

1 I have been a part time member of the SCT for 12 years and have advised on matters before FOS. It is my view that the issues dealt with by the SCT and FOS should come within the jurisdiction of a government tribunal, rather than, in the case of FOS complaints, by an industry body, so that the decisions are enforceable by the tribunal or the regulators and to provide the appropriate independence from the industry.

2 It is also essential for procedural fairness that either side be able to appeal the tribunal's decision. That is not the case with FOS decisions.

3 An industry complaints mechanism such as FOS inevitably suffers from the perception that it is not independent from the industry that sponsors it and determines its rules.

4 The quantum of the jurisdiction of the suggested government tribunal should be unlimited, as is presently the case with the SCT, so that all consumers of these financial products can have their complaints dealt with by a tribunal rather than incur the expense of litigation. I have acted for a number of people, in my capacity as a barrister, who have been denied access to FOS because their losses exceeded the FOS jurisdictional limits.

5 A government tribunal needs to be properly funded. In my early days as a member the SCT, cases were heard within a short time after the complaint to the tribunal was made. In more recent times, I have sat on cases that have been in the tribunal for 3 to 4 years, because of under funding of the tribunal. For people who are unemployed and are disputing a disablement claim, that is unacceptable. Compare that with the AAT, which is adequately funded and where cases are usually heard within 12 months.

6 A widely held view in the superannuation industry is that part of the levies paid by the industry for the SCT and collected by ASIC are being retained by ASIC to fund regulation. The suggested government tribunal should be funded by the industries to which it relates, as is the case with the SCT and FOS. However, there must be transparency in relation to funding and the way in which levies are spent, so that industry can be confident that levies are directed solely to the purpose for which they are paid.

7 An independent government tribunal should not be associated in any way with ASIC or APRA because it is inappropriate for an independent tribunal to be seen to be associated in any way with a regulator.

8 My experience of sitting on the SCT and in writing about SCT decisions for the text *The Law of Superannuation in Australia* and for the *Australian Superannuation Law Bulletin* is that members, trustees and insurers are dealt with impartially and, largely, correctly in the decisions that are made. That is also evident from the outcome of the Federal Court appeal decisions. I have confidence, therefore, that a government tribunal dealing with a wider range of financial services complaints will do likewise and will have the confidence of the industry.