EDR Response guide

COVID-19 and travel insurance complaints

This guide has been prepared to assist financial firms in preparing a quality external dispute resolution (EDR) response. This is a **guide only** and outlines which should be provided in all cases and the information/documentation relevant to the complaint issue.

It is important to note the following:

* All issues raised in a complaint should be addressed. If there are multiple issues, please refer to the additional EDR response templates available or consider addressing them in a separate section as it is important that all issues are addressed.
* This is your EDR response. As such it is to be sent to both AFCA and the complainant. It is to the benefit of all parties for the complainant to understand the reason for your position.
* AFCA will generally seek more information if a complaint does not resolve at Registration & Referral. AFCA still expects a response to any subsequent requests for information.

This guide may change over the time to reflect any feedback.

To ensure a comprehensive response for complaints, an EDR response should include the sections outlined below.

# Information / documentation to be provided for all complaints

## Complaint summary

|  |
| --- |
| Complaint details |
| Financial firm name |  |
| Financial firm reference |  |
| Complainant name |  |
| AFCA reference |  |

## Policy summary

|  |
| --- |
| Policy details |
| Insured |  |
| Policy number |  |
| Policy type |  |
| Insured property |  |
| Excess  |  |

## Jurisdictional issues?

Include the details of any jurisdictional issues the financial firm wishes to raise. Ensure you refer to the AFCA Operational Guidelines and any relevant approach documents.

Full details of the section of the AFCA Rules must be included to ensure that AFCA and the complainant understand the jurisdictional issue(s) being raised.

## Proposals to resolve the complaint

Set out any action the financial firm is willing to take/accept to resolve the complaint.

[If you require further information before you can offer a resolution, please provide details of what information is required].

## Complainant’s position

[Outline the financial firm’s understanding of the complainant’s position.

Include necessary background information including (but not limited to):

* claim amount
* any payments made to the insured.]

## Financial firm’s position

[Briefly outline the financial firm’s position in relation to each of the complainant’s issues].

If the financial firm has taken steps to attempt to resolve include details: (e.g. the financial firm provided a response to the complainant, offering to [ ]. The complainant rejected the offer and said [ ].)

## Financial firm’s reasons for position

Outline how you have considered all the issues raised in the complaint and set out the financial firm’s reasons for its position, noting what information you have considered to reach this view. It is important you consider your obligations and whether you have met them.

In support of a financial firm’s reasons for position, the following should be provided depending upon the complaint issue.

### Complaints regarding a request for travel credit/refund

**The policy cover**

Outline whether the policy covers insured events or accidental damage (or both).

**Consideration of extenuating circumstances**

If a credit is being proposed as an outcome, outline if any extenuating circumstances apply.

* If yes, what was the extenuating circumstances and specify why the financial firm still considers a credit is a fair outcome
* If no, outline how the financial firm is satisfied that no extenuating circumstances apply

**If a proportionate refund is being provided**

Provide a detailed calculation outlining how the proportionate refund was arrived at

**Supporting information**

To support your position and reasoning for declining the claim, the following information is usually required:

* denial letter
* IDR response
* the certificate of insurance
* the product disclosure statement relevant at the time of the loss
* a chronology of events, from when the financial firm became aware of the claim, to now
* any correspondence and system notes detailing all communication you had with the complainant in relation to the complaint
* transcripts of any statements

### Complaints regarding a COVID-19 related claim decline

**The policy cover**

Outline whether the policy covers insured events or accidental damage (or both).

**The complainant has or has not established a claimable loss under the policy**

Explain why the financial firm believes the complainant has or has not established a claimable loss under the policy.

You should refer to the findings in any expert reports with respect to the cause of loss / damage.

**The specific reason the financial firm is entitled to deny the claim**

You should refer to the PDS, policy wording and the findings in any expert reports with respect to the cause of loss/damage.

If the financial firm seeks to decline a claim on the basis of a policy exclusion the financial firm bears the onus to establish:

* the exclusion applies to the circumstances of the claim
* the proximate cause of the damage.

Ensure that you quote the relevant exclusion from the policy and provide the page number of the policy where the exclusion is found.

Provide a thorough explanation as to why the exclusion applies to the factual circumstances of the claim.

**Outline any section 54 considerations**

Some exclusions may warrant consideration of section 54 of the Insurance Contracts Act 1984, such as, exclusions relating to a disinclination to travel or travelling against advice not to travel. If the financial firm considers section 54 has application, it should provide a submission as to why it considers section 54 does not assist the complainant.

If the financial firm does not consider section 54 has application, it should outline why.

AFCA’s Approach to Section 54 can be found by clicking [**here**](https://www.afca.org.au/about-afca/publications).

**Supporting information**

To support your position and reasoning for declining the claim, the following information is usually required:

* denial letter
* IDR response
* the certificate of insurance
* the product disclosure statement relevant at the time of the loss
* any claim form and supporting documentation
* a chronology of events, from when the financial firm became aware of the claim, to now
* any correspondence and system notes detailing all communication you had with the complainant in relation to the claim
* any assessment reports and colour photographs of the claimed damage
* any quotes, scope of works, details of cash settlements, if applicable
* transcripts of any statements
* expert reports
* investigation reports.