



November 2009

Resolving Complaints about Trustees and Administrators

ABOUT ITSA REGULATION

ITSA Regulation is an independent area of ITSA which reports directly to the Inspector-General in Bankruptcy.

It is responsible under the Bankruptcy Act for monitoring the standards of trustees, including ITSA, and debt agreement administrators.

Its role includes, on behalf of the Inspector-General in Bankruptcy, dealing with complaints against trustees and administrators and dealing with requests for review of certain decisions made by trustees.

WHO MAY COMPLAIN TO ITSA REGULATION?

Anyone may complain if they are concerned about an action taken by a:

- bankruptcy trustee, including the Official Trustee;
- debt agreement administrator including any person who provides assistance in setting up a debt agreement;
- controlling trustee of a Part X arrangement.

Enquiries about voting on a debt agreement proposal, or varying or terminating a debt agreement should be directed to ITSA's Debt Agreement Service on 1300 364 785.

HOW TO COMPLAIN?

First try and resolve your concerns with the trustee or administrator. If you remain dissatisfied or feel unable to raise the issue with them, contact ITSA Regulation. All complaints are treated seriously.

WHAT DOES IT COST?

There is no charge for this service.

HOW IS MY COMPLAINT HANDLED?

Your enquiry may be resolved immediately over the phone or resolved quickly with the trustee or administrator. Should ITSA Regulation decide the matter requires further investigation you may be requested to provide further information in writing or evidence to assist. Written complaints will be acknowledged in writing within 7 days of receipt.

The basis of your complaint is usually explained to the trustee or administrator. If you wish to remain anonymous, or have concerns about your details being made available, please make this clear to ITSA Regulation.

ITSA Regulation aims to finalise the investigation within 60 days of receiving your complaint and will keep you informed of the progress of the investigation monthly.

If your complaint is beyond ITSA Regulation's powers to investigate, or they cannot resolve it, you will be advised of your options, such as making an application to the Court. Meetings between parties can also be facilitated with a view to quicker resolution of disputes. You should indicate when making the complaint if you wish to consider this option.

HOW IS MY COMPLAINT INVESTIGATED?

Sometimes ITSA Regulation can resolve complaints through discussions with the trustee or administrator, particularly if they are able to demonstrate to the trustee or administrator that they have incorrectly applied the law.

Where the matter has to be taken further, a written response is obtained from the trustee or administrator addressing the issues of your complaint and their file may be inspected.

REPORT ON THE INVESTIGATION

You and the trustee or administrator will be provided with a copy of any report regarding your complaint.

DECISIONS WHICH CAN BE REVIEWED BY ITSA REGULATION

In some instances ITSA Regulation can review a trustee's decision eg

- filing of a notice of objection to discharge
- issuing an income contribution assessment
- rejecting a hardship application with respect to an income contribution assessment
- using a supervised account for recovering income contributions

If your complaint relates to a decision of a trustee that is reviewable, you should follow the procedure set out in the fact sheet *Can I Appeal?*

REVIEW OF TRUSTEE'S FEES

A creditor or bankrupt who is dissatisfied with a private bankruptcy trustee's claim for fees and costs may either:

- complain to ITSA Regulation; or
- request ITSA to undertake a review of the trustee's fees
 - This process is called a 'taxation of costs'. A fee is charged for this service and you may also be required to pay the trustee's costs if you are unsuccessful in having the fees significantly reduced.

In a complaint process ITSA Regulation can examine the legality of the fees and whether the trustee has complied with standards set out in the Bankruptcy Act and can only require the trustee to vary their fee if it has not been legally taken or is not in accordance with the regulated standards. The "taxation of costs" process examines the nature of work undertaken, the time taken and the amount charged.

WHAT IF ITSA REGULATION CANNOT HELP?

ITSA Regulation cannot direct a trustee or administrator on how they should deal with property or creditors claims. If your complaint cannot be resolved by the intervention of ITSA Regulation your only remedy may be to apply to the Court. You will be informed if this is the case.

FURTHER RIGHT OF COMPLAINT

If you do not feel you have been treated with dignity and respect or are otherwise dissatisfied with the way that ITSA Regulation has handled your complaint, please raise your concerns further by asking to speak with the actioning officer's manager. If you remain dissatisfied you have a right to complain to the Commonwealth Ombudsman.

RECORDS OF COMPLAINTS

A record of all complaints (both resolved and unresolved) is retained by ITSA Regulation. The record is kept as valuable feedback to assist in:

- ongoing monitoring of the standard of that trustee or administrator
- determining the scope of ITSA Regulation's monitoring of trustees and administrators
- education of trustees and administrators
- advising Government on bankruptcy policy issues

Further information about what you can expect from ITSA Regulation and ITSA generally is available in the Client Service Charter.

ITSA CONTACTS

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