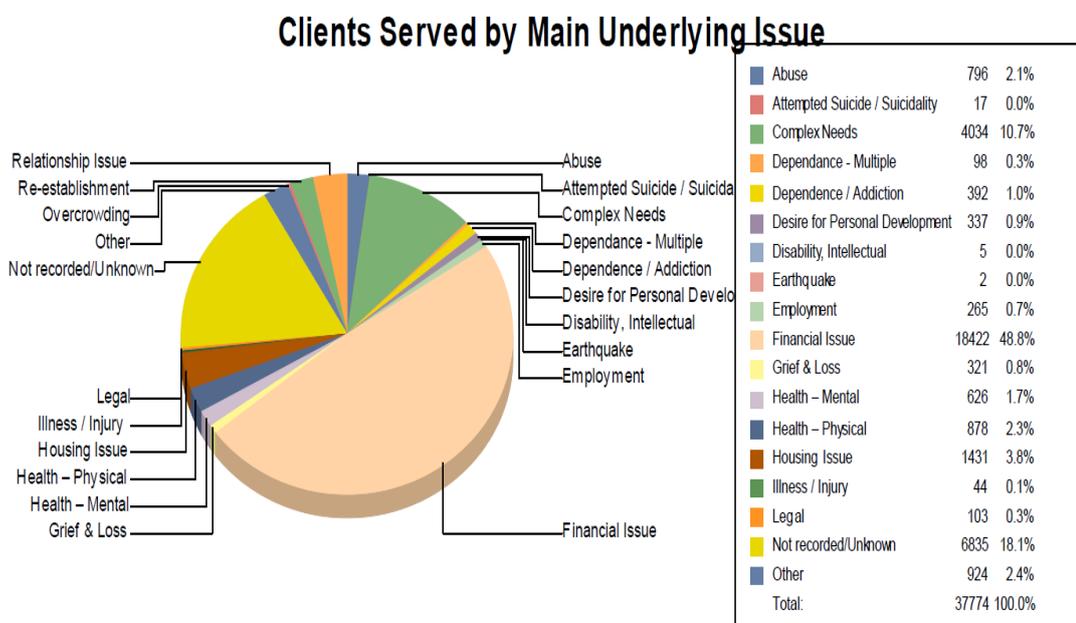
3. We are passionately committed to our communities as we aim to fulfil our mission of caring for people, transforming lives and reforming society by God’s power.<sup>1</sup> This submission has been prepared by the Social Policy and Parliamentary Unit of Te Ope Whakaora. This Unit works towards the eradication of poverty by encouraging policies and practices that strengthen the social framework of New Zealand. Additionally, Andrew Mitchell, a financial

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<sup>1</sup> <http://www.salvationarmy.org.nz/our-community/mission/>

mentor in our Royal Oak Community Ministry Centre has contributed invaluable insights to inform this document. This submission has been approved by Commissioner Andrew Westrupp, Territorial Commander of Te Ope Whakaora’s New Zealand Fiji Tonga and Samoa Territory.

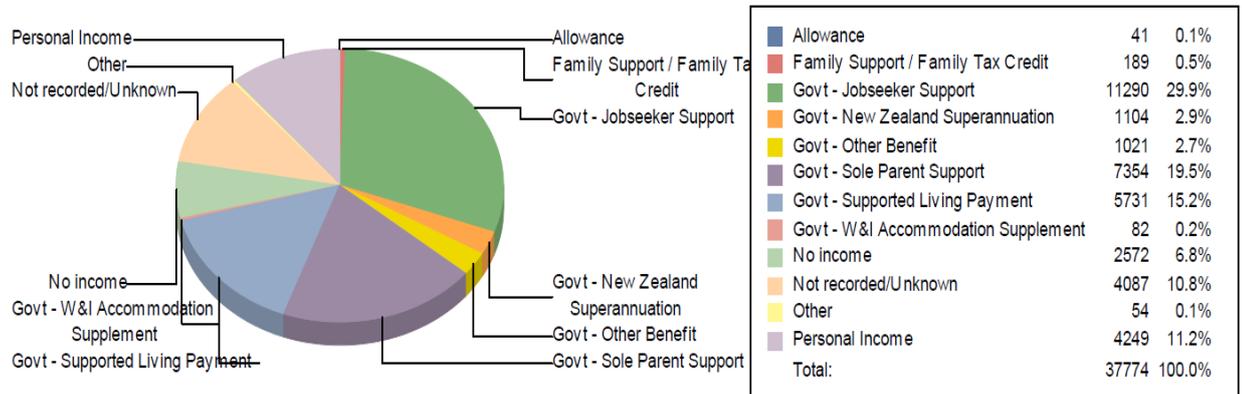
4. The combined services of Te Ope Whakaora Te Ope Whakaora provided support to around 120,000 people in 2018. The main social service areas are Community Ministries (CM), Salvation Army Social Housing (SASH), and Addition, Supportive Accommodation and Reintegration Services (ASARS). These services included over 62,000 food parcels to more than 30,000 families and individuals, providing some 2,400 people with short- or long-term housing, nearly 7,000 families and individuals supported with social work or counselling, just over 17,000 addictions counselling sessions, more than 5,500 families and individuals helped with budgeting, other practical assistance to over 6,000 families and individuals, 6,500 hours of chaplaincy support, and some 9,000 victims, defendants and families supported at court.
  
5. For the year ending 30 August 2019, nearly 49 per cent of the clients attending our Community Ministry Centres across the country had Financial Issues as their main underlying issue for presenting to Te Ope Whakaora.<sup>2</sup> This includes problem debt, debt collection and repossession issues, budgeting advice, and bank-related issues. This is illustrated below:



<sup>2</sup> Territorial Headquarters Demographic Report, 2019, SAMIS (Salvation Army internal data management system), retrieved 30 August 2019.

6. Additionally, for the year ending 30 August 2019, nearly 78 per cent of our clients had their main income source as a Government welfare benefit or no income at all (6.8% of clients).<sup>3</sup>

### Clients Served by Income Source



7. In our experience, clients who might have issues with banks will usually present in this Financial Issues grouping. From 01/07/2018 to 30/06/2019, we worked with 4,166 clients through our financial mentoring and budgeting services.<sup>4</sup> The total debt owed by this group was \$26,968,093, with \$3,863,413 of this being to banks for bank loans and credit cards.<sup>5</sup> These are the closest figures we can capture internally to determine the financial hardship and vulnerabilities our clients face, particularly when we consider their Main Income Source and Main Underlying Issue that causes them to use our services. For the purposes of this BOS Review, these are some of the realities our people face. When it comes then to disputes resolutions schemes like the BOS, this is therefore the context many New Zealanders we work with are facing and living in.

<sup>3</sup> Ibid.

<sup>4</sup> Annual Budgeting Report 2019, SAMIS (Salvation Army internal data management system), retrieved 30 August 2019.

<sup>5</sup> Ibid.

## Comments on Disputes Resolutions Schemes:

8. The main contact point for our clients with the various disputes resolutions schemes available in Aotearoa is through their engagement with our financial mentor or budgeting staff. Navigating through the complexities of these schemes is difficult for most Kiwis, let alone for those facing extreme financial hardship. Therefore, the four financial disputes resolutions schemes (Banking Ombudsman (BOS), Insurance and Financial Services Ombudsman (IFSO), Financial Services Complaints Ltd (FSCL), Financial Dispute Resolution Service (FDRS)) are wonderful services. But for many of our clients, their complaints or issues will not be presented to these schemes unless they have consistent and strong support from a navigator or support person.
  
9. There is a unique work of translation happening in these community settings. That is, navigators like financial mentors and budgeters, or those in Citizens Advice Bureaux or Community Law Centres, help translate the complexities of these schemes for the clients they face. But what these schemes and Government departments do not fully grasp is the scope and complexity of work these community navigators face with their clients that sits within a severely underpaid and under-resourced community and NGO sector. This difficult context therefore affects how these community navigators help clients consider and possible advance and complaint through one of these schemes.
  
10. The recent report *Social Service System: The Funding Gap and How to Bridge It*<sup>6</sup> captures these realities about the major funding challenges facing the social service sector that indeed affect our services:
  - a. Some of the key findings were:
    - i. Basic operating costs are being underfunded by about \$130 million a year;
    - ii. Wages are being underfunded by about \$300 million a year;
    - iii. The gap between funded and actual (absorbed) demand is nearly \$200 million a year;
    - iv. 83% of providers surveyed are reliant on philanthropy to meet their core costs.

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<sup>6</sup> [https://sspa.org.nz/images/Social\\_Service\\_System - The Funding Gap and How to Bridge It - FULL REPORT FINAL.pdf](https://sspa.org.nz/images/Social_Service_System_-_The_Funding_Gap_and_How_to_Bridge_It_-_FULL_REPORT_FINAL.pdf), retrieved 13 September 2019.

- b. Some of the impacts of these funding challenges include:
  - i. The community and provider workforce are underpaid and overworked, with a growing pay gap between the public and private sectors; and
  - ii. The competitive tendering process benefits better resourced providers, providers are incentivised to accept under-funded contracts and disincentivised from collaborating.

**11.** Andrew Mitchell, our Salvation Army financial mentor from Royal Oak offers more insights from the coalface working with clients:

- a. *Financial mentors do not make extensive use of these schemes. The main reason for this is that it is very time consuming to prepare a case and to follow it through to a conclusion, which usually takes several months. Financial service providers generally have access to legal expertise, and financial mentors are typically no match for them, even when they have a strong case. I am not aware of any lawyers based in community law centres that specialise in the Credit Contracts and Consumer Finance Act.*
- b. *If you do decide to take a case to a dispute resolution scheme, you need to pick your client carefully. They must be willing to stick with the case for as long as it takes to get a resolution.*
- c. *Making a complaint to a dispute resolution scheme is not for the faint hearted or inexperienced. An article published in Stuff on 12 May 2019 (Financial disputes schemes failing Maori and Pasifika) spells this out in some detail. It says that “of the respondents who took action to resolve their problem, only 7 per cent said they went to a dispute resolution service at any point during the process, and only 3 per cent said their problem was resolved through a dispute resolution service”.*

**12.** These then are the realisms of how our community sector intersects with these schemes. Our submission is that groups like BOS must understand (1) the actual context our clients are facing, and (2) the context our financial mentors and budgeters face when working with clients around disputes resolutions schemes. Andrew again illustrates these complexities with an actual case he is working on in Paragraph 13 below.

- 13.** An example of the complications caused by having four dispute resolution schemes
- a. *For the last six months I (Andrew) have been working with a family (a married couple with two teenage sons) who have taken on far too much debt. They have unsecured loans with Westpac and Harmoney, and secured loans with Geneva Finance and Aotea Finance. Each creditor is with a different dispute resolution scheme:*
    - i. *Banking Ombudsman (Westpac)*
    - ii. *Financial Services Complaints Limited (Harmoney)*
    - iii. *Insurance & Savings Ombudsman (Geneva Finance)*
    - iv. *Financial Dispute Resolution Service (Aotea Finance)*
  - b. *From the evidence I have collected both Geneva Finance and Aotea Finance were irresponsible lenders. However, because their loans are secured by vehicles, they are getting paid \$300pw between them, as my clients don't want to lose their vehicles. My clients stopped paying Westpac and Harmoney several months ago, as these loans are unsecured. They owe Westpac and Harmoney about \$25,000 each. Westpac has recently passed the debt to a debt collector, and Harmoney has sold their debt to Lion Finance, which is owned by a large Australian debt collector (Panthera Finance), which has recently entered the New Zealand market. My clients previously had clean credit records but now they each have a default on their record.*
  - c. *The result is probably going to be a Summary Instalment Order (SIO) for both husband and wife, even though they have both worked full-time for the last ten years.*
  - d. *I don't think there can be any sort of redress for my clients, as their naive borrowing has contributed to the situation, they find themselves in. However, I am going to write up this case and send it to each of the dispute resolution schemes, and the Commerce Commission, just so they have an actual example of how irresponsible lending combined with naive borrowing can harm both borrowers and responsible lenders. Obviously, it would be much simpler if I could deal with a single dispute resolution scheme.*

## Summary:

14. One of the intentions of this submission was to provide a clearer picture to disputes resolutions schemes like BOS of the real-life complexities and context the community and social services sector operates from. Our Salvation Army experiences are just part of the picture. But with the increased attention being placed in government circles on financial hardship, inclusion and wellbeing, it is even more important to try and get a more accurate picture of what hardship and vulnerability look like from both the point of view of the client *and* the community navigators working with them.

15. Te Ope Whakaora submits that the recent Australian experience in this space provides good lessons. In April 2017, the *Review into Disputes Resolution and Complaints Framework* was returned to the Australian Government.<sup>7</sup> In the lengthy report, the basic conclusion was:

- a. *The Report makes 11 recommendations that represent an integrated package of reforms that will see the EDR framework well-placed to address current problems and ensure it is designed to withstand the challenges of a rapidly-changing financial system. **The Panel's central recommendation is the establishment of a new single EDR body for all financial disputes (including superannuation disputes) to replace FOS, CIO and SCT (other schemes) (emphasis added).***<sup>8</sup>
- b. Our contention is that model and recommendations of this report are approaches that the Government, BOS and other schemes can investigate further. From a community perspective, these multiple schemes are too complex, seemingly overlap and are very hard for our clients to work through.

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<sup>7</sup> [https://static.treasury.gov.au/uploads/sites/1/2017/06/R2016-002\\_EDR-Review-Final-report.pdf](https://static.treasury.gov.au/uploads/sites/1/2017/06/R2016-002_EDR-Review-Final-report.pdf), retrieved 13 September 2019.

<sup>8</sup> *Ibid*, page 10.