

## ISO Scheme Inc.

The Insurance & Savings Ombudsman (“ISO”) Scheme has been an unincorporated scheme since its inception in 1995. Recently, the ISO Commission and the ISO Board resolved to incorporate the ISO Scheme as an Incorporated Society. From 29 October 2010, the Scheme has been called:

### *The Insurance & Savings Ombudsman Scheme Incorporated*

Participants will remain as Participants without the need to specifically re-sign as members of the incorporated entity.

## Register by 1 April 2011!

All financial advisers must be registered with the Companies Office by 1 April 2011 and, to be able to register, they must belong to an approved dispute resolution scheme. The ISO Scheme is an approved scheme which offers a well-established, reputable disputes resolution service to a wide range of financial service providers. It provides an extremely cost-effective option which will allow advisers to comply with their statutory obligations.

Contact us/register on [membership@iombudsman.org.nz](mailto:membership@iombudsman.org.nz)

## Benefits of joining the ISO Scheme

1. The ISO Scheme has excellent credentials for providing dispute resolution services in the financial sector, having operated efficiently and effectively in the area for over 15 years. The ISO and staff have many years’ experience in dispute resolution.
2. The ISO Scheme was approved to provide dispute resolution services by the Minister of Consumer Affairs in May 2010. The ISO Scheme is one of only 2 industry based dispute resolution schemes in New Zealand which has been allowed to use the name “Ombudsman”.
3. The ISO Scheme has provided dispute resolution services to about 50 insurance and savings organisations since 1995 and, in its 15 years of operation, it has dealt with more than 35,000 complaints enquiries, investigated over 4,100 complaints and has assisted its Participants to improve business practices relating to complaints handling.
4. Participation in the ISO Scheme will ensure compliance for Participants with the Financial Service Providers (Registration and Dispute Resolution) Act 2008.
5. Participants can have confidence in the ISO Scheme’s complaints handling process. The ISO wants all Participants to resolve their own complaints at the earliest possible opportunity, with the ISO Scheme only becoming involved if the Participant cannot resolve the complaint. This is evidenced by the much greater number of complaint enquiries dealt with (over 35,000 since 1995) than complaint investigations (over 4,100 since 1995).
6. The ISO wants to help Participants establish their own internal dispute resolution processes and promotes the skills and training necessary to manage complaints at the front line.

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*In this publication, the Insurance & Savings Ombudsman is referred to as “the ISO” and the ISO Terms of Reference are referred to as “TOR”. In the case studies, “P” is used to denote Participant and “C” to denote Complainant.*

### Assessment mailing list

If you wish to:

- be added to the mailing list to receive further issues of *Assessment*;
- be removed from the mailing list so you will not receive further issues of *Assessment*; or
- amend your details on the mailing list;

please contact us at the address below.

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- The ISO Complaints Manual is available to new Participants to download from the website as part of the registration process.
  - Online complaints handling training is available at a discount to Participants, together with ongoing assistance from the technical help desk at the ISO Office.
  - Training about the ISO Scheme will be organised for new Participants at centres around New Zealand in the first half of 2011. Opportunities for discussion groups with ISO participation will also be made available.
7. The ISO Scheme's process is "*deemed to be a process of 'without prejudice' and confidential negotiation between the Participant and the Complainant*". That means that the focus is on early resolution, using negotiation, conciliation, or mediation to resolve the complaint. Investigation and decision making are available if the parties are unable to resolve the dispute by agreement.
  8. Participants can have confidence in the people who deliver the complaints handling service on behalf of the ISO Scheme. The ISO, Karen Stevens and her staff have experience and expertise in the financial sector, law and dispute resolution. A total of 5 Case Managers have undertaken LEADR mediation training and the ISO is a LEADR accredited panel member.
  9. On 1 November 2010, the ISO Scheme became an incorporated society, creating an independent legal entity separate from the 2 tier governance structure: the ISO Commission and the ISO Board. The ISO Commission is led by Ms Paula Rebstock, formerly Chairperson of the Commerce Commission.
  10. The ISO Scheme has a jurisdictional limit of \$200,000 and can only exceed that sum by agreement with both parties to the dispute. This provides sufficient flexibility to allow for larger disputes to be resolved, particularly in the commercial area.
  11. Participants can promote their membership of the ISO Scheme to their customers. Consumers will have greater confidence in their financial service providers, knowing that they can access the ISO Scheme if matters cannot be resolved by agreement between the parties.
  12. The annual fee structure is simple and competitive, with no joining fee. A single flat fee of \$1,000 (plus GST) is payable for every complaint accepted for resolution, with no escalation in cost if further progression of the complaint is pursued by either party to the dispute.
  13. A significant investment has been made in the case management system, which has been established over a period of time and produces reliable and consistent information.
  14. The ISO Scheme has the most experience in the New Zealand financial sector dealing with insurance complaints, which should give brokers and financial advisers confidence that the ISO understands the market.

**10 REASONS TO JOIN THE ISO SCHEME – the ISO Scheme offers:**

1. over 15 years' experience in financial sector dispute resolution
2. strong governance, independence and credibility
3. a well-established and reputable dispute resolution scheme
4. an experienced Ombudsman and staff
5. compliance with the new financial sector legislation
6. no joining fee, competitive annual fee and a simple price structure
7. access to quality training resources
8. a successful track record in early dispute resolution
9. processes that work to inform and educate Participants
10. an excellent alternative to court action



**Case Study 1**

C had his rental property insured with P.

In May 2009, C rented the house to a new tenant. In August 2009, after the tenant had vacated the property, C discovered that several parts of the house had sustained damage. C made a claim to P for the damage, which he initially said had been deliberately caused by the tenants, but later said was accidental damage.

After discussing the damage with C, P advised that the damage was not covered. However, further enquiries would be made about C's assertion that P had assured him he was covered for any damage caused by tenants. After a number of communications with C, P obtained a loss adjuster's report, which confirmed multiple events resulting in multiple areas of damage. The loss adjuster believed the application of the \$400 excess for each event meant the total of the excesses exceeded the value of the claims.

C's claim to P consisted of 16 items, some of which related to cleaning and maintenance and unpaid water rates and for loss of rent. P identified 3 items it believed came within the scope of cover and for which the cost exceeded the excess. C believed he was entitled to the full amount he had claimed.

**Assessment**

After considering the information provided (including the audio recordings of C's conversations with P and discussing the claim with C), the Case Manager concluded that:

- C had unrealistic expectations about the scope of cover provided in respect of his rental properties, not helped by his admission that he did not read his policies;
- it was surprising P had not appointed a loss adjuster earlier, especially given C had changed his description of how the damage had been caused, apparently in an attempt to provide descriptions which would result in the most favourable outcome;
- P was entitled to decline to pay for most of the items claimed, either because the item claimed was not covered, or would be less than the policy excess;

## ISO Scheme's definition of "Small Business"

Historically, the definition of "Small Business" in the ISO's Terms of Reference ("the TOR") meant the ISO was unable to consider complaints relating to certain types of commercial fire and general insurance products (i.e. construction risks, fidelity guarantee, legal liability, professional indemnity, directors & officers liability, marine hull over 8-metres and import/export cargo).

Some existing Participants in the ISO Scheme and some potential Participants expressed concern about these provisions, on the basis that they would not comply with the Financial Service Providers (Registration and Dispute Resolution) Act 2008 ("the Act") if they chose the ISO Scheme as their dispute resolution service provider.

The compliance issue arose under section 48 of the Act, as reprinted and amended on 1 July 2010, which requires all financial service providers to belong to an approved scheme "in respect of a financial service provided to a retail client" (our emphasis). Section 49 of the Act provides that a retail client is not a wholesale client and sets out who are wholesale clients – this includes, among other criteria, a person who is in the business of providing any financial service and an entity which has net assets or a turnover exceeding \$1 million.

In July 2010, the ISO Commission and Board agreed in principle to amend the current definition of "Small Business" in the Rules and TOR, by removing the product inclusions and exclusions. Following the consultation phase required by the ISO Scheme Rules, the Minister of Consumer Affairs agreed to the proposed change and the definition of "Small Business", in the TOR and the ISO Scheme Rules, is as follows:

"Small Business" means:

*"an individual, a partnership of natural persons or a corporation whose shareholders are natural persons and who carry on a small business and, at the time the events giving rise to the complaint occurred, had no more than 19 full-time equivalent employees and is defined as a retail client in accordance with sections 48 and 49 of the Act".*

As well as providing extended coverage for consumers, the revised definition enables fire and general insurers with a large portfolio of commercial insurance products provided to small businesses to belong to the ISO Scheme, in the knowledge that they will comply with their obligations under the Act.

## Requesting medical information

In June 2009, the Privacy Commissioner issued a media release providing guidelines on the collection of medical information:

<http://privacy.org.nz/media-release-collecting-full-medical-notes-think-twice-privacy-commissioner-tells-insurers/>

The Privacy Commissioner was concerned that some insurance companies were requesting full medical notes when underwriting policies and assessing claims. Marie Shroff stated "[p]eople need to be completely upfront and honest when insurers ask about their medical history ... [b]ut their full medical notes contain a great deal of information about them and possibly about their family too. Not all of that is necessarily relevant to making insurance decisions, such as whether to insure someone or to pay out on a claim. The law allows insurers to collect only the information that they need to have so they can make those insurance decisions".

Some good guidelines for insurers to follow when requesting medical information are:

1. The insurer should make sure the life assured is aware that information is being requested. Consider having the life assured sign a separate consent form allowing the release of medical information, rather than simply using the policy application or claim form.

- C was not entitled to claim for loss of rent, because such loss was not the direct result of "an insured event"; and
- the decision to accept liability for 3 items was fair and reasonable.

The Case Manager noted that one of the 3 items had not been quantified and, with P's approval, proposed to resolve the complaint between the parties by way of a settlement, which was accepted C.

### Complaint settled

### Case Study 2

C insured his rental property with P.

On 23 April 2010, C made a claim to P for damage discovered when he visited the house, following the eviction of the tenants earlier that day. P's loss adjuster reported that the damage consisted of stains on the carpet in the lounge/dining area and the 3 bedrooms, ripped vinyl on the laundry floor, a broken glass pane and lifting laminate on the kitchen bench. A cash settlement of \$2,010 was made for the carpet and vinyl damage, after deduction of the \$500 excess, which P applied to the damage in each room. P replaced the bench, without applying an excess, because the fault with the laminate related to a previous claim for the bench. The broken glass pane was replaced for less than the \$500 excess.

C was advised the policy did not provide cover for the cost of dealing with a cockroach and rat infestation, or for the loss of rent, because the house had not become uninhabitable as a result of "an insured event". C challenged P's decision to apply multiple excesses and to decline the claim for loss of rent. C was also unhappy, because the loss adjuster had not noticed the damage to the carpet in the conservatory or to the vinyl in the kitchen. P confirmed its decision about the excesses and invited C to provide costs relating to the conservatory carpet and kitchen vinyl. P reiterated that there was no cover for the loss of rent but, in an effort to address some of C's concerns, offered a payment of one week's rent.

C referred a complaint to the ISO.

### Assessment

After reviewing the information provided and discussing the

2. Carefully consider what medical information is required and ask for just that.
3. When requesting medical information, an insurer needs to be able to provide clear reasons for requesting the information if asked, otherwise a life assured and their doctor could refuse to provide information, potentially causing delays and additional work for the insurer.
4. Be aware that the information collected can only be used for the purpose specified. For example, if the information is specifically requested on the grounds that it is required to review an insured's treatment and rehabilitation while on claim, the insurer may be limiting its rights to use the information to review potential disclosure issues on a policy.

If any party is not sure of their obligations they should contact the Privacy Commission for guidance.

## Rental Property

The ISO often receives complaints from private landlords who have discovered, on making claims for damage caused by tenants, that the cover provided for their rental property does not meet their expectations. Some landlords have unrealistic expectations about the scope of cover provided, especially when the policy was "extended" to provide landlord cover. When this was only in respect of cover for landlord's fixtures and furnishings and loss of rent. It is important landlords fully understand the scope of cover provided by the policy and take action to address any areas of concern, before a loss occurs.

Another problem arises when a landlord makes a claim for several items of damage and the insurer, correctly, applies the policy excess to each event. In some instances an insurer may elect to apply the excess once for each room rather than for each event, but some landlord's are also dissatisfied with this approach. The ISO website contains a number of Consumer Information Sheets which may help some landlords gain a greater appreciation of how insurers may resolve some disputes relating to the application of excesses and the scope of cover provided.

Some landlords assume they are "fully" insured and then discover the policy is no substitute for the need to identify good tenants and to make regular property inspections.

## A friendly reminder to Participants ...

When sending files to the ISO Office, can you please ensure they are chronologically ordered, with no duplication and secured in a folder or ring binder. This would assist us greatly.



complaint with C, the Case Manager concluded that:

- there were clearly multiple events and, by electing to apply one excess to each room rather than to each event, P had adopted the approach recommended by the ISO for situations in which a room may have sustained damage from more than one event;
- given C was present when the loss adjuster inspected the damage, C's complaint (about the loss adjuster not reporting on the damage to the carpet in the conservatory or to the kitchen vinyl) was not justified. The onus was on C to identify the damage he intended to be part of the claim;
- the conservatory carpet did not come within the scope of the complaint, because C had acknowledged the carpet had been replaced for less than the amount of the excess; and
- although the ISO did not have jurisdiction over how P conducted its business, the information provided indicated the claim had been handled well and that C's complaint about P's reference to certain matters, was not justified.

However, as a result of details C provided, the Case Manager was able to facilitate a settlement of \$565.72 in respect of the damage to the kitchen vinyl and the previous offer of one week's rent.

**Complaint settled**

## Did you know ...

That the Greeks and Romans introduced the origins of health and life insurance circa 600 AD? They organised guilds called "benevolent societies" which cared for families and paid funeral expenses of members upon death.

Source – D.C. White Agency,  
[www.dcwhiteagency.com](http://www.dcwhiteagency.com)