

Briefing to the Incoming Minister: FairWay Resolution Limited

TO:

Minister of Finance
Minister for ACC

FROM:

Peter Blades
Chair
FairWay Resolution Limited

Greg Pollock
Chief Executive

DATE:

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FairWay at a glance

This paper provides an overview of FairWay Resolution Limited (FairWay) as a company, our strategic direction, recent achievements, current state and future direction for the company.

Brief history	1999	Established as a wholly owned subsidiary of ACC (then known as Dispute Resolution Services Limited)
	2011	Separated as a Crown Owned Company under the Crown Entities Act 2004, listed in Schedule 4A of the Public Finance Act 1989
	2013	Changed name to FairWay Resolution Limited
Board chair	Peter Blades	(Appointed 2011; expires 31 July 2015)
Board members	Anita Chan QC (Deputy Chair)	(Appointed 2011; expires 31 July 2015)
	Tupara Morrison	(Appointed 2010; expires 15 July 2016)
	Mark Sandelin	(Appointed 2013; expires 16 December 2016)
	Daniel Nahkle	(Appointed 2013; expires 16 December 2016)
	Tarun Kanji	(Appointed 2014; expires 17 August 2015)
Chief executive	Greg Pollock	
Company status	Schedule 4A Crown-owned Company	
Staff	<ul style="list-style-type: none"> 84 staff 180 contractors <p>Our contractors are engaged to do project or 'case' related work for clients. We have approximately 20 contractors who undertake ACC reviews, and they complement our staff reviewers. We have a further 142 contractors who provide family dispute resolution services under our contract with the Ministry of Justice. We have a further 20 contractors on specific panels in other sectors, such as local government and construction. None of the contractors are full-time, the FTE equivalent is approximately 50-60. The majority of these contractors operate their own professional practices or work in other tribunals.</p>	
Office locations	Auckland, Wellington, Christchurch and Dunedin	
Major clients	<ul style="list-style-type: none"> Accident Compensation Corporation (ACC) Ministry of Justice Telecommunication Dispute Resolution Complaints Scheme (funded by Telco's through the Telecommunication Carriers Forum) Financial Dispute Resolution Complaints Scheme (funded by 1,600 members) 	
Revenue	\$17,000,000 turnover 2013/14	
Profit	\$753,000 NPAT 2013/14 (24% increase on 2012/13)	
Shareholder equity	\$4.0m	

History

FairWay was originally established in 1999 as a subsidiary company of Accident Compensation Corporation (ACC). While the company has diversified in the last one to two years, for much of its history FairWay had one major client – ACC.

FairWay delivers independent adjudication, mediation and facilitation of cases (reviews) where ACC claimants (and in some instances, employers and levy payers) disagree with a decision made by ACC. FairWay provides a customer-focussed, efficient and cost-effective service to ACC, delivering over 6,000 independent review decisions or other resolution processes annually.

In 2007 and 2010, FairWay added two other major services: the new Telecommunication Dispute Resolution scheme (TDR) for the Telecommunication Carriers Forum and the Reserve Financial Service Providers Dispute Resolution Scheme (FDRS) for the Ministry of Consumer Affairs. FDRS has since become an approved scheme following the disestablishment of the Reserve scheme.

FDRS and TDR combined provide approximately 15% of our revenue in 2013/2014, with ACC providing the other 85%.

In 2011, FairWay was established as a separate and independent Crown-owned company.

A critical early focus for the Board after separation from ACC was to ensure the company had sound operating systems. This required the development of independent business systems, IT infrastructure and stand-alone relationships with stakeholders, banks and the like.

Recent achievements

- The 2013/14 year achieved increased profitability over 2012/13 year by 24%
- Increased the balance sheet position by 14%
- Developed and (partially) implemented new professional services business model
- Agreed a long term commercial contract with ACC (5-year term)
- Agreed a long-term commercial contract with Telecommunication Carriers Forum (5 years)
- Approved as a Financial Dispute Resolution Scheme (FDRS) provider under the Financial Service Providers (Registration and Dispute Resolution) Act 2010 with 1600 members transferring from the Reserve Scheme (also previously operated by FairWay)
- Largest national supplier of Government-funded Family Dispute Resolution (FDR) services, which commenced in April 2014 as part of the reforms to the Family Justice system. Achieved significantly higher than expected resolution rates of 84% or greater
- Implementation of a fully electronic dynamic case management system for ACC reviews (including delivering this major IT and Business change project on time and on budget)
- Partnership with LGNZ to provide conflict management services (mediation, facilitation, training and complaint handling) to its local government members in New Zealand

As part of this review, Shareholding Ministers clearly had an expectation that the company had to grow and diversify. Very little new revenue and client diversification growth had occurred in the preceding five years, and so the Board determined that new management and new strategic direction would be required to meet these expectations.

In the last few years, we have worked closely with ACC to assist them wherever possible in reducing the number of reviews that they need to refer to us. We have provided support on ideas around early resolution of disputes, as well as looking to improve our operational efficiency in service delivery. We have introduced our own case management system, and worked with ACC to introduce electronic file transfer (until six months ago all files were transferred in hard copy). Over the last three years the number of ACC reviews we complete each year has reduced from 9,000 to 6,000. This has meant a corresponding fall in revenue for FairWay, we have replaced with work from new clients.

Significant progress has been made in particular since 2013 with a new management team and new business model. The successes achieved to date are based on applying the significant expertise in alternative dispute resolution within the organisation to new sectors. In the last year, we added 18 new clients, and nearly \$3m in new business revenue.

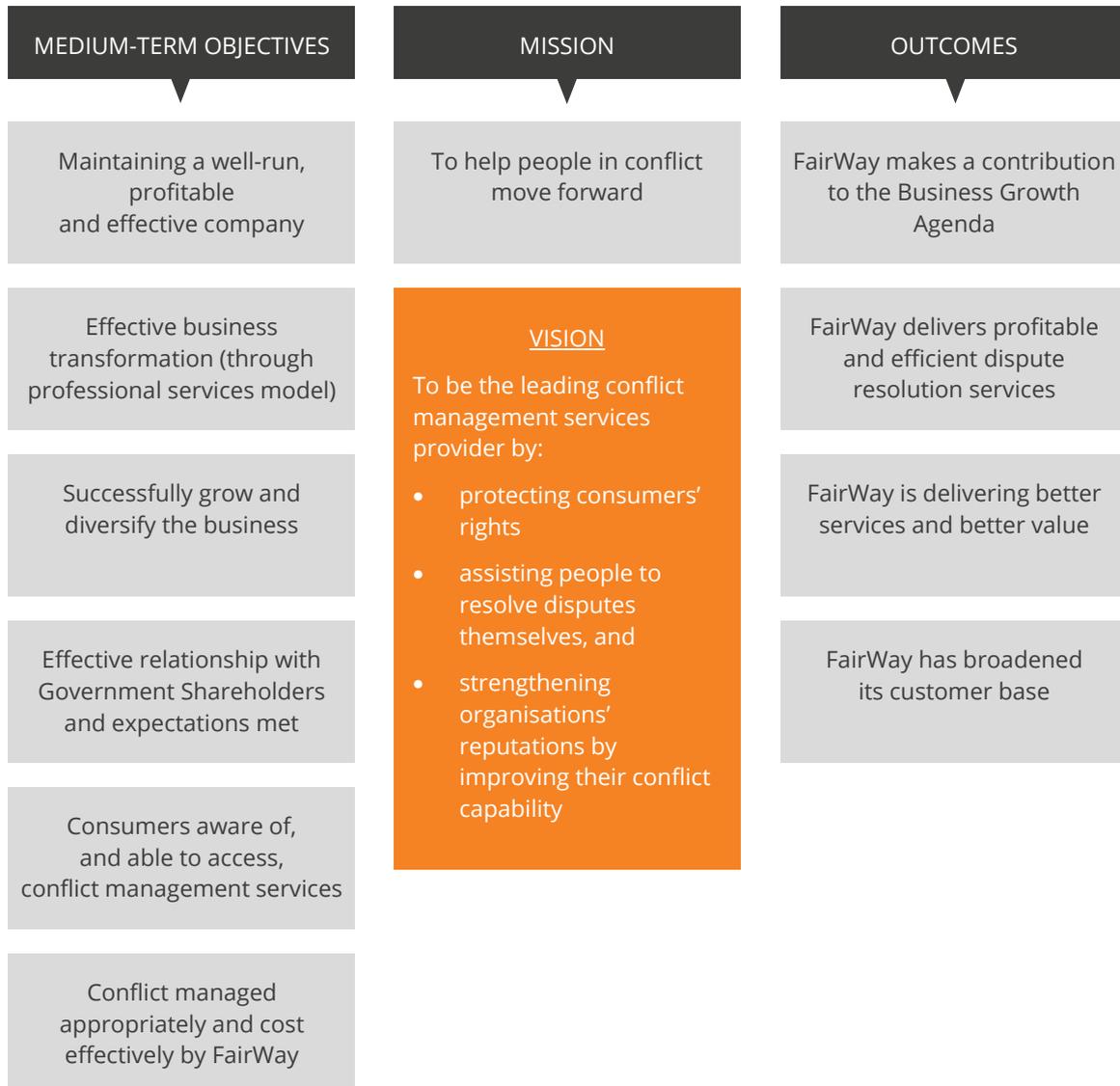
While much of this related to the Ministry of Justice Family Dispute Resolution establishment work, we have made good progress with other new clients in central government, local government and the private sector.

Strategic direction

FairWay is a specialist conflict management company providing services and systems to help people and organisations manage, resolve, learn from and prevent conflicts. FairWay is a professional services firm, operating in a highly competitive environment.

On 1 July 2011, FairWay was listed in Schedule 4A of the Public Finance Act 1989 as an independent Crown-owned Company wholly owned by the New Zealand Government. We are governed by the Crown Entities Act and the Companies Act.

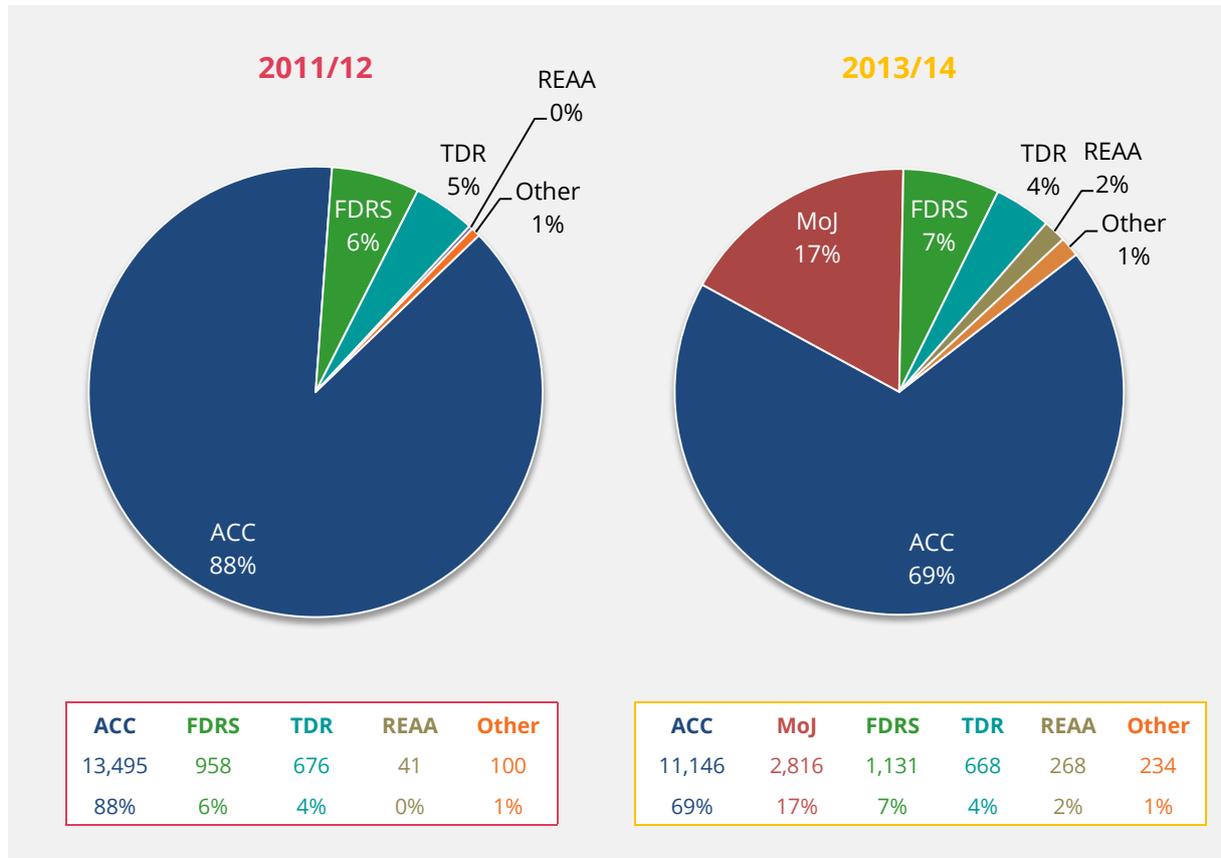
The following identifies the company's vision, core objectives and the outcomes we seek to deliver for our shareholders, stakeholders and clients.



FairWay has recently rebranded (2013), and is focussed on developing a strong professional services brand and culture. There are real opportunities for growth in new markets, and in our first 18 months after changing strategic direction, we have had a number of key successes, including Family Dispute Resolution, local government and environmental dispute resolution.

FairWay considers that over the long term, it has potential to provide a range of complaint resolution, dispute resolution and conflict management services to central government, local government and the private sector. We also consider there is potential to grow internationally, particularly in the Australia-Asia-Pacific market.

One of the key challenges for FairWay over the last few years has been to diversify its revenue sources and client base. The following graphs show progress from 2011 to 2013.



Currently, FairWay is focussed on growth in the following new sectors:

- **Family dispute resolution**

FairWay is one of two suppliers and the only nation-wide supplier of Government-funded Family Dispute Resolution services (FDR). This is an out-of-court service that provides an opportunity for families to resolve issues relating to the care of their children with help from a family dispute resolution provider.

While the scheme is in its early days (only operational for six months), FairWay is delivering excellent outcomes with around 85% of cases resulting in partial or total settlement of the issues in dispute. FairWay is currently exploring other areas in which we can offer dispute resolution services to support families as a strategy to enable our investment in family services to make an acceptable commercial return.

We are currently undertaking a commercial assessment of the performance of this contract for the first six months.

- **Construction**

FairWay provides facilitation services to CERA as part of the Residential Advisory Service. Our facilitators conduct multi-party meetings designed to assist residential property owners to resolve disputes with their insurers.

We are currently working with industry leaders in the building sector to promote an early intervention and resolution service for disputes between builders and consumers. We believe this service will help to improve the productivity of the sector. We have also recently applied to become an approved nominating authority under the Construction Contracts Act.

- **Local government**

FairWay has signed a partnering agreement with Local Government New Zealand (LGNZ) to develop and deliver a number of services to their members (being all local authorities). The services include mediation, facilitation, complaint handling and conflict consulting advice. We believe there are significant opportunities for local government to improve its engagement with stakeholders using early resolution.

- **Central government**

Although historically our work for government agencies has been high volume/low value and priced with low margins, we continue to have an important role supporting agencies to improve public trust and confidence by offering their stakeholders an independent dispute resolution service. Most of our large scale schemes have been formed as a result of legislation put in place to protect the rights of consumers, and we will continue to pursue this work as opportunities arise.

In addition to these specific sectors, as noted above our new broader business model based on the entire conflict management cycle allows us to diversify in new sectors. While previously our business revolved around resolving conflict once it had occurred, we are now developing expertise in helping organisations collaborate better, avoid conflict and seek to resolve it early before it escalates.

There are number of new services that FairWay is attempting to develop internally or licence externally in order to enable diversification of income streams. This includes training, conflict diagnostic tools, arbitration, conflict coaching, complaint system design, and conflict surveys.

We continue to focus on defining our value proposition, which is largely to help our clients, consumers and stakeholders to reduce the costs of unnecessary conflict and resolve conflict in a cost effective and sustainable manner. Our single largest challenge is to increase the commercial margins of the work we do.

Currently, our margins are extremely small (less than 5%) due to the perceived 'high volume, low value' nature of the work we do in our larger dispute resolution schemes.

Structure

In early 2013, FairWay moved to a more flexible company structure, which is focused on ensuring our business is flexible, nimble and able to deal with growth in case loads and client demands. Our Service Delivery team in particular allows people with similar skills to work across different types of work depending on demand at any given time.



Services

Our services span the full conflict management cycle from prevention to organisational learning, so over time we aim to help our client organisations build their conflict management capability, and take better account of their customer needs. Organisations can often learn the most from complaints they receive from customers.

FairWay handles over 12,000 disputes each year — of all kinds and levels of complexity, including medical, insurance, financial services, telecommunications and real estate. Our dispute resolution experience underpins our conflict management expertise in all parts of the conflict management cycle.

FairWay's competitive advantage comes from our extensive experience in dispute resolution, our systems and processes for managing disputes, a commitment to protecting the privacy of all parties to a dispute, and a thorough understanding of technical and legislative issues that arise in different sectors that use our services.

Competition

FairWay operates in a highly competitive market in which our clients have high expectations. We seek to ensure we deliver the highest quality services in order to retain existing and win new client support. There are a number of conflict management professional services firms we compete with in different sectors.

These include:

- **law firms**, where often partners or senior associates have experience as mediators and compete on a case by case basis
- **privately-owned dispute resolution companies** such as *New Zealand Dispute Resolution Centre*, a private company operated in Auckland that competes in many sectors. While there are few large scale organisations like FairWay; there are a number of sole traders who have strong profile and experience in sectors where we compete
- **NGOs**, including *Presbyterian Support Services*, which also supplies Government-funded family dispute resolution services.
- **the Arbitrators and Mediators Institute of New Zealand** (a membership organisation, with whom we compete in some sectors) and **LEADR**, a similar membership organisation; we have good relationships with these two organisations
- **management consulting firms**, in particular for dispute resolution system analysis and design work.

In the finance sector, we have three specific competitors for financial complaints handling. The other approved schemes are:

- **the Banking Ombudsman**
- **the Insurance and Savings Ombudsman**
- **Financial Services Complaints Limited**

While we have strong competition for parts of our service offering, our business model is relatively unique in relation to our ability to deal with large volume of complaints and disputes, while also providing services to those clients to allow them to learn from, prevent and manage disputes better in future.

Future direction

FairWay currently has a strong business model, and can add significant value to public and private sector organisations. Our view is that in time FairWay could grow into a larger scale professional services consulting firm operating in the Asia-Pacific area.

Our key opportunities include:

- **providing conflict consulting, dispute resolution and services** to improve government agency interaction with customers/members of the public
- **helping organisations to manage conflict better and resolve disputes earlier** allowing them to focus on growth and greater efficiency and productivity in their businesses or agencies. Providing ADR services to improve New Zealanders' access to fast and efficient dispute resolution on a commercial basis
- **developing and delivering training** in negotiation, mediation, collaboration, etc across a number of sectors for organisations to improve productivity;
- **international dispute resolution work**, including online dispute resolution to ensure the online world has access to best practice dispute resolution and complaint handling as the economy increasingly moves to digital platforms with less focus on jurisdictional boundaries.

To achieve these aspirations, we need to be more nimble, invest in systems that are built now for our future growth, and be willing and able to take risks to enter new markets. All our capital and growth investment is funded from cash-flow at present. This means there is no call on Government as the shareholder for capital, but it also means we must pace our growth according to cash flow demands. There are a number of demands on capital within the business over the next 12 months, including property fit-out, IT investment and service/product development.

Strategic documents/attachments

We attach a copy of the FairWay Statement of Intent. In accordance with the recently amended Public Finance Act, this Statement of Intent covers the next four year period.

FairWay will not be producing another Statement of Intent this coming year as the business strategy has not materially changed from the last document that was produced.

We also attach a copy of the Annual Report, which highlights our achievements in the last year.