

Deficiency of services in Banks

Introduction – *This Document is about grievances and complaints with the banks and how to deal with them. I have borrowed from RBI site. I have taken here only the salient points. At this site pertinent cases and judgments are also given.*

Executive Summary

The Disputes Redressal Agencies (District Forums, State Commissions and National Commission) under the Consumer Protection Act,1986 adjudicate upon the complaints of consumers relating to defaults in products and deficiency in service.

‘Service’ as defined in the Act includes the provision of facilities in connection with banking.

The principles laid down by the various decisions of the Consumer Commissions and the Supreme Court can be summarized as under:

Failure /Delay in repaying deposits

- Withholding of the amount due on a fixed deposit after its maturity,
- Delayed payment of term deposits on maturity.
- Inordinate delay in payment of proceeds of premature encashment of deposits as well.

Payment and Collection of Cheques/Drafts

- Wrongful dishonour of cheques due to the negligence or mistake on the part of the bank.
- Dishonour of DDs due to the lapse or omission on the part of the officials of the bank like non-affixation of signatures, failure to mention code number etc. is amounting to deficiency in service.

Loans and Advances

- **Refusal to grant loans**

Even though the bank has the right to refuse or grant loan, causing undue delay in releasing the installments of the sanctioned loan might be held to amount to deficiency in service.

- **Interest**

Charging interest at a rate higher than the rate stipulated in the loan agreement would amount to deficiency in service.

Security for loans

Bank are liable for deficiency in service in cases were they fail to return the security documents even after repayment of the whole loan.

Bank Guarantee

The failure of a bank to honour bank guarantee is a deficiency in service.

Locker

A bank is liable for loss of articles kept in the locker with the bank.

Security in bank's premises

The safety of the money to be deposited and/or withdrawn inside the bank premises is implicitly a part of the service rendered by a bank to a customer.

Other Banking Services

- Closing of account without the instructions of the account holder would amount to deficiency in service.
- The refusal to provide cheque book facility to a customer on the ground of not maintaining the minimum balance in his account may not amount to deficiency in service.

Vicarious Liability

A bank is bound by the act of negligence of its staff during the course of employment. Thus where the bank cashier fails to account for the money deposited with him at the counter, the bank would be liable.

Rude behaviour

A bank may be held liable for deficiency in service owing to rude behavior of its officials and be ordered to pay compensation for the mental agony and discomfort caused.

Notice before auction

A notice to pay or face auction without making any earlier demand for repayment of loan and without giving date of auction was held to constitute deficiency in service.

Non-return of dishonoured cheque

The failure to return a dishonoured cheque is deficiency in service where the complainant is unable to take action against the drawer.

Strike

A bank may not be liable to pay compensation for suspension of business due to illegal strike by the employees and when no loss is caused due to the negligence of the bank. However, in a case when the strike by award staff was not such as to paralyse work and when the officers and other employees were willing to work and still the salary accounts were not credited, it was held that the bank was liable for deficiency in service.

Service charges

An increase in charges levied by a bank for its services do not fall within the provisions of the Consumer Protection Act. A bank may levy charges for issuance of MICR cheques, so long as it is not against the directives of the Reserve Bank. This cannot be termed 'unilateral' and taking the consent of each customer does not arise.

Forgery of Power of Attorney

Once a registered power of attorney is produced before the bank, the bank does not have to make any further verification of signature. As the bank is not expected to verify signature, it cannot be held responsible for negligence in verification of signature.

Consumer Forum- Jurisdiction and Procedure

A consumer complaint may not be entertained by the Consumer Forums when the matter is sub-judice before a competent Civil Court.

A person who acts as surety for another and does not hire/avail service from the bank, is not a consumer of the bank and therefore, his complaint may not be entertained .

Voluminous Evidence- Complicated Questions of Law and Fact

In cases involving complex questions of facts and interpretation of laws and rights and obligations of parties under various Statutes, the complainants have to seek redressal of their grievances before Civil Courts not the Consumer Forum. Similar is the case when elaborate evidence is required to be taken.

Complaints

The First Step for any complaint is to contact the **Customer Care** division of your bank. It is best to keep a record of your complaints , so written copy, even email is better. State your case clearly and attach scanned or Xeroxed copies of any supporting document. Usually a system generated mail is received for emails , saying in how many days the complaint will be attended to.

In Phone conversation also you will be given some sort of number which should be noted and quoted subsequently.

If you are not satisfied , mostly you can still contact higher people in the bank.

If all fails, you can contact **The Banking Ombudsman.**

The Banking Ombudsman Scheme, 2006

Excerpts from the FAQ page of RBI site. For Full Text please visit the site.

<http://www.rbi.org.in/scripts/FAQView.aspx?Id=24#1>

The Banking Ombudsman Scheme, 2006 enables resolution of complaints of bank customers relating to certain services rendered by banks.

The Banking Ombudsman is person appointed by the Reserve Bank of India to redress customer complaints against certain deficiency in banking services.

The Banking Ombudsman is a quasi judicial authority. It has power to summon both the parties - bank and its customer, to facilitate resolution of complaint through mediation.

As on date, 15 Banking Ombudsmen have been appointed with their offices located mostly in the State Capitals. The addresses of the Banking Ombudsman offices have been provided in the RBI website.

All Scheduled Commercial Banks, Regional Rural Banks and Scheduled Primary Co-operative Banks are covered under the Scheme.

Complaint

The Banking Ombudsman can receive and consider any complaint relating to the following deficiency in banking services:

- non-payment or inordinate delay in the payment or collection of cheques, drafts, bills, etc.;
- non-acceptance, without sufficient cause, of small denomination notes tendered for any purpose, and for charging of commission for this service;
- non-acceptance, without sufficient cause, of coins tendered and for charging of commission for this service;
- non-payment or delay in payment of inward remittances ;
- failure to issue or delay in issue, of drafts, pay orders or bankers' cheques;
- non-adherence to prescribed working hours;
- failure to honour guarantee or letter of credit commitments ;
- failure to provide or delay in providing a banking facility (other than loans and advances) promised in writing by a bank or its direct selling agents;

- delays, non-credit of proceeds to parties' accounts, non-payment of deposit or non-observance of the Reserve Bank directives, if any, applicable to rate of interest on deposits in any savings, current or other account maintained with a bank ;
- delays in receipt of export proceeds, handling of export bills, collection of bills etc., for exporters provided the said complaints pertain to the bank's operations in India;
- refusal to open deposit accounts without any valid reason for refusal;
- levying of charges without adequate prior notice to the customer;
- non-adherence by the bank or its subsidiaries to the instructions of Reserve Bank on ATM/debit card operations or credit card operations;
- non-disbursement or delay in disbursement of pension to the extent the grievance can be attributed to the action on the part of the bank concerned, (but not with regard to its employees);
- refusal to accept or delay in accepting payment towards taxes, as required by Reserve Bank/Government;
- refusal to issue or delay in issuing, or failure to service or delay in servicing or redemption of Government securities;
- forced closure of deposit accounts without due notice or without sufficient reason;
- refusal to close or delay in closing the accounts;
- non-adherence to the fair practices code as adopted by the bank; and
- any other matter relating to the violation of the directives issued by the Reserve Bank in relation to banking or other services.
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Will the Banking Ombudsman consider complaints of Non-Resident Indians?

Yes, the Banking Ombudsman will consider complaints from Non-Resident Indians having accounts in India in relation to their remittances from abroad, deposits and other bank-related matters.

When can the complainant file his complaint?

He can file his complaint before the Banking Ombudsman if the reply is not received from the bank within a period of one month, after the bank concerned has received his representation, or the bank rejects the complaint, or the complainant is not satisfied with the reply given to him by the bank.

Does the complainant have to fulfill any conditions before complaining to the Banking Ombudsman?

For filing a complaint before the Banking Ombudsman, it is essential for a complainant to first attempt to find a satisfactory solution directly with his bank by making a written representation to the bank named in the complaint. The complaint should, however, be made before expiry of period of one year after the cause of action has arisen.

Is there any procedure for filing the complaint before the Banking Ombudsman?

A complainant can file a complaint with the Banking Ombudsman simply by writing on a plain paper. He can also file it online at www.bankingombudsman.rbi.org.in or by

sending an email to the Banking Ombudsman. There is also a prescribed form for filing a complaint, which is available with all the branches of the banks. However, it is not necessary to use this format. The complainant should, however, incorporate all the required information.

Can a complaint be filed by an authorized representative of the complainant?

Yes. The complainant can be filed by an authorized representative (other than an advocate) of the complainant.

Is there any cost involved in filing complaints with Banking Ombudsman?

No. The Banking Ombudsman does not charge any fee for resolving customers' complaints.

What details are required in the application?

The complaint should have the name and address of the complainant, the name and address of the branch or office of the bank against which the complaint is made, facts giving rise to the complaint supported by documents, if any, the nature and extent of the loss caused to the complainant, the relief sought from the Banking Ombudsman and a declaration about the compliance of conditions which are required to be complied with by the complainant.

Appeal

Either party aggrieved by the award may, within 30 days of the date of receipt of the award, appeal against the award before the appellate authority. The appellate authority may, if he is satisfied that the applicant had sufficient cause for not making an application for appeal within time, also allow a further period not exceeding 30 days.

The appellate authority is the Deputy Governor in the Reserve Bank of India.

Rider

The Banking Ombudsman may reject a complaint at any stage if it appears to him that a complaint made to him is:

- i. frivolous, vexatious, malafide or without any sufficient cause or
- ii. that it is not pursued by the complainant with reasonable diligence or
- iii. in the opinion of Banking Ombudsman there is no loss or damage or inconvenience caused to the complainant or
- iv. beyond the pecuniary jurisdiction of Banking Ombudsman or
- v. in the opinion of the Banking Ombudsman the complicated nature of the complaint requires consideration of elaborate documentary and oral evidence and the proceedings before him are not appropriate for adjudication of such complaint.

The Banking Ombudsman Scheme was first introduced in 1995 and was revised in 2002. Over the past five years, around 36,000 complaints have been dealt by the Banking Ombudsmen.

Address and Area of Operation of Banking Ombudsman

Centre	Contact details of the Office of Banking Ombudsman	Area of Operation
Ahmedabad	Shri Arnab Roy C/o Reserve Bank of India La Gajjar Chambers, Ashram Road, Ahmedabad-380 009 Tel.No.079- 26582357, 079- 26586718 Fax No.079-26583325 email: bogujarat@rbi.org.in	Gujarat, Union Territories of Dadra and Nagar Haveli, Daman and Diu
Bangalore	Shri. K.R.Ananda C/o Reserve Bank of India 10/3/8, Nrupathunga Road Bangalore-560 001 Tel.No.080-22210771, 080- 22275629 Fax No.080-22244047 email: bobangalore@rbi.org.in	Karnataka
Bhopal	Shri B.P.Kanungo C/o Reserve Bank of India Hoshangabad Road, Post Box No.32, Bhopal-462 011 Tel.No.0755-2573772, 0755- 2573776 Fax No.0755-2573779 email: bobhopal@rbi.org.in	Madhya Pradesh and Chattisgarh
Bhubaneswar	Shri P.K.Jena C/o Reserve Bank of India Pt. Jawaharlal Nehru Marg Bhubaneswar-751 001 Tel.No.0674-2396207, 0674- 2396008 Fax No.0674-2393906 email: bobhubaneswar@rbi.org.in	Orissa
Chandigarh	Smt. Balbir Kaur C/o Reserve Bank of India New Office Building	Himachal Pradesh, Punjab and Union Territory of Chandigarh

	Sector-17, Central Vista Chandigarh-160 017 Tel.No.0172-2721109, 0172-2721011 Fax No.0172-2721880 email: bochandigarh@rbi.org.in	
Chennai	Smt Harmesh Khanna C/o Reserve Bank of India, Fort Glacis, Chennai 600 001 Tel No.044-25399170, 044-25395964 Fax No.044-25395488 email: bochennai@rbi.org.in	Tamil Nadu, Union Territories of Pondicherry and Andaman and Nicobar Islands
Guwahati	Shri K.R.Das C/o Reserve Bank of India Station Road, Pan Bazar Guwahati-781 001 Tel.No.0361-2542556, 0361-2540445 Fax No.0361-2540445 email: boguwahati@rbi.org.in	Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland and Tripura
Hyderabad	Shri.M.Sebastian C/o Reserve Bank of India 6-1-56, Secretariat Road Saifabad, Hyderabad-500 004 Tel.No.040-23210013, 040-23243970 Fax No.040-23210014 email: bohyderabad@rbi.org.in	Andhra Pradesh
Jaipur	Shri P Vijaykumar C/o Reserve Bank of India, Ram Bagh Circle, Tonk Road, Post Box No.12, Jaipur-302 004 Tel.No.0141-2570357/0141-2570392 Fax No.0141-2562220 email: bojaipur@rbi.org.in	Rajasthan
Kanpur	Shri B.K.Bhoi C/o Reserve Bank of India M.G. Road, Post Box No.82 Kanpur-208 001	Uttar Pradesh (excluding District of Ghaziabad) and Uttaranchal

	Tel.No.0512-2361191/0512-2310593 Fax No.0512-2362553 email: bokanpur@rbi.org.in	
Kolkata	Shri C.V.George C/o Reserve Bank of India 15, Nethaji Subhas Road Kolkata-700 001 Tel.No.033-22306222/033-22305580 Fax No.033-22305899 email: bokolkata@rbi.org.in	West Bengal and Sikkim
Mumbai	Smt. Rashmi Fauzdar C/o Reserve Bank of India Garment House, Ground Floor, Dr. Annie Besant Road, Worli, Mumbai-400 018 Tel.No.022-24924607/022-24960893 Fax No.022-24960912 email: bomumbai@rbi.org.in	Maharashtra and Goa
New Delhi	Shri H Kulshreshtha Banking Ombudsman Reserve Bank of India Building 2nd Floor, 6, Sansad marg New Delhi - 110001 Tel No. 011- 23725219/23710882/23725445 Fax No. 011-23725218 email: bonewdelhi@rbi.org.in	Delhi, Haryana, Jammu and Kashmir and Ghaziabad district of Uttar Pradesh
Patna	C/o Reserve Bank of India, South Gandhi Maidan, Patna-800 001 Tel.No.0612-2322569/2323734 Fax No.0612-2320407 email: bopatna@rbi.org.in	Bihar and Jharkhand
Trivandrum	Smt. Suma Varma C/o Reserve Bank of India Bakery Junction Thiruvananthapuram-695 033 Tel.No.0471-2332723/0471-2329676 Fax No.0471-2321625 email: bothiruvananthapuram@rbi.org.in	Kerala and Union Territory of Lakshadweep

Courtesy :

“Consumer Cases on Banking”

http://www.rbi.org.in/Scripts/bs_viewcontent.aspx?Id=171