

EDR Review Secretariat  
The Treasury  
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Public Submission to the Review.

Following the letter of 12.1.17 from \_\_\_\_\_ of your Financial System Division (Ref: MC17-000068) I wish to make a public submission to the above review based on a reprehensible outcome from my daughter \_\_\_\_\_ recent experience with the Financial Services Ombudsman.

More detail of my daughter's experience with \_\_\_\_\_ and the Ombudsman is contained in the attached letter to the Minister, together with this summary, both to be forwarded by email.

- The outcome has reduced the value of my daughter's vessel by some \$45,000, a major loss for one dependent on her disability pension and with no significant asset other than the vessel.
- The trauma and stress caused by 33 months of repeat failures and negligence has driven her twice for a full week of counselling and recovery at "Heal for Life", Quorrobolong NSW.
- The Ombudsman Service commissioned a conflict of interest by using an "independent expert" who was an Assessor for another Insurance Company, a person dependent on the industry for employment, who was not expert at all for small vessels, and who did not even board the vessel before producing his report to the Ombudsman.
- \_\_\_\_\_ owner of \_\_\_\_\_ a truly independent group of experts, forwarded the Ombudsman a comprehensive six-page report, which the Ombudsman rejected. \_\_\_\_\_ himself expert in small vessels and sea rescue, is well aware of vessel restoration safety issues.
- \_\_\_\_\_ has indicated repeatedly his willingness to be questioned in regard to this case. His independence is recognised.

\_\_\_\_\_ experience has urged me to offer the following recommendations for the review: -

- *The Financial Ombudsman Service needs direct access to proper independent marine expertise, especially for pleasure craft and small vessels. It may be a small proportion of complaints to the Service, but this is an area of real need when insurance companies are focussed on costs and the Assessors they employ are conscious of this, sometimes at the risk of safety.*

- *At least one Case Manager should have marine expertise for complex claims where a conflict of interest may arise.*
- *Special recognition is needed for people with disabilities. Both and the Ombudsman Service failed my daughter throughout the 33 months of stress they caused. The dangers were recognised when the Service asked twice for police assistance after experiencing her distress in phone calls. persistently refused to forward details of repair actions they had commissioned on her behalf although knew of omissions.*
- *Recognition should be given for complaints made by female owners in an industry male dominated. was no doubt an exception to the rule for owning a vessel valued at \$90,000. Such vessels would normally be owned by males or companies with considerably more financial backing.*
- *A delay of four months to allocate a Case Manager is unacceptable for small vessel complaints.*
- *Provision for compensation should be given to the Ombudsman Service. could provide medical evidence of her distress; the only course available for compensation seems to be through legal action, difficult in condition.*

Ron McCarthy (Father)

MD TESOLEC

(Technology Solutions and Enterprise Consulting)

BE (H1), FIE Aust (ret).

26.12.16

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Minister for Revenue and Financial Services.  
The Hon Kelly O'Dwyer MP,

Email: [mrfscorro@treasury.gov.au](mailto:mrfscorro@treasury.gov.au)  
C/O Bianca.

My daughter [redacted] had a complaint with [redacted] (with the Financial Ombudsman Service). The issues were raised with your office by The Hon Joel Fitzgibbon MP, and your reply to him ref: - MC16-014998 was sent on 16.8.16.

After 29 months of repeat repairs, and although far from satisfied, [redacted] accepted the Ombudsman's final determination on 15.8.16 in the hope that her mental distress would cease.

Now the matter has been exacerbated by [redacted] advising Robyn they will not reinsure the vessel from 17.1.17 "as the risk now falls outside of our acceptance criteria". The advice was received on 19.12.16 (posted on 15.12.16). This is admission by [redacted] that they believe the vessel is now a liability – one returned to [redacted] as fully restored and seaworthy – and an opinion shared by an "expert" commissioned by the Ombudsman Service although that "expert" did not even board the vessel!

These actions by [redacted] and the owner [redacted] are a blight on the whole insurance industry: -

- There is no possibility of seeking a new insurer in less than a month in this holiday period. The action is discriminatory and retaliatory.
- The first question a new insurer would ask is "has the vessel been refused insurance" – thus complicating and extending any acceptance.
- *A conflict of interest was involved by employment of an "expert" who could not be considered independent due to his employment as an Assessor and who is dependent on employment from this industry. The fact that he chose to not even board the vessel speaks for itself!*
- [redacted] repairs have left the vessel in a greatly reduced value. A [redacted] rejected its sale for \$45,000 two weeks ago.

Your earlier reply to The Hon Joel Fitzgibbon suggested that [redacted] should seek support from Legal Aide in view of her disability and limited finances. I do not believe it would achieve priority (within weeks) and marine expertise would not be likely.

The Ombudsman rejected advice from \_\_\_\_\_, owner of \_\_\_\_\_ a company of independent technical specialists providing services to a wide range of insurers in Australia for over 25 years. \_\_\_\_\_ himself an expert in matters of small vessels and his comprehensive report to the Ombudsman, were ignored in preference to the biased "expert".

The sad and serious outcome of this abhorrent action by \_\_\_\_\_ is that it has again driven \_\_\_\_\_ into a state of severe depression (and at a time when the Christmas season should be the opposite); and just a week following a week of healing and recovery at "Heal for Life" at Quorrobolong NSW!

\_\_\_\_\_ recognizes the provocation and the likely outcomes of the actions taken by \_\_\_\_\_ and has offered to report to your office as a true independent. I believe the reputations of the Ombudsman Service and the insurance industry are at risk, the matter is that serious!

\_\_\_\_\_ has insured the vessel for \$90,000 for the full 33 months of repeat repairs till now – surely insurance cover should continue till the vessel is sold and a new owner can proceed as normal.

Yours faithfully,

Ron McCarthy,  
(Father)