

Banking disputes help on offer

The Banking Ombudsman investigates complaints between customers and their bank.

It is a free service, independent of all parties.

If you have a dispute with your bank you can complain to the Banking Ombudsman.

The service tries to resolve complaints quickly and informally by discussion with the parties.

If it is not resolved informally, the ombudsman can make a finding after considering all the relevant material.

The length of time taken to decide a complaint varies depending on the complexity and the time it takes to get all the information.

Most complaints are resolved within three months.

Complex cases may take more than a year.

If the ombudsman finds in your favour they can award up to \$200,000 for damages and up to \$9000 for stress, inconvenience etc.

If you are not happy with the ombudsman's decision you can still take your dispute to the Dis-

Free Ombudsman service available



LEGAL MATTERS

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putes Tribunal or to court.

If your bank does not agree with the decision you can ask the ombudsman to make an award. This is binding on your bank.

All the major New Zealand banks are members of the scheme. There is a full list on the website bankomb.org.nz.

The ombudsman can consider complaints relating to banking and financial services provided to you within the last six years that have caused you losses (up to \$200,000) or inconvenience.

Complaints cannot be con-

sidered relating to the bank's commercial decision, such as not to lend to you or what interest rates to charge you.

The Banking Ombudsman also deals with privacy complaints.

The Privacy Act covers only information about individuals.

The bank's confidentiality obligations relate to all customers – for example, companies, trusts and societies – and they cannot make a complaint to the Privacy Commissioner.

A complaint of a breach of your privacy as an individual by your bank can be made to either the Privacy Commissioner or Banking Ombudsman.

The ombudsman's office will assign an investigator, who will gather information from you and your bank.

You will need to sign a waiver to allow your bank to provide your confidential information.

Both parties have one month to agree with the Ombudsman's initial assessment.

If either party does not agree, they will be able to provide further information before a final recommendation is made.

If you agree with the formal recommendation, the bank must then comply with it.

If you do not agree, the bank does not have to comply and you can follow other avenues.

You are entitled to be represented during the process, at your own cost.

Whether you need assistance will depend on the complexity of the matter and your ability to put your case clearly.

Asks about whether her family can sell her property without her knowledge when they own a share of her house. She thinks it may be in a trust.

If people are all listed as owners on the title to a property (in equal or differing shares), then they all need to sign all paperwork in relation to that house – one person cannot sell the property

without the consent of the others.

The only exception to this, meaning that one person could sign, would be if that person had a valid power of attorney allowing them to sign on behalf of the other owners.

The owners need to sign the Agreement for Sale and Purchase and the Authority and Instruction form to sell the property.

The lawyers involved in the transaction will not transfer the title unless they have those documents signed by all owners (or their attorney under an Enduring Power of Attorney).

If a property is owned by a trust, it will be held by the trustees – their names will be listed on the title to the property as owners.

Those trustees can sell the property and sign all documentation in relation to that sale.

The "beneficiaries" of that trust (who may not be trustees) don't necessarily have to agree to this.

■ Column courtesy of Rainey Collins Lawyers, telephone 0800 733484. If you have an inquiry, email Alan on aknowsley@raineycollins.co.nz.