

Insurance & Savings Ombudsman  
Conference 2004  
Auckland 28 September 2004

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Insurance Enquiries & Complaints Ltd  
(IEC)



- [www.iecltd.com.au](http://www.iecltd.com.au)
- "The History of IEC"



# Financial Services Reform

- ASIC approval
- ASIC Policy Statement 139
- August 2000
- Expanded reporting role – quarterly
  - statistics
  - systemic issues



# Systemic Issues Role

- Internal Process
- CEO reports to Board and then to ASIC
- Aim to resolve
- Reports anonymised unless behaviour in actions not corrected



# Issues Reported On

- Exchange of Info

Timelines ie Notices of Response

Delays in payments after settlements

Delays in implementing determinations

Failure to advise of availability of IEC

Failure to advise of insurer's IDR

Delays in providing IDR decision



# Evolution of IEC

- Dispute Resolution & Enquiries Service
- Educational Focus
- Improving industry standards
  - Code of Practice
  - Privacy Code
- Quasi Regulatory Function
  - Systemic issues



# Dispute Resolution

## Three Jurisdictions

- Claims Review Panel (tri-partite)
  - Everything else
- Referee
  - All fraud related
- Adjudicator
  - Low value & less complex to \$5,000



# Workload Mix

- Panel 50%
- Referee 10%
- Adjudicator 40%
  
- Settlements 13% - 15%



# Resolution Method

- Expert Evaluations
  - educational impact
  - communication strategy
  - lifting standards
  - IDR role
  - Case Manager role



# Code of Practice

## All Insurers

- Open to underwriting agencies
- Established IDR Units
  - 35% denials overturned by IDR
- Of 12,300 claims to IDR:
  - 4,377 overturned
  - 7881 confirmed
  - Only 1734 to IEC



# Educational Focus

- Information Service (67,000 contacts)
- Reasoned determinations indexed
- Industry Forums
- Publications
- National Conference
- Consumer & Community forums
- Code Monitoring & Member reviews



# Statistical Report

- 01/02                    2557
- 02/03                    2046
- 03/04                    1734                    ↓ 32%
- 26.7M Policies
- 2.5 M Claims
- 12,354 IDR
- 1734 IEC
- 14% of IDR
- 0.07% of all claims



# Future Issues

- New Corporate Governance requirements
- Risk Management
- Independent Review of IEC Scheme
- Expansion of jurisdiction
- Name Change/Public access
- Primacy of IEC Board

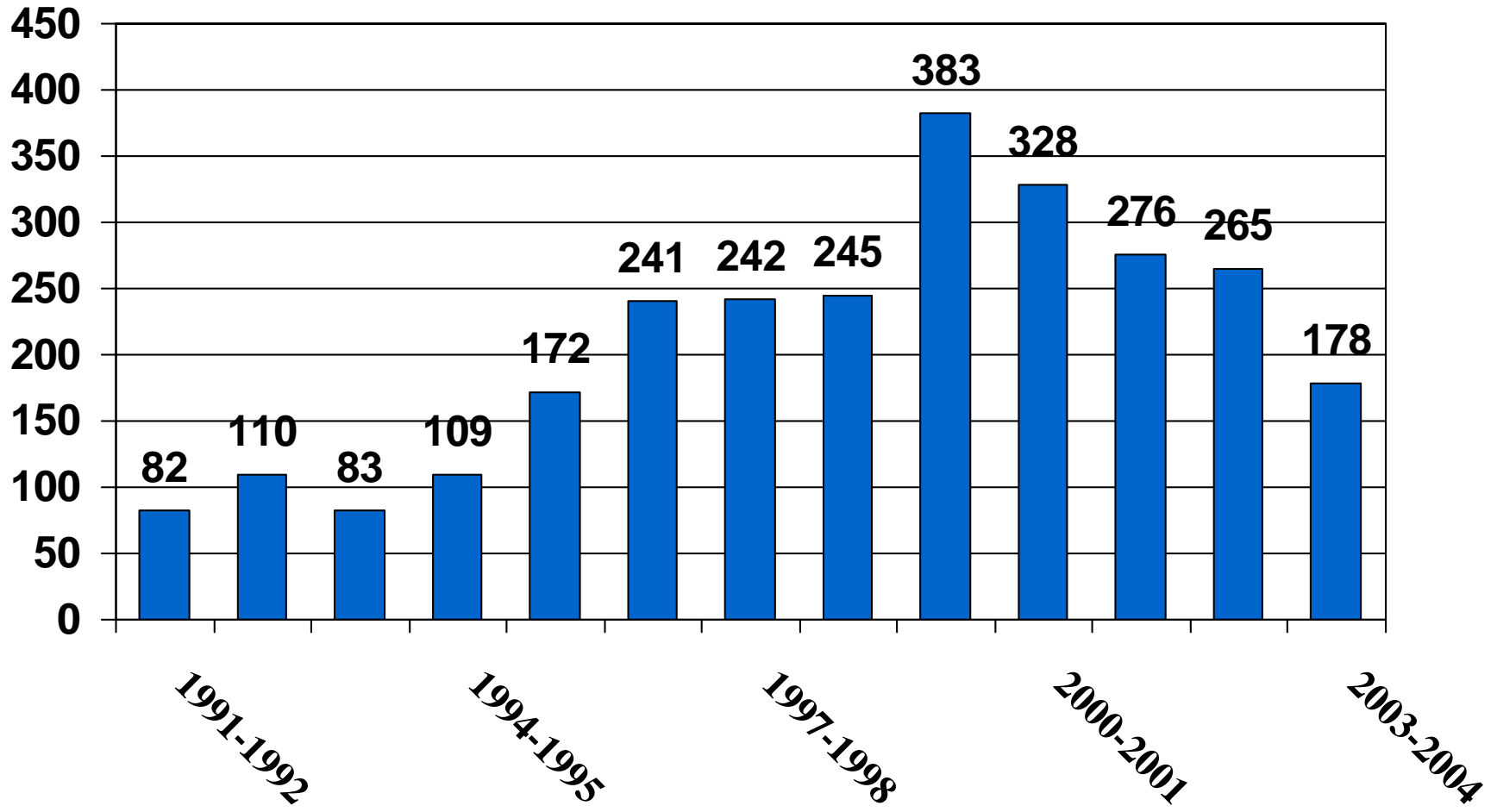


# Fraud Referee

- Oral Hearing 85%
  - Informal
  - No cross examination/subpoena
  - Inquisitorial
- Burden of Proof
  - Balance of probabilities
- Was it reasonable, on the balance, to have denied the claim?



# No. of Fraud Files Received



# Fraud Statistics

- 1887 Referrals
  - Insurer success 61.6%
  - Consumer success 29.2%
  - Settled 3.5%



# Full Exchange of Information & Special Circumstances

- PS 139

Matters should generally only be determined on material available to both parties

- Insurer

- Reason for IDR decision
- Documents/information relied on
- Any claim of privilege or to which  
*'special circumstances'* apply
- Information in support



# Special Circumstances

- Harmful or embarrassing material
- Endanger a third party
- Commercially sensitive
- Considered appropriate by Referee to delay its release
- Others
- Since 2001, 183 claims  
Insurer successful 60%



# Annual Review Articles

- 1997      Minimum or insignificant fraud  
              Cultural Awareness  
              Proof of Ownership
- 1998      Oral Examinations  
              Sufficiency of Reasons
- 1999      Expert Evidence (2000)  
              Interviews by investigation
- 2001      Full Exchange  
              Special circumstances  
              Indicia of fraudulent behaviour



# Non-Disclosure

- Duty – S 21
  - Not to misrepresent material facts
  - To disclose material facts
- Aim
  - To protect the insurer from accepting a risk greater than it appears
  - [icareview.treasury.gov.au](http://icareview.treasury.gov.au)



# Innocent Non-Disclosure

## *A Little Bit of Fraud*

- Can disregard avoidance where *'a little bit of fraud'*. See S. 31
- Does not apply to innocent non-disclosure
- S 28(3) allows insurer to reduce liability to nil where there has been innocent non-disclosure.



# Insurance & Savings Ombudsman Conference 2004

Sam Parrino

Thank You

