



*OFFICE OF THE BANKING
ADJUDICATOR (OBA)*

Annual Report 2007/08

Free, fair, independent and accessible dispute resolution service

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Highlights

101 new cases, an increase of 5per cent

11 systemic issues resolved in the year 2007/2008

Independent review of the Office of the Banking Adjudicator

A new member joins the scheme making 9 member banks as at 30th June 2008.

Bankers' Association of Botswana Code of Banking Practice draft released

The Office of the Banking Adjudicator admitted as a founding member of the International Network of Financial Ombudsman.

The Banking Adjudicator admitted as an Associate-Arbitrator by the Botswana Institute of Arbitrators

The Office of the Banking Adjudicator join hands with the Publicity Committee of the Bankers' Association of Botswana to develop a road map for various activities (Public Awareness, Banks, Customer Satisfaction surveys & Public Education)

The Banking Adjudicator's financial limitation raised to P500,000.00 and Small businesses with a turn over not exceeding P3 million now covered.

The Office of the Banking Adjudicator commissions a website.

Tel: (0267) 3935406 fax:(0267)3935409 cell: (0267)71326282

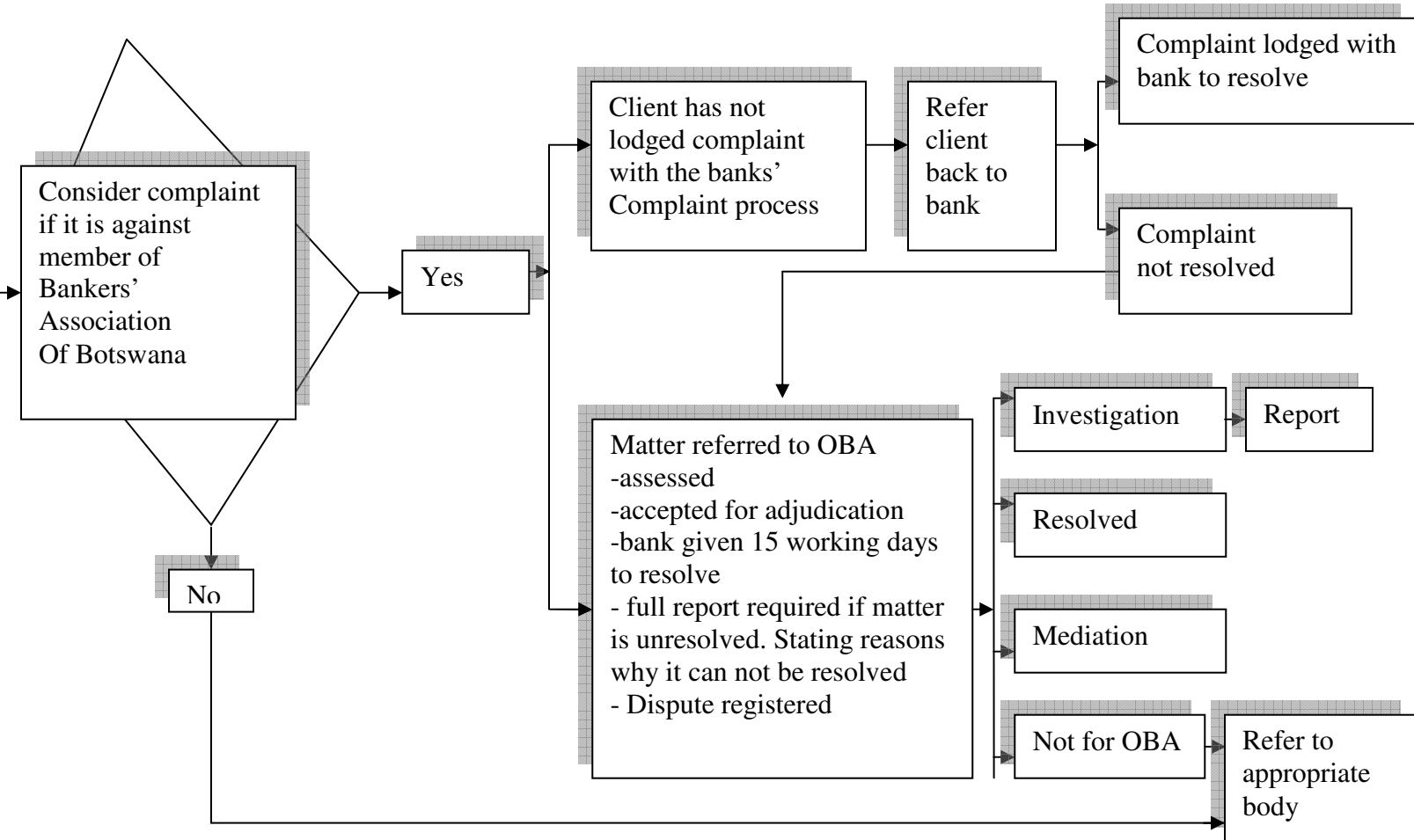
Email: bankadjud@info.bw website: bank-adjudicator.org.bw

7 years in operation

About the Office of the Banking Adjudicator (OBA):

- . The Office of the Banking Adjudicator was established in 2002, the first voluntary scheme in the banking sector in Botswana.
- . We investigate complaints about banking services supplied by member banks of the Bankers' Association of Botswana.
- . Our service is free, fair, accessible, efficient and informal
- . We are impartial, independent and professional.
- . Banks must comply with awards of compensation made by this office.

OBA Complaint Process



(See detailed process on pages 24 -27)

Vision

The Office of The Banking Adjudicator will be the mediator in disputes between banks and their customers, through informed and well thought resolutions and decisions.

Mission

The Office of The Banking Adjudicator is committed to providing banks and their customers with a free, accessible and efficient dispute resolution service.

Values

The Office of The Banking Adjudicator subscribe to the following values: Independence, Impartiality, Confidentiality, Accessibility, Integrity and Timeliness.

Service Standards

Target - At least, 60% of files within 45 days.

- All files within 60 days.

Process 1 -Same day response and referral to bank.

Process 2 and **Process 3** - within a maximum period of 60days.

Overall

Our aim is to finalize All FILES within two months of opening the file.

We aim for a minimum average of 30 days from the date of opening to date of closure of the file.

Process 1- Telephonic or written enquiry received, complainant advised to take up the complaint with the bank first.

Process 2 – Complaint considered, file opened, complaint referred to bank to attempt to resolve, settled or escalated to Process 3.

Process 3- Bank’s response is considered and assessment made or dispute mediated or investigated and adjudicated upon.

Message from the Bankers' Association of Botswana Chair

Message from the Banking Adjudicator.

Snapshot on disputes

The sixth year of the Banking Adjudicator scheme has been a very exciting and busy one. Towards the beginning of it in September 2007, we received at least fifty- seventh complaint and by the end of April 2008 over one hundred complaints. There was a rise of at least 5% in complaints that were considered disputes and most of these were, accompanied by a large increase in cases resolved quickly and informally without the need for a full investigation. This is an indication that the banks have now revamped their complaint processes.

Early Resolution of disputes

In the past, OBA has reflected on the excellent early resolution rate, which our members banks have been achieving over the past years, even though one or two still have to make the mark. In this reporting period, this rate remained almost the same as last years' at a turn around time of 30 days.

We have maintained a very good working relationship with all the member banks' complaint handling teams. This was possible through facilitation of agreements between the bank and the complainant. OBA is now satisfied that most banks have an effective internal complaint resolution process, where a majority of complaints are sensitively handled and resolved.

However, what is essential is for the banks to recognize complaints when they are first expressed, and immediately subject them to the internal complaints system if they can not be resolved at the front office level.

New Member

We were very pleased to welcome a new member Capital Bank to the Scheme over the reporting period. The increase of the Scheme with new members encourages the professional and personal exposure to a wide range of financial products and challenges and with an opportunity for customers to have a wide array of banking services.

Systemic Issues

A systemic issue is one that will or may affect bank customers or people entitled to complain, in addition to the complainant who has made a complaint to the Banking Adjudicator. This may be an issue specific to one bank, several or to the entire banking industry.

Most of these issues are resolved fast once they are brought to the bank's attention. Some however take time to resolve, and in some cases the bank is reluctant to address them, especially if much time and expense is required.

At least 11 systemic issues were identified, and satisfactorily resolved with the member banks. Broad categories of these fell under computer programming and human errors, product package errors, calculation errors and conduct contravening good banking practice.

Jurisdiction

Banking Adjudicators' Terms of Reference has been amended, with the financial limitation on claims raised from P250,000.00 to P500,000.00 for direct loss and P5000.00 for inconvenience.

For Small businesses, with a turnover of P2 million now raised to P3 million. This is a positive development as it now enables wider coverage in the banking industry on complaints.

Code of Banking Practice

Another issue that occupied a good deal of my time in 2008 was the review of The Bankers' Association of Botswana Code of Banking Practice, which is now under consideration by the Bankers' Association of Botswana for approval after consultation with the various stakeholders in the banking industry.

The Code is a set of minimum standards, which all the signatory banks agree to observe. Once the code is made available to customers this will help alleviate systemic cases and improve public awareness of the rights and obligations of the banks and the customers.

Furthermore, the Banking Adjudicators' Terms of Reference should, be reviewed to harmonize it with the code.

Bank Staff General Knowledge on Complaints Process

Following enquiries from member banks on whether all complaints coming before the Banking Adjudicator undergo the full length of the banks' complaint system. OBA carried out informal investigations as a "mystery shopper" on at least 5 banks, and it was revealed that a few of the frontline staff interviewed were ignorant of their banks complaints process and others were not even aware of the existence of the office of the Banking Adjudicator.

On a positive note though, some banks have displayed such processes in their banking halls even showing how the Adjudicator processes inter face with theirs. Concerted effort has to be put in this area and soon to bridge this gap.

It would be necessary to have forums/workshops/seminars with staff of banks' complaints-handling teams as this will provide an opportunity to discuss current issues in an informal setting, and to make sure that both practices and processes are well understood.

Independent Review of the Office of the Banking Adjudicator

As a universal and professional practice Banking Ombudsman Schemes are reviewed periodically for purposes of benchmarks and to ensure that their mandate are accomplished.

The usual areas of concentration are in Accessibility, Independence, Fairness, Accountability, Efficiency and Effectiveness.

The office has to be reviewed with the view to establish whether its operations are in sync with good banking practice. This process would require consultation, with major stakeholders in the industry.

In brief, the concepts above seek to explain the following:

Accessibility- an effective complaint service should be easy to use, accessible and well publicized. **Independence** – the complainant service should be seen to be independent of the organizations that run the services. **Fairness** – a complaint service should provide a full and impartial investigation.

Accountability – the complaint service ought to be able to render what it has done to the participants, to the consumers and to the stakeholders all in equal measure. **Efficiency** – there should be evidence of a complaint service with a speedy process containing time limits for action and with provision of advice about process. **Effectiveness** – complaint service should be known for its willingness and ability to address issues raised and to provide suitable outcomes.

Thank you!

I thank the Bankers' Association of Botswana and the Botswana Institute of Bankers staff for their support, commitment and enthusiasm throughout the years.

Gabriel A.K Maotwanyane (**AB Arb**)

Banking Adjudicator:

Overview of the Complaints

The total number of files opened per bank in 2007/08 is not necessarily indicative of the individual bank's complaint handling performance or performance in general. Banks vary considerably in size, client profile, distribution networks and product mix. In fact a comparatively high number of complaints received against a bank might reflect its efforts in advertising the existence of the Office of the Banking Adjudicator or that it refers comparatively more of its disgruntled clients through to the office than do the other banks.

Main Causes for Complaints in 2007/08

The main cause for the complaints in 2007/08 can be classified into the following categories:

Table 1

Causes	%
1. Unfair Treatment	20%
2. Service Issues	20%
3. ATM fraud	20%
4. Transactional errors	10%
5. Unauthorised transactions	10%
6. Bank Fees	10%
7. Card loss	5%
8. other	5%

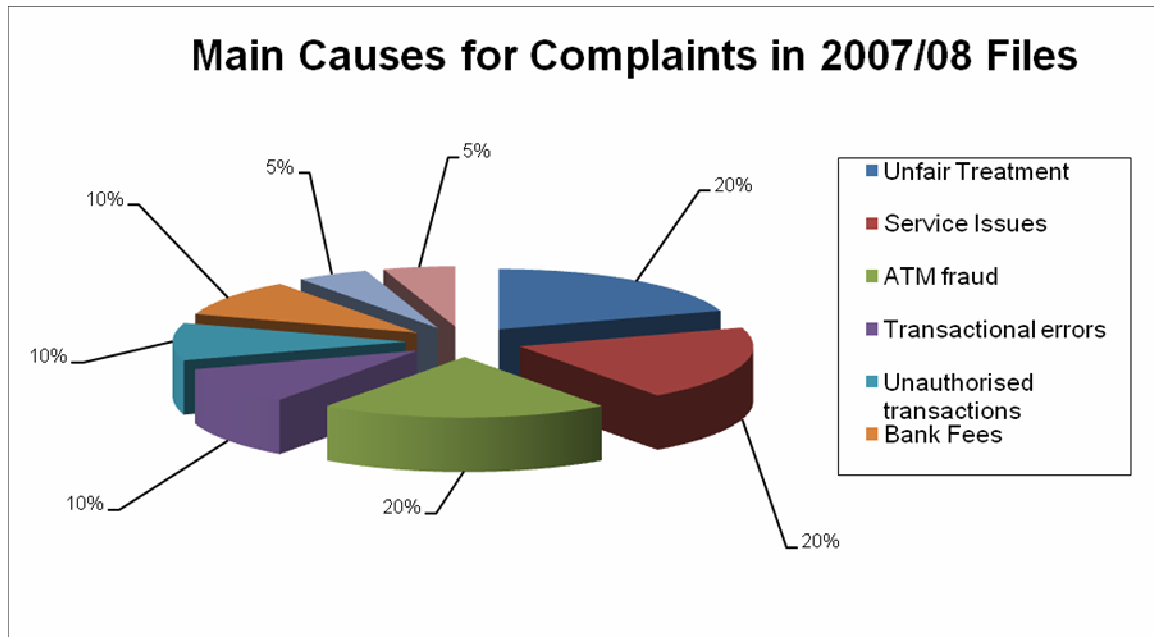


Figure 1

Table 1 and figure 1, above shows the main causes of complaints in the 2007/2008 report period. Complaints based on unfair treatment, service issues and A.T.M fraud all at 20% rank the highest for complaints, followed by transactional errors, unauthorised transactions and bank fees all at 10%, card loss and others at 5%.

Unfair treatment, arise out of the perception on “unsatisfactory service” which the customer has received from the bank. Service issues comprise the general expectation in turn around time in processing transactions, approval of facilities and delivery of service as promised by the banks. A.T.M fraud in the past reporting period had improved, however it seems that it has resurfaced following a series of imported cross border ATM scams. Transactional error, arise in the course of execution of transactions where human error is a cause. The introduction of the Code of Banking Practice should definitely have a positive impact on some of these issues.

Classification of Complaints by Demographics

Complaint Type

Small businesses 5%

Individuals 95%

Most of the complaints which were brought by individuals in this reporting period was at 95%, while the rest 5% came from small and medium businesses.

How did Complainants learn of the Banking Adjudicator's Service?

Table 2

Measure	%
Newspaper	25%
Word of mouth	25%
Referrals	25%
Radio	5%
Television	-
My Bank	20%

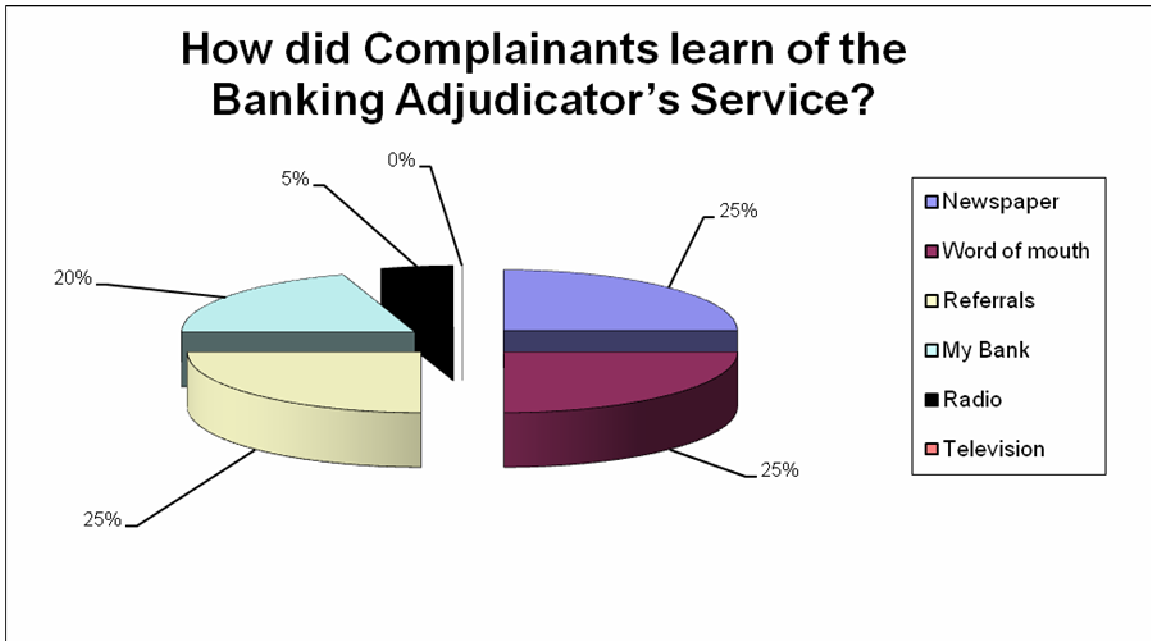


Figure 2

Our Application for Assistance form provide a section where customers indicate how they got to know of the Office of the Banking. This is an initiative which assist us in reviewing customers' awareness of this office and therefore accordingly inform our future out reach strategies.

Table 2 and figure 2 shows newspapers, word of mouth and referrals at 25% which play a major role in enhancing awareness of the office.

Comparatively with other sources above, there is still less reference at 20% by banks about this office. An effort is however being made by other member banks to enhance awareness of the office. A joint effort by the Publicity Committee of the Bankers' Association on a co-opetitive level with the implementation of the recommendations contained in the Annual Report 2005/2006 should provide the solution.

Case Flow Statistics

Case Flow Analysis April 2007- April 2008

Months	2007							2008					Totals	
	Apr	May	June	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar		Apr
Enquiries	49	37	31	42	57	49	37	63	37	52	47	35	43	579
Applications Received	7	9	12	7	11	6	5	12	4	8	5	6	9	101
Applications Accepted	5	7	10	7	9	5	5	10	3	6	4	5	7	83
Cases Resolved	8	*5	15	-	7	7	4	3	1	5	2	3	5	65
Rejected	2	*2(2)	2	-	1	1	-	2	1	2	1	1	2	17
Pending	11	*4(5)	2	9	10	8	9	4	3	3	12	5	10	10

Table 3

Table 3 above and Table 4 below shows that as from April 2007 to April 2008, at least 579 enquiries were received by the office, an increase of 5% from the 2006/2007 period. A total of 101 application forms for assistance were received comparative to 96 applications in 2006/2007.

This period 83 applications were accepted for adjudication, whereas in 2006/07, 74 cases were accepted. 65 cases were resolved in 2007/08 whilst in 2006/07, 52 were resolved, 17 cases rejected and as at the 30th April 2008 there were 10 cases pending.

All of these 10 pending cases, the banks have been given the opportunity to address with the complainants. Resolved cases figure, usually increase when new cases are registered or decrease when existing cases are resolved.

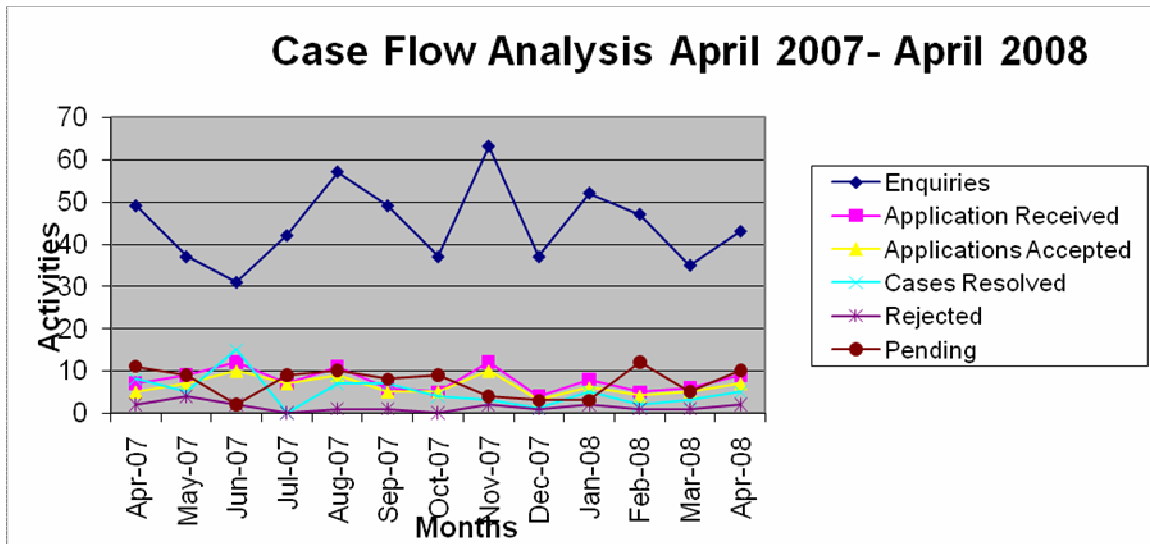


Figure 3

Analysis Of Activities By Process (Files opened & closed)

2007/2008

Table 4

Activity	2005/ 2006	%	2006/ 2007	%	2007/ 2008	%	Difference 2005/06 2006/07	Difference 2006/07 2007/08
Enquiries(Telephone, Correspondence & walk in)	81	75	318	80	579	45	237	261
Applications Received	61	36	96	61	101	5	35	5
Files Opened	43	42	74	63	83	11	31	9
Files closed (process 2)	19	53	40	77	50	20	21	10
Files closed (process 3)	5	58	12	23	15	20	7	3
Total Files Closed	24	54	52	68	65	20	28	13

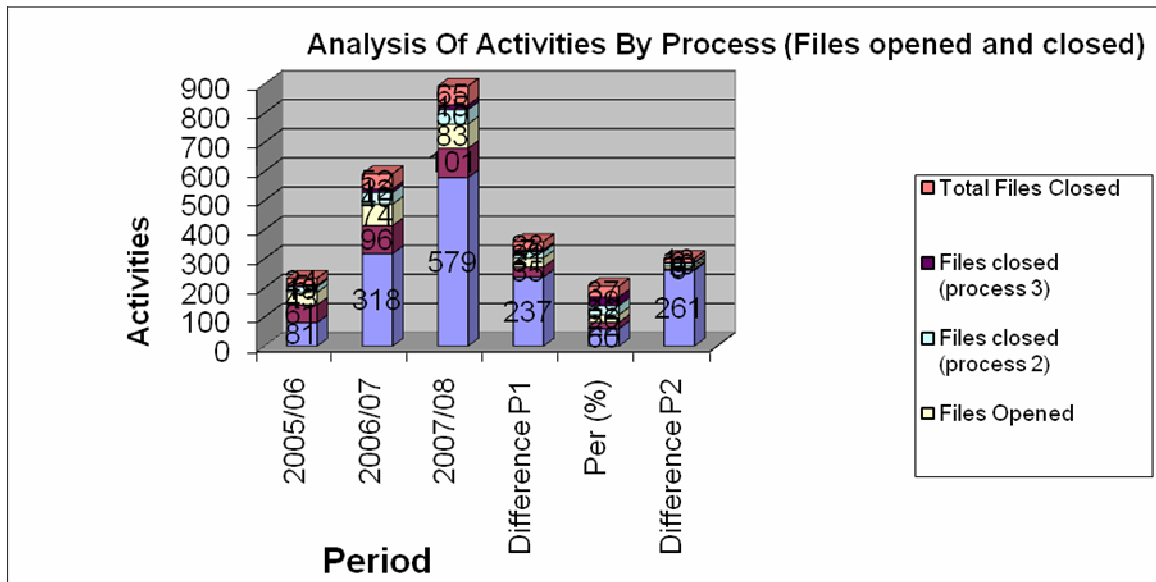


Figure 4

Cases Flow Comparison Per Bank For April 2007 - April 2008

Table 5

Note: Cases Accepted (C/A) ; Cases Resolved(C/R) ; Cases Pending(C/P)

Bank	2007 April-May			2007 June-July			2007 Aug- Oct			2007 Nov - Dec			2008 Jan-Ap			
	C/A	C/R	C/P	C/A	C/R	C/P	C/A	C/R	C/P	C/A	C/R	C/P	CP	C/A	C/R	C/P
A B C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
B Gabs	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Barclays	4	6	5	9	5	6	8	4	8	11	6	10	5	4	3	3
B Baroda	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
F N B	-	-	3	1	1	-	4	2	3	3	1	2	2	2	2	2
Kingdom	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Stanbic	3	2	5	-	4	2	-	3	-	-	-	1	1	2	1	1
Stanchart	5	5	7	7	5	3	12	9	8	9	4	9	4	4	2	4
Totals	12	13	20	17	15	11	24	18	22	23	11	22	12	12	8	10

Table 5 above, show the flow and further analysis of cases relating to the various banks, quarterly in terms of activities, that is , cases accepted ; resolved; and pending. As stated above, there were 10 cases pending, 8 cases resolved and 12 cases accepted for adjudication as at end of April 2008. The figures reflected above are on a cumulative basis and an increase or decrease as and when new cases are resolved and accepted.

As at the end of April 2008 there were 10 pending cases out of which the banks had been given the opportunity to resolve terms of the prescribed time limit of 15 working days. Standard Chartered Bank had 4 cases, Barclays Bank had 3 cases, First National Bank had 2 cases and Stanbic bank had 1 case pending.

Cases determined in Favour of Banks or Complainants

According to Table 6 and figure 6 below, out of the 23 cases reported in the category of consumer finance(which comprise of scheme, personal and lease loans) at least 12 cases were decided in favour of the banks whilst 11 in favour of the complainants, whilst with mortgage finance 4 cases were found in favour of the bank and 6 in favour of complainants. Of the 20 cases which pertained to ATMs, 12 were decided in favour of the banks , whilst 8 in favour of complainants. Concerning credit and debit cards out of 20 cases, 15 were decided in favour of the bank whilst 5 in favour of complainants. Under the classification of cheques, debit cards and foreign exchange cases in favour of the banks were 3, 2, nil and 4, 5, 1 respectively.

Table 6

Classification	Bank's favour	Complainant's favour	Total
Consumer finance	12	11	23
Mortgage finance	4	6	10
ATM	12	8	20
Credit and debit cards	15	5	20
Cheques	3	1	4
Debit orders	2	3	5
Foreign exchange	-	1	1
Total	48	35	83

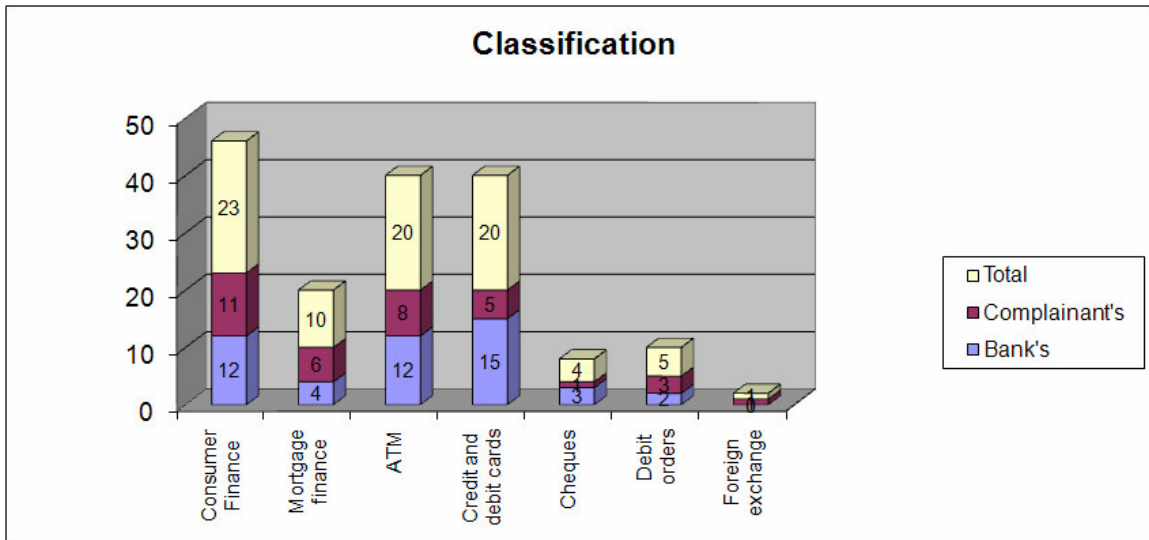


Figure 6

Analysis of Cases Further in Terms of the Form of Action Taken

In **1 cases**, the complainant advised us to withdraw the case.

In **2 cases**, the complainant failed to indicate the desire to continue with the case.

In **17 cases**, the complaints were rejected.

In **10 cases**, the banking Adjudicated recommended *ex-gratia* payments.

In **41 cases**, only a portion of the complaint was accepted.

In **12 cases**, complaint's claim fully accepted and full amount paid.

Total 83 cases

Manner in Which Matters Were Closed

Assessment	49
Mediation	12
Provisional Recommendation	4
Final Recommendation	-
Determination	-
Total	65

Assessment:

Constitute a summary of the matter setting out the complainant's case, the bank's response, our assessment and finally our conclusion on the matter as to liability. This process is applicable in cases where the bank's offer is found to be fair and reasonable and we suggest that the complainant accept it, and where we believe that there is no prospect of making an award in favour of the complainant. This process calls for the complainant to make further submissions or provide additional evidence that could change our findings.

Mediations:

These are face-to-face formal meetings between representatives of the bank and the complainant, with the Banking Adjudicator presiding as the mediator. The Banking Adjudicator guides the debate between the parties and facilitates an agreed settlement.

Provisional Recommendation

These are detailed reports incorporating new evidence and submissions tendered after assessment. If further evidence or submissions are presented, the matter proceeds to a final recommendation.

Determination:

This is a binding written ruling delivered by the Banking Adjudicator.

In most cases it is the complainants who are unwilling to accept the provisional recommendations, which are either against them or only partly in their favour, making it necessary to proceed to a final recommendation. The banks usually accept the provisional recommendations.

Compensation Paid By Banks

The total amount of money recovered and refunded to customers amounted to **P133472.83**. These recoveries/refunds mostly pertain to adjustments in complainants accounts on interest calculations in consumer and mortgage finance, computer programming, and ATM transactions.

Others pertain to awarding of *ex-gratia* payments as recommended by the Banking Adjudicator in matters where an effort was made to restore the complainant to their original position had the error/oversight not occurred.

OBA Complaints Process

Our rules prescribe set procedures for handling a complaint.

These steps are set out below.

- .The first step: Contact your bank
- .The second step: Give the bank a second chance
- .The third step: Full investigation
- .The fourth step: Settlement, recommendation or determination

The first step: Contact your bank

When, you contact the Banking Adjudicator to inform him that you have a complaint against your bank he will ask if you have already informed the bank of your complaint and whether the bank has given you a decision. If you have not lodged your complaint with your bank, he will ask you to do so before formally requesting for his assistance. When you lodge a complaint with your bank, make sure the bank gives you a **complaint reference number**. You will need this number to complete our **Application For Assistance Form**.

- **How long should the bank take to investigate my complaint?**

The bank should give you a final decision regarding your complaint within a reasonable time as to whether it is prepared to settle the matter with you. It is suggested you give the bank 15 working days to do this.

- **What if I am unhappy with the bank's final decision?**

If you have followed the bank's complaint handling process and are unhappy with the bank's decision or it has not responded within a reasonable time, you may then formally lodge your complaint with the Banking Adjudicator.

- **How do I lodge a complaint with the Banking Adjudicator?**

You can only do this by completing our Application for Assistance Form.

We will send this form to you by **fax** or **post**, or you can **download** it from this site. Please be patient as this form takes a while to download. If you like, you can even **complete an online complaint form** right now and submit it to us.

The second step: Giving the bank a second chance

Once we receive your application form, we read your complaint to see whether it falls within our jurisdiction

If it does not, we refer it to the appropriate organization or inform you that we cannot help you. If your complaint is something that we can deal with, it is then accepted. We give the bank at least 15 working days to try to resolve the problem with you. You should be prepared to talk to the bank if it contacts you during this time.

Do not assume that because you have lodged a complaint with the Banking Adjudicator that your bank must deal only with the OBA and not with you. If you can resolve the complaint with your bank at this stage it will save you time and may repair your relationship with your bank.

Some of your expectations of what the bank should do to resolve the complaint may be unrealistic. If the bank makes you an offer that is less than you want, bear in mind that we will not necessarily recommend that it make a better offer.

If the complaint is resolved to your satisfaction at this stage, **your file is closed**.

If the complaint is not resolved to your satisfaction, we will decide whether a full investigation should be conducted.

The third step: Full investigation

Once the bank informs us that it has not managed to resolve the matter with you to your reasonable satisfaction or the bank does not meet the deadline set by the OBA for resolving the matter, we may begin a full investigation of your complaint. We then request your bank to provide us with all documents that relate to your complaint.

We also ask the bank for its reasons for refusing to resolve the complaint to your reasonable satisfaction. We may require additional information from you, in which case we will contact you in writing. *Should you not respond to our requests for information within a reasonable time, we will close the file.*

Before we finalise a complaint we may send you and the bank a summary of the important issues involved in the matter and what our thinking on these issues is. We will ask you to comment or submit any further argument or evidence you have that you believe should be considered. This will be your last chance to submit comment on the complaint to us. Once all the necessary information has been gathered, a decision can be made. The decision takes the form of a *final recommendation*. A negotiated settlement may be reached at any time before a final decision is made.

The fourth step: Settlement, assessment, recommendation or determination

It is still possible at this stage for a negotiated settlement to be achieved. If this does not occur an assessment, a recommendation or a determination may be made. An assessment, recommendation and determination are all given in writing and state what the bank should do to resolve your complaint. If we do not believe that the bank can be held liable, we will say so.

As soon as a complaint has become a dispute, a short assessment may be made without further investigation of the merit of the matter suggesting to the parties how the matter may be settled.

If both parties accept the assessment, the matter is settled. If either party disagrees, further representations may be made and the dispute will be investigated further.

Recommendations (provisional and final)

A provisional recommendation may be made, indicating how the matter should be resolved. If either party does not accept the provisional recommendation, further representations may also be made. A final recommendation will then be made.

A recommendation is not binding on a bank, but if a bank does not accept the recommendation, a binding determination may be made under certain circumstances or if the requirements of a determination are not met, the banking Adjudicator may publish the recommendation in the media.

A bank would therefore not accept a recommendation lightly.

Issues in the International Scene

On 26-28th September 2007, the Banking Adjudicator attended the International Network of Financial Ombudsman Conference hosted by the United Kingdom Financial Ombudsman Service in London. Representatives of long-established schemes from countries such as Canada, United Kingdom, United States of America, Canada, Belgium, Denmark, Finland Japan, India, Norway, Netherlands, Peru, Portugal, Poland, Ireland, Australia, New Zealand, South Africa were present.

The main aim of the conference, was to increase opportunities among delegates to learn about ways in which disputes can best be resolved. Hear and learn about best practice and gain ideas from different jurisdictions.

The INFO 2008 has invited the Office of the Banking Adjudicator to a conference to be hosted by the Office of the Ombudsman, US Office of the Controller of the Currency in USA (New York City) from 29th September – 2nd October 2008.

Professional Membership

The Office of the Banking Adjudicator has been admitted as a founding member of the International Network of Financial Ombudsman, and this automatically qualifies member banks to join the organisation as Associate Members by contacting the secretariat@networkfso.org or may visit www.networkfso.org.

Membership benefits include exchange of technical information and experience in the areas of internal dispute resolution, office structure, cross border referral of complaints, functions and governance.

The Banking Adjudicator has also been admitted by the Botswana Institute Of Arbitrators as an Associate (Arbitrator) effective from March 2008.

Seminars/Conferences

Seminars

The Banking Adjudicator attended a seminar titled “Maximising the Impact of Ombudsman Type Organisations” hosted by the University of Kwazulu Natal Institute of Professional Legal Training together with the Ombudsman for Financial Services, Pension Fund Adjudicator and Credit Ombudsman of South Africa in Johannesburg.

The seminar emphasised :

- the development of a curriculum for Ombudsman training which will lead to the creation of Paralegal Diploma in Ombudsman Studies.
- practical training in writing opinions, judgements and determinations in an ombudsman office.

Bankers' Association of Botswana Members



Glossary of Terms

- * **ATM** – Automated Teller Machine
- * **BAB** – Bankers’ Association of Botswana
- * **Bank**- means a registered commercial bank in terms of the Bank of Botswana Act, that is a member of the Bankers’ Association of Botswana and any wholly owned subsidiaries of that bank rendering financial services in Botswana.
- * **Banking Adjudicator**- means the Botswana Banking Adjudicator who has been appointed by the Bankers’ Association of Botswana from time to time to exercise the powers and duties of the office.
- * **Bank customer/ client** - means any personal banking customer or small business customer who makes use of banking services.
- * **BCBP**– Bankers’ Code of Banking Practice
- * **Code** - means the Bankers’ Association of Botswana Code of Banking Practice.
- * **Complainant**- means a member bank customer making a complaint to the OBA, regarding any banking services provided by his or her bank.
- * **Dispute** - means a disagreement regarding any banking services between a member bank and a customer of that bank which has not been resolved by the parties for a while.
- * **Independent Review** – systematic assessment of a scheme with the view to ensure that it conforms with good banking practice.
- * **INFO** – International Network of Financial Ombudsman
- * **Jurisdiction** – specific area of responsibility, accountability, powers to do or not do certain things.
- * **OBA** – Office of the Banking Adjudicator
- * **Publicity Committee of the Bankers’ Association of Botswana**- an arm of the Bankers’ Association of Botswana responsible for publicity matters.

Contacts Details:

Office of The Banking Adjudicator

Plot 767 Tati Road :

Life and General Building (adjacent to Trinity Church & Brackendene Lodge)

Address: Private Bag 00404 Gaborone Botswana

Tel : 393 5409 Fax 393 5406

Cell: 71326282

E mail address: bankadjud@info.bw

website: www.bank-adjudicator.org.bw