

FAIR Association of Victims for Accident Insurance Reform
579A Lakeshore Rd. E., Box 39522, Mississauga, ON, L5G 4S6
fairautoinsurance@gmail.com
fairassociation.ca

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FAIR submission to: FSRA's Guiding Policy Framework on Complaints Resolution and Best Practices No. GR0013INF

FAIR (Fair Association of Victims for Accident Insurance Reform) is a grassroots not-for-profit organization of Ontario's MVA (Motor Vehicle Accident) survivors who have struggled with access to recovery resources under the current auto insurance system.

Thank you for the opportunity to comment on FSRA's Guiding Policy Framework on Complaints Resolution and Best Practices. Our comments are directed toward auto insurance related issues only.

We do not support or have faith in a 'principles-based, outcomes-focused regulation' that does not clearly define what constitutes acceptable behavior by Ontario's auto insurers.

FSRA Vision: Consumers, members, and pension plan beneficiaries have access to an end-to-end complaints resolution process that resolves complaints in a fair, timely, transparent, and effective manner.

- **accessible:** Auto insurance consumers who make a complaint are often challenged both physically and cognitively from injuries and the FSRA website doesn't appear to keep this in mind with a generic one size fits all (across all financial sectors) approach. This form was not savable once the boxes were filled in and the instructions on the 'General Information on How to Download Forms' page were complicated and indicate that this ability to download was impaired on many devices. This reader was unable to download the form. **[1]**
- **fair:** It is unfair to put so many caveats on the complaints process. The requirement to have in writing a response from the entity or person about whom you are complaining is an unreasonable prerequisite to taking an interest in a consumer issue. Time is often of great importance when an individual has to chase an insurer down for rehabilitation so waiting for their own insurer's Ombudsman to respond to the issue (and who can say that would be timely) BEFORE putting in a complaint at FSRA is onerous and unfair. It's clear from the order of possible options to choose from to bring a complaint forward and the position FSRA puts itself in as number 2 suggests a reluctance to perform this regulatory oversight. This bias against investigating complaints until certain thresholds are met is itself a display of bias and it creates obstacles in the process. **[2]**
- **timely:** Our members indicate that they wait many months to get any action at all on their complaints other than being assigned an identifying case number. They are left without updates or any indication of where their complaints are so there is a feeling of being left in limbo. There would be a lot of work to do in this area and we have suggested that there could be a ticker system that would indicate status of a case to complainants. Court systems such as Supreme Court of Canada, Canada Post and retailers routinely use this type of system to track their interaction with the public.

- **transparent:** There should be an update after the first 6 months, then every three months thereafter, up until year one, after which a report should be written to the Minister and the complainant explaining the delay . Outcomes should not be a question of placating the complainant but should include informing the public of the actions of an insurer so as to fulfill the fundamental reason that most MVA survivors come to the process in the first place – to protect others. This failure to do so undermines the public perception of the role of FSRA as Regulator and has already caused reputational damage as Ontario’s auto insurance claimants view FSRA as under the thumb of auto insurers.
- **effective:** Its’ a challenge to comment about effective enforcement when it comes to FSRA’s handling of auto insurer complaints or the transparency around a system that has published only two decisions in respect to auto insurers. Two. Two sanctions for the same individual and posted in 2020 in respect to “cease and desist from engaging in the business of insurance for a period of six months for engaging in unfair or deceptive acts or practices contrary to section 439 of the Act.” We can make no deductions from these sanctions since it is unclear what the offense was. NO insurers are listed on the enforcement pages. None. This is a system breakdown considering 16,000 citizens who paid premiums had to take their insurer to a failed LAT hearings system in the past year alone. The result is the view that FSRA works to protect the insurers, as opposed to fulfilling its mandate to protect the public. [3]

Appendix: discussion questions

best practices: are there additional best practices that FSRA should explore or consider in the context of its work on complaints resolution?

policy framework: does the Policy Framework include the appropriate principles? Are there any other principles that merit consideration in FSRA’s Policy Framework?

FY2022-23 work: are there specific topics or issues that FSRA should explore during its upcoming work to strengthen its understanding of the current complaints resolution system?

general feedback: are there other topics, issues, or themes that FSRA should consider in the context of its work on complaints resolution?

It is clear to many injured Ontarians that they will not be getting fair treatment at the hands of their insurer but they do expect better from the Regulator who is charged with protecting consumer interests and not the insurers whom FSRA is mandated to regulate.

Writing down ‘best practices’ and creating policy frameworks that specifically deter consumers from achieving accountability undermines the quality of the insurance product. It will provide profits for insurers and a black hole of costs for taxpayers who pay when insurers don’t. It is already leaving many consumers without the resources for recovery and the failure to regulate with a ‘principle based oversight’ without parameters to encourage accountability has a price - consumers distrust of auto insurers has already undermined faith in our government through FSRA inaction.

The failure to hold insurers to account means Ontario's auto insurance is a system completely broken down and the only part that still works is the flow of funds from consumers' pockets into the hands of insurers.

Thank you for the opportunity to have our voice heard and we look forward to FSRA's greater consumer focus in 2022-23.

FAIR Association of Victims for Accident Insurance Reform

[1] FSRA complaint form <https://www.fsrao.ca/media/4186/download>

Resource page <https://www.fsrao.ca/general-information-how-download-forms>

See top of page 1 for the demand for "final response from the person/entity who your complaint is about."

See page 4 for Notification and Consent

Your personal information is being collected by the Financial Services Regulatory Authority of Ontario ("FSRA") under the authority of the Financial Services Regulatory Authority of Ontario Act, as part of FSRA's role in regulating the financial services sectors and protecting the rights and interests of consumers. FSRA requires the personal information you have provided in this form to investigate your complaint.

FSRA may need to disclose your personal information to third parties as part of its review or ensuing investigation, if required. By signing below you consent to FSRA's disclosure of the information contained on this form, and may additional information about your complaint to the following parties:

- 1. The person(s) and or entity named in your complaint**
- 2. Any government ministry, agency, board or commission**
- 3. Any self-regulatory agency or association; and**
- 4. Any Canadian law enforcement agency**

If FSRA is required to share your personal information with a person or entity not listed above to resolve your complaint, you will be contacted to provide further consent.

If you have any questions about FSRA's collection and disclosure of your personal information, please contact:

□

Consumer is then given 2 choices:

I hereby consent to FSRA's collection, use and disclosure of the information I have submitted in my complaint, including my personal information to:

same list as above

I do not consent to the collection, use and disclosure of the information I have submitted in my complaint.

[2] Confusing options regarding who to complain to: <https://www.fsrao.ca/consumers/auto-insurance/how-resolve-auto-insurance-complaint>

[3] 2 complaints listed: <http://www.fSCO.gov.on.ca/en/about/enforcement/enforcement-online/Documents/2021-3976-MW.html> and <http://www.fSCO.gov.on.ca/en/about/enforcement/enforcement-online/Documents/2021-3977-MW.html>