

# Annual Review 2019–20

Working with  
consumers, small  
businesses and industry  
to resolve and reduce  
financial disputes



**afca**

Australian Financial  
Complaints Authority



“The case manager was a pleasure to work with and had a detailed understanding of the matter. She was also able to bring both parties to the centre, which helped resolve this matter.”

*- Feedback from members*



# About this Annual Review

This Annual Review covers the Australian Financial Complaints Authority's (AFCA) first full financial year of operations, from 1 July 2019 to 30 June 2020.

The AFCA complaints data relates to those complaints received by AFCA during the year, unless otherwise stated.

The Annual Review arises from the reporting requirements for external dispute resolution (EDR) schemes set out in Australian Securities and Investments Commission (ASIC) Regulatory Guide 139 and Regulatory Guide 267.

The 2019–20 Datacube, which shows complaint data about AFCA members, is available on our website at [data.afca.org.au](https://data.afca.org.au) and is also required under ASIC Regulatory Guide 267.

Australian Financial Complaints Authority Limited (the company) publishes on its website a General Purpose Financial Report for the year that incorporates the Directors' report and annual financial statements.

This Annual Review is available on our website at [afca.org.au/annualreview](https://afca.org.au/annualreview)

To order print copies, please email [publications@afca.org.au](mailto:publications@afca.org.au)

Published November 2020.

AFCA acknowledges the traditional owners of country throughout Australia and their continuing connection to land, culture and community. We pay our respects to Elders past, present and future.

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# Board Chair message



This Annual Review covers the Australian Financial Complaints Authority's (AFCA) first full year of operation after having moved from the establishment phase into now delivering against its ambitious strategy to be a world-class ombudsman service: raising standards and minimising disputes, meeting diverse community needs and trusted by all stakeholders.

The 2019-20 financial year will, of course, be defined by the COVID-19 global pandemic and its social and economic impacts. The challenges this has presented consumers, small businesses and the financial services industry have been unprecedented and will continue to be felt for months and years ahead. I am proud of how adeptly AFCA and its staff have responded to the myriad of challenges this has presented, and how proactively its leadership have worked with consumers, consumer groups, small businesses, financial firms and the financial regulators to ensure AFCA's services are tailored to appropriately reflect needs, and minimise disputes.

The financial year, in many ways, is a story of two halves, which started on 1 July 2019 with AFCA implementing the expanded 'look back' jurisdiction that the Morrison Government gave it, therefore allowing it to consider complaints dating back to 1 January 2008. This aligned with the period that had been considered by the Hayne Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. This change to our jurisdiction gave consumers, who otherwise may have had no opportunity for redress, the ability to have their complaint heard. This jurisdictional change was welcomed by AFCA and 1,749 complaints were lodged with AFCA during the financial year. This jurisdictional change came to an end on 30 June 2020.

AFCA is committed to providing accessible services to all Australians and is highly aware that the challenges facing regional and rural communities are often very different to those in our cities. For this reason, in September 2019, AFCA embarked on a National Roadshow, visiting 30 locations across Tasmania, Victoria, ACT and New South Wales. Along the route, the team hosted special regional forums for small business, consumer advocates and financial firms, to give all members of the community an opportunity to meet AFCA ombudsmen and learn about our service. The terrible bushfire season, and COVID-19 pandemic, meant that it was not possible to continue into the other states and territories this year, but AFCA remains committed to seeking future opportunities to reach all communities.

Online, AFCA has launched new resources for diverse communities in 20 languages, including a series of videos featuring AFCA's own people speaking their first language. In each video, a member of AFCA's team explains how AFCA can help with financial complaints and how to get in touch. This simple initiative is so positive because it uses the skills and diversity of AFCA's workforce to help us to reach out into communities that might not know about its existence and services.

In November 2019, AFCA launched its groundbreaking AFCA Datacube – a free online tool with a rich set of complaints data about individual firms, different financial products and the outcomes of complaints. This enables any consumer or financial firm to see a presentation of comprehensive complaints data and to compare against others in the market. This new level of visibility is allowing members, industry and other stakeholders to better understand the products that cause complaints, and the outcomes of complaints to AFCA. Two further updates have since been provided to the Datacube, and it has attracted interest from other industry ombudsman schemes both within Australia and internationally. AFCA has embarked on a number of data analytics initiatives this year, some of which will lead to important developments in 2020-21.

Also, in November 2019, following a consultation and the approval of the Australian Securities and Investments Commission (ASIC), AFCA began to name financial firms in its published decisions as part of our commitment to being open, transparent and accountable to the public.

The second half of the financial year was dominated by the bushfire season and then the pandemic. AFCA responded quickly to the bushfire season by establishing a dedicated portal for consumers and members with tailored up-to-date information. It established a direct hotline and worked proactively with insurers, banks, chambers of commerce, consumer organisations to fast-track cases and address issues. AFCA's collaborative and highly engaged approach achieved great results for many consumers and businesses that had lost everything.

In March 2020, AFCA pivoted to respond to the acute challenges posed by the COVID-19 pandemic. It established a dedicated portal and helpline providing information and support to members and consumers. It sought and obtained approval from ASIC for a six-month change to the AFCA Rules providing financial firms with 30 days to respond to complaints at the initial 'refer-back' stage, as well as providing more time to all parties at later stages in the process. AFCA met with key stakeholders on a weekly basis, sharing knowledge and data about complaints and worked in partnership with the financial regulators, financial firms and consumer groups to provide advice and pre-empt issues that could cause disputes.

For many businesses and individuals, the economic impact of COVID-19 is yet to crystallise, and the next 12 months will be a period of financial difficulty for many. AFCA's services have never been more important than now.

I would like to thank my Board of Directors for their unwavering commitment, and excellent insights and advice, as we have navigated this past year, including Catriona Lowe who resigned in January 2020 and Robert Belleville whose term came to an end in May 2020. Both Catriona and Robert gave over 10 years of distinguished service on the Board of the Financial Ombudsman Service (FOS) and AFCA.

I would like to thank AFCA's CEO and Chief Ombudsman David Locke and his team of senior leaders. I also extend my deep gratitude to all our AFCA people for their continued hard work in this past year, particularly in the trying circumstances of COVID-19. Their ability to seamlessly shift to working from home with no impact on service to complainants or members is exemplary, and the ongoing high performance across the business is testament to their skill, care and commitment to AFCA's purpose and vision.



**The Hon Helen Coonan**  
Chair of the AFCA Board



# Chief Executive Officer and Chief Ombudsman message

After 20 months of operation, the Australian Financial Complaints Authority has now established itself as a credible and effective one-stop shop dispute resolution body for all financial disputes, and is delivering on the key recommendations from the Ramsay Review.

This year, AFCA received 80,546 complaints from consumers and small businesses. It resolved 76,681 complaints with \$258.6 million in compensation or refunds paid to consumers and small businesses, as a result of our dispute resolution work. Financial awards are, of course, only one outcome, with many cases found in favour of the financial firm or being resolved by variations to agreements, repayment programs, full or partial write-offs of debt and apologies.

In addition to our dispute resolution work, our systemic issues team has identified and investigated recurring issues that affect over 447,000 consumers. This painstaking work included 218 systemic issue investigations into financial firms, 92 definite systemic issues being reported to regulators, and more than \$179 million in refunds being provided to consumers.

AFCA continued its work to resolve the 10,228 extremely complex complaints it inherited from predecessor schemes, the Financial Ombudsman Service (FOS) and the Credit and Investments Ombudsman (CIO). This resulted in only 24 cases outstanding as at 30 June 2020, with all of these at advanced stages of our process. With the Superannuation Complaints Tribunal (SCT) ceasing operations at the end of 2020, the remaining cases with that body will be transferred to AFCA and we look forward to providing resolutions to those final matters.

AFCA's membership has increased this year to 40,493, and we welcome all new members to the scheme, including the financial firms that are not legally required to be members, but who have voluntarily joined. They have done so because they can see the value that we add by helping them to resolve often intractable disputes and improve their internal dispute resolution (IDR) practices.

We have continued to share insights at dedicated member forums, through our new online events, by speaking at key financial sector conferences throughout the year, through our newsletter, our website and in meetings with members and industry peak bodies. We know this proactive engagement has been greatly valued, particularly since the summer bushfires, and COVID-19 pandemic and the multiple challenges these have presented. AFCA has now appointed a Head of Membership Services, established a dedicated membership team and will be increasing our offering of education, training and support to members in 2020-21.

I am delighted that 81% of our licensee members had no complaints raised against them in this financial year. We would like to see this percentage increase as our ultimate aim is to help our members to improve their internal practices to avoid and resolve disputes.

AFCA has made a concerted effort to assist our members to improve their rates of early dispute resolution when matters are escalated to us. It is in the best interests of all the parties for there to be early and fair resolutions of disputes.

We have seen throughout the course of the year a steady trend in this direction. Forty-six percent of cases are now resolved at the very first stage of our process, where we refer the complaint back to the firm. Of all the complaints to AFCA, 60% of them are resolved within 60 days.



AFCA is required by our legislation and rules to determine what is fair in all the circumstances of a case, and with superannuation cases we must determine whether the decision of the Trustees is a fair and reasonable one. This is not something new, it is the same test used by AFCA's predecessor schemes, FOS and CIO . For the first time, we have undertaken work to formalise our approach to ensure our decision-making process is clear, and all parties understand our jurisdiction. This work has included collaboration and consultation with industry bodies, AFCA members and consumer representatives. Both industry and consumers want to understand AFCA's approach and know that there is consistency and, as far as possible, certainty of approach. To this end, AFCA has released a large number of approach documents and factsheets.

In April 2020, AFCA received two separate court decisions which supported the scope of AFCA's fairness jurisdiction in both its superannuation and general divisions. Both decisions supported AFCA's approach to decision making, which is open to the facts and does not exercise judicial power but operates within its jurisdiction.

All this work was achieved in challenging circumstances, with the coronavirus pandemic impacting all of our lives and putting great pressure on consumers, financial firms and the whole community. AFCA was able to act quickly as the pandemic developed. We worked closely with the financial sector and consumer advocacy groups to ensure open and honest lines of communication, sharing early data and insights to help minimise complaints being made, and publishing website and media updates to support access to our service for those in the community who needed it.

By 30 June 2020, AFCA had received 4,769 complaints relating to COVID-19. This is a significant number, but could have been much higher if the industry, consumer advocacy groups, regulators and other stakeholders had not come together to help consumers and small businesses. The early action taken by banks and others to defer payments on consumer and small business loans is to be commended, but we need to ensure people are treated fairly, and hardship assistance is offered where necessary, as people come off these arrangements.

The social and economic impact of the pandemic will continue to be dramatic throughout all of the 2020–21 year, and we are expecting to see increasing levels of financial hardship and small business failures ahead. This will be an incredibly challenging time for many consumers and small business owners as well as many of AFCA's members. The need for AFCA and its services has never been greater.



**David Locke**

Chief Executive Officer and Chief Ombudsman

# About us

AFCA is Australia's financial industry ombudsman service and it provides fair, free and independent solutions to financial disputes.

In 2019–20, AFCA received over 80,000 complaints, and closed 76,000 complaints. We resolved 60% of complaints within 60 days, providing a timely outcome that allows consumers and small business owners to get on with their lives. We secured \$258.6 million in compensation to consumers and small business owners through our dispute handling, in addition to the remediation payments made as a result of our systemic issues work. AFCA's service is offered as an alternative forum to tribunals and courts to resolve complaints that consumers and small businesses have with their financial firms.

AFCA is a one-stop shop for consumers and small businesses that have a dispute with their financial firm over issues such as banking, credit, general insurance, financial advice, investments, life insurance or superannuation.

Our role is to assist consumers and small businesses to reach agreements with financial firms about how to resolve their complaints. We are impartial and independent. We do not act for either party or advocate for their position.

When a complaint is lodged, AFCA refers that back to the financial firm and provides an opportunity for consumers and financial firms to resolve their financial complaint directly between themselves.

If an agreement can't be reached, we can investigate the complaint and try to resolve it using negotiation or conciliation.

If this is unsuccessful, AFCA can make a decision in accordance with the decision-making powers under our Rules.

However, the vast majority of complaints are resolved by complainants and financial firms through the referral back process, negotiation, conciliation and our early assessment. Only 6% of cases require AFCA to make a formal decision.

AFCA is structured as a not-for-profit and non-government organisation. AFCA is a company limited by guarantee and governed by an independent Board of Directors. The Board of Directors consists of an independent Chair and an equal number of Directors with consumer and industry expertise.

AFCA was established by the Australian Government following the 2016 Ramsay Review, which looked at how Australia's external dispute resolution framework could be improved to deliver effective outcomes for all Australian consumers and small businesses.

On 1 November 2018, AFCA replaced the Financial Ombudsman Service (FOS), the Credit and Investments Ombudsman (CIO) and the Superannuation Complaints Tribunal (SCT) as the one-stop shop for financial dispute resolution. All outstanding complaints with FOS and the CIO were transferred to AFCA and we have continued to finalise these matters. Unlike the CIO and FOS, there was no transfer of complaints between the SCT and AFCA. The SCT is to be formally wound up on 31 December 2020. Any remaining cases before the SCT will, at that point, be transferred to AFCA. AFCA's Rules have been amended to allow us to deal with these cases, as well as any referrals back from the courts of any SCT cases that are presently being dealt with by them.

# Strategic plan

## Purpose

To provide fair, independent and effective solutions for financial disputes.

## Vision

To be a world-class ombudsman service:

- raising standards and minimising disputes
- meeting diverse community needs
- trusted by all.

## Strategy statement

Working with consumers, small business and industry we will resolve and reduce financial disputes through innovative solutions, education and communication. We will deliver services to the Australian community that are easy to use, free for complainants, efficient, timely and impartial.

## Goals

### Australian community and government

A fair, ethical and trusted service that influences reform in the financial services sector.

### Consumers and small business

An excellent customer experience that meets diverse needs and delivers fair outcomes.

### Members

A valued member experience that helps members to improve internal practices to avoid or resolve disputes.

### Our people

Highly skilled and engaged people with the tools they need to deliver high-quality outcomes.

## Values

### Fair and independent

- We make fair, balanced and considered decisions.
- We are evidence-based.
- Impartiality underpins all our work.
- We ensure all parties are properly heard.

### Transparent and accountable

- We do what we say and what is right.
- We are clear and transparent.
- We explain the reasons for our actions.
- We are timely, efficient and flexible.
- We are trusted and supported to do our jobs, and take responsibility for what we do.

### Honest and respectful

- People are at the heart of everything we do.
- We respectfully listen to all views.
- We show integrity in all our dealings.
- We are professional and treat everyone with dignity.

### Proactive and customer-focused

- We are outward-facing and proactive.
- We use data and experience to influence, inform and look ahead.
- We help businesses to improve their customer service and minimise disputes.
- Our services are accessible to all.
- We actively engage with diverse audiences, including those who may need extra help.

# Year at a glance

Between 1 July 2019 and 30 June 2020

## Complaints received

**80,546**  
complaints received



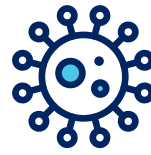
**14%**   
increase in monthly  
complaints compared  
to 2018-19



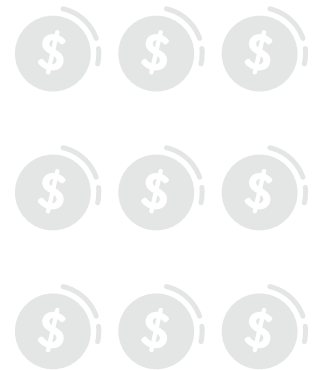
**75%**  
of complaints  
lodged online



**4,172**  
complaints from  
small businesses



**4,769**  
complaints related  
to COVID-19



**1 in 10**  
complaints involved  
financial difficulty

## Products complained about



**46,820**  
Banking  
and finance



**19,103**  
General  
insurance



**7,557**  
Superannuation



**4,615**  
Investments  
and advice



**1,778**  
Life  
insurance



## Complaints closed

**76,681**  
complaints closed <sup>1</sup>  
60% resolved within 60 days



**71%**  
resolved by agreement or  
in favour of complainants



More than **\$258.6 million** <sup>2</sup>  
in compensation and refunds was awarded or  
obtained through AFCA's dispute resolution work

<sup>1</sup> This includes 14,239 complaints received before 1 July 2019, and 62,442 received from 1 July 2019 and 30 June 2020.

<sup>2</sup> This includes matters previously received by AFCA's predecessor, Financial Ombudsman Service, and resolved by AFCA since 1 November 2018.

## Members



**40,493**  
members



**1.9 in 10**  
of licensee members  
had a complaint  
lodged against them

## Customer service

**155,792** phone calls  
to our dedicated consumer, small  
business and member lines



**7,000**  
online live chats



More than  
**1.2 million**  
website visits



**27,000**  
newsletter  
subscribers



Over **630** stakeholder  
engagements including one-on-  
one meetings, forums, events  
and speaking engagements

## Systemic issues

**97**

systemic issues  
successfully resolved  
with financial firms



Almost **447,686** consumers  
were identified by financial firms as  
having been affected by systemic  
issues investigated by AFCA<sup>3</sup>

**37**

possible serious  
contraventions and  
other breaches  
reported to ASIC<sup>1</sup>



More than **\$179 million**<sup>2</sup>  
in refunds to consumers and small  
businesses following direct AFCA  
involvement in resolving  
systemic issues<sup>3</sup>

<sup>1</sup> Under Corporations Act s1052E(1).

<sup>2</sup> This includes matters previously received by AFCA's predecessor, Financial Ombudsman Service, and resolved by AFCA since 1 November 2018.

<sup>3</sup> Systemic issue investigations and resulting remediation work can take significant time, in some cases over 12 months. These statistics represent work that was completed in 2019–20, and some financial outcomes may have been received by affected customers in previous financial years.

# How external dispute resolution works

Our complaint resolution process is simple, clear and ensures that we provide outcomes that are fair to complainants and financial firms.

We have a range of methods to resolve complaints. We select the method, or combination of methods, that we think are most likely to resolve the complaint fairly and efficiently. We are experts at complaint resolution and resolve complaints in the most fair, effective and efficient way to allow parties to move on with their lives.

The first step in our process occurs when a complaint is lodged, AFCA refers the complaint to the financial firm, which has a set timeframe to work directly with the complainant to resolve the complaint directly between them. If the complaint is not resolved, AFCA becomes more actively involved and the case will progress to AFCA Case Management.

Once in AFCA Case Management, we will consider carefully what the issues are in dispute. We will generally try to first resolve a complaint by informal methods, and reach a settlement between a complainant and the financial firm through negotiation or conciliation. A lot of this will involve us talking to the parties.

If this doesn't work, we may then use more formal methods, where we may provide a Preliminary Assessment about the merits of a complaint, or we may make a decision (called a determination). We make these assessments and decisions in line with the jurisdiction set out in our Rules.

As part of our process, we will ask relevant questions, gather and exchange information, assess the material and outline clearly to the parties what our view or decision is.

If we make a determination that is in favour of a complainant and they accept it, the financial firm is required to comply with the determination and any remedy that we award. Complainants have the choice to accept the determination or not. For superannuation complaints, any determination that we make is binding on both parties.

Sometimes, it may be appropriate for us to make a decision straight away, rather than try and reach a settlement through negotiation or conciliation. This might occur if an issue is particularly urgent.

You can find out more about the process we follow at [afca.org.au/process](https://afca.org.au/process)

## Methods to resolve complaints

Sometimes, it may be appropriate for us to make a decision straight away, rather than try and reach a settlement through negotiation or conciliation. This might occur if an issue is particularly urgent.

### Negotiation

Often, we will work to resolve a complaint with the parties by helping them negotiate a settlement. This may involve us exchanging settlement offers and discussing them with each party.

### Conciliation

In many complaints, we will hold a telephone conciliation conference with both parties. This is conducted informally. It provides the parties with a chance to hear the other's perspective in a conversation facilitated by us. During a conciliation we will normally provide the parties with guidance on the issues raised in the complaint and what outcome might be provided if the complaint proceeded to determination. This is based on our experience in dealing with similar cases.

If informal methods, such as negotiations or a conciliation conference, do not achieve an agreed settlement, we will continue on. We may issue a Preliminary Assessment or immediately make a formal decision (called a determination) about the complaint.

### Preliminary Assessment

We may provide a Preliminary Assessment verbally, or in writing, that explains the likely outcome of a determination based on the facts of the case.

A Preliminary Assessment includes:

- an overview of the facts of the complaint
- the issues raised in the complaint and our Preliminary Assessment of those issues
- how we think the complaint should be resolved and why

- when the parties must tell us whether they are willing to settle the complaint in line with our preliminary assessment.

We don't issue Preliminary Assessments in all cases, but we will do so where we consider that it will be effective to resolve the complaint.

### Determination

A determination is the final stage in our complaint resolution process. For complaints not relating to superannuation and a regulated superannuation fund, the complainant may choose to accept the decision we make, or not. If they do accept it, the determination is binding on the financial firm. It is not possible to appeal a determination; however, parties may be able to take their case to the courts.

AFCA makes its decisions in line with our jurisdiction set out in our Rules.

When determining a superannuation complaint, the AFCA decision maker:

- may refer a question of law to the Federal Court in accordance with section 1054C of the Corporations Act; and
- must apply the approach specified in section 1055 of the Corporations Act.

When determining any other complaint, the AFCA decision maker must do what they consider is fair in all the circumstances having regard to:

- legal principles;
- applicable industry codes or guidance;
- good industry practice; and
- previous relevant determinations of AFCA or predecessor schemes.

In response to the COVID-19 pandemic, AFCA extended some of its referral and Case Management timeframes to give complainants and financial firms more time to resolve their complaints together. More information about this change and how AFCA responded to the pandemic can be found on page 78.

# AFCA complaint resolution process<sup>4</sup>

## Complaint lodged with AFCA



<sup>1</sup> Most complaints will progress through the automatic Registration and Referral process.

<sup>3</sup> These are average expected timeframes.

<sup>2</sup> Some complaints may not be appropriate to automatically refer back to the financial firm because of the subject matter, urgency or the accessibility needs of the complainant.

<sup>4</sup> In response to the COVID-19 pandemic, AFCA extended some of its timeframes. See page 78 for details.



**“Thank you for your help. You and the team have been very professional, and I couldn’t have felt in safer hands. Shortly after your last email the firm contacted me; shows how valuable you are.”**

*- Feedback from consumers*





# Membership

# Who are our members?

AFCA has over 40,000 members, including banks, insurers, credit providers, financial advisers, debt collectors and buyers, superannuation trustees and other financial firms. While some of these are very large institutions, the majority of our members are small and medium enterprises. Most of our members do not have complaints made against them; in fact, only 19% of our members had a complaint about them in 2019–20.

Most Australian financial services licensees, Australian credit licensees, authorised credit representatives and superannuation trustees are required to be members of AFCA under its financial services licence conditions, in accordance with ASIC Regulatory Guide RG 165.

There are also a number of organisations that are voluntary members of AFCA, including some buy now pay later and fintech companies that may not be required to be members.

AFCA can only accept complaints about financial firms that are members of AFCA. We provide a searchable register of our members on our website to help consumers understand if we are able to consider their complaint.

There is a dedicated membership team that assists AFCA members with the management of their membership including applications, online assessments, annual forecasting and everyday membership enquires.

As at 30 June 2020, AFCA had 40,493 members.

In 2019–20, we released the Datacube, which shows complaint data about AFCA members. This publicly available data provides members, and others, with transparent information about complaints received and closed, along with an indication of the outcome, against each scheme member on an annual basis.

**“I wanted to thank you for your valuable assistance in resolving this complaint at an earlier stage than anticipated.”**

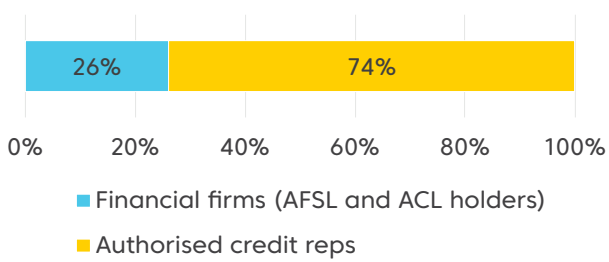
*- Feedback from members*

Between 1 July 2019 and 30 June 2020

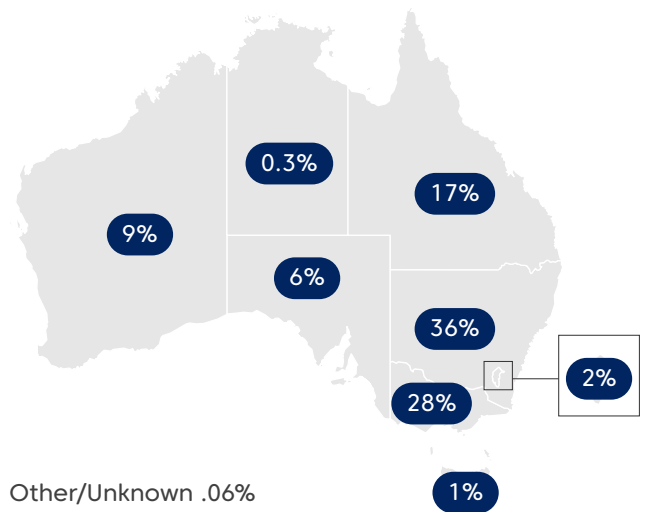
**40,493** members

**81%** of licensee members did not have a complaint lodged against them

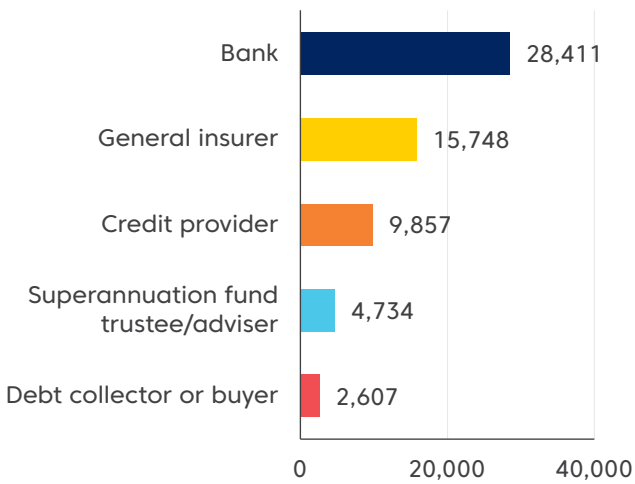
### Number of members



### Members by state



### Top five member types with the most complaints



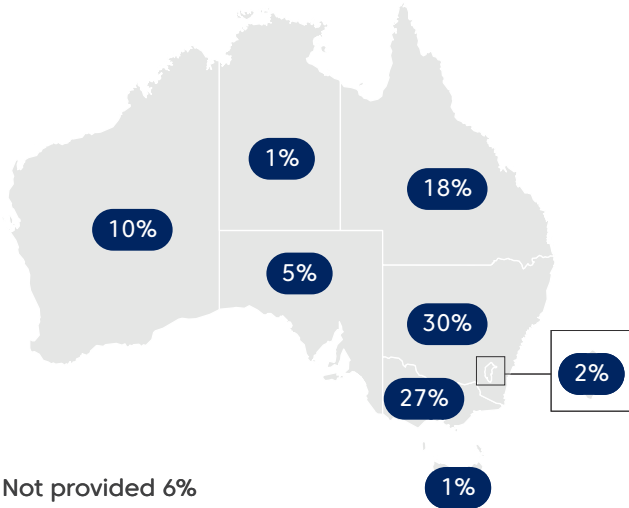
# Complaints



# Who complained to AFCA?

Between 1 July 2019 and 30 June 2020

## Complainants by state



## Received complaints by type of additional assistance

**75%** of complainants lodged online

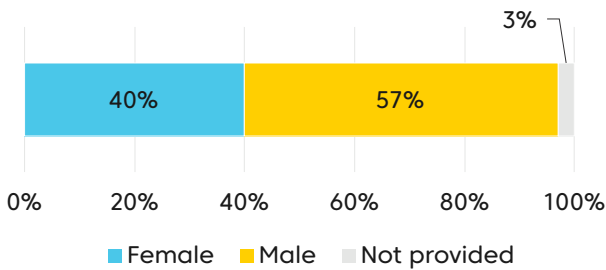
**2%** of complainants identified as Aboriginal or Torres Strait Islander

**16,827** complaints had a representative, 33% of these representatives were a family member or friend

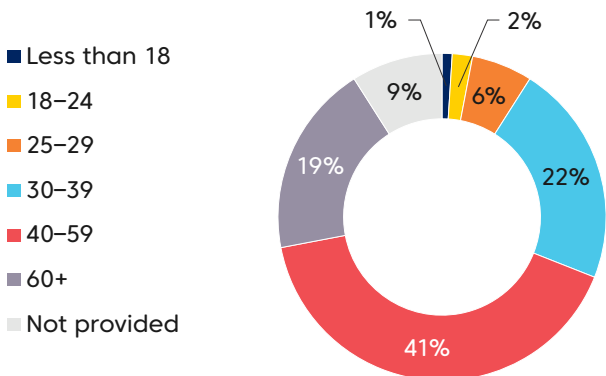
**1,154** complaints required an interpretation service

Service was provided in **78** different languages other than English

## Received complaints by gender of complainant



## Received complaints by age of complainant



- Top 10 languages other than English:**
- |                    |              |
|--------------------|--------------|
| 1. Mandarin        | 6. Cantonese |
| 2. Arabic          | 7. Hindi     |
| 3. Vietnamese      | 8. Spanish   |
| 4. Persian (Farsi) | 9. Korean    |
| 5. Afrikaans       | 10. Bisaya   |

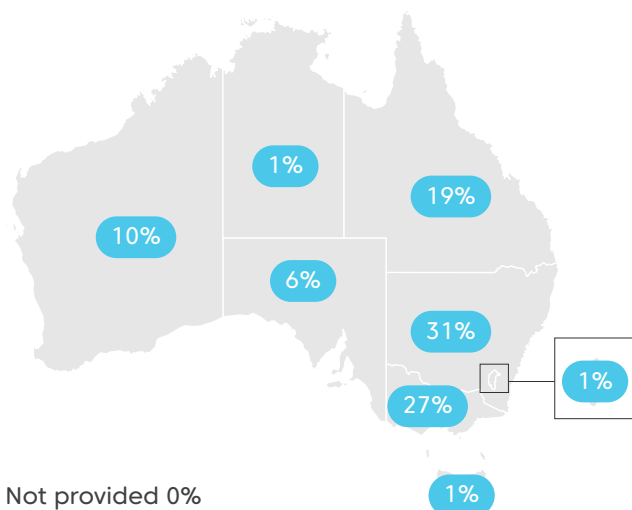
## Small businesses

Under the AFCA Rules, a small business is defined as an organisation with fewer than 100 employees.

Complaints lodged by small businesses accounted for 5% of all complaints lodged with AFCA.

Information on complaints lodged by small businesses can be found on page 56.

### Complainants by state



80% of complainants lodged online

13% of complaints lodged by email

2% of complaints lodged by letter

5% of complaints lodged by phone

# Overview of complaints

Between 1 July 2019 and 30 June 2020

AFCA received 80,546 complaints, which is a 14% increase in the monthly average compared to the last financial year. Despite this large increase in complaints, AFCA was able to resolve the majority of complaints promptly, with complaints taking 73 days, on average, to reach an outcome. Speedy resolution allows consumers and small business owners to get on with their lives, and AFCA's process is designed to support all parties to a complaint to reach an agreement as early as possible. This year, 76,681 complaints were resolved.

Complaint trends were similar to the 2018–19 financial year. A majority of complaints lodged with AFCA in 2019–20 related to banking and finance (down to 58% from 60% last year), with credit cards being the most complained about product, followed by home loans, personal loans and motor vehicle comprehensive insurance. Unsurprisingly, given they represent the most common financial products held by consumers, these were also the most complained about products in 2018–19.

Around a quarter (24%) of all complaints lodged with AFCA were about general insurance. This is similar to the previous reporting period, where general insurance complaints made up 23% of all complaints. AFCA was pleased to note the insurance industry's response to a number of significant events in 2019–20, including the devastating Australian bushfires, as well as a number of flood, storm and hail events. We received relatively few complaints related to these events, demonstrating, on the whole, a positive response by the industry.

Nine per cent of complaints with AFCA related to superannuation (the same as last financial year), 6% were about investments and advice (up from 5%) and 2% were about life insurance (the same as last year). The impact of the Government's early access to superannuation scheme in response to the COVID-19 pandemic saw a spike in complaints in May 2020; however, the industry responded well to these issues and this was not repeated in July 2020.

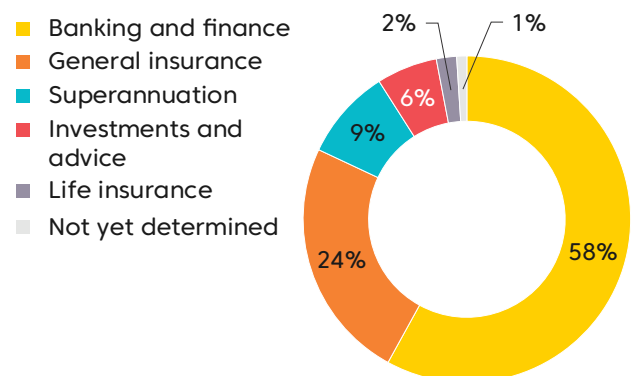
The data in this Annual Review has been classified by product type.

The product types are:

- Banking and finance
- Investments and advice
- Superannuation
- Life insurance
- General insurance

For more information on how we classify complaints refer to Appendix 1.

## Number of complaints received by product line





Between 1 July 2019 and 30 June 2020

## Complaints received

**80,546** complaints received

**46%** resolved at  
Registration and Referral stage

### Top complaints received by product <sup>1</sup>

Product	Total
Credit cards	11,628
Home loans	7,608
Personal loans	5,722
Motor vehicle – comprehensive insurance	4,104
Personal transaction accounts	3,815

### Top five complaints received by issue <sup>1</sup>

Issue	Total
Credit reporting	6,381
Service quality	5,685
Delay in claim handling	5,169
Unauthorised transactions	5,081
Incorrect fees/costs	4,065

## Complaints closed

**76,681** complaints closed <sup>2</sup>

More than **\$258.6 million** <sup>3</sup> in  
compensation was awarded or obtained  
through AFCA

**71%** of complaints resolved by  
agreement, or in favour of complainants

Average time to close a complaint  
**73** days

### Stage at which complaints closed

Stage	Total
At Registration	36,564
At Case Management	29,166
Preliminary Assessment	5,916
Decision	5,035

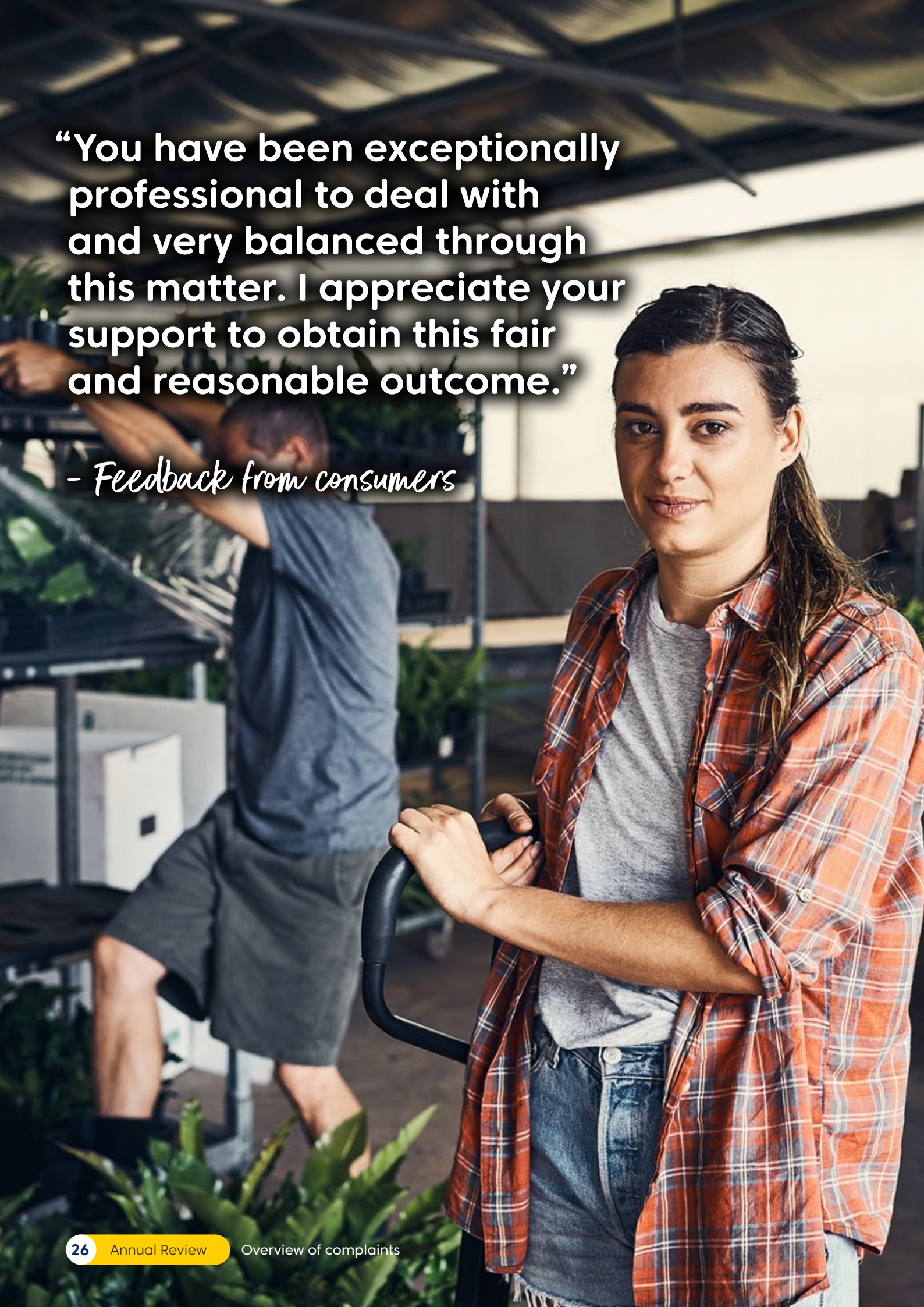
### Average time taken to close complaints

Time	Total
Closed 0–30 days	21,510
Closed 31–60 days	24,189
Closed 61–180 days	24,658
Closed greater than 180 days	6,324

<sup>1</sup> One complaint can have multiple products/issues.

<sup>2</sup> This includes 14,239 complaints received before 1 July 2019, and 62,442 received from 1 July 2019 to 30 June 2020.

<sup>3</sup> This includes matters previously received by AFCA's predecessor, Financial Ombudsman Service, and resolved by AFCA between 1 July 2019 and 30 June 2020.



**“You have been exceptionally professional to deal with and very balanced through this matter. I appreciate your support to obtain this fair and reasonable outcome.”**

*- Feedback from consumers*

# Open cases

As at 30 June 2020, 59% of our open cases were less than 60 days old with 18% being older than 180 days.

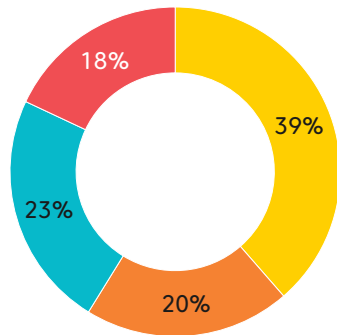
The age of open cases is impacted by a number of factors. This includes the referral back timeframe, which varies from 21 to 90 days depending on the product and/or issues raised by the complaint. Complaints that are handled through our Fast Track and Financial Difficulty processes generally have a lower age profile than those complaints that raise multiple and more complex issues.

In response to the COVID-19 pandemic, we gave consumers, small businesses and financial firms an additional nine days to respond to complaints – bringing the total number of days to respond to 30. We also provided a standard, flat 21-day timeframe for financial firms to provide an initial response once a dispute reached the Case Management stage. These extensions came into effect on 16 April with approval from ASIC, and applied to all complaints, including financial difficulty.

As at 30 June 2020, AFCA had **19,734** open cases, including three FOS complaints and 21 open CIO complaints.

## Open cases by age

- 0–30 days
- 31–60 days
- 61–180 days
- Greater than 180 days



## Open predecessor scheme cases<sup>1</sup>

There were three FOS complaints open at the end of June 2020.

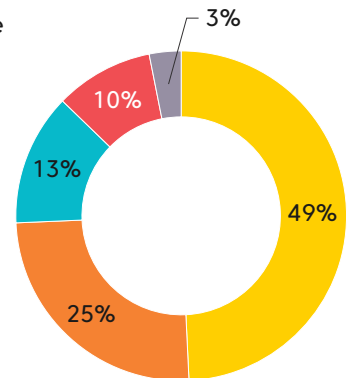
There were 21 CIO complaints open at the end of June 2020.

## Open cases by stage of the process they are at

Stage	Percentage
At Registration	45.5%
At Case Management	36.5%
Preliminary Assessment	10.9%
Decision	7.1%

## Open cases by product type

- Banking and finance
- General insurance
- Superannuation
- Investments and advice
- Life insurance



<sup>1</sup> These cases are not included in open cases by age, stage or product type statistics.

# Complaints closed by AFCA

AFCA resolved a total of 77,057 complaints between 1 July 2019 and 30 June 2020.

These included:

- 76,347 AFCA complaints
- 334 FOS complaints and 376 CIO complaints that were transferred to AFCA on 1 November 2018.

Of the 77,057 complaints resolved, 14,615 were received before 1 July 2019, but resolved between 1 July 2019 and 30 June 2020.

Between 1 July 2019 and 30 June 2020

Of the complaints, 71% were resolved by agreement or in favour of complainants.

The 710 complaints transferred from predecessor schemes FOS and CIO and resolved during this financial year were longstanding and complex matters. Complaints lodged with FOS were resolved by AFCA under the FOS Terms of Reference. Complaints lodged with CIO were resolved by AFCA under the CIO Rules.

Further information about complaints that were lodged with FOS and CIO and closed in 2019–20 is available on pages 126 and 127.

	AFCA	FOS	CIO	Total
<b>Complaints resolved by agreement or in favour of complainants</b>				
Resolved by financial firm	38,526	0	73	38,599
Assessment	607	0	n/a	607
Negotiation	11,193	19	n/a	11,212
Conciliation	1,398	1	n/a	1,399
Preliminary Assessment in favour of complainant	1,108	11	n/a	1,119
Determination in favour of complainant	1,070	180	140	1,390
Preliminary Assessment: trustee decision remitted	1	n/a	n/a	1
Preliminary Assessment: trustee decision substituted	4	n/a	n/a	4
Preliminary Assessment: trustee decision varied	6	n/a	n/a	6
Determination: trustee decision remitted	4	n/a	n/a	4
Determination: trustee decision substituted	49	n/a	n/a	49
Determination: trustee decision varied	8	n/a	n/a	8
<b>Total</b>	<b>53,974</b>	<b>211</b>	<b>213</b>	<b>54,398</b>
<b>Other outcomes</b>				
Outside Rules or Terms of Reference	8,467	0	5	8,472
Discontinued by complainant	8,329	3	28	8,360
Determination in favour of financial firm	2,824	118	130	3,072
Preliminary Assessment in favour of financial firm	2,314	2	n/a	2,316
Preliminary Assessment: trustee decision affirmed	50	n/a	n/a	50
Determination: trustee decision affirmed	389	n/a	n/a	389
Decision confirming financial services provider offer (CIO)	n/a	n/a	0	0
<b>Total</b>	<b>22,373</b>	<b>123</b>	<b>163</b>	<b>22,659</b>
<b>Grand total</b>	<b>76,347</b>	<b>334</b>	<b>376</b>	<b>77,057</b>



# Banking and finance complaints

Between 1 July 2019 and 30 June 2020

## Complaints received

**46,820** complaints received

**51%** resolved at Registration and Referral stage

## Top five banking and finance complaints received by product<sup>1</sup>

Product	Total
Credit cards	11,628
Home loans	7,608
Personal loans	5,722
Personal transaction accounts	3,815
Business loans	1,570

## Top five banking and finance complaints received by issue<sup>1</sup>

Issue	Total
Credit reporting	6,366
Unauthorised transactions	4,915
Responsible or appropriate lending <sup>2</sup>	3,616
Service quality	3,193
Financial firm failure to respond to request for assistance	3,123

## Complaints closed

**45,558** complaints closed<sup>3</sup>

More than **\$100 million<sup>4</sup>** in compensation and refunds was awarded or obtained through AFCA's dispute resolution work

**75%** of complaints resolved by agreement, or in favour of complainants

Average time to close a complaint  
**62** days

## Stage at which banking and finance complaints closed

Stage	Total
At Registration	23,439
At Case Management	17,678
Preliminary Assessment	2,503
Decision	1,938

## Average time taken to close banking and finance complaints

Time	Total
Closed 0–30 days	33%
Closed 31–60 days	34%
Closed 61–180 days	28%
Closed greater than 180 days	5%

<sup>1</sup> One complaint can have multiple products/issues.

<sup>2</sup> This includes responsible lending complaints from consumers and appropriate lending from small business.

<sup>3</sup> This includes 7,178 complaints received before 1 July 2019, and 38,380 received from 1 July 2019 to 30 June 2020.

<sup>4</sup> This includes matters previously received by AFCA's predecessor, Financial Ombudsman Service, and resolved by AFCA between 1 July 2019 and 30 June 2020.

**AFCA can consider complaints about a range of banking and finance products and services including:**

- deposits to current accounts and savings accounts
- banking payment systems including over the counter payments, ATM transactions, internet and telephone banking, secure payment systems, direct debits and foreign currency transfers
- credit cards, overdrafts and lines of credit
- consumer leases and hire purchase arrangements
- short-term finance such as payday lending
- home loans, including reverse mortgages
- personal loans such as car loans, holiday loans and debt consolidation loans
- personal investment loans and small business loans
- guarantees.

**The types of issues and problems AFCA resolves include:**

- incorrect, dishonoured or unauthorised transactions, or mistaken payments
- fees or charges that were incorrectly applied or calculated
- incorrect, misleading or inadequate information about a product or service
- a financial firm's failure to respond appropriately to a customer in financial difficulty
- decisions made by a financial firm, including whether a decision to lend was made responsibly
- a financial firm's failure to follow instructions
- privacy and confidentiality breaches
- inadequate service, including unreasonable delays or failure to assist a vulnerable customer.

AFCA continued to receive high volumes of complaints about banking and finance with almost 60% of the total number of complaints received by AFCA relating to banking and finance products.

During the 2019–20 financial year, AFCA received 46,820 banking and finance complaints, an 11% increase in the average number of complaints received each month compared to last year.

During the year, 45,558 banking and finance complaints were closed, including 7,178 received before 1 July 2019.

More than \$100 million in compensation and refunds was awarded or obtained through AFCA's dispute resolution work.

Of the banking and finance complaints closed, 23,439 complaints were closed at Registration and Referral, 17,678 were closed at Case Management, with 1,938 progressing through to the final Decision stage.

The average time taken to close banking and finance complaints was 62 days with around 33% being closed between 0 to 30 days, and only 5% being closed after 180 days.

Most complaints were about credit cards (11,628), followed by home loans (7,608) and personal loans (5,722), with the most common issue being credit reporting (6,366) followed by unauthorised transactions (4,915) and responsible or appropriate lending (3,616).

There was also an increase in the average number of complaints received per month about credit reporting (up 34%), unauthorised transactions (up 14%) and responsible lending (up 14%).

An increase in credit reporting complaints was partly driven by a rise in consumer awareness about credit scores and increased refinancing activity towards the end of the year.

There was an increase in complaints about disputed transactions in recent months due to the impact of the COVID-19 pandemic. These mainly related to consumers seeking chargebacks for services purchased before the pandemic that were impacted by COVID-19, such as travel and accommodation.

During the initial stages of the COVID-19 pandemic, we saw an increase in financial difficulty complaints due to the large numbers of consumers seeking assistance from their financial firm. Most of these complaints were resolved at the Registration and Referral stage as financial firms introduced measures to address the increased volumes and reduce disruption caused by call centre closures. AFCA continues to work closely with regulators, industry and consumer groups to minimise future complaints.

The number of cases related to scams continued to be significant this year, partly due to the COVID-19 pandemic. AFCA is engaged with broader stakeholder initiatives aimed at preventing scams.

For more information about COVID-19 complaints, visit page 78.

## Case study

### Financial elder abuse

Following the death of his mother, the complainant – who was the executor of his mother’s estate – noticed there had been systematic withdrawals from her bank account to the sum of approximately \$250,000 by another family member.

These withdrawals occurred at a bank branch towards the end of his mother’s life.

After contacting the bank about the withdrawals, the complainant contacted AFCA because he was dissatisfied with the financial firm’s response.

The complainant said the bank had failed to meet its obligations to protect his mother from financial elder abuse and that the withdrawals should never have been allowed to occur.


#### Conciliation and outcome

After the complaint was initially referred back to the bank, it remained unresolved and progressed to AFCA’s Case Management stage.

AFCA organised a conciliation meeting between the complainant and the bank to establish a shared understanding of the circumstances and try to resolve the complaint. During the conciliation meeting, the bank recognised it had failed to meet its obligations to the complainant’s mother, and that it had allowed the withdrawals to occur without following the correct process and procedure.

The bank apologised for the error and offered to refund \$250,000 to the estate.

The complainant accepted this offer on behalf of the estate and the matter was resolved.



**“The case manager’s clear communication style kept all parties informed of the progress and ultimately led to an outcome that both parties were happy to accept.”**

*- Feedback from members*



## Case study

### Responsible lending complaint

A financial firm provided a married couple with two loans totalling \$1.09 million – a home loan that refinanced an existing loan and provided an additional \$77,000, and an investment property loan of \$596,695 to purchase a new investment property.

When the complainants came to AFCA, the wife was permanently disabled and recovering from cancer, and the husband was approaching retirement and had reduced his work hours to care for his wife.

The complainants could not meet their repayments on the loans provided by the bank. As a result, the couple experienced significant financial hardship and had to sell their primary residence.

The complainants came to AFCA because they believed the bank was irresponsible when it provided the two loans. The complainants told AFCA that the bank failed to properly assess their income and liabilities.

#### Process and outcome

After the complaint was initially referred back to the bank, it remained unresolved and progressed to AFCA's Case Management stage. As the complaint could not be resolved with informal methods, the case reached the decision stage.

AFCA found that the bank did not comply with its responsible lending obligations under the *National Consumer Credit Protection Act 2009* (Cth) and should not have provided the complainants with the loans as they were unaffordable. The bank also failed to comply with its own internal lending policy when approving the loans.

As the complainants owned a business, the bank should have assessed them as self-employed applicants. Despite their tax returns showing most of their income was derived through self-employment, the bank incorrectly assessed the complainants as PAYG earning individuals. As a result, it failed to obtain and consider financial statements for the business.

Due to the complainants' age, the bank was also required to discuss a proposed exit strategy with them at the time of the loan application. This is because the complainants would likely be entering into retirement in the early stages of the life of the loans. However, the investigation revealed that the bank failed to consider this at the time of the lending decision.

The bank also failed to account for the repayments on the investment property loan when it assessed whether the complainants would be able to afford the repayments for the home loan.

When AFCA reconstructed the bank's assessment using the additional information it should have obtained, the assessment showed a significant monthly shortfall, which meant the complainants were unable to afford the loans.

AFCA determined that the bank should:

- provide both complainants with life tenancy of their home due to their vulnerable position
- reduce the outstanding balance of the loans to compensate the complainants for financial loss suffered due to the irresponsible lending and pay them a total of \$10,000 compensation for non-financial loss
- accept weekly repayments towards the balance of the loan at a level the complainants were able to afford and not charge any further interest.



# General insurance complaints

Between 1 July 2019 and 30 June 2020

## Complaints received

**19,103** complaints received

**46%** resolved at Registration and Referral stage

## Top five general insurance complaints received by product<sup>1</sup>

Product	Total
Motor vehicle – comprehensive	4,104
Home building	3,616
Travel	3,168
Motor vehicle – uninsured third party	1,189
Home contents	946

## Top five general insurance complaints received by issue<sup>1</sup>

Issue	Total
Delay in claim handling	3,521
Claim amount	3,171
Denial of claim – exclusion/condition	3,032
Denial of claim	2,337
Service quality	1,353

## Complaints closed

**17,564** complaints closed<sup>2</sup>

More than **\$62.6 million<sup>3</sup>** in compensation and refunds was awarded or obtained through AFCA's dispute resolution work

**70%** of complaints resolved by agreement, or in favour of complainants

Average time to close a complaint  
**77** days

## Stage at which general insurance complaints closed

Stage	Total
At Registration	8,389
At Case Management	5,185
Preliminary Assessment	2,046
Decision	1,944

## Average time taken to close general insurance complaints

Time	Total
Closed 0–30 days	23%
Closed 31–60 days	35%
Closed 61–180 days	33%
Closed greater than 180 days	9%

<sup>1</sup> One complaint can have multiple products/issues.

<sup>2</sup> This includes 3,468 complaints received before 1 July 2019, and 14,096 received from 1 July 2019 to 30 June 2020.

<sup>3</sup> This includes matters previously received by AFCA's predecessor, Financial Ombudsman Service, and resolved by AFCA between 1 July 2019 and 30 June 2020.

**AFCA can consider complaints about the following general insurance products:**

- consumer credit insurance
- home building
- home contents
- motor vehicle
- personal and domestic property (including pleasure crafts)
- residential strata title
- sickness and accident
- travel insurance
- business interruption.

**The types of issues and problems AFCA resolves include:**

- decisions a financial firm has made, such as denial of an insurance claim
- insurance premiums that were incorrectly applied or calculated
- information that wasn't disclosed about a product, or was misleading or incorrect
- if a complainant gave instructions and they weren't followed
- privacy and confidentiality breaches
- disputes over liability for a car accident or insurance excess
- denial of a travel insurance claim because of a pre-existing condition.

During the 2019–20 financial year, a total of 19,103 general insurance complaints were received by AFCA. This made up 24% of the total complaints received. There was a 17% increase in the average number of general insurance complaints received each month in 2020, compared to 2019.

The number of general insurance complaints closed this year was 17,564, including 2,468 received before 1 July 2019.

More than \$62.6 million in compensation and refunds was awarded or obtained through AFCA's dispute resolution work.

Of the general insurance complaints closed, 8,389 were closed at Registration and Referral, 5,185 closed at Case Management with 1,944 progressing though to the final Decision stage.

The average time taken to close these complaints was 77 days. Most complaints were closed within 60 days, and only 9% were closed after 180 days.

Most complaints received were about delay in claim handling (3,521), followed by the claim amount (3,171) and denial of claim – exclusion/condition (3,032). General insurers received the highest number of general insurance complaints (15,568), followed by complaints against underwriting agencies (2,195).

A high number of complaints that came to AFCA this year were from complainants contacting AFCA directly, before contacting their insurer for an internal dispute resolution. This was driven by the rise in issues around cancellation of travel plans and premium refunds, as a direct impact of the COVID-19 global pandemic.

AFCA also received 404 complaints about small business insurance, which is a significant increase to the 195 complaints received last year. These included complaints related to business interruption, commercial vehicles, commercial properties, land and machinery.

AFCA has been active in its engagement with both industry and consumer groups in tackling some of the emerging issues in insurance. AFCA continues to partner with the Insurance Council of Australia, industry and consumer groups in responding to the impact of natural disasters and the COVID-19 global pandemic. For more information about AFCA's response to significant events, such as the bushfires and the COVID-19 pandemic, visit page 74.

## Case study

### Protecting consumer and motor body repairer rights

Following a traffic collision, the complainant lodged a claim with her car insurance provider and the insurer accepted the claim.

The complainant's policy included a "choice of repair" benefit; whereby, the consumer could provide a quote from a chosen repairer. The complainant provided a quote of \$5,654.40 from a motor body repairer of her choice.

The policy also gave the insurer a discretion to determine how much it would pay for the repairs. The insurer obtained a quote from a different repairer for the sum of \$2,430.31.

The complainant came to AFCA after the insurer denied her quote from her chosen repairer. The insurance company told the complainant her quote was excessive and unreasonable.

#### Findings and outcome

AFCA had to determine if the insurance provider had fulfilled its obligations under the policy, and if the quote provided by the complainant was unreasonable.

To do this, AFCA suggested the parties cooperate to acquire an independent assessment of the damage and repair costs, and that the insurer physically inspect the vehicle.

The insurer agreed to arrange an independent assessment at its own cost. The insurer, however, named a repair business to complete the assessment, not an assessor. AFCA determined it would be inappropriate to appoint a repairer to provide an expert report on the damage and cost of repairs. The insurance provider also failed to physically inspect the vehicle.

As a result, the insurer was unable to provide any evidence to support its claim the complainant's quote was unreasonable and excessive.

AFCA determined the insurer did not fulfil its obligations under the policy and must settle the claim in accordance with the quote from the complainant's chosen repairer. The consumer was awarded \$5,654.40 (the cost of the repairs) plus interest.



## Case study

### Policy exclusion leads to denial of claim

The complainant held a comprehensive motor vehicle insurance policy with an insurance company, and lodged a theft claim after his car was stolen and recovered burnt out.

After lodging, the insurer denied the claim because the complainant had left his car keys attached to the vehicle with a security padlock at the time of the theft.

Dissatisfied with the insurer's response, the complainant lodged a complaint with AFCA, arguing that the keys were unlikely to have been used in the theft of the vehicle. The complainant told AFCA the insurer had not adequately managed his claim and that it should pay him the value of the car.

#### Findings and outcome

After the complaint was referred back to the insurance provider and an outcome could not be reached, the complaint ultimately progressed to the Decision stage.

In our decision we found that the insurance policy stated, that in order to make a claim, the complainant was required to remove his keys from within, on, or in the vicinity of the vehicle, when unattended.

At the time of the theft, the complainant left the car's keys on the vehicle using a security padlock. Despite this, the complainant argued that it was unlikely the keys were used at the time of theft and believed he should still be able to lodge a claim.

AFCA determined that the complainant did not comply with the policy condition. Therefore, the insurer was entitled to refuse the claim.

AFCA found that the financial firm did not provide the complainant with regular updates resulting in avoidable stress and inconvenience. As a result, the insurer was required to pay the complainant \$1,000 compensation for non-financial loss.



# Superannuation complaints

Between 1 July 2019 and 30 June 2020

## Complaints received

**7,557** complaints received

**33%** resolved at Registration and Referral stage

## Top five superannuation complaints received by product <sup>1</sup>

Product	Total
Superannuation account	3,723
Total and permanent disability	1,161
Income protection	925
Death benefit	578
Pension	58

## Top five superannuation complaints received by issue <sup>1</sup>

Issue	Total
Delay in claim handling	1,260
Incorrect fees/costs	753
Service quality	648
Account administration error	570
Denial of claim	556

## Complaints closed

**6,867** complaints closed <sup>2</sup>

More than **\$33.9 million** <sup>3</sup> in compensation and refunds was awarded or obtained through AFCA's dispute resolution work

**70%** of complaints resolved by agreement, or in favour of complainants

Average time to close a complaint  
**106** days

## Stage at which superannuation complaints closed

Stage	Total
At Registration	2,476
At Case Management	3,084
Preliminary Assessment	816
Decision	491

## Average time taken to close superannuation complaints

Time	Total
Closed 0–30 days	16%
Closed 31–60 days	19%
Closed 61–180 days	49%
Closed greater than 180 days	16%

<sup>1</sup> One complaint can have multiple products/issues.

<sup>2</sup> This includes 1,769 complaints received before 1 July 2019, and 5,098 received from 1 July 2019 to 30 June 2020.

<sup>3</sup> This includes matters previously received by AFCA's predecessor, Financial Ombudsman Service, and resolved by AFCA between 1 July 2019 and 30 June 2020.

**AFCA can consider complaints about the following superannuation products:**

- superannuation pensions and annuities
- corporate, industry and retail super funds
- some public sector schemes
- self-managed super funds (handled under our investments and advice jurisdiction)
- approved deposit funds
- retirement savings accounts
- small APRA funds.

**The types of issues and problems AFCA resolves include:**

- advice given about a superannuation product
- fees or costs that were incorrectly charged or calculated
- misleading or incorrect information – for example, if benefit statements are incorrect
- information not being provided about a product, including fees or costs
- decisions a superannuation provider has made, including decisions about an application for insurance held through superannuation
- decisions about a disability claim, including where the claim involves insurance cover held through the superannuation fund
- payment of a death benefit
- an unreasonable delay in paying a benefit
- if a complainant gave instructions and they weren't followed
- transactions that were incorrect or unauthorised.

AFCA received 7,557 superannuation complaints during the 2019–20 financial year, which was 9% of the total complaints received by AFCA for the year.

This is a significant increase of 26% on the average number of complaints received each month during 2019–20 compared to last year (between 1 November 2018 and 30 June 2019).

This year 6,867 superannuation complaints were closed, including 1,769 received before 1 July 2019.

Of the superannuation complaints closed, 2,476 were closed at Registration and Referral, 3,084 were closed at Case Management, and 491 progressed through to a final Decision.

Superannuation complaints often take longer to resolve than other complaints because funds and trustees have up to 90 days to resolve the complaint at the referral stage, compared to 45 for most other types of complaints.

AFCA received 1,260 superannuation complaints relating to delays in claim handling. An issue reflected in this high number of complaints was frequently a lack of communication from the fund. It is also due to financial firms not explaining products and contract terms clearly to consumers when they join the superannuation fund.

AFCA received 753 superannuation complaints about incorrect fees and costs. AFCA also continued to see an increase in fee for no service complaints coming in at Fast Track stage. The release of our approach to fees and charges in superannuation this year has assisted in the resolution at earlier stages of such complaints.

AFCA also received 648 complaints about the quality of service provided by funds. These complaints related to response times and information provided.

The COVID-19 pandemic had a significant impact on the number of superannuation complaints received, especially around early release of superannuation. For more information about COVID-19 complaints, visit page 78.

## Case study

# Resolving a total and permanent disability insurance complaint

The complainant in this case had epilepsy and, as a result, suffered a myoclonic absence seizure. This type of seizure consists of muscle contractions and a loss of cognition and memory for a few seconds.

The seizure caused significant damage to the complainant's health and wellbeing.

Following the seizure, the complainant filed a total and permanent disability (TPD) insurance claim with his superannuation fund. Despite proving his condition with medical records and support from his GP, the superannuation fund would not accept the claim without further evidence and information – causing significant distress to the complainant.

After several months going back and forth with the superannuation fund, the complainant lodged a complaint with AFCA, arguing the firm delayed the processing of his TPD claim.

### Process and outcome

As the claims process had been stressful for the complainant, who had already suffered from a significant seizure, his medical practitioners told him to distance himself from the claims process.

AFCA knew this complainant would require extra support. We did not want the complaints process to cause further harm to the complainant's health and wellbeing.

After referring the complaint back to the superannuation fund, an outcome could not be agreed and AFCA assigned a case manager to resolve the dispute.

Due to the complexity of the complaint, this case progressed to a preliminary view early in the dispute resolution process.

After several weeks, the case manager was able to facilitate a TPD payout of around \$700,000 by writing a recommendation for a delay complaint that the trustee and insurer accepted the claim.

The complainant accepted the outcome, and provided AFCA with the following feedback:

“The caseworker was exceptional in her communication, ethic, understanding of our case and situation. Her kindness and compassion has been paramount in regard to us making it through this difficult process. The only disappointment is we no longer get to interact with the caseworker. She was our light in the dark.”





## Case study

# Salary continuance secured for injured complainant

The complainant in this case held a salary continuance insurance policy through his superannuation fund. After suffering a sports injury he was unable to work and so lodged a claim with his insurer.

The insurance provider denied the claim, telling the complainant that his job as a healthcare worker meant that he was classified as a special risk worker and not a white-collar worker, so did not meet the requirements of the policy.

To meet the requirements, the complainant had to meet two of five criteria: be unable to feed, bathe, dress, transfer or use the toilet. The insurance provider agreed the complainant could not dress himself for a limited time; however, argued that he did not meet any of the other criteria.

Dissatisfied with the superannuation provider's insurance policy and response to his request, the complainant lodged a complaint with AFCA.

### Outcome

After the complaint was referred back to the financial firm, and the parties failed to reach an agreement, AFCA assigned a case manager to help resolve the dispute.

In an initial discussion with the trustee about the complaint, the trustee challenged the decision by the insurer that the complainant was in a special risk occupation and therefore assessed under a special policy definition.

As a result of this discussion, the insurer reviewed its decision and accepted the claim from the date the complainant ceased work to the date the medical certification ended.

The complainant advised that he had started back at work later than the medical certificate ended and provided evidence supporting him being medically certified to work at a later date.

The trustee and insurer then made a further payment including interest for the delay in accepting the claim.



# Investments and advice complaints

Between 1 July 2019 and 30 June 2020

## Complaints received

**4,615** complaints received

**24%** resolved at Registration and Referral stage

## Top five investments and advice complaints received by product<sup>1</sup>

Product	Total
Foreign exchange	759
Shares	528
Superannuation fund	451
Mixed asset fund/s	430
Property funds	368

## Top five investments and advice complaints received by issue<sup>1</sup>

Issue	Total
Misleading product/service information	757
Inappropriate advice	585
Failure to follow instructions/agreement	575
Failure to act in client's best interests	469
Service quality	380

## Complaints closed

**4,261** complaints closed<sup>2</sup>

More than **\$53.4 million<sup>3</sup>** in compensation and refunds was awarded or obtained through AFCA's dispute resolution work

**50%** of complaints resolved by agreement, or in favour of complainants

Average time to close a complaint  
**117** days

## Stage at which investments and advice complaints closed

Stage	Total
At Registration	1,056
At Case Management	2,410
Preliminary Assessment	328
Decision	467

## Average time taken to close investments and advice complaints

Time	Total
Closed 0–30 days	15%
Closed 31–60 days	23%
Closed 61–180 days	42%
Closed greater than 180 days	19%

<sup>1</sup> One complaint can have multiple products/issues.

<sup>2</sup> This includes 1,306 complaints received before 1 July 2019, and 2,955 received from 1 July 2019 to 30 June 2020.

<sup>3</sup> This includes matters previously received by AFCA's predecessor, Financial Ombudsman Service, and resolved by AFCA between 1 July 2019 and 30 June 2020.

**AFCA can consider complaints about the following investment and advice products:**

- derivatives
- financial product advice and services
- managed investment schemes
- securities
- self-managed superannuation funds.

**The types of issues and problems AFCA resolves include:**

- advice that wasn't in the complainant's best interests or was inappropriate
- fees or commissions that were incorrectly charged, applied or calculated
- information not provided to a complainant about the product, including fees or costs, or information was provided that was misleading or not appropriate (including the risk of an investment product)
- decisions that a financial firm has made, including the suitability of an investment, an inappropriate margin call notice or the risk profile of a complainant
- if a complainant gave instructions (for example, to buy or sell stock) and they weren't followed or there was a delay in processing the instruction
- transactions that were not undertaken correctly or were unauthorised.

Investments and advice saw an increase of 22% in the average number of complaints received each month during the 2019–20 financial year, receiving a total of 4,615 complaints. This year, these complaints made up 6% of the total complaints received by AFCA.

There were 4,261 investment and advice complaints closed during the year, including 1,306 received before 1 July 2019.

More than \$53.4 million in compensation and refunds was awarded or obtained through AFCA's dispute resolution work.

The majority (75%) of the resolved complaints that proceeded to Case Management were finalised through AFCA facilitating an agreement between the parties about the best way forward for both parties to be satisfied with the outcome.

Where AFCA had to provide a view on the merits in the remaining 25% of complaints, the view was in favour of the complainant 56% of the time, and in favour of the financial firm 44% of the time.

AFCA also saw 1,042 investments and advice complaints relating to financial planners or advisers, representing 23% of all investments and advice complaints. The next highest industry type for investments and advice complaints was derivatives dealers who received 557 complaints.

The average time taken to close complaints was 117 days, and 1,633 complaints were closed within 60 days. While the timeframes have increased from the 2018–19 reporting period, this is a reflection of the increased workflow. Closure rates for complaints received in the 2019–20 reporting period and the impact of COVID-19 in recent months have led to increased timeframes for information exchange.

Despite significant regulatory guidance regarding product disclosure, the most common issue in investments and advice complaints (representing around 16% of all investment and advice complaints) related to misleading product and service information. Most arose from situations where features were misrepresented in information memoranda, or product disclosure statements that denied investors the information they needed to be properly informed about the nature and risks of the investment.

A significant number of investments and advice complaints continue to be about the appropriateness of advice received. A recent trend has been the increase in issues about advice to establish a self-managed superannuation fund (SMSF) and invest in property through the SMSF, or recommendations to invest in property outside of superannuation. AFCA received 585 complaints relating to inappropriate advice for the 2019–20 financial year, representing over 20% of the workload, with a similar number of complaints where the adviser simply failed to follow instructions.

Please note, as this Annual Review is structured by products, complaints about financial planning advice relating to those products are reported separately. Of these additional advice complaints, 140 relate to life insurance advice, 76 to credit advice and 73 to advice about superannuation. Including these complaints increases the total of inappropriate advice complaints from 585 to 874, and makes inappropriate advice the top issue overall for the 2019–20 financial year, representing 19% of complaints received.

Only 10% of investments and advice complaints related to a failure of the adviser to act in the best interests of the client. The remaining complaints were about alleged failures by the financial firm to meet clear obligations set out in law, or under the financial firm's own service contracts.

Investment and advice complaints are generally very complex for a number of reasons. Advisory relationships can sometimes extend over many years and loss is often not incurred until well after investments are recommended. Calculating loss arising from misconduct or a breach of obligations can be difficult.

In the case of advisers, there is often a breakdown of the professional relationship, which makes it more difficult for the parties to come to a resolution without AFCA's involvement. This mainly arises as a result of the breakdown of trust between adviser and client. Resolving these complaints is challenging and requires careful consideration of the perspectives of both the client and their adviser.

Because investment and advice complaints can be complex and highly technical, AFCA often uses panels to assess these types of complaints. This is to ensure robust decision-making, and that the decision has taken into account the consumer and industry perspectives. This helps us make sure the decision in these matters is fair in all of the circumstances.

## Case study

# Inappropriate advice and failure to determine suitability

The financial firm in this case study is a foreign exchange and contracts for difference (CFDs) broker, enabling clients to trade currency pairs, indices and commodities. It partners with introducing brokers (IBs) to market its services and trade on behalf of clients.

The complainant said her IB induced her to use his services to trade on her account by showing he had previously made high returns using the platform, and by offering gifts if she opened an account with the financial firm.

She agreed to this proposal, but the IB made substantial losses on her account over a period of four months. When she tried to recoup those losses, she fell into margin call and her deposits were not processed, as she expected, resulting in her being closed out. She sought the return of US\$126,632.05, which she had deposited.

### Findings and outcome

After AFCA referred the complaint back to the financial firm, the firm told the complainant it could not be held responsible for its IB's conduct, and it did not promise that deposits made on the payment system used by the complainant would be instantaneous.

AFCA assigned this complaint to a case manager, who investigated whether the complainant had been properly assessed as suitable to trade in accordance with *Regulatory Guide (RG) 227 Over-the-counter contracts for difference: Improving disclosure for retail investors*, and whether the representations made by the IB were correct or misleading. The case manager also looked at whether the complainant contributed to her loss.

RG 227 indicates that the complexity and risk inherent in over-the-counter (OTC) CFDs means that these types of products are unlikely to be appropriate for the investment objectives, needs and risk profile of many retail investors.

In the RG, ASIC explains that many issuers do not provide investors with personal advice about whether OTC CFDs are appropriate for their objectives, financial situation and needs. Nevertheless, all issuers can play an important role in ensuring that only investors with a sound understanding of the features and risks of the product can open an account and begin trading. Investors who thoroughly understand the features and risks of the product are better placed to determine if it is an appropriate investment for them, and manage the risks associated with trading on an ongoing basis.

The financial firm's breach in failing to ensure the complainant was suitable to trade CFDs and understand the risks in accordance with its obligations pursuant to RG 227 resulted in the complainant's loss. Had they done so properly, they would have noted the complainant's low income and relative inexperience, and she would not have been deemed suitable to trade. This was determinative of the loss.

AFCA determined the complainant should take some responsibility given she continued to trade after becoming aware of her losses. The complainant's compensation was reduced by 25%, from US\$111,840 to US\$83,880.

## Case study

### Misleading conduct and non-disclosure

The complainant was a long-term client and personal friend of a director of the financial firm. The financial firm was the responsible entity of a mortgage fund, and the complainant was a long-term investor in the fund.

The fund allowed investors to invest in mortgages secured over real property, and earn a fixed rate of return over a fixed investment term. It was intended that the fund would apply maximum loan-to-value ratios to the borrowers that would not exceed a fixed percentage of the secured property's independent valuation.

The complainant invested \$162,500 and his self-managed superannuation fund (SMSF), and invested \$10,000 in a second contributory mortgage over a particular property. The corporate borrower defaulted on the mortgage and the property was subsequently sold at a loss, resulting in only a partial return to the first mortgagee and no return to the second mortgagees, including the complainant and his SMSF.

In his complaint, the complainant told AFCA the adviser misled him about the credit-worthiness of the borrower and the existence of a third mortgage over the property. He said that if he had known about these factors he would not have invested and would not have suffered a loss.

#### Findings and outcome

In its response to the complainant, the financial firm said it only provided general advice and disclosed all required information. It also said the complainant's investment history implied he would have invested anyway.

AFCA assigned this complaint to a case manager who investigated the information that should have been disclosed. The case manager also looked at whether the adviser misled the complainant by omission, whether there was conflict of interest, and what loss was caused by the misrepresentation and non-disclosure.

During the dispute resolution process, AFCA found there had been issues with late payments and the existence of a third mortgage should have been disclosed to the complainant in the relevant Product Disclosure Statement. By not disclosing the required information, the adviser had misled the complainant by omission.

However, there was insufficient evidence of any mismanaged conflict of interest for the adviser or the financial firm. Further, the complainant would have continued to invest in similar sub-schemes.

AFCA decided the complainant had contributed to his losses to such an extent a 40% reduction in the award was appropriate. As a result, the financial firm was required to:

- Pay the complainant \$97,500.00, plus interest at the rate of 15.95% calculated daily for the period of the investment.
- Pay the complainant's SMSF a settlement amount of \$6,000.00, plus interest at the rate of 15.95% calculated daily for the period of the investment.
- Pay additional compound interest at the rate of 1.25% on both total amounts from the termination date of the investment to the date of payment.



# Life insurance complaints

Between 1 July 2019 and 30 June 2020

## Complaints received

**1,778** complaints received

**28%** resolved at Registration and Referral stage

## Top five life insurance complaints received by product<sup>1</sup>

Product	Total
Income protection	530
Term life	331
Total and permanent disability	179
Funeral plans	162
Trauma	144

## Top five life insurance complaints received by issue<sup>1</sup>

Issue	Total
Denial of claim	270
Incorrect premiums	181
Delay in claim handling	155
Claim amount	131
Inappropriate advice	116

## Complaints closed

**1,710** complaints closed<sup>2</sup>

More than **\$8.9 million<sup>3</sup>** in compensation and refunds was awarded or obtained through AFCA's dispute resolution work

**61%** of complaints resolved by agreement, or in favour of complainants

Average time to close a complaint  
**121** days

## Stage at which life insurance complaints closed

Stage	Total
At Registration	497
At Case Management	772
Preliminary Assessment	232
Decision	209

## Average time taken to close life insurance complaints

Time	Total
Closed 0–30 days	10%
Closed 31–60 days	24%
Closed 61–180 days	45%
Closed greater than 180 days	21%

<sup>1</sup> One complaint can have multiple products/issues.

<sup>2</sup> This includes 521 complaints received before 1 July 2019, and 1,189 received from 1 July 2019 to 30 June 2020.

<sup>3</sup> This includes matters previously received by AFCA's predecessor, Financial Ombudsman Service, and resolved by AFCA between 1 July 2019 and 30 June 2020.

### **AFCA can consider complaints about the following life insurance products:**

- consumer credit insurance
- income protection
- annuities
- endowments
- funeral plans
- scholarship funds
- term life policies
- total and permanent disability policies
- trauma policies
- accidental death
- whole of life policies.

### **The types of issues and problems AFCA resolves include:**

- premium increases where there is an allegation of non-disclosure, misrepresentation or incorrect application of insurance premiums
- information about a product that wasn't disclosed, or was misleading or incorrect
- decisions a financial firm has made, such as denial of an insurance claim
- complaints about an insurer's decision to avoid or vary a policy on the basis of non-disclosure or misrepresentation
- complainants' instructions that weren't followed
- privacy and confidentiality breaches.

Between 1 July 2019 and 30 June 2020, 1,778 life insurance complaints were received by AFCA, making up 2% of the total complaints received. This is consistent with the previous reporting period, between 1 November 2018 and 30 June 2019.

During the year 1,710 life insurance complaints were closed, including 521 received before 1 July 2019.

More than \$8.9 million in compensation and refunds was awarded or obtained through AFCA's dispute resolution work.

Of the life insurance complaints closed, 497 were closed at Registration and Referral, 772 closed at Case Management, with 209 progressing through to the final Decision stage.

The average time taken to close these complaints was 121 days. Most complaints were closed within 61–180 days, while over a fifth (21%) were closed after 180 days.

AFCA notes that compared to other product areas, the number of closures when complaints are referred back to life insurers is very low. In the past, this has been due to the complex nature of most life insurance complaints.

Most complaints received by AFCA for life insurance during 2019–20 were about denial of claim (270), followed by incorrect premiums (181) and delay in claim handling (155).

When considering complaints about denial of claims, AFCA considers whether the life insurer has fairly interpreted and applied the policy terms and conditions to the client's circumstances.

This year, AFCA continued to notice issues around outdated medical definitions in trauma insurance policies, and whether a consumer meets the definition of a medical term in a policy. Consumers reported that financial firms continue to rely strictly on policy definitions that are out of step with current medical practice. In addition, consumers often feel misled about which illnesses are covered by policies and those that are not.



AFCA received a lot of complaints this year about premium re-rates, and about consumers not understanding how stepped premiums increase rapidly at older ages.

AFCA continues to receive many complaints about the calculation of income protection benefits, especially for business owners and the self-employed. AFCA understands the difficulties presented by corporate and trust structures, and business accounting will often be seen in these cases.

## *Case study*

### Clarifying medical definitions in a trauma insurance policy

The complainant in this case held a trauma insurance policy with his insurer. After suffering from a heart attack, the complainant made a claim on his policy that was rejected by the insurer because of an issue with the policy's wording.

Despite the complainant's doctor agreeing he'd had a heart attack in accordance with the standard medical definition, the insurer said the definition of a heart attack in the complainant's policy was stricter than the standard medical definition. This meant the policy would only cover more severe heart attacks.

#### **Findings and outcome**

After the complainant's claim was rejected by his insurer, he lodged a complaint with AFCA. We attempted to resolve this dispute by informal methods of negotiation and conciliation. However, the parties could not reach an agreement and so the case was put to a Preliminary Assessment.

The insurer rejected the Preliminary Assessment as it did not agree with AFCA's recommendation. The insurer told AFCA it was unreasonable for it to apply the universal definition of heart attack to its policies, and that it did not believe the universal definition of a heart attack was good industry practice. As a result, this case was escalated to a determination.

In AFCA's determination, we found that an ordinary person could not know the policy covered only severe heart attacks because the policy unfairly used an outdated medical definition. AFCA noted that ASIC had recently found heart attack definitions to be a significant issue in the industry.

At the time of the complainant's heart attack, most other insurers had changed their heart attack definitions to align with the universal medical definition, but this insurer had not.

As such, AFCA found that it was unfair and inconsistent with good industry practice for the insurer to rely on its outdated medical definition. AFCA required the insurer to pay the claim to the complainant with interest.

# Financial difficulty complaints

Between 1 July 2019 and 30 June 2020

In 2019–20, AFCA received 8,070 financial difficulty complaints, a slight increase in the average number of complaints received per month compared to last year.

Of these complaints, home loans, credit cards and personal loans were the most complained about product types.

As in 2018–19, the most common issue was financial firms failing to respond to requests for assistance.

Due to the sensitivity and urgency of financial difficulty complaints, we encourage financial firms to negotiate a resolution early in our dispute resolution process. We held 4,748 conciliations during the year, with 1,398 reaching a resolution at this stage. For more information about conciliations see page 61.

## About financial difficulty

Financial difficulty is when an individual or small business is in a situation where they are unable to meet their repayment obligations.

Sickness, unemployment, over-commitment, business downturn and natural disasters are some of the disruptive events that can cause financial difficulty.

Given the immediacy of the situation and the stress involved for the consumer, financial difficulty complaints often have an urgency beyond other types of financial disputes. To ensure these complaints are dealt with in an efficient, timely and fair manner AFCA uses a streamlined process for financial difficulty disputes.

The types of issues AFCA receives include a financial firm:

- failing to respond or responding inappropriately to a financial difficulty request
- issuing default notices when a complainant is experiencing financial difficulty
- continuing action against a complainant to recover a debt after they have made a financial difficulty request
- declining requests for assistance in repaying a default court judgment in some situations.

# Demographics of people in financial difficulty

Between 1 July 2019 and 30 June 2020

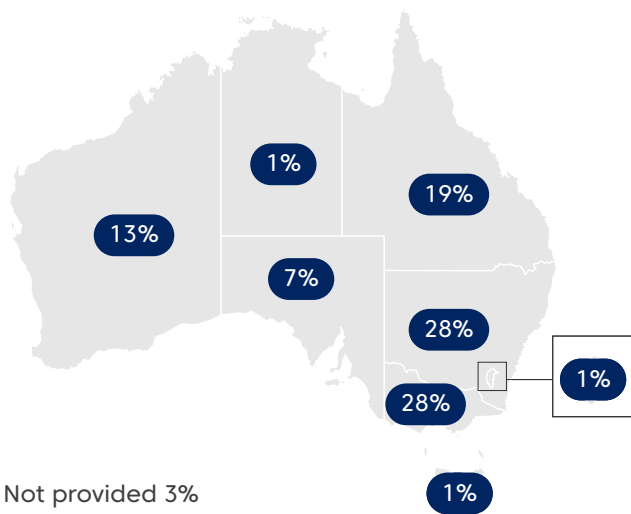
**34%** of complainants were represented by a friend or family member

**77%** of complainants lodged online

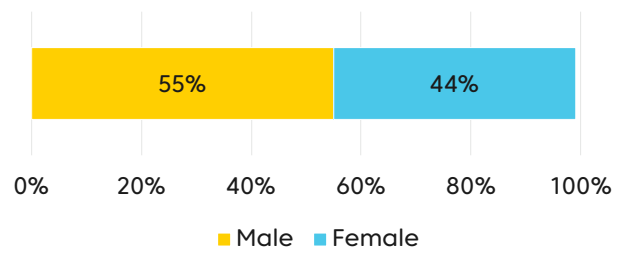
Less than **1%** of complainants requested interpreting language services

**3%** of complainants identified as Aboriginal or Torres Strait Islander

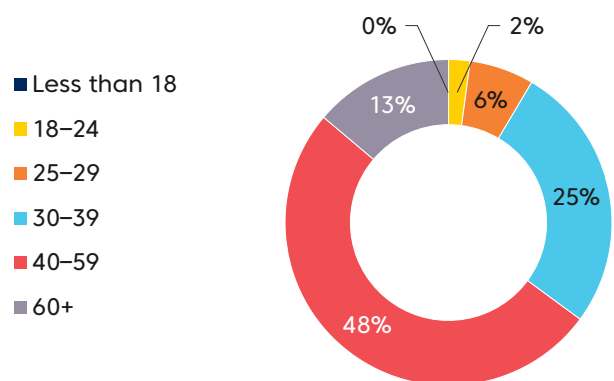
Received complaints by state



Received complaints by gender of complainant



Complaints received by age



Between 1 July 2019 and 30 June 2020

## Complaints received

**8,070** complaints received

**43%** resolved at  
Registration and Referral stage

### Top five financial difficulty complaints received by product <sup>1</sup>

Product	Total
Home loans	2,195
Credit cards	2,024
Personal loans	1,868
Business loans	480
Investment property loans	241

### Top five financial difficulty complaints received by issue <sup>1</sup>

Issue	Total
Failure to respond to request for assistance	3,138
Decline of financial difficulty request	1,093
Request to suspend enforcement proceedings	732
Default notice	491
Default judgment obtained	357

## Complaints closed

**8,550** complaints closed <sup>2</sup>

More than **\$20.5 million** <sup>3</sup> in compensation and refunds was awarded or obtained through AFCA's dispute resolution work

**77%** of complaints resolved by agreement, or in favour of complainants

Average time to close a complaint  
**70** days

### Stage at which life insurance complaints closed

Stage	Total
At Registration	3,499
At Case Management	4,359
Preliminary Assessment	408
Decision	284

### Average time taken to close life insurance complaints

Time	Total
Closed 0–30 days	27%
Closed 31–60 days	35%
Closed 61–180 days	31%
Closed greater than 180 days	7%

<sup>1</sup> One complaint can have multiple products/issues.

<sup>2</sup> This includes 1,665 complaints received before 1 July 2019, and 6,885 received from 1 July 2019 to 30 June 2020.

<sup>3</sup> This includes matters previously received by AFCA's predecessor, Financial Ombudsman Service, and resolved by AFCA between 1 July 2019 and 30 June 2020.

## Case study

### Supporting a complainant with a mental illness

The complainant suffered from acute depression and had also experienced a significant workplace injury many years prior. Because of his injury, he had not worked for 20 years and relied on Centrelink payments for basic items like food and expenses such as bills.

After his workplace injury, the complainant received a payout that left him with enough money to buy an ex-housing commission property. Being the owner of the property, the complainant agreed to be a guarantor for his son and partner's home loan application – believing the guarantee period to be three years and not the life of the loan.

Unfortunately, after the son and his partner split, the loan defaulted and the complainant's son had his house repossessed and sold leaving a shortfall debt payable.

As the guarantor of the loan, the complainant was left owing the bank \$68,000, which grew to \$97,955 due to fees and other charges. This left the complainant extremely stressed and anxious, and worsened his pre-existing acute depression.

Unable to repay the loan, the complainant was told that he would need to vacate his own home so that the bank could sell it. With no money but his Centrelink payments, the complainant reached out to Legal Aid for assistance, and they put him in contact with a pro-bono solicitor service. However, the complainant was later told that being represented by solicitors meant the bank could no longer communicate with him about the loan.

Several weeks passed before the complainant received a Notice of Demand for the outstanding payment from a debt collector. Unsure of his options, the complainant lodged a financial difficulty complaint with AFCA.

#### Process and outcome

Once the complaint had been referred back to the bank and no outcome was reached, AFCA assigned the complaint to a case manager.

AFCA case managers handle complaints that relate to a complainant's mental illness with care and consideration, communicating with a complainant's chosen representative when appointed.

In this case, the case manager contacted the complainant's sister who had been appointed as his representative. The case manager took the time to understand the complainant's circumstances and the impact his situation was having on his mental health. AFCA contacted the bank to explain the complainant's personal circumstances.

The bank recognised the complainant was in significant financial difficulty. It later identified irregularities in the way the loan had been established. As a result, the bank waived the complainant's entire debt. This was a positive outcome for the complainant who was very relieved and grateful for the outcome AFCA and the bank provided.

## Case study

### Extra care for domestic violence victim

The complainant had two joint home loans with her ex-husband and a personal loan in her name only. She had separated from her ex-husband due to family violence. The court ordered her ex-husband to pay the home loans and any arrears. Unfortunately, the ex-husband failed to make any repayments towards the home loans and would not respond to the bank's requests for payments.

The complainant was not in a position to make any repayments towards the home loans and requested financial hardship assistance from the bank. The bank declined the complainant's request for assistance and advised her that it would pursue her for arrears on the home loans, and to take payments from her account if she did not start making the repayments.

The bank did not take into account the court order requiring the ex-husband to pay the home loans and any arrears.

To resolve the complaint, the complainant requested that the bank act in accordance with the court order, stop harassing her for repayments and listen to her.

#### Process and outcome

The complainant told AFCA when she lodged her complaint that she wanted to remain anonymous because she feared her abusive ex-husband. AFCA assured the complainant that it would protect her privacy and would not discuss her complaint with her ex-husband, who was the joint borrower under the home loans.

ACFA redacted all phone numbers and addresses on all paperwork to ensure the complainant's privacy.

The caseworker gave the complainant extra time during the complaint process to share her story about family violence and to provide information.

The caseworker assisted the parties to reach an agreement by negotiation. The complainant agreed to move out of the security property and voluntarily surrender it to the bank if the bank pursued her ex-husband for the repayments and arrears on the home loans as per the court order. The bank agreed to the complainant's proposal and assured her it would not pursue her for any shortfall debt resulting from the sale of the security property.

The complainant was relieved at the outcome, and very thankful that AFCA had taken the time to hear her story and help her move forward.



## Case study

# Financial difficulty in relation to personal and business loans

The complainant in this case held both personal and business facilities with a financial firm. The complainant's home was security for the loans.

The complainant also owned other properties in the name of her business.

Due to financial difficulty, the complainant had already sold some of her properties to reduce her debt. The complainant's ongoing financial difficulty meant it was likely she would need to sell her two remaining commercial properties, but their values had significantly declined. If she sold the commercial properties, she was likely to have a significant shortfall debt that she would need to sell her home to repay.

Initially, the complainant lodged two separate complaints relating to the financial firm's response to her position of financial difficulty. One was a complaint on behalf of her business, and the other was a complaint as an individual. To streamline the resolution, AFCA assigned both complaints to a single case manager.

### Conciliation and outcome

In an initial conciliation, the complainant told AFCA that there was an issue with the restructuring of the business loan after she had sold some of her other properties.

After discussing the issue with both parties, AFCA learnt that the initial loan was conditional on the sale of another property. However, the bank approved and funded the loan despite the fact that the sale of the other property did not occur. The bank provided contact notes to AFCA showing that it knew it had funded the loan outside the approval parameters. On this basis, AFCA formed a view that the bank lent inappropriately.

To discuss its findings with both parties, AFCA set up a second conciliation meeting. During the conciliation, the bank acknowledged the error it made in advancing the loan to the complainant in her personal capacity and agreed to waive the shortfall of approximately \$566,000 following the sale, on the condition the complainant surrender the two remaining commercial properties. The waiver of the shortfall debt allowed the complainant to retain her principal place of residence.

# Small business complaints

Between 1 July 2019 and 30 June 2020

## Complaints received

**4,172** complaints received

**28%** resolved at Registration and Referral stage

### Top five small business complaints received by product<sup>1</sup>

Product	Total
Business loans	1,570
Business transaction accounts	510
Hire purchase/lease	234
Commercial property	232
Business credit card	217

### Top five small business complaints received by issue<sup>1</sup>

Issue	Total
Appropriate lending	426
Financial firm failure to respond to request for assistance	382
Credit reporting	284
Failure to follow instructions/agreement	214
Service quality	209

## Complaints closed

**3,933** complaints closed<sup>2</sup>

More than **\$27 million<sup>3</sup>** in compensation and refunds was awarded or obtained through AFCA's dispute resolution work

**57%** of complaints resolved by agreement, or in favour of complainants

Average time to close a complaint  
**92** days

### Stage at which small business complaints closed

Stage	Total
At Registration	1,143
At Case Management	2,005
Preliminary Assessment	376
Decision	409

### Average time taken to close small business complaints

Time	Total
Closed 0–30 days	20%
Closed 31–60 days	27%
Closed 61–180 days	40%
Closed greater than 180 days	13%

<sup>1</sup> One complaint can have multiple products/issues.

<sup>2</sup> This includes 918 complaints received before 1 July 2019, and 3,015 received from 1 July 2019 to 30 June 2020.

<sup>3</sup> This includes matters previously received by AFCA's predecessor, Financial Ombudsman Service, and resolved by AFCA between 1 July 2019 and 30 June 2020.



From 1 July 2019 to 30 June 2020, we received 4,172 complaints from small businesses.

During the year 3,933 small business complaints were closed, including 918 received before 1 July 2019.

More than \$27 million in compensation and refunds was awarded or obtained through AFCA's dispute resolution work.

The most complained about product was business loans (1,570 complaints), followed by business transaction accounts (510 complaints) and hire purchase and leases (234 complaints).

AFCA considered claims about a range of issues from small businesses including claims about inappropriate lending, guarantees, misleading conduct and financial difficulty. AFCA also considered complaints about lease equipment finance for small businesses and consumers, although a number of these complaints were about the underlying asset or asset provider.

AFCA has three dedicated teams for small business complaints assisting in Banking and Finance and a number of ombudsmen providing their expertise. Specialists within other product areas in AFCA also deal with small business complaints, such as Insurance, and Investment and Advice.

## About AFCA's small business jurisdiction

Under the AFCA Rules, a small business is defined as an organisation with fewer than 100 employees (an increase from 20 employees under predecessor schemes).

AFCA can consider complaints from small businesses about a credit facility up to the value of \$5 million. Small businesses also benefit from an increase in the compensation cap from \$323,500 to \$1 million, and primary producers, such as farmers, have a compensation cap of \$2 million.

AFCA cannot consider some small business loan complaints received after 25 April 2020, if they arise from COVID-19 relief measures. The AFCA Rules were amended following the issue of a notifiable instrument made by the Australian Government Treasurer on 24 April 2020.

The AFCA Rules now:

- limit the matters AFCA may take into account when considering a complaint about a loan provided under the Coronavirus SME Guarantee Scheme. The scheme is a Commonwealth Government initiative to provide small- and medium-sized businesses with access to working capital to help them get through the impact of COVID-19
- require AFCA to exclude complaints about repayment deferrals provided to small business borrowers for existing loans where the deferral is provided between 25 April 2020 and 24 April 2021.

## Case study

### Loan renewal case

The complainant obtained a \$200,000 business loan from a bank to fund his new business and provide working capital. The loan term was five years and the repayment terms were interest-only over the full term of the loan. The loan was secured by the complainant's commercial property and his primary place of residence.

After four years and six months, the complainant provided financial information to the bank, and sought to renew the loan for a further interest-only term of five years.

The complainant said he was then verbally told by the bank that the figures looked "great" and the renewal of the loan would be approved by the credit team. He said he relied on the representation and paid a \$5,000 deposit on new equipment in anticipation of the loan renewal. In addition, he didn't bother sourcing repayment of the loan from elsewhere.

The bank completed a credit assessment based on the financial information, but because it was concerned about the state of the particular industry, it advised the complainant a few weeks before the loan was set to expire that it would not extend or refinance the loan.

The complainant was fortunate to be able to obtain finance with another lender to refinance the \$200,000 on the same terms, but he had to cancel the equipment purchase. This cost him \$5,000 and caused a lot of stress and inconvenience.

#### Findings and outcome

AFCA reviewed the information submitted by both the parties, including detailed recollections from the complainant and the bank officers about their discussions on renewing the loan.

The bank officers stated that they were confident the loan would be extended and may have told the complainant the loan would be renewed; however, they indicated that "head office had other ideas". Further, the bank officers said they didn't intend to mislead the complainant at the time, so the bank should not be held accountable.

AFCA found that the bank had misled the complainant by informing him that the loan would be renewed, and he relied on the misrepresentation to incur a loss of \$5,000. The question of whether the bank officers intended to mislead the complainant was not relevant to the outcome of a misleading conduct claim. The complainant was \$5,000 worse off by relying on the misrepresentation.

Further, AFCA found the bank had failed to provide sufficient notice that it would not extend the loan in accordance with clause 86 of the Banking Code of Practice, which requires a period of three months' notice if the bank decides not to extend a business loan where the principal is required to be repaid.

AFCA awarded compensation of \$5,000 to the complainant for financial loss, along with non-financial loss compensation of \$3,000 for the stress and inconvenience he incurred.

## Case study

### Appropriate lending to a small business

A bank provided business loans to the complainant for the acquisition of two franchise businesses. The complainant said the bank did not assess the loan applications appropriately and should not have approved the business loans.

The complainant also said the bank should have conducted due diligence on the proposal and realised the businesses would not perform as he had hoped.

#### **Lending to small business is not regulated**

Business lending is not regulated by the *National Consumer Credit Protection Act 2009* (Cth), (NCCP Act), and a small business lender's obligations are significantly different to those required for consumer loans.

When assessing a business loan application, a bank should exercise the care and skill of a diligent and prudent lender in making its own commercial assessment of the overall loan proposal, based on the information made available to it at the time of application.

#### **The franchisor had a relationship with the bank**

The franchisor's brands held an accreditation with the bank. This meant the franchisor had shared information on its operating model with the bank, to provide a better understanding to the bank when dealing with prospective franchisees of the system. This is common industry practice with the major banks.

The relationship involved an understanding of the franchisor, its operating model and its financial performance. In understanding these aspects of the system, the bank could adjust its credit risk appetite when assessing credit applications of franchisees.

Even though the bank had a relationship with the franchisor, the bank did not provide a guarantee or any warranty as to the success of any individual site or the system as a whole.

The bank does not provide investment advice, but provides banking services

The bank's role is that of a service provider of transactional and lending services. The relationship between the bank and franchisees is a customer/bank commercial relationship in nature.

The bank was not the complainant's financial adviser and was not required to undertake or conduct due diligence on their behalf on the proposed businesses they intended to purchase. Although the bank may have additional information regarding specific industries, this information is utilised to assist with credit assessment. Even so, each business application must be assessed on its own merits and supporting information.



Banks are generally not liable to the borrower for the investment risk – the bank is only obliged to assess the credit risk, not the business risk. The investment risk rests with the borrower.

**AFCA determined that the bank acted appropriately**

The available information showed that the bank assessed the application for business loans taking into consideration:

- the borrower’s financial position
- the borrower’s experience in the type of business being acquired
- historic trading results of the business being acquired (vendor statements)
- the business plan and cash flow forecasts prepared by the borrower.

The borrower also contributed reasonable cash equity towards the transactions ensuring a suitable financial position at inception.

The serviceability assessments by the bank for the purchase of the two franchise businesses showed the business debts were affordable at the time they were provided.

The bank, in its credit assessment, relied on information provided by the complainant, and the directors were experienced operators. AFCA noted that the assumptions underpinning the cash flow forecasts and business plan were reasonable. The complainant had also completed his own due diligence on the business proposal.

Based on the available information, AFCA concluded that the bank met the standard of a diligent and prudent lender in the manner in which it assessed the business loan proposal and was entitled to approve the loans.

# Conciliation

## What is conciliation?

Conciliation is one of the methods AFCA uses to resolve complaints and, in our experience, it can often be the fastest and most effective way to ensure that both parties listen to and understand the experience of the other.

Our conciliators are independent and skilled in mediation. Having an experienced person guide the conversation makes it easier for everyone to talk about the complaint and their experience.

The aim of a conciliation conference is to try to resolve the complaint by agreement on the day. This does not always happen, but we find a conciliation conference can be an effective way for everyone to gain a better understanding of the issues and circumstances. It also allows for the parties to be actively engaged in the creation of a solution to their complaint.

Financial firms and complainants who take part in conciliations say the process is a fair and positive experience that provides an opportunity to explain their point of view. Survey results found 85% of conciliation participants found the process to be positive, and 89% of respondents agreed with the statement “The conciliator was fair and did not take sides,” and 96% of respondents reported they had the opportunity to explain their points of view.

From 1 July 2019 to 30 June 2020 AFCA conducted 4,748 conciliations across all product areas. The breakdown by product area was:

- **2,942** Banking and Finance, of which 1,242 involved an aspect of financial difficulty
- **764** General Insurance
- **464** Superannuation
- **393** Investments
- **202** Life Insurance.

AFCA continues to build its capability to resolve complaints using conciliation, and now has a specialist team of conciliators. In addition, 148 case workers and managers are internally accredited to conduct conciliations.

We continue to engage with complainants and financial firms to promote participation in the conciliation process.

For more information about conciliations visit [afca.org.au/conciliation](https://afca.org.au/conciliation)



## Case study

In our experience, complainants and financial firms appreciate the opportunity to have a fair and balanced conversation about their dispute.

In one complaint, a husband and wife had bought travel insurance that was due to start the day they landed in Europe. On the way, the wife sought medical treatment in Singapore, where doctors determined she needed urgent surgery. The wife's surgery was successful, but the couple had to spend \$44,000 in medical costs and return home.

Before the conciliation, the couple's insurer offered to reimburse them \$20,000 for their travel costs. However, the insurer refused to pay for the medical costs because the policy had not yet started, and the insurer believed the wife knew about her illness before buying the policy.

At the conciliation, the couple had the opportunity to explain they did not know the wife was sick. They had been seeing the same doctors in Singapore every year since 1992, and were using the stopover as an opportunity for their regular check-up. While the insurer accepted that explanation, they maintained the cover did not start until the couple touched down in Europe. In the end, the parties agreed that the insurer would pay the couple \$5,000 to resolve their complaint.

The financial firm said in its feedback: "The conciliator very quickly established the exact issues in dispute and allowed for discussion and clarification around it. Although it was clear that the customer was not entitled, the outcome was good because we were able to partially financially assist the customer, and the customer was happy." The complainant said in their comments "I appreciated the impartial approach by the conciliator."

**“This was a large claim and the complainant was experiencing vulnerability. AFCA did a fantastic job conciliating between us and the complainant, especially as the complainant had lost faith in our handling of the claim.”**

*- Feedback from members*



# Legacy complaints

In 2019, following The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, the Commonwealth Government expanded AFCA's jurisdiction to hear financial complaints that would normally fall outside AFCA's rules.

From 1 July 2019, AFCA was able to consider complaints lodged by Australian consumers and small businesses about financial firms where the issue that gave rise to the financial loss occurred as far back as 1 January 2008. In normal circumstances AFCA would generally only be able to consider a complaint if it is made within six years after the complainant became aware that they suffered the loss they wish to complain about, or within two years if the complainant has already complained directly to their financial firm through its internal dispute resolution (IDR) process and received an IDR response.

AFCA was able to receive these 'legacy' complaints for a 12-month period that ended on 30 June 2020.

For the period of 1 July 2019 to 30 June 2020, AFCA received 1,749 total complaints of which 1,033 were closed and 716 remain open.

More than \$15.9 million in compensation and refunds was awarded or obtained through AFCA's dispute resolution work.

Of the total legacy complaints received, the highest number of complaints were for credit with 906 complaints received, followed by 382 complaints about investment and 131 about superannuation.

The top three products for which legacy complaints were received were home loans, of which 310 complaints were received, followed by 172 complaints received for business loans and 130 complaints about credit cards.

Of the 906 credit complaints, the main product drivers were home loans, business loans, investment property loans, credit cards, personal loans and line of credit/overdraft.

The main complaints by issue, driving the credit complaints were responsible lending, unconscionable conduct, mortgagee sale and misleading product/service information.

Of the nine legacy complaints closed before referral, the following reasons applied:

- companies involved were non-AFCA members
- privacy request received
- seeking just an enquiry to be answered
- outside of timeframe and referred to ASIC
- lodgment issue – the complainant was able to re-lodge the complaints.



Between 1 July 2019 and 30 June 2020

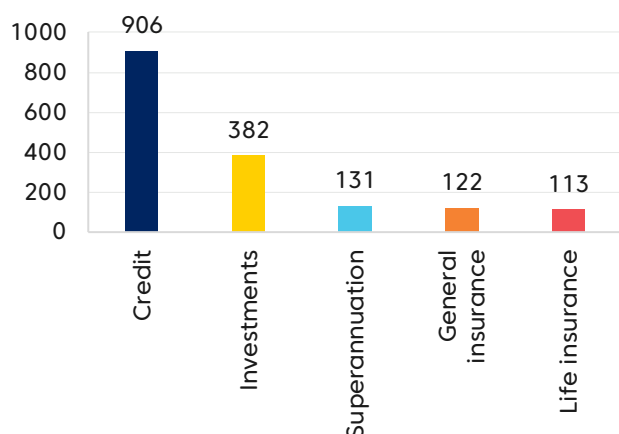
**1,749** total complaints received

**1,033** (59%) closed

**716** (41%) open

More than **\$15.9 million** in compensation and refunds was awarded or obtained through AFCA's dispute resolution work

### Top types of complaints received



### Top five legacy complaints received by product <sup>1</sup>

Product	Total
Home loans	310
Business loans	172
Credit cards	130
Investment property loans	114
Total and permanent disability	85

### Stage at which legacy complaints closed

Status	Total
Closed Before Referral	9
Closed at Registration	234
Closed Case Management	659
Closed Preliminary Assessment	89
Closed Decision	42

### Top five legacy complaints received by issue <sup>1</sup>

Issue	Total
Responsible lending	390
Inappropriate advice	177
Failure to act in client's best interests	125
Incorrect fees/costs	121
Misleading product/service information	97

<sup>1</sup> One complaint can have multiple products/issues.

# Complaints outside the rules

The AFCA Rules set out the rules and processes that apply to all complaints submitted to the AFCA scheme, including superannuation complaints. Our AFCA Rules Team reviews complaints when questions are raised about whether a complaint is within our jurisdiction.

There are two types of exclusions under the AFCA Rules.

## Mandatory exclusions

There are mandatory exclusions that have certain categories of complaints that AFCA must exclude.

These categories of exclusions are:

- general exclusions
- exclusions that apply specifically to credit complaints
- exclusions that apply specifically to insurance complaints, including superannuation complaints
- exclusions that apply specifically to investment complaints, including superannuation complaints
- exclusions that apply specifically to traditional trustee company service complaints.

## Discretionary exclusions

There are instances where AFCA may, at its discretion, exclude a complaint if AFCA considers this course of action is appropriate. We do not exercise our discretion to exclude a complaint lightly. Discretion is only used in cases where there are compelling reasons for deciding not to consider the complaint.

AFCA may exclude a complaint if we think that a court, tribunal, another dispute resolution scheme, or the Office of the Australian Information Commissioner is a more appropriate place than AFCA to deal with a complaint. While doing so, AFCA considers several factors such as the potential advantages and disadvantages to each party of having the complaint determined by AFCA, or in another place, and whether AFCA's process is appropriate to resolve the complaint, compared to the process adopted in other places.

Sometimes consumers and small businesses lodge complaints that might be outside our rules. If the financial firm consents and we consider it appropriate then we are able to consider these complaints.

## Where a complaint is excluded under rules

Sometimes, there are cases where AFCA is unable to consider a complaint. In such circumstances, where we do not have the power to consider a complaint, we inform the parties involved that AFCA doesn't have the power to consider the complaint. Sometimes with the parties consent we may be able to facilitate the parties to resolve the matter between themselves.

Where we are unable to reach a favourable outcome, AFCA provides helpful information to complainants about other ways they may be able to resolve their complaints outside of AFCA. We may refer them to an appropriate other body or place where they can be assisted.

## Reasons for complaints outside the rules

In the 2019–20 financial year, 'financial service not provided' continued to be the most common reason a complaint was outside the rules. The second highest was that the complaint had already been dealt with by a court, tribunal or predecessor scheme followed by the assessment of credit risk.

For the discretionary exclusions, the top three were 1,134 complaints related to general discretion to exclude, with 518 relating to a more appropriate place and 504 for complaints relating to financial firm's practice or policy.

### Top 10 reasons for complaints outside the rules

Rule	Description	Number
Mandatory exclusions		
B.2.1 (a)	Financial service not provided	2,678
C.1.2 (d)	Dealt with by a court, tribunal or predecessor scheme	586
C.1.3 (a)	Assessment of credit risk	442
B.2.1 (f)	Uninsured motor vehicle criteria not met	418
A.4.1	Complainant not eligible – general	354
C.1.2 (a)	Level of fee/premium/charge/interest rate	330
A.4.2	Financial firm not a current member	291
Discretionary exclusions		
C.2.1	Discretion to exclude – general	1134
C.2.2 (a)	More appropriate place	518
C.2.2 (c)	Complaint relating to financial firm's practice or policy	504

# Systemic issues

In addition to our dispute resolution function, AFCA has a systemic issues function.

Individual complaints can raise issues that we consider are systemic, that is, they are likely to affect a class of persons beyond any person who lodged a complaint or raised a concern.

## AFCA's systemic issues obligations

AFCA is required under the *Corporations Act 2001* (Cth) and ASIC's *RG 267 Oversight of the Australian Financial Complaints Authority* to "Identify, refer and report systemic issues."

Under RG 267.198, a "systemic issue" means an issue that may:

- (a) affect more than one complainant
- (b) involve many complaints that are similar in nature
- (c) affect all current or potential complainants at a particular firm; or
- (d) affect more than one firm.

Source: ASIC June 2018. *RG 267.198: Oversight of the Australian Financial Complaints Authority*, p. 42.

We will conduct an investigation of a possible systemic issue through dealing with the financial firm. We will then form a view as to whether or not the issue is a definite systemic issue.

We report definite systemic issues to ASIC, APRA or the ATO. We identify the financial firm to the regulator.

## Referring matters to appropriate authorities

Section 1052E(1) of the *Corporations Act* requires that AFCA must give particulars of a contravention, breach, refusal or failure to APRA, ASIC or the ATO, as appropriate, if it becomes aware, in connection with a complaint, that:

- (a) a serious contravention of any law may have occurred;
- (b) a contravention of the governing rules of a regulated superannuation fund or an approved deposit fund may have occurred;
- (c) a breach of the terms and conditions relating to an annuity policy, a life policy or an RSA may have occurred; or
- (d) a party to the complaint may have refused or failed to give effect to a determination made by AFCA

Source: *Corporations Act 2001* (Cth), S1052E(1).

If the parties to a complaint agree to a settlement of the complaint and AFCA thinks the settlement may require investigation we may give particulars of the settlement to ASIC, APRA or the ATO. AFCA is not a regulator. The conduct regulator of the financial services industry is ASIC and the prudential regulator is APRA.

The primary purpose of AFCA's reporting requirements is to ensure that information is provided to the regulators so they may consider whether regulatory action is necessary.

In relation to definite systemic issues reported to regulators, the AFCA systemic issues team always seeks to work collaboratively with financial firms to resolve such issues. This often involves financial firms implementing changes to their systems and processes to avoid the recurrence of the issues identified. In doing so, our systemic issues work helps us achieve our vision of raising industry standards and minimising financial complaints.

Between 1 July 2019 and 30 June 2020

Identified and investigated systemic issues resulting in the remediation of

**447,686** consumers

Ensured more than **\$179 million** in refunds were made to consumers

Identified **1,531** potential systemic issues

Referred **218** systemic issue investigations to financial firms

Reported **92** definite systemic issues to regulators

Resolved **97** definite systemic issues (including those identified in prior years) with financial firms

Reported **37** serious contraventions and other breaches under s. 1052E(1) of the Corporations Act to regulators.

Highlights of the systemic issues resolved and the remediation achieved in 2019–20:

#### **General insurance (Sept 19 quarter)**

A state-based, member-funded general insurer concluded a remediation program to 74,465 consumers, worth roughly \$8.3 million, after it identified that policyholders were not being provided with a new Product Disclosure Statement in circumstances where they had requested a mid-term variation in the type of general insurance (i.e. home, travel, motor) cover.

#### **Banking and finance (Dec 19 quarter)**

A non-bank lender finalised a \$22,000 remediation program after identifying three consumers of temporary resident visa status who could not repay their credit cards. The non-bank lender required applicants of cards to be Australian permanent residents; however, it did not ask about their residency status on applications. In addition to the remediation, the lender advised it would disclose eligibility criteria more consistently in all communications and consider adding residency information in the application process.

#### **Investments and advice (March 20 quarter)**

The systemic issue related to the transition of one stockbroking firm to another in September 2018, where a number of customer trading accounts that were transitioned, experienced multiple transition-related issues. A post-transition review revealed 60,000 customers were identified and resulted in remediation of \$320,000.

#### **Superannuation (June 20 quarter)**

A retirement and pension management group was required to remediate 16,157 consumers in the amount of almost \$3.2 million in fees, due to incorrect disclosure of those fees in welcome/onboarding letters sent to new members of several funds belonging to the group.

These results were achieved in a year impacted by COVID-19. In response to COVID-19, the systemic issues team recalibrated and reprioritised all new and current work to be in step with the revised priorities among the industry regulators. It has been a vulnerable time for small businesses and consumers, and steps taken to appropriately respond to the changing external environment included:

- prioritising work on all matters that represent a risk of significant consumer harm, a serious breach of law or risk to market integrity
- undertaking more stakeholder engagement with financial firms where appropriate
- reviewing our reporting arrangements with the relevant regulators
- reviewing early trend reports more closely.

## Case study

In the 2019–20 financial year, the systemic issues team finalised a \$142 million remediation program with a Top 4 Australian Bank following a long-term investigation that began in late 2017. This is one of the largest remediation programs AFCA has progressed via the systemic issues team in tandem with ASIC, the regulator.

### Details:

In late 2017, the systemic issues team raised concerns with the bank about whether it had appropriate systems in place to ensure interest-only investment loans reverted to principal and interest repayments at the end of the interest-only period. The concern was that the loans did not revert to principal and interest, so consumers were not paying down their loans as quickly as they should have been.

### Findings:

Through the systemic issues investigation, the bank acknowledged that the errors occurred because of a breakdown in manual processes. The bank implemented an automated process in August 2016, to ensure that loans revert from interest-only to principal and interest payments.

However, the issue historically impacted approximately 70,000 loans with approximately 12,200 customers identified as requiring compensation.

### Outcome:

The bank put together a remediation program aimed at refunding impacted customers with profiles such as owner/occupied and investors. The program was agreed to by the regulator with the bank to supply ongoing monthly updates. The remediation is expected to conclude in full by the end of 2020.

# Fairness jurisdiction project

## AFCA's fairness jurisdiction

AFCA is required by legislation to operate in a way that is accessible, independent, fair, accountable, efficient and effective. Being fair means handling complaints objectively and without bias, by staff as well as decision makers.

The AFCA rules also explicitly require that we provide procedural fairness to the parties to a complaint. This means, before we decide a complaint, both the person making the complaint and the financial firm must be provided with relevant information on which we intend to rely, and that they have an opportunity to provide their views and responses.

AFCA's fairness jurisdiction, as set out in the AFCA Complaint Resolution Scheme Rules (2018), is not new and echoes the jurisdiction of AFCA's predecessor schemes. It is a jurisdiction that has existed in external dispute resolution for more than 20 years and reflects how AFCA is making decisions now.

## Exploring our fairness jurisdiction

With fairness being central to our purpose and values to provide fair, balanced and independent decision-making, AFCA partnered with the University of Melbourne in 2019 on an environmental scan and literature review. This established the extent of the fairness jurisdiction held by both AFCA and ombudsman schemes internationally.

Following this, AFCA developed a framework to ensure financial firms and consumers have a clear understanding of how AFCA will consider a complaint in line with our fairness jurisdiction. We have created tools and resources to assist and ensure consistency in our decision-making.

We have been working on improving our operations to ensure clarity and transparency around what we do, how we do it, and when we do it.

AFCA held stakeholder roundtable sessions to understand and incorporate feedback and suggestions for the fairness project. Some key themes that emerged from stakeholder feedback included support for AFCA to develop an engagement charter that would set out our expectations for those using AFCA. Others were ideas for improving the delivery of procedural fairness and particular dispute areas where AFCA should provide more information about its approach.

AFCA is grateful for the broad participation at these roundtable sessions and looks forward to continuing these important discussions.

## Future consultation

Due to the challenges of COVID-19, AFCA has paused the release of a consultation paper on our project to focus on supporting stakeholders in resolving complaints. During these unprecedented times, the exercise of our jurisdiction to ensure procedurally and substantively fair decisions remains of critical importance.

# Naming financial firms

AFCA is committed to being open, transparent and accountable to the public.

We understand that we play an important public role and recognise that transparency in our data and decisions is essential to rebuilding trust in the financial sector.

In June 2018, AFCA ran a public consultation on proposed changes to our rules to allow us to identify financial firms in published determinations. After the consultation, ASIC also approved the change to our rules.

From 1 October 2019, AFCA began naming financial firms in published determinations.

Between 1 October 2019 and 30 June 2020, AFCA published 3,775 decisions in which the financial firm was named.

Six decisions were published that did not name the financial firm due to compelling reasons, pursuant to Rule A.14.5.

AFCA will publish its Determinations in a form which identifies the Financial Firm or Firms against which the complaint is made but does not identify the other parties to the complaint. A Determination will not be published if to do so would risk identifying any party other than the Financial Firm or Firms, or if there are other compelling reasons not to publish it.

Source: Rule A.14.5, Decision making approach. AFCA Complaint Resolution Scheme Rules, 25 April 2020. p.17.

This is an important change, and the public will now be able to access increased information about the actions of financial firms. You can search for published decisions on our website, [afca.org.au/decisions](https://afca.org.au/decisions)



# Significant events



AFCA activates significant event response plans for events that can potentially result in large numbers of related complaints being lodged with AFCA, such as natural disasters and severe weather events.

The significant event response plan provides for early communication with relevant stakeholders and a more streamlined, expedited process for the resolution of related complaints.

AFCA also regularly engages with industry including ASIC, Commonwealth Treasury, and the Australian Prudential Regulation Authority (APRA) as well as industry representatives, such as the Insurance Council of Australia (ICA), to ensure our approach to handling these disputes is appropriate.

In the last financial year, AFCA activated eight significant event response plans in order to support those directly impacted. These related to:

- Rappsville and Long Gully Road fires
- North Coast NSW bushfires
- Australian bushfires
- South East Queensland hailstorms
- VIC, NSW and ACT hailstorms
- South East Coast storms and flooding
- Coronavirus (COVID-19) pandemic
- ME Bank change to redraw facility.

Two events in the 2019–20 financial year that generated significant interest and required additional responses from AFCA were the COVID-19 pandemic and the 2019–20 bushfires.

**“Thank you for  
your compassion,  
respectfulness and  
willingness to assist in  
these complex matters.”**

*- Feedback from consumers*



# Bushfires

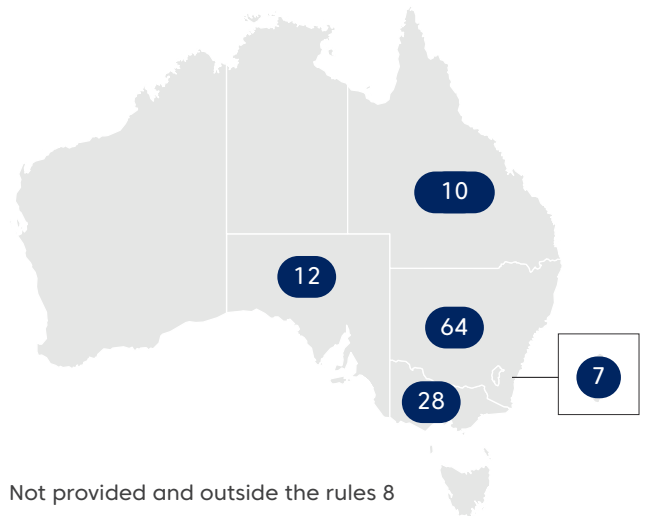
Between 1 July 2019 and 30 June 2020

**129** complaints received

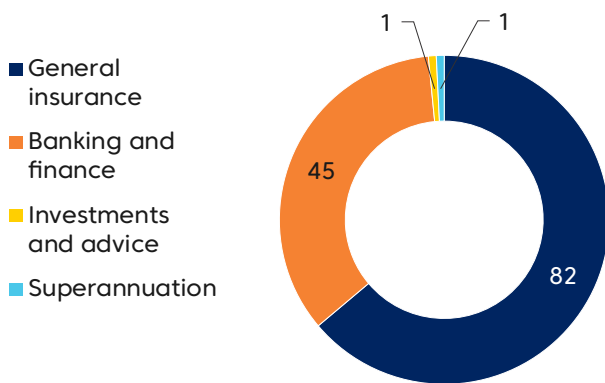
**73%** complaints resolved

**22** complaints involved financial difficulty

## Bushfire complaints by region



## Bushfire complaints by product area



## Top five general insurance bushfire complaints by product <sup>1</sup>

Product	Total
Home building	45
Home contents	12
Commercial property	5
Motor vehicle – comprehensive	5
Commercial vehicle	4

## Top five banking and finance bushfire complaints by product <sup>1</sup>

Product	Total
Home loans	12
Personal transaction accounts	8
Personal loans	7
Credit cards	4
Business loans	3

<sup>1</sup> One complaint can have multiple products/issues.

From October 2019–January 2020, Australia saw the most devastating bushfires in recent history, impacting large numbers of people across the country with record numbers of insurance claims being made.

AFCA's overall observation on claims handling during the 2019–20 bushfires is that insurers and other financial firms were proactive in addressing issues and offering resolutions for consumers and small businesses. This resulted in fewer complaints being lodged with AFCA than expected, and a faster dispute resolution timeframe.

Between 1 July 2019 and 30 June 2020, AFCA received 129 complaints relating to the 2019–20 bushfires.

There were 82 (63%) claims about insurance, while 45 (35%) were about banking and finance. Of the 45 banking and finance complaints received, 22 complaints involved financial difficulty.

A majority of insurance-related bushfire complaints were lodged by residents in New South Wales (64 complaints), followed by Victoria (28 complaints) and South Australia (12 complaints).

By 30 June 2020, AFCA had resolved 94 (73%) of bushfire-related complaints.

The most complained about products relating to the 2019–20 bushfires were home building insurance (45 complaints), home contents insurance (12 complaints) and home loans (12 complaints).

## AFCA's response to the 2019–20 bushfires

AFCA activated its significant event response plan following the Australian Bushfires in 2019–2020, after it was declared a catastrophe on 9 November 2019 by the Insurance Council of Australia (ICA).

As part of the response, AFCA established a dedicated online bushfire support information hub ([afca.org.au/bushfiresupport](https://afca.org.au/bushfiresupport)) explaining the financial recovery support AFCA could provide to families and small businesses impacted by the Australian bushfires. We also launched a support hotline (1800 337 444) to ensure priority service to those who had been impacted.



## Case study

### Bushfire complaint resolved quickly

The complainant in this case lost their family home during the bushfires in New South Wales in December 2019.

The complainant held a home and contents insurance policy with their insurer and made monthly premium payments. However, the December 2019 instalment did not process because of a wage payment error made by the complainant's employer.

The complainant contacted AFCA after the insurer told them it would not cover the total loss claim because the premium had not been paid in December 2019.

#### Process and outcome

After the complainant contacted AFCA, we referred the case back to the insurer for internal dispute resolution. During this process, the insurer informed us that no claim had been lodged, but that it would review the circumstances and contact the complainant.

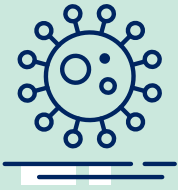
After reaching out to the complainant, the insurer shared its findings with ACFA. Considering AFCA's likely approach to the late payment, the insurer indicated there would be grounds to accept the claim.

The insurer assessed the complainant's loss within seven days of them lodging a complaint with AFCA.

Within 12 days of making a complaint, the insurer had approved the complainant's temporary accommodation and, within 21 days, had agreed to accept the claim in full for a settlement in excess of \$650,000.

The complainant was very happy with the services AFCA provided and the speed at which their dispute was resolved.

In total, this dispute was resolved within 21 days of lodgment with AFCA – enabling the complainant to rebuild their life following such a tragic loss.



# COVID-19

The COVID-19 pandemic is one of the most challenging health and economic crises Australia has ever experienced. It has had a significant impact on Australian consumers, small businesses and the Australian financial services industry.

The massive and almost immediate economic impact of job losses and business shutdowns has been felt across the financial services industry. Suddenly, consumers were in financial hardship, businesses were losing income, and insurance claims and chargeback requests were being made as travel plans were cancelled. In addition, superannuation funds began rapidly implementing cash payments to hundreds of thousands of claimants.

In 2020, AFCA has worked hard to respond to the challenge of the COVID-19 pandemic in a flexible and pragmatic way. AFCA aimed to help complainants and financial firms resolve financial complaints as quickly as possible, understanding there were high levels of stress and uncertainty on both sides.

We especially appreciate the support and cooperation of our members, regulators, industry and consumer groups as we work together to support those in hardship and to resolve financial disputes.

The following COVID-19 data includes complaints received to 30 June 2020. The World Health Organization (WHO) declared COVID-19 a pandemic in March 2020. AFCA began collecting data on COVID-19 complaints on 3 March 2020.

For the latest update on COVID-19 complaints, please visit the AFCA website.

Between 3 March 2020 and 30 June 2020, AFCA received 4,769 complaints relating to the COVID-19 pandemic. Of these, 1,813 complaints related to general insurance (of which 1,543 were about travel insurance), 2,071 related to banking and finance complaints (of which 964 were about financial difficulty) and 791 related to superannuation.

AFCA had resolved 2,680 (56%) of COVID-19 related financial complaints by 30 June 2020.

The most common issues seen in complaints about COVID-19 were delays in claim handling (477), denial of claim – exclusion/condition (434), financial firms' failure to respond to requests for assistance (426) and denial of claim (344). Travel insurance-related COVID-19 complaints made up the majority of disputes about insurers, with 1,543 complaints.

Around half (46%) of all banking and finance complaints related to financial difficulty, where a consumer was unable to meet their repayments to credit obligations, home loans, personal loans or business loans due to COVID-19.

At the beginning of the pandemic, the majority of financial difficulty complaints occurred when consumers had trouble contacting their firms, did not understand policy wording, or were confused about the information they received.

AFCA observed that financial firms were quick to respond to the pandemic, with banks and other credit providers responding to unprecedented numbers of requests for loan repayment deferrals, and superannuation funds working proactively with AFCA to resolve consumer concerns about early access to superannuation funds.

# COVID-19 complaints

Between 1 July 2019 and 30 June 2020

**4,769** complaints received

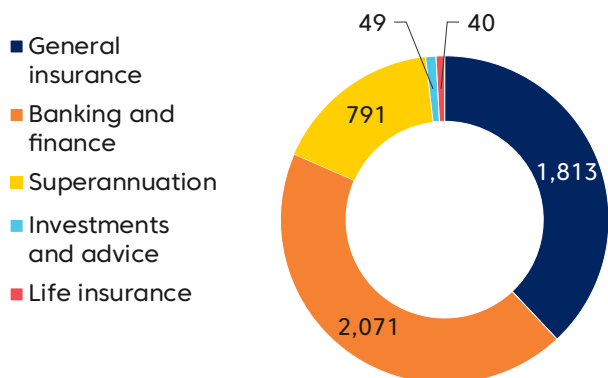
**56%** complaints resolved

**964** complaints involved financial difficulty

## COVID-19 complaints – top 10 products<sup>1</sup>

Product area	Total
Travel insurance	1,543
Superannuation account	650
Credit cards	560
Home loans	457
Personal loans	254
Business loans	110
Personal transaction accounts	103
Investment property loans	71
Merchant facilities	54
Hire purchase/lease	44

## COVID-19 complaints by product area



## COVID-19 complaints – top 10 issues<sup>1</sup>

Issue	Total
Insurance – delay in claim handling	477
Insurance – denial of claim – exclusion/condition	434
Financial firm failure to respond to request for assistance	426
Insurance – denial of claim	344
Service quality	341
Incorrect premiums	221
Delay	205
Incorrect fees/costs	120
Decline of financial difficulty request	115
Unauthorised transactions	109

<sup>1</sup> One complaint can have multiple products/issues.

## AFCA's response to COVID-19 pandemic

AFCA activated its significant event response plan following COVID-19 being declared an insurance catastrophe by the Insurance Council of Australia on 12 March 2020.

The response plan was activated to help AFCA plan for a large number of complaints relating to the pandemic. It provided for early communication with stakeholders and more streamlined, expedited processes for the resolution of complaints.

AFCA also established a support hotline (1800 337 444) to provide consumers with simple access to information about lodging a complaint.

Details on AFCA's operational and people response can be found on page 100.

## COVID-19 support hub

To support those financially impacted by the pandemic, we established an online COVID-19 support hub with information for consumers and small businesses.

The support hub directs visitors to different information, depending on their circumstances or financial product. Sections include financial difficulty, banking and finance, insurance (including travel insurance), superannuation and small business. Each page provides an overview of the support available, step-by-step instructions for contacting a financial firm, how to make a complaint, and frequently asked questions about key topics such as early access to superannuation, travel insurance claims and credit card chargebacks.

## Working with regulators, consumers and industry

Throughout the COVID-19 pandemic, AFCA has worked with regulators, consumers and industry to handle and resolve disputes.

AFCA has held regular meetings with regulators and industry bodies to address potential issues arising from the pandemic and to work out how to work together to minimise financial disputes. Some of these meetings included:

- regular meetings with ASIC, Commonwealth Treasury, APRA, ACAP (Australian Consumer Advisory Panel), superannuation industry representatives, insurance industry representatives and banking industry representatives
- discussions with large banks about how we can work together to help consumers
- meeting with peak bodies such as the ABA, Customer Owned Banking Association (COBA) and AFIA
- meeting with the Insurance Council of Australia's pandemic taskforce
- regular consumer advocate updates
- fortnightly catchups with the Financial Services Council and life insurers.

### Response to early access to superannuation delays

In April, when applications for early access to superannuation opened, AFCA received a significant number of complaints relating to the timeliness of payments and service provided by superannuation funds.

To manage the superannuation issues arising out of the COVID-19 pandemic, AFCA quickly and proactively convened regular meetings with key stakeholders, including industry associations.



This allowed all stakeholders to share information about complaint trends and issues, along with opportunities to identify and implement effective and efficient resolution methods, particularly for managing early release complaints.

Specifically, AFCA worked with trustees to adopt a new process and identify complaints related to this issue quickly. This streamlined process resulted in 90% of these complaints being resolved within the internal dispute resolution period.

In July 2020, during the second application period for early access to superannuation, AFCA did not receive a significant number of superannuation complaints. This was partly due to funds learning from the first period and introducing new practices to address problems with processing and payment details.

### **Approach to COVID-19 travel insurance complaints**

To help financial firms and complainants understand how AFCA handles travel insurance related COVID-19 complaints, we published a dedicated approach document.

The approach document outlines how we apply legal principles, industry codes and good industry practice to complaints about denied requests for travel credit/refunds and other COVID-19-related claims.

By providing details of what AFCA looks at when considering complaints, financial firms and complainants have a better understanding of what AFCA does and how it effects their complaint.

In summary, AFCA's approach to COVID-19 travel insurance complaints is following.

#### **When considering complaints about a request for travel credit/refund, AFCA will consider:**

- Does the insurer's credit provide real value? This includes understanding if the individual has extenuating circumstances that may prevent them from travelling in the next 18 months.
- If any refund offered is fair and proportionate.

#### **Where an individual's travel insurance claim has been declined because of a pandemic-related clause, AFCA will:**

- Seek to understand if the individual established a valid claim.
- Consider if the insurer established an exclusion entitling them to deny the claim if a valid claim was accepted. This will include considering s.54(5) of the *Insurance Contracts Act 1984* (Cth).
- Consider a premium refund a fair outcome if we decide an insurer is entitled to deny the claim based on a blanket exclusion.

For further information and other details, you can read the full approach document on the AFCA website: [afca.org.au/approach](https://afca.org.au/approach)

## Changes to our process

### Responding to regulatory and legislative changes

AFCA has been committed to modifying its approach to dispute resolution to take into account all regulatory and legislative changes announced as part of the Commonwealth Government's response to the pandemic.

### Giving more time to resolve complaints

As part of our response to COVID-19, we announced that we would give consumers, small businesses and financial firms further time to respond to complaints. The refer-back timeframe was extended at Registration. We also provided a standard, flat 21-day timeframe for financial firms to provide an initial response once a dispute reached the Case Management stage.

These extensions came into effect on 16 April 2020, with approval from ASIC, and applied to all complaints including financial difficulty.

As the pandemic is ongoing, we will continue to review and adjust our timeframes as appropriate.

### ASIC relief measures for early access to super advice

On 21 April 2020, ASIC announced new measures to assist the provision of affordable advice on early access to super.

These changes included who can advise people about the early release of their superannuation and what records advisers must keep. Following ASIC's statement, we announced that we would take their changes – including the form of the advice and the timeframe extensions – into account when dealing with complaints that arise due to COVID-19.

### Small to Medium Enterprise Guarantee Scheme (SMEG) – Rule changes

In March, the Commonwealth Government established the Coronavirus SME Guarantee Scheme, designed to support small and medium enterprises to get access to working capital to help during the COVID-19 pandemic.

In response to this initiative, AFCA made changes to its rules about how we deal with complaints from small business owners. The changes:

- limited the matters AFCA could take into account when considering a complaint about a loan provided under the SMEG scheme
- required AFCA to exclude complaints about repayment deferrals provided to small business borrowers for existing loans, where the deferral is provided between 25 April 2020 and 24 April 2021.

The changes to our rules followed the issue of a notifiable instrument made by the Treasurer on 24 April 2020. This amended AFCA's Authorisation Conditions and required AFCA to amend its rules.

ASIC also directed us to make the required amendments without public consultation given the urgency of the government's COVID-19 economic responses.

## Case study

### Streamlining early access to superannuation requests

As part of the Australian Government's response to the COVID-19 pandemic, it was announced it would allow individuals whose employment was adversely affected by the economic consequences of the pandemic to access up to \$10,000 of their superannuation in the 2019–20 financial year.

To apply for this, the individual was required to meet one or more of the requirements set by the government. These were unemployment, eligibility for JobSeeker or redundancy/reduced work hours after 1 January 2020.

As outlined by the Australian Taxation Office (ATO), once an individual applied for early access to super, the super fund was required to process the payment within five business days of the file being made available.

Due to the unprecedented circumstances and a high number of requests some consumers experienced delays in receiving their funds. The complainant in this case was experiencing a significant delay in receiving his funds, despite confirmation from the ATO that his application was successful as of 14 April 2020.

The complainant waited 13 business days before contacting his superannuation provider about the delay.

The superannuation provider told the complainant they could not make the payment because they did not have his updated bank account details.

In response, the complainant immediately sent his provider an email including a bank statement, account details and confirmation of the bank account details held by the ATO.

The complainant waited an additional seven business days for his funds, before lodging a complaint with AFCA.

#### Outcome

The complainant lodged a complaint with AFCA on 21 May 2020.

As AFCA was seeing a number of complaints about this issue, we developed a special process where trustees were required to email us their payment details, instead of the standard internal dispute resolution (IDR) response.

In this case, the trustee emailed the AFCA case manager within seven days of the complaint being lodged with AFCA, confirming the payment was made on 22 May.

The trustee also confirmed that they spoke with the member to outline that the matter had been escalated and the payment had been processed. The trustee told the member to allow time for the payment to be processed by his bank.

Within 10 days of lodging a complaint with AFCA, the complainant received the funds. This case was closed by the financial firm.

# Stakeholder engagement



# Customer service

AFCA is focused on delivering a world-class ombudsman service that meets the diverse needs of the Australian community. This starts with our commitment to deliver excellent customer service. We aim to provide all parties with an accessible, impartial, timely and respectful service they can rely on.

In total, we received 155,792 phone calls to our dedicated consumer line this financial year – averaging around 620 calls a day.

The average call waiting time was just 53 seconds. This is a fantastic achievement that ensures AFCA is available to help consumers, small businesses and financial firms, and to answer questions about their complaints and our service.

AFCA also provides an online Live Chat function for consumers and small businesses that need real-time answers to pressing queries. This service is available weekdays between 9 am and 5 pm AEST, and in the last financial year we received more than 10,000 messages.

This function allows us to provide consumers with information about AFCA, general guidance on what type of complaints we can and can't consider, and what type of information a consumer will need to provide if they decide to lodge a complaint.

**155,792** calls to our consumer and small business phone line – average of 620 calls per day

**15,278** calls to our membership phone line

**3,462** calls to our COVID-19 support line

**481** calls to our bushfire support line

**53** seconds average wait time

**77%** of calls answered within 90 seconds

**5,338** complaints lodged over the phone

**10,990** online live chats

**2,107** customers were provided with priority special assistance in lodging complaints

## Providing an accessible service

AFCA is committed to providing a service that is accessible to everyone, including giving those using our service the information they need in a format that works for them.

We are particularly focused on ensuring vulnerable and disadvantaged people can readily use our service. In line with the *Disability Discrimination Act 1992* (Cth), AFCA is also committed to ensuring that our information and services are provided in a non-discriminatory way.

We welcome the opportunity to discuss the types of assistance we can provide, or facilitate, to help parties to a complaint interact with us in the way that best meets their needs.

We provide the following accessibility services:

- a free translator, if English is not your first language (including Auslan)
- more flexibility with our process requirements
- referral to community support services
- complainants can contact us through the National Relay Service using:
  - TTY/ Speak and Read
  - Voice Relay (previously known as Speak and Listen)
  - NRS Chat (previously known as Internet Relay)

Complainants can also nominate email (or post) as their preferred method of communication.

## Mental health

We seek to understand if people experiencing mental health issues see this affecting their ability to engage with us to resolve their dispute.

Complainants can choose to:

- nominate email (or post) as their preferred method of communication
- lodge their dispute over the phone.

## Language

We can provide information about our services in **different languages**.

Complainants can write to us in their preferred language, and we will have their correspondence translated free of charge.

At no charge, we can arrange for our correspondence to be translated into the complainant's preferred language.

## Vision

- Our website supports screen readers, and font sizes can be adjusted as needed.
- We can mail a dispute form to complainants in a large font size, for example – 16 points or larger.
- We can print our correspondence in a large font size, for example – 16 points or larger.
- Disputes can be lodged over the phone.

## Feedback about our service

AFCA values the feedback it receives from consumers, small businesses and members about our service. Consumers can provide feedback formally using our online feedback form, or they can provide compliments to our team via email, phone or on social media. We use the information and insights that we receive from feedback and complaints as part of our quality program and continuous improvement work.

In 2019–20, we received 284 compliments about our service. Positive feedback included compliments about our open and constructive handling of complaints, and the empathy and responsiveness we displayed throughout the process. We also received positive feedback about AFCA's balanced and fair process.

We received 1,020 complaints about our service in 2019–20. This was AFCA's first full year of operation, and the increase in service complaints is reflective of a full year of service and an increase in the financial firm complaints we received and finalised, including the determinations issued.

Service complaints received in 2019–20 represented 1.3% of financial firm complaints that we received, which was fairly consistent with the previous year. During 2019–20, 164 service complaints were escalated and lodged with the Independent Assessor, representing 16% of the total service complaints received.

In 2019–20, AFCA recorded 134 expressions of dissatisfaction – feedback that does not require a response. These often come to us via our website, or to a staff member in an email or phone call.

## Case study

### AFCA receives a complaint about how it handled a consumer's case

We dealt with a complaint against a financial firm relating to a personal loan debt that had been sold to a debt collection company. The complainant was experiencing financial difficulty and raised concerns that both the original lender and the debt collection company had misled and harassed her and had not notified her that the debt would be sold. AFCA's determination was not in the complainant's favour; however, time was arranged for a suitable repayment arrangement to be reached.

The complainant lodged a service complaint with AFCA, raising concerns that there had been a delay in AFCA handling her complaint, and that AFCA had not considered in its determination information the complainant had provided. The complainant also raised concerns about the way AFCA had communicated with her and the complainant believed that AFCA has shown bias towards the financial firms involved in her complaint.

We investigated the complainant's service complaint and agreed that there had been a delay in dealing with the complaint and updating the complainant. We apologised for this service failing. We also investigated all the other concerns raised by the complainant, but did not find them to be substantiated.

The complainant subsequently took her outstanding concerns to the Independent Assessor, who did not make any recommendations or adverse findings.

## Service issues

Issues that are raised in complaints about our service relate to our communication, timeframes and process, or concerns about how a complaint was finalised, including at determination, and the level of service we provided to consumers, small businesses and AFCA members. Service issues can also relate to membership services, including fees charged.

In 2019–20, the most common issues raised in service complaints were about delays in our process, allegations of bias or failure to take into account relevant information.

We resolved 911 service complaints. Of these complaints, 86% were not upheld.

Of the service complaint issues that were upheld, most related to our general level of service, particularly delays in dealing with a complaint, or how we engaged or informed parties about their complaint and its progress.

## Outcomes and timeframes

The most common outcomes for service complaints upheld this year were an apology being provided to the complainant, clarification about our process or approach, or a complaint being prioritised – particularly as we focused on reducing our backlog this year. In many service complaints that were not upheld we also provided people with information and guidance about our process or the decision we made on their complaint.

We resolved 56% of service complaints within our timeframes. On average, we resolved a service complaint in 31 days.

AFCA service complaint	Number of service issues
Service	807
Determination	329
Membership/finance	60
<b>Total</b>	<b>1,196</b>

### Areas of focus and further improvement

Our service complaints team is working closely with our quality and customer experience areas and across AFCA to share insights, themes and areas for improvement arising from complaints about our service. We are also working with the Independent Assessor to tackle and address any key issues or improvements that the Independent Assessor is seeing in service complaints investigated by her office.

Areas of focus in 2020–21 include the clarity of information we provide in our standard communications, how we can more effectively tackle particularly complex complainant situations and how we can provide more flexibility in our service.



## Case study

### AFCA received a complaint about a complaint proceeding directly to determination

We dealt with a complaint against a financial firm involving several insurance claims made about damage to a complainant's property, as a result of storm damage.

After the complaint was determined and finalised, the complainant lodged a service complaint with AFCA. In the service complaint, the complainant raised concerns that AFCA had not considered the information provided, including expert reports about the damage, and AFCA had not provided the complainant with an opportunity to negotiate with the insurer. The complainant was also dissatisfied that AFCA had not advised that the complaint would proceed directly to a determination, without a recommendation being issued by AFCA first.

The service complaint investigation found that the information previously provided by the complainant had been considered by the decision maker. Further opportunity was provided for the complainant to provide additional information. This was considered and found not to alter the outcome.

We apologised that the complainant had not been advised that a recommendation would not be provided prior to a determination being issued. The complainant's service complaint was finalised on this basis.

# Engagement

AFCA regularly works with consumers, small businesses and industry to share insights and information that can help raise standards in the financial services industry, minimise disputes and meet the needs of the Australian community.

We recognise the importance of our stakeholders and follow a robust engagement program including forums, liaison groups, one-on-one meetings, events, virtual meetings, consultations, webinars, newsletters and social media channels.

Key activities 2019–20:

**1,203,737** website visits

**18** member forums including 10 regional and four online forums

**27,000** newsletter subscribers

Over **630** events and stakeholder engagements that included one-on-one meetings, forums, events and speaking engagements

**“I was not aware that AFCA existed, but heard on the radio that the roadshow was coming to Traralgon. I came down and found the stall and spoke with the team about an existing matter with life insurance. I feel we have been pointed in the right direction and can hopefully have our matter resolved.”**

*- Feedback from consumers*



## National roadshow

From September to November 2019, AFCA team members travelled to 30 regional and metropolitan locations to talk directly to consumers about our service.

Serving as a roaming information centre, the AFCA Roadshow was designed to help consumers and small businesses learn about AFCA, the types of complaints we can handle, and how AFCA can help if they are unable to resolve a dispute with their financial firm.

It was also an opportunity for AFCA to hear directly from regional communities about the financial issues they face, so that we can improve our processes and services.

- Tasmania
- Hobart
- Launceston
- Burnie
- Devonport
- Victoria
- Melbourne
- Werribee
- Footscray
- Preston
- Broadmeadows
- Craigieburn
- Ringwood
- Narre Warren
- Frankston
- Traralgon
- Sale
- Warragul
- Geelong
- Ballarat
- Bendigo
- Shepparton
- Albury-Wodonga
- Australian Capital Territory
- Canberra
- New South Wales
- Wagga Wagga
- Nowra
- Wollongong
- Orange
- Dubbo
- Tamworth
- Maitland

## Financial Fairness Roadshow Regional Forums

The AFCA Roadshow also included dedicated forums for AFCA members, local small business owners and consumer advocates. It was an opportunity to meet with our ombudsmen, discuss the issues they face and ask questions.

- Hobart
- Launceston
- Traralgon
- Ballarat
- Bendigo
- Albury-Wodonga
- Canberra
- Wollongong
- Tamworth

## Website

The AFCA website hosts all the information about our ombudsman service – including the types of complaints we consider, our approaches and rules. It also includes published decisions, and how to lodge a complaint, as well as helpful resources for significant events and updates such as media releases and the latest news items.

The AFCA online complaint form can also be found on our website. It allows consumers to lodge complaints at a time that suits them – not just during office hours.

From 1 July 2019 to 30 June 2020, the AFCA website had 1.2 million visits. The most commonly visited webpages were the AFCA online complaint form, information about insurance complaints and the 'Find a financial firm or superannuation fund' search function.

In 2019–20 we published:

- 25 media releases
- 19 latest news articles
- 11 new factsheets and approach documents
- 6 webinars
- 19 webpages translated into 19 languages
- 15 videos.

### AFCA member portal

The member portal is a secure online service available to all AFCA members. The member portal allows AFCA members to view and manage complaints, generate complaint statistics, update contact details and make payments to AFCA.

AFCA regularly updates the member resources with guidance on our process and our approach to recurring or emerging complaint issues.

In 2019–20, the member portal had 113,494 views.

## Social media

We use social media to engage with consumers about the work we do, the types of complaints we consider and how to lodge a complaint if they have a dispute with their financial firm. Engaging with consumers on social media also provides us with an opportunity to encourage consumers to contact their financial firm about their complaint before lodging a complaint with AFCA.

We use social media to share regular updates with industry and promote our employer brand.

Social media provides an additional customer service platform. We use direct messaging on Facebook and Twitter to provide consumers with an alternative to our Live Chat function. We answer standard questions about our service, share links to webpages and direct consumers to make a complaint, if required.

As at 30 June 2020, we had 2,192 Twitter followers, 2,980 Facebook page likes and 8,518 LinkedIn followers.

### Follow us to stay up to date



@afca\_org\_au



facebook.com/AustralianFinancialComplaintsAuthority




linkedin.com/company/australian-financial-complaints-authority



Australian Financial Complaints Authority

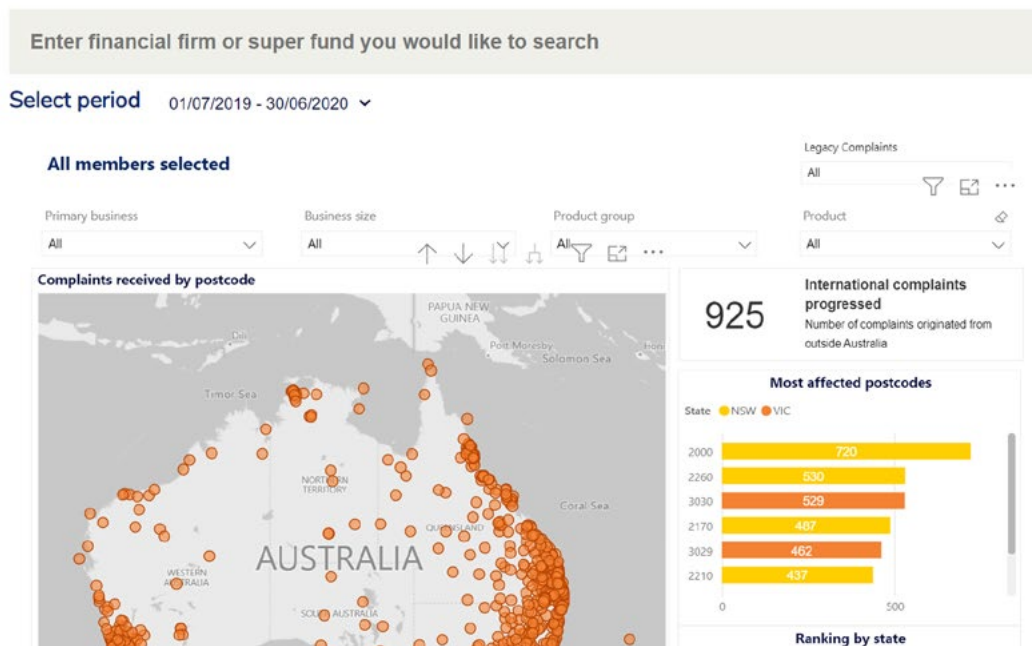
## AFCA Datacube

An open and accessible visual comparative report about financial complaints in Australia

-  At a glance
-  Resolution process
-  Complaints by location
-  Complaints by firm
-  Compare the firms
-  Complaints by product
-  Historical comparison

## Complaints by location

AFCA receives complaints from across Australia. This page displays complaints according to the postcode of the individual, small business or charity which registered the complaint.



## The AFCA Datacube

As part of AFCA's commitment to transparency about the complaints it receives against financial firms, AFCA launched its online comparative reporting tool, the AFCA Datacube, in November 2019.

AFCA is required by ASIC to publish information about the complaints we receive and resolve, including by financial firm name, and to ensure it is comparable by business size and industry sector.

The AFCA Datacube fulfills this requirement in a new interactive way. The free online tool enables users to see how a specific financial firm responded to consumer complaints brought to AFCA. It includes information about the number of complaints a financial firm receives, how long it takes a firm to resolve a complaint and whether the financial firm responded to the complaint during the referral stage.

The tool provides a deep level of detail about the issues and products that consumers and small businesses complain to AFCA about. It includes information about the number of complaints by product type, geographical location and what stage in AFCA's process they resolved the complaint.

As well as enabling members to see their complaints alongside other financial firms, the AFCA Datacube can be used by policymakers, researchers, industry and regulators to identify issues and monitor trends in the Australian financial services industry.

The Datacube currently contains AFCA's complaints data from 1 November 2018 to 30 June 2020. It is updated every six months, with the next instalment scheduled for early 2021.

Visit the AFCA Datacube: [data.afca.org.au](https://data.afca.org.au)

In September 2020, the AFCA Datacube was updated to include data to 30 June 2020:

- 122,170 complaints since 1 November 2018
- Over 700 financial firms represented

## Newsletter

Our newsletter, AFCA News, includes case studies, articles and information relevant to our members, industry bodies, consumer advocates and consumers.

This financial year, we released five AFCA News issues to our 27,000 subscribers. All the AFCA News issues are available on our website at [afca.org.au/news/newsletter](https://afca.org.au/news/newsletter).

We encourage our subscribers to send us their financial questions, article suggestions and feedback, so we can address them in future issues.

To subscribe to AFCA News, please email [publications@afca.org.au](mailto:publications@afca.org.au).

## Member engagement

### Member forums and e-forums

AFCA member forums are a great opportunity for all our members to learn from AFCA's senior staff, including ombudsmen and senior case management leaders. The forums give our members insights into complaint trends and issues, as well as the opportunity to understand how to apply this knowledge to their complaint-handling practices, with the ultimate goal of minimising complaints.

The member forums facilitate a two-way conversation with our members about AFCA's processes and allow members to learn about our approach to decision-making through specific case studies.

Prior to COVID-19 being declared a pandemic in March 2020, AFCA held face-to-face member forums in Perth, Adelaide, Melbourne and Brisbane from August to November 2019, with almost 600 members attending.

AFCA also held member forums in regional areas of Australia, as part of the AFCA Financial Fairness Roadshow (see page 91). There were nine regional forums held with over 100

members attending. These regional forums offered an opportunity to learn about AFCA's service, and discuss the issues facing members in regional areas.

In May 2020, AFCA introduced online member forums in response to the COVID-19 pandemic. These virtual forums were conducted over two days with a plenary session each day, as well as dedicated sessions for members on banking and finance, superannuation, life insurance, general insurance, and investments and advice. The sessions included a detailed discussion of trends, notable case studies and an open Q&A. These digital forums were heavily attended, indicating both the format change and the delivery mechanism were well received. There were 3,200 total views from members across Australia, and over 100 questions received during the Q&A.

The recordings and presentations for each of the forum sessions are available on the AFCA website [afca.org.au/news/webcasts](https://afca.org.au/news/webcasts)

### Industry liaison group meetings

Our industry liaison groups usually meet between two and four times a year to discuss issues relating to their specific industry. The group consists of 12–20 senior representatives from member firms, industry associations and AFCA.

Our industry groups comprise superannuation, investments and advice, general insurance, life insurance, professional indemnity and medical indemnity.

Between 1 July 2019 and 30 June 2020, we held nine industry liaison group meetings and two fairness roundtables.

### Stakeholder engagements

Throughout the financial year, AFCA team members attended events and joined online events during the pandemic in multiple capacities including as keynote speakers and presenters, panel discussion members, and training workshop hosts and facilitators.

Overall, AFCA attended more than 630 events and stakeholder engagements from 1 July 2019 to 30 June 2020. These included one-on-one meetings, forums, e-forums, virtual meetings, events and speaking engagements.

In 2020, AFCA met with members, industry bodies, consumer advocates and regulators to listen, learn and coordinate our response to the COVID-19 pandemic. More information on those meetings and their outcomes is available on page 78.

### Conferences and events

Industry conferences and events attended this year included:

- National Insurance Brokers Association Convention 2019
- Smash Repair Industry Forum
- Governance Risk & Compliance Institute Conference 2019
- Australian Institute of Superannuation Trustees Super Governance Symposium 2019
- Leo Cussen Centre for Law: Super Law Conference 2019
- Annual Life Insurance Law Review 2019
- Customer Owned Banking Association Convention
- ARCA National Conference 2019
- CCH Learning Webinar – AFCA’s First Year in Review
- Queensland Small Business Advisory Council
- Australian Finance Industry Association Conference 2019
- APRA Life Insurance Supervisors Conference 2019
- Credit Law Conference 2019
- Financial Planning Association Annual Congress 2019
- Institute of Public Accountants Congress Adelaide 2019
- Australian Institute of Superannuation Trustees CEO Forum
- IAG Customer Forum
- Royal Commission: One Year On – Australian Banking Association
- SMSF Association Conference
- Responsible Lending and Borrowing Summit 2020
- Law Council of Australia Superannuation Law Conference 2020
- Australian Insurance Law Association Annual General Insurance Law Review 2020
- ASIC 25th Annual Forum 2020
- Retirement Conference 2020
- Australian Finance Industry Association Webinar
- Finance Brokers Association of Australia – Open Q&A

## Consumer engagement

AFCA regularly engages with consumer representatives, including financial counsellors, community lawyers and financial capability workers as part of our work to support access to our service.

### AFCA Consumer Advisory Panel

Formed early in 2019, the AFCA Consumer Advisory Panel is composed of 10 consumer representatives who meet regularly with our senior leadership team. The panel provides insights and analysis on the consumer-facing elements of AFCA strategy and policy, consumer-related projects and shares real-time information about the financial problems Australians are facing, including challenges accessing products and services.

Panel members represent the communities we serve including Aboriginal and Torres Strait Islander peoples, culturally and linguistically diverse communities and people experiencing financial difficulty.

Significant matters addressed by the panel included:

- AFCA’s approach to fairness

- service delivery in relation to AFCA’s timeframes and requests for extensions for people in difficult circumstances
- consumers affected by the collapse of Sterling New Life
- the industry’s responses to significant events, including bushfires and the COVID-19 pandemic.

The panel meets in person and online. ACAP members 2019–20 are:

- Gerard Brody, Chief Executive Officer, Consumer Action Law Centre
- Karen Cox, Coordinator, Financial Rights Legal Centre
- Anne Crouch, Manager, Uniting Country SA
- Tony Devlin, Territorial Coordinator Moneycare, The Salvation Army
- Fiona Guthrie, Chief Executive Officer, Financial Counselling Australia
- Paul Holmes, Principal Lawyer (Acting), Legal Aid Queensland
- Gemma Mitchell, Managing Solicitor, Consumer Credit Legal Service WA
- Ma’ata Solofoni, Senior Solicitor, Legal Aid NSW
- Sonia Vignjevic, Victorian State Director, Settlement Services International
- Jillian Williams, Operations Manager, Indigenous Consumer Action Network
- Peter Gartlan, Independent Chair.

AFCA would also like to acknowledge the contributions of Dana Beiglari and Damien Hennessey from Legal Aid NSW and Roberta Grealish from Consumer Credit Legal Service WA.

### **AFCA in the community**

AFCA is committed to providing a service that is accessible to everyone. In 2019–20, we extended our range of resources available for people who speak a language other than English. This work included producing audio clips for people who prefer to listen to information in their own language, rather than read it.

In May 2019, we also published a series of videos featuring our people speaking their own first language. We are extremely grateful to those who volunteered to share what working at AFCA means to them.

### **Outreach**

Along with our consumer engagement activities, we also regularly attend public events to raise awareness of AFCA. In addition to the roadshow, AFCA participated in a variety of consumer events, including:

- Bring Your Bills
- Homeless Connect events
- Seniors and Disability expos
- Midsumma Carnival, Mardi Gras Fair Day and the Chillout Festival
- Yabun Festival.

### **Conferences**

Consumer conferences attended this financial year were:

- National Elder Abuse
- National Association of Community Legal Centres (now CLCs Australia)
- South Australia Financial Counsellors Association
- Financial Counsellors’ Association of NSW
- Federation of Ethnic Communities’ Councils of Australia
- Financial and Consumer Rights Council (now Financial Counselling Victoria)
- Financial Counsellors’ Association of WA
- Financial Counsellors Association Tasmania
- Australian Council of Social Service
- Financial Counsellor’s Association of Queensland.

Throughout this period, we delivered tailored professional development for rural financial counsellors, Financial Counselling Diploma students in South Australia and Victoria’s Small Business Bushfire Financial Counselling Service.



## Submissions and consultations

AFCA contributes to the development of reforms to financial services law, regulation and policy. Through this work, we aim to address issues raised in complaints or systemic issues, improve the resolution of complaints about financial services and reduce future complaints.

We participate regularly in inquiries, reviews and other consultations by making submissions, appearing at hearings and providing feedback on proposed reforms.

In 2019–20, AFCA made written submissions on areas of reform and other matters including:

- draft legislation to impose a best interest duty for mortgage brokers
- development of the New Energy Tech Consumer Code, which includes provisions for ‘buy now pay later’ transactions
- updates to ASIC’s guidance on responsible lending
- amendments to the Banking Code of Practice
- the independent review of the Customer Owned Banking Code of Practice
- draft legislation to extend unfair contract terms protection to insurance
- arrangements for the proposed Compensation Scheme of Last Resort (CSLR)
- draft legislation to regulate insurance claims handling as a financial service and introduce special disclosure requirements for cash settlements
- ASIC’s consultation on unsolicited telephone sales of direct life insurance and consumer credit insurance
- draft legislation to provide for enforceable industry codes of practice
- the update of ASIC’s regulatory guide for internal dispute resolution
- ASIC’s approach to using its product intervention power and proposed interventions relating to short-term credit and over-the-counter binary options and contracts for difference.

A number of written submissions made by AFCA are published on our **website**.

AFCA appeared at hearings for two Parliamentary inquiries and a Royal Commission in 2019–20. We also attended round table discussions on areas such as internal dispute resolution processes, new product design and distribution obligations, strengthening industry codes of practice and the establishment of the proposed CSLR.

### Compensation scheme of last resort

AFCA and its predecessor schemes have long advocated for the establishment of a compensation scheme of last resort (CSLR).

In 2019–20, AFCA engaged with the Commonwealth Government, ASIC, industry and consumer stakeholders as part of the government’s consultation on establishing the CSLR. As part of AFCA’s CSLR activities, AFCA made a submission to the government’s CSLR consultation in early 2020. We provided data and a range of other information regarding unpaid determinations and insolvent financial firms during 2019–20.

AFCA will continue to work with the government and stakeholders on this important consumer protection reform.

### The Paying Legacy Unpaid External Dispute Resolution Determination program

Following the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, the Commonwealth Government established a \$30.7 million grant program to pay eligible consumers who had determinations from the FOS and CIO, but did not receive payment because the financial firm was bankrupt, under external administration, deregistered or wound up. In 2019–20, AFCA liaised with Commonwealth Treasury and the Department of Industry, Science, Energy and Resources to facilitate payments to consumers under this program.

# People and culture



At AFCA, we understand that happy, engaged and supported people produce results.

Significant transformation in AFCA's people and culture strategy took place in the 2019–20 financial year to ensure our approach supports the organisation in achieving its purpose and strategic goals.

Our people need to be highly skilled, engaged, customer-focused and committed to performance and quality in all they do. AFCA's People and Culture Strategy ensures we remain focused on attracting the best talent in our sector, with a culture that enables our people to deliver service outcomes consistently, including during times of rapid change and disruption.

## Our focus

### 1. Culture at the heart

This priority is designed to shape the culture AFCA needs to deliver on its purpose. This means all AFCA leaders will be empowered with real-time insights about their team's experience and be able to take prompt action to sustain engagement and performance, embedding and enhancing culture.

### 2. Capability at the core

The second priority aims to ensure our people have a shared understanding and commitment of what makes a great leader at AFCA, regardless of level or role. This means all people are enabled through modern learning and development experiences that have meaningful impact on their capability.

### 3. Care and wellbeing

Care and wellbeing were a core focus in 2019–20, and into 2020–21, as our workforce grappled with the impact of COVID-19 on workloads and a rapid transition to working from home for a sustained period. This priority aims to ensure that individuals and teams know that their wellbeing is a priority. It is delivered through a broad offering of resources and programs designed to cultivate health, safety, wellness and sense of belonging at AFCA.

### 4. Firm foundations

Our final priority was transitioning to contemporary people-centric policies, systems and processes, built on trust and accountability.

## Leadership capability framework

As part of our transition to becoming a mature organisation following establishment, AFCA developed our Leadership Capability Framework (LCF) in 2019–20. This provides clarity to our people about the leadership behaviours we expect at all levels. We also developed a 360 Leadership Development Assessment framework to get a better understanding of the capability of our leaders. This allows AFCA to be data-led in identifying the areas of learning we need to address as AFCA delivers on its strategic plan.

## Recruitment

In 2019–20, AFCA’s talent attraction and recruitment approaches were enhanced to include behavioural and diagnostic assessments of applicants. This was designed to ensure AFCA could recruit candidates who were the best fit for the organisation and were aligned with its values, goals and purpose, along with ensuring we were recruiting to a high level of technical skill.

## Performance

AFCA adopted a new evidence-based approach to key performance indicators across our Case Management and teams. This aligns with our performance framework that focuses on helping our people perform at their best through coaching, feedback and support. We also undertook further improvements in the way we measure employee engagement, with a new methodology implemented in October 2020.

## Operating in a changing environment

In a year of rapid and unprecedented internal and external change, AFCA established a Change Champions Network. We also undertook a workforce review with improved reporting capability and commenced a review of employment conditions and contractual requirements to ensure our workforce establishment is equipped to shift and pivot to the needs of our customers.

## COVID-19 response

The challenges of the COVID-19 pandemic demanded a whole-of-organisation shift to remote working in March 2020. This change coincided with an increase in complaint inflows, as well as our members transitioning their own workforce to working from home.

In 2019, AFCA introduced new policies and IT solutions to support flexible working arrangements for our people. These new initiatives put AFCA in a strong position to transition to working from home when the COVID-19 pandemic made it a necessity in 2020.

AFCA’s wellbeing approach was also critical to the success of this shift, and it supported the health and wellbeing of our people in this unprecedented environment. Key initiatives included:

- an interactive communications and social networking plan
- rapid implementation of technology solutions to support our people to do their jobs at home
- guidance and support to create a safe working from home environment
- creation of a COVID-19 hub with tools and resources
- mental health support including an Employee Assistance Program (EAP) and development for both leaders and employees
- regular all staff and leader communications providing check-in points and support as the situation evolved
- development of COVID-safe plans for returning to our physical offices.

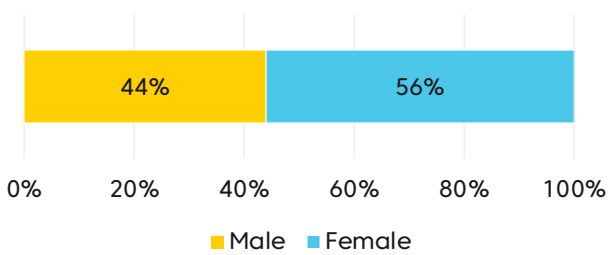
Our people were surveyed regularly, and a majority reported that they were adjusting well and felt supported by AFCA. For those with specific challenges, we created a tailored support model.

# People snapshot

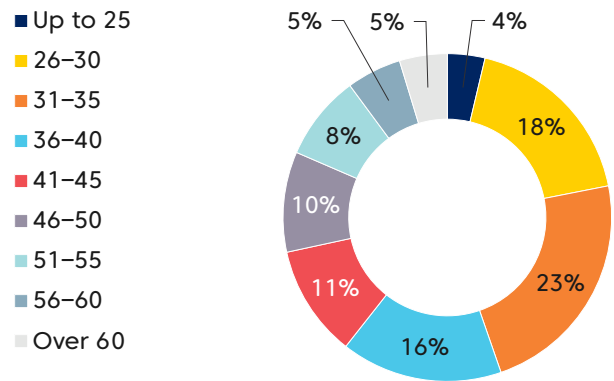
At AFCA we promote an environment where the cultures, backgrounds and experiences of our employees are recognised and valued.

**809** employees

## Gender



## Age



**55%** of all leaders are women, including 60% of our senior leaders and 78% of our Board members

**12.1%** of our employees work part-time

**33%** of employees were born outside Australia

**21%** of employees speak more than one language

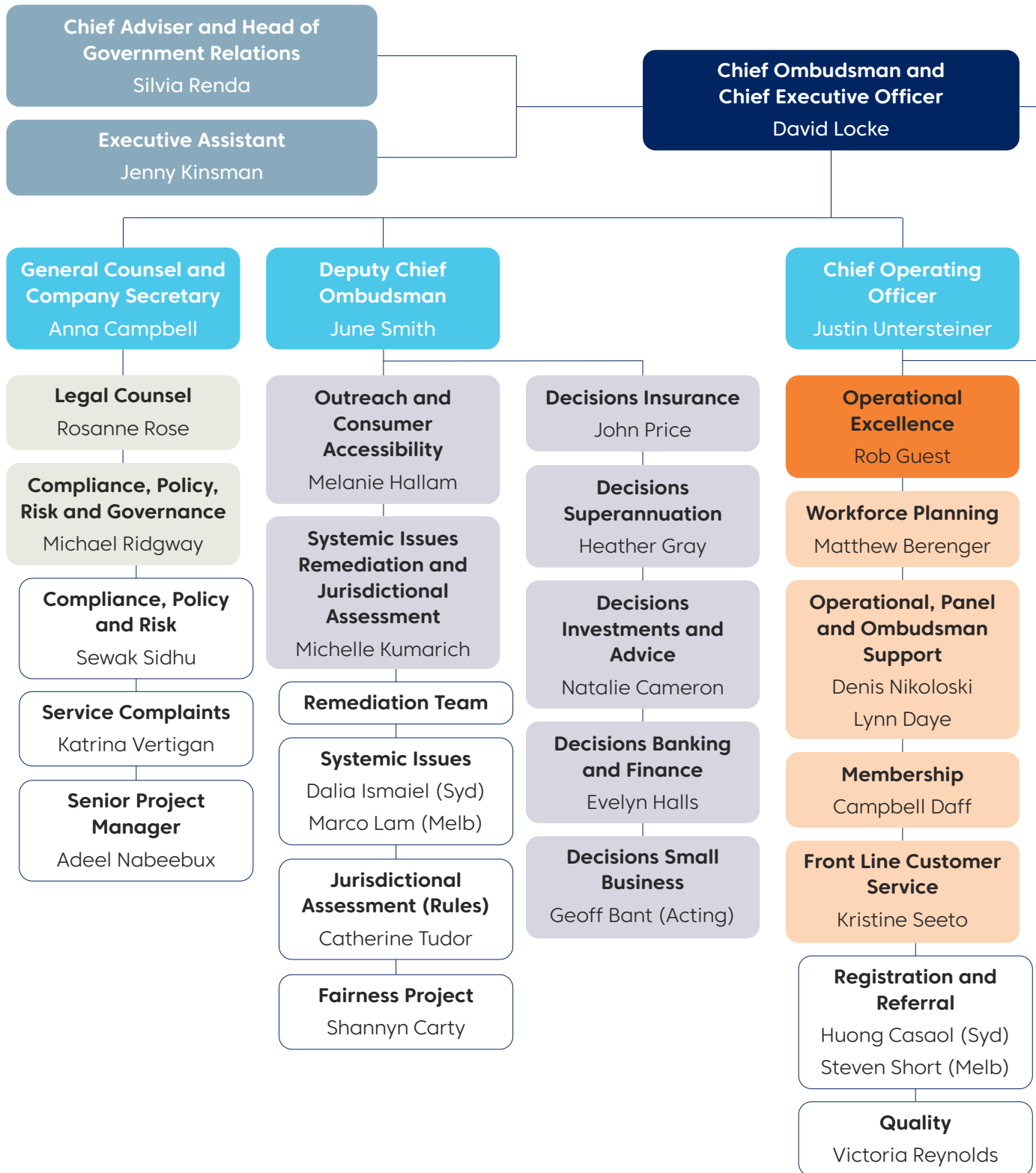
**2.2%** of employees identified as having a disability

**0.4%** of employees identified as Aboriginal or Torres Strait Islander

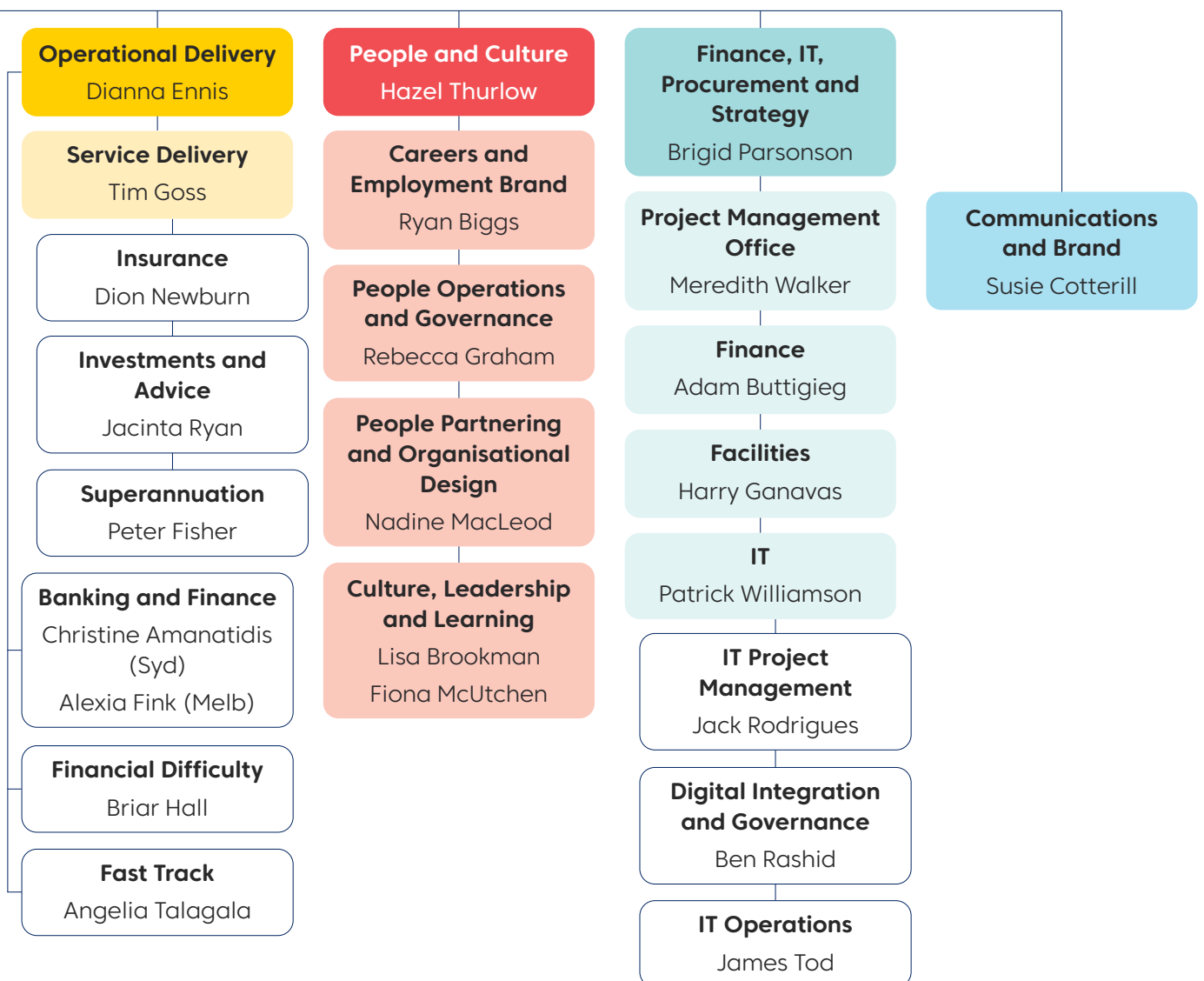
**51** employees are members of the Ally LGBTQIA+ network

# Organisational chart

As at October 2020



**Code Compliance and Monitoring**  
Sally Davis



## Leaders

AFCA is led by an independent Chief Executive Officer and Chief Ombudsman and supported by a Senior Leadership Group. The financial year 2019–2020 was a period of establishment and growth within the Senior Leadership Group. AFCA welcomed new leaders and appointed existing leaders into new positions.

These appointments have ensured AFCA has the firm foundations to set us up for future success, making sure we have the right capability to continue to work towards our vision of becoming a world-class ombudsman service.

Changes to the Senior Leadership Group in 2019–2020 include:

- Hazel Thurlow was appointed as Executive General Manager – People and Culture in August 2019.
- Rob Guest was appointed as Executive General Manager – Customer Service and Resolution in October 2019.
- Anna Campbell was appointed as General Counsel in November 2019.
- Justin Untersteiner was appointed as Chief Operating Officer in December 2019.
- Heather Gray was appointed Lead Ombudsman – Superannuation in May 2020.
- Natalie Cameron was appointed Lead Ombudsman – Investments and Advice in June 2020.
- Brigid Parsonson was appointed as Executive General Manager – Finance, IT, PMO and Strategy in June 2020.
- Michael Ridgway was appointed as Executive General Manager – Compliance, Risk, Policy and Governance in June 2020.

Going forward, the Senior Leadership Group is focused on continuing to work towards achieving AFCA’s vision in 2020–2021.

### **AFCA Senior Leadership Group as at 30 June 2020**

- David Locke, Chief Executive Officer and Chief Ombudsman
- Justin Untersteiner, Chief Operating Officer
- Dr June Smith, Deputy Chief Ombudsman
- Anna Campbell, General Counsel
- Silvia Renda, Chief Adviser to CEO and CO
- Evelyn Halls, Lead Ombudsman – Banking and Finance
- John Price, Lead Ombudsman – General Insurance
- Natalie Cameron, Lead Ombudsman – Investment and Advice
- Heather Gray, Lead Ombudsman – Superannuation
- Geoff Bant, Acting Lead Ombudsman – Small Business
- Diana Ennis, Executive General Manager – Resolution
- Rob Guest, Executive General Manager – Operational Excellence
- Michael Ridgway, Executive General Manager – Compliance, Risk, Policy and Compliance
- Hazel Thurlow, Executive General Manager – People and Culture
- Kathy Bowlen, Executive General Manager – Communications and Stakeholder Relations (until July 2020)
- Brigid Parsonson, Executive General Manager – Finance, IT, PMO and Strategy



### Decision makers as at 30 June 2020

- Dr June Smith, Deputy Chief Ombudsman
- Evelyn Halls, Lead Ombudsman – Banking and Finance
- John Price, Lead Ombudsman – Insurance
- Heather Gray, Lead Ombudsman – Superannuation
- Natalie Cameron, Lead Ombudsman – Investments and Advice
- Geoff Bant, Acting Lead Ombudsman – Small Business
- Geoff Brown, Lead Ombudsman – Small Business (until February 2020)
- Jane Abbott, Ombudsman – Superannuation
- Mark McCourt, Ombudsman – Insurance
- Michael Arnold, Ombudsman – Insurance
- Alan Price, Ombudsman – Banking and Finance
- Michael Brett Young, Ombudsman – Insurance
- Ben Taylor, Ombudsman – Superannuation
- David Coorey, Ombudsman – Banking and Finance
- Nick Crowhurst, Ombudsman – Investments and Advice
- Ian Donald, Ombudsman – Investments and Advice
- Jennifer English, Ombudsman – Banking and Finance
- Alexandra Sidoti, Ombudsman – Investments and Advice
- Jacqui Thompson, Ombudsman – Banking and Finance
- Benjamin Norman, Ombudsman – Superannuation
- Anne Maree Howley, Ombudsman – Superannuation
- Christine McCarthy, Ombudsman – Insurance
- Helen Moye, Ombudsman – Insurance
- Vicki Mullen, Ombudsman – Insurance
- Don O’Halloran, Ombudsman – Insurance
- Jacqueline Pirone, Ombudsman – Investments and Advice
- Shail Singh, Ombudsman – Investments and Advice
- Neva Skilton, Ombudsman – Banking and Finance
- Brenda Staggs, Ombudsman – Banking and Finance
- Ruth Talalla, Ombudsman – Banking and Finance
- Chris Liamos, Ombudsman – Insurance
- Andrew Weinmann, Ombudsman – Insurance
- Wes Pan, Ombudsman – Banking and Finance
- Andrea Barker, Adjudicator – Banking and Finance
- Max Pringle, Adjudicator – Banking and Finance
- Vicki Carter, Adjudicator – Investments and Advice
- Jerome Hew, Adjudicator – Insurance
- Brydie Cook, Adjudicator – Insurance
- Michelle Verzi, Adjudicator – Banking and Finance
- Senthur Kugathasan, Adjudicator – Superannuation
- Stephanie Kouvas, Adjudicator – Insurance
- Chris Siemers, Adjudicator – Banking and Finance
- Matthew O’Donoghue, Adjudicator – Insurance
- Carolyn Dea, Adjudicator – Banking and Finance
- Qasim Gilani, Adjudicator – Insurance
- Terri Gladwell, Adjudicator – Banking and Finance
- Mervyn Silverstein, Adjudicator – Superannuation
- Elizabeth Johnson, Adjudicator – Banking and Finance

# Corporate information



# AFCA Board

AFCA is governed by an independent Board of Directors.

The Board of Directors consists of an independent Chair and an equal number of Directors with consumer and industry expertise.

The Board exercises its powers with a focus on ensuring the independence, integrity and fairness of AFCA's decision-making process is maintained. The Board also ensures that AFCA is appropriately resourced to deliver our services in a timely, efficient and effective manner.

The Board is responsible for appointing an independent Chief Ombudsman and CEO, who is delegated authority for the day-to-day management of AFCA by the Board.

The Board also appoints ombudsmen, adjudicators and panel members who make decisions on complaints dealt with by AFCA.

In 2019–20, the Board met five times, in accordance with its scheduled meetings. The Board also met a further four times from March 2020, holding restricted agenda board meetings to oversee the organisation's response to COVID-19. Meetings were held on an alternating basis between Melbourne and Sydney initially, and then via video conference.

## Corporate governance

AFCA prides itself on independence, integrity and transparency in all aspects of its operations, and applies the principles of good corporate governance to the running of the company.

We consider that the *ASX Corporate Governance Principles and Recommendations*, 4th edition, sets the benchmark for a high standard of corporate governance in Australia. Although AFCA is not a listed entity, we consider the principles a useful benchmark.

This section explains how we apply these principles and recommendations, issued by the ASX Corporate Governance Council, to our organisation.

### Principle 1: Lay solid foundations for management and oversight

#### Functions reserved by the Board and those delegated to management

Since the inception of the company, the AFCA Board has adopted a Charter that governs its operations and clearly delineates the responsibilities of the Board and senior management. The role of the Board is to monitor our performance, provide direction to the Chief Ombudsman and CEO on policy matters, set the budget, and from time to time review the Terms of Reference, including our jurisdictional limits.

The Board does not involve itself in the detail of disputes lodged with us.

During the year, the Board had three standing committees to assist it in its role – the Audit and Risk Committee, the Information Technology and Digital Transformation Committee and the Nominations and Remuneration Committee.

## Appointment of Directors

The Nominations and Remuneration Committee Charter sets out the process to be followed by the Board when appointing or reappointing Directors and other Board appointees.

## Written terms of appointment

Written agreements set out the terms of each appointment of our Board Directors and senior executives.

## Direct accountability of Company Secretary to Board for proper functioning of the Board

As set out in the Board Charter, our Company Secretary is appointed by, and accountable to, the Board and may advise the Chair, the Board, its committees and individual Directors on matters of governance process.

## Diversity policy

AFCA is committed to ensuring the integration of the principles of equal opportunity for all staff. Our commitment to diversity in the workplace is set out in our Diversity Inclusion Policy and Procedure and regular diversity reporting.

## Evaluation of performance of AFCA Board

The Nominations and Remuneration Committee of the Board ensures a robust system of performance evaluation is in place for Board appointees and the Board itself.

An external performance evaluation was undertaken in late 2019, and will be repeated every three years.

## Evaluation of performance of AFCA senior management

Since we began operating in 2018, all employees, including senior managers, have been subject to a performance evaluation process. The line manager of an employee conducts the performance evaluation, with the Chief Ombudsman and CEO responsible for the performance evaluation of the senior managers reporting to him. The Chair of the Board conducts the performance evaluation of the Chief Ombudsman and CEO.

# Principle 2: Structure the Board to be effective and add value

## AFCA Board

### Independent Chair

- The Hon Helen Coonan (Chair) – BA, LLB

### Consumer Directors

- Carmel Franklin – BEd, Dip (Financial counselling)
- Elissa Freeman – BA, GAICD
- Catriona Lowe – LLB (to 31 January 2020)
- Erin Turner – BA, MPP, GAICD
- Alan Wein – LLB, PRI-Med-NMAS

### Industry Directors

- Robert Belleville – MBA (to 8 May 2020)
- Jennifer Darbyshire – BA, LLB (Hons), LLM, FAICD
- Andrew Fairley – AM LLB (Melb) Hon Doc (Deakin) FAICD
- Claire Mackay – BCom, LLB, LLM, GAICD
- Johanna Turner – BA, LLB, GAICD

### Company Secretary

- Nicolas Crowhurst – BA, LLB (Hons), FGIA, FCSA, GAICD (to 25 November 2019)
- Anna Campbell – BA (Hons), LLB, Dip Legal Practice, FGIA (from 25 November 2019)

## Independent Chair

### The Hon Helen Coonan (Chair) – BA, LLB

Helen Coonan was appointed as the inaugural Independent Chair by the Minister for Revenue and Financial Services on 4 May 2018.

Helen is a former Australian Government cabinet minister for communications, minister for revenue and assistant treasurer. She is a commercial lawyer and trained mediator with a track record of leading stakeholders through major economic reforms and handling complex policy settings.

Helen is the inaugural Chair of Australian Financial Complaints Authority (AFCA). Her other current appointments include Chair of Crown Resorts Limited, Chair of the Minerals Council of Australia (MCA), Chair of Placemaking NSW Advisory Committee and Chair of GRACosway Pty Limited. She also Chairs boutique fund manager, Supervised Investments Australia Limited and is a member of the Advisory Council of J.P. Morgan. Helen is Chair of the Crown Resorts Foundation and is a Non-executive Director of the Australian Children's Television Foundation (ACTF).

Previously, Helen was a member of the Board of Advice for Aon Australia, Chair of HGL Limited and a non-executive director of Snowy Hydro Limited.

## Consumer Directors

### Carmel Franklin – BEd, Dip (Financial Counselling)

Carmel Franklin was appointed to the inaugural Board on 4 May 2018. She is a former consumer director of the Financial Ombudsman Service Limited.

Carmel has been the CEO of Care Financial Counselling and the Consumer Law Centre of the ACT for over 10 years.

She has been involved with consumer issues for a number of years, including as the Chair of Financial Counselling Australia, as a board member on the ACT Gambling and Racing Commission and through her previous roles on the boards of the National Information Centre on Retirement Investments and Canberra Community Law. In addition, she is a former member of the ASIC Consumer Advisory Panel as well as the FOS Consumer Liaison Group.

### Elissa Freeman – BA, GAICD

Elissa Freeman was appointed to the inaugural Board on 4 May 2018. She is a former consumer director of the Financial Ombudsman Service Limited.

Elissa has advocated for consumers' rights in the financial services, telecommunications and energy and water industries in her roles at CHOICE, the Australian Communications Consumer Action Network and the Public Interest Advocacy Centre. She also led a major investigation into residential mortgage prices at the Australian Competition and Consumer Commission.

Elissa was previously chair of the Financial Rights Legal Centre and a member of ASIC's Consumer Advisory Panel. She is currently a Director of the Financial Adviser Standards and Ethics Authority.

### Catriona Lowe – LLB

Catriona Lowe was appointed to the inaugural Board on 4 May 2018 and resigned from the Board on 31 January 2020. She is a former consumers' director of the Financial Ombudsman Service Limited.

Catriona is a member of the Boards of the Telecommunications Industry Ombudsman and Legal Practitioners' Liability Committee. She is also a Director of the Financial Adviser Standards and Ethics Authority, Way Forward Debt Solutions Limited and Chair of the ACCC Consumer Consultative Committee.

She is formerly the chair and treasurer of the Consumers' Federation of Australia and co-chief executive officer of the Consumer Action Law Centre. Catriona has also served as a member of the Board of the National Information Centre on Retirement Investment, a member of ASIC's External Advisory Panel, a member of the National Australia Bank Social Responsibility Advisory Council, a member of the Insurance Council of Australia Consumer Reference Group, and a member of the Motor Car Traders' Guarantee Fund Claims Committee.

### **Erin Turner – BA, MPP, GAICD**

Erin Turner was appointed a consumers' director by the Minister for Revenue and Financial Services on 4 May 2018.

Erin is the Director of Campaigns and Communications at CHOICE and a member of the Management Committee of the Financial Rights Legal Centre. She has previously represented consumer interests on the ACCC Consumer Consultative Committee, ACMA Consumer Consultative Forum and the ASIC Consumer Advisory Panel.

She regularly appears in the media to advocate for consumers using financial services and to educate them on their rights.

### **Alan Wein – LLB, PRI-Med-NMAS**

Alan Wein was appointed a consumers' director by the Minister for Revenue and Financial Services on 4 May 2018.

Alan is a skilled lawyer, experienced mediator and advocate for small and medium sized businesses. He was a former Adjunct Professor at RMIT's Business Management School and was a director of House Franchised Concept, House Homewares.

He was appointed the inaugural chair of the Victorian Government Small Business Advisory Council 2000, and inaugural chair of the Victorian Government's COVID-19 CTRS Administration Committee in 2020. He was the business delegate on the Victorian Government Infrastructure Planning Council.

Alan is a member of the Resolution Institute (Office of the Franchising Mediation – OFMA) and the Law Institute of Victoria. He is also a senior panel mediator on the Victorian Office of the Small Business Commissioner (VSBC).

Alan conducted the Federal Government Review of the Franchise Code of Conduct and Regulatory Framework in 2013 and, in 2015, Alan was again appointed by the Federal Government to conduct a review of the Regulatory Framework in the Horticulture Code of Conduct. Finally, in 2016, Alan was involved in advising the Federal Government in Unfair Contracts legislation.

## **Industry Directors**

### **Robert Belleville – MBA**

Robert Belleville was appointed to the inaugural Board on 4 May 2018 and retired from the Board on 8 May 2020. He is a former industry director of the Financial Ombudsman Service Limited.

Robert is a member of the Insurance Manufacturers of Australia (IMA) Board, Chair of the IMA Board Risk committee, and a member of its Audit and Remuneration Committees. He is also Chair of the Insurance Council of Australia's Consumer Liaison Forum.

He was employed by AAMI for more than 37 years, culminating in his appointment as Chief Executive in 2002. Soon afterwards, he was appointed to the position of CEO of Promina's Direct Division, adding APIA, Shannons and Just Car Insurance to his existing portfolio of responsibilities.

Following the successful offer by Suncorp to take over Promina, Robert was appointed Group Executive, Personal Lines, which added GIO and Suncorp portfolios to his oversight. Despite retiring in December 2008, Robert stayed on with Suncorp as a part-time consultant until September 2009.

He is a Fellow of the Customer Service Institute of Australia (FCSIA) and, in 2018, was awarded the ANZIIF Lifetime Achievement Award for Services to the General Insurance Industry.

### **Jennifer Darbyshire – BA, LLB (Hons), LLM, FAICD**

Jennifer Darbyshire was appointed to the inaugural Board on 4 May 2018. She is a former industry director of the Financial Ombudsman Service Limited.

Jennifer has extensive senior executive experience in governance, law and conduct, and regulatory risk across a range of sectors and in a variety of roles and organisations, including international experience on two separate occasions.

Jennifer previously worked at the National Australia Bank, where her roles included EGM Conduct & Regulatory Risk, General Counsel Governance and General Counsel Corporate (including eight months as Acting Group General Counsel). She also previously worked in private legal practice (including King & Wood Mallesons in Melbourne and Linklaters in London).

Jennifer currently sits on the Board of the Melbourne International Jazz Festival. Previous directorships include Heide Museum of Modern Art (Chair), St Vincent's & Mercy Private Hospital and St Vincent's Advisory Council Melbourne.

#### **Andrew Fairley – AM LLB (Melb) Hon Doc (Deakin) FAICD**

Andrew Fairley AM was appointed an industry director by the Minister for Revenue and Financial Services on 4 May 2018.

Andrew is the independent Chair of Togethr Trustees, which acts as Trustee for Equip Super and Catholic Super. These Funds have combined assets under management of \$27b and 150,000 members. He is an equity lawyer consulting to Hall & Wilcox with over 35 years' experience in superannuation. He is also a Director of Qualitas Securities Pty Ltd and Chair of Golden Age Capital Pty Ltd. He has been named as one of Australia's leading superannuation lawyers by the AFR 2013–19 (inclusive). He founded the Law Council of Australia Superannuation Committee and served as its Chair for 10 years.

He is very involved in philanthropy, and is Chair of The Sir Andrew Fairley Foundation and the Foundation for Alcohol Research & Education. He is Deputy Chair of the Mornington Peninsula Foundation and is a past Chair of Parks Victoria and former Deputy Chair of Tourism Australia.

#### **Claire Mackay – BCom, LLB, LLM, GAICD**

Claire Mackay was appointed an industry Director by the Minister for Revenue and Financial Services on 4 May 2018.

Claire is a Director and Principal Adviser at Quantum Financial and is a Chartered Accountant, Certified Financial Planner, Chartered Tax Analyst and a Self-Managed Superannuation Fund specialist. Previously Claire held roles at Macquarie Bank and PwC.

Claire is a Director of the Accounting Professional and Ethical Standards Board. Her current appointments include the FPA Professional Standards and Conduct Committee, the RMIT School of Accounting Program Advisory Committee and the Finance Audit and Compliance Committee for Surf Lifesaving NSW.

As the owner of an independent financial services business, Claire regularly engages with other business owners and smaller financial firm operators in industry forums and conferences.

#### **Johanna Turner – BA, LLB, GAICD**

Johanna was appointed to the inaugural Board on 4 May 2018. She is a former industry director of the Financial Ombudsman Service Limited.

Johanna has gained extensive executive experience in the financial services industry over the past 25 years, working in domestic and international banks, exchanges and regulatory bodies. She has expertise in risk management, compliance, regulation, policy and corporate governance. As a Managing Director of Citibank, Johanna held the positions of Chief Risk Officer and Chief Country Compliance Officer. She has also held senior roles at Macquarie Bank, the Australian Securities Exchange (ASX), the Sydney Futures Exchange and ASIC.

Johanna is an independent compliance committee member for organisations including Schroders, Blackrock and Perpetual. She is also a member of the NSW Government Council for Women's Economic Opportunity and Chair of the AFMA Professionalism Committee. Johanna is a panel member on the ASIC Financial Services and Credit Panel.

## Company Secretary

### Anna Campbell – BA (Hons), LLB, Dip Legal Practice, FGIA

Anna Campbell joined AFCA as General Counsel in November 2019, and is an experienced senior executive with cross-sector and regulatory expertise. Anna's extensive knowledge of financial services means she is uniquely positioned to provide expert advice to AFCA on complex legal matters, corporate governance and risk management.

Anna was previously General Manager of Enterprise Compliance at ASX where she was responsible for the ASX Group's regulatory assurance function, involving Corporations Act licensing obligations, Trade Practices Act requirements and other statutory obligations.

Anna also held the role of Deputy General Counsel at ASX for nine years, after joining ASX from Allianz where she was Acting General Counsel. She has worked as a lawyer in both the private and public sector and exhibits a breadth of experience in providing expert instruction on a range of matters. Anna is a highly effective operative in developing and leading organisational approaches to management, corporate governance, risk management and stakeholder management.

### Nicolas Crowhurst – BA, LLB (Hons), FGIA FCSA, GAICD

Nicolas Crowhurst was appointed Company Secretary on 17 July 2017, and resigned as company secretary on 25 November 2019.

Nicolas is the Managing Director of a small strategic advisory firm, The Collaboratus Group, which focuses on serving the not-for-profit and charities sector. He also teaches short courses and certificates for the Governance Institute of Australia and is a Director of Financial Services Compensation Scheme Pty Ltd.

Nicolas qualified as a barrister in the United Kingdom in 2000. He worked in-house at UBS Warburg in London and then for Minter Ellison Lawyers in Melbourne, prior to entering the alternate dispute resolution industry in 2005.

Nicolas has previously served as legal counsel to the Financial Industry Complaints Service Limited and was both legal counsel, then company secretary of the Financial Ombudsman Service Limited.

## Disclosures regarding Nominations and Remuneration Committee

The Nominations and Remuneration Committee comprises the Chair of the Board, two industry Directors and two consumer Directors. This composition satisfies the constitutional requirements for Board committees to maintain equal membership between industry and consumer Directors.

The following table sets out the meetings and attendances for the Nominations and Remuneration Committee in 2019–20.

### Nominations and Remuneration Committee

	Actual attendance	Eligible to attend
H Coonan	2	2
J Darbyshire	2	2
E Freeman	2	2
C Mackay	2	2
A Wein	2	2

## Skills matrix of the AFCA Board of Directors

The Board Charter states that examples of the core technical competencies that should be found across the Board include:

- accounting and finance (directors who have expertise in financial accounting)
- business judgment (directors who have a record of making good business decisions)
- governance (directors who understand and keep abreast of good governance practices)
- knowledge of consumer issues and needs (directors with appropriate and relevant consumer movement knowledge and experience)



- industry knowledge (directors with appropriate and relevant industry-specific knowledge and experience)
- knowledge of internal and external dispute resolution
- human resource management (directors who have experience and interests in human resource management and staff welfare).

### Independent Directors

The Chair is required by our Constitution to be independent, and our Board Charter prohibits a single individual from occupying the roles of Chair and Chief Ombudsman and CEO.

Our Board is composed of individuals with expertise and knowledge as required by our Constitution. There are no executive directors.

While the Directors, with the exception of the Chair, are required to represent the interests of industry or consumers, each understands their legal obligation as a Director to put the best interests of AFCA before those of their own 'constituents'.

### Induction and training of Directors

On appointment, each Director is provided with a comprehensive induction to AFCA and our operations. The Directors are also permitted to request and receive all reasonable training necessary for them to perform their role as Directors effectively, and a suitable budget has been allowed for this to occur.

## Principle 3: Instil a culture of acting lawfully, ethically and responsibly

### Code of Conduct

The standards of behaviour expected of our Directors and employees are set out in the Board Charter, our Code of Conduct, and our values: Fair and Independent, Transparent and Accountable, Honest and Respectful, and Proactive and Customer Focused.

## Principle 4: Safeguard the integrity of corporate reports

### Audit and Risk Committee

The functions of an audit committee are carried out by the Audit and Risk Committee. Since its inception in 2018, the committee has had a formal Charter governing its area of responsibility.

The following table sets out the meetings and attendances for the Audit and Risk Committee in 2019–20:

### Audit and Risk Committee

	Actual attendance	Eligible to attend
A Fairley	7	7
C Franklin	7	7
E Turner	7	7
J Turner	6	7

### CEO and CFO declarations

Prior to the Board approving the annual financial reports contained within our General Purpose Financial Report, the Board receives from the Chief Ombudsman and CEO, and Chief Financial Officer a declaration that, in their opinion, the financial records have been properly maintained and that the financial statements comply with appropriate accounting standards.

These declarations also state that the financial statements give a true and fair view of our financial position and performance, and that these opinions have been formed on the basis of a sound system of risk management and internal control that is operating effectively.

### **Attendance of the external auditor at the Annual General Meeting**

The external auditor receives an invitation to attend each Annual General Meeting, but attendance has not, to date, been required by the membership.

## **Principle 5: Make timely and balanced disclosure**

### **Disclosure Policy**

This principle applies to companies that are subject to the ASX Listing Rule disclosure requirements and, as such, has no direct relevance to AFCA. However, we have various policies and procedures that, in combination, cover many of the same areas as the recommended Disclosure Policy, and we are committed to open and transparent communication with our stakeholders.

## **Principle 6: Respect the rights of security holders**

As a public company limited by guarantee, we do not have shareholders. As a result, this principle has no direct relevance to us. However, we are committed to respecting the rights of our stakeholders, particularly the financial firms that are members of the scheme and consumers who use the service.

### **Information about AFCA and its governance**

Information about us can be found on our website ([afca.org.au](http://afca.org.au)), by email ([info@afca.org.au](mailto:info@afca.org.au)), or by telephone 1800 367 287, free call (1800 AFCA AUS) or 1300 56 55 62 for members.

### **Meetings of stakeholders**

The Annual General Meeting is held and run in accordance with the Corporations Act and our Constitution. Our Stakeholder Engagement Strategy encourages participation at general stakeholder meetings.

## **Principle 7: Recognise and manage risk**

### **Oversight of risk**

While ultimate responsibility for risk oversight and risk management rests with the full Board, the Audit and Risk Committee has operational oversight of these activities and the Senior Leadership Group has day-to-day operational responsibility for risk oversight and management.

A risk management report is presented to the Audit and Risk Committee at the end of each quarter, with significant issues being advised as necessary.

### **Review of risk management framework**

The review of AFCA's risk management is complete, and a new risk management framework will be completed and operational by November 2020.

### **Material exposure**

At the time of publication, we have no known material exposure to any economic, environmental or social sustainability risks.

## Principle 8: Remunerate fairly and responsibly

### **Remuneration committee**

The main functions of a remuneration committee are performed by the Nominations and Remuneration Committee.

The Board sets its remuneration in accordance with clause 4.9 of our Constitution and on advice from the Nominations and Remuneration Committee. The Board also sets the remuneration of the Chief Ombudsman and CEO.

Responsibility for the company's remuneration, recruitment, retention and termination policies for all other employees has been delegated to the Chief Ombudsman and CEO, but significant changes to these policies are ratified by the Board.

The remaining aspects of this principle are applicable to companies that are subject to the ASX Listing Rules and, as such, have no relevance to us.

### **Remuneration of non-Executive Directors and executive directors**

All our Directors are non-Executive Directors and, aside from the Chair, are paid equally.

### **Equity-based remuneration**

We do not offer equity-based remuneration to any employee.

# Independent Assessor Report

Between 1 July 2019 and 30 June 2020

## About the Independent Assessor

The Independent Assessor reviews complaints about the standard of service provided by AFCA in resolving complaints. Complainants, representatives and financial firms who are affected by how AFCA has dealt with a complaint may lodge a complaint with the Independent Assessor.

The Independent Assessor does not have the power to review the merits or substance of an AFCA decision. The Independent Assessor reports on issues affecting AFCA's complaint handling performance and can make recommendations to AFCA in response to issues arising from service complaints.

The Independent Assessor is appointed by, and reports to, the AFCA Board and works in accordance with the Independent Assessor's Terms of Reference. The Independent Assessor is not part of the day-to-day running of AFCA and does not answer to AFCA's senior management or Chief Ombudsman.

During the 2019–20 financial year, the Office of the Independent Assessor received 163 complaints about AFCA's and its predecessor schemes' handling of complaints. The office accepted complaints from individuals, small businesses and financial firms in relation to complaints handled by AFCA, FOS and the CIO.

## Complaints lodged by scheme

Scheme	2018–19	2019–20
CIO	9%	1%
CIO/AFCA	-	7%
FOS	37%	4%
FOS/AFCA	24%	14%
AFCA	30%	74%

*FOS/AFCA and CIO/AFCA indicate the complaint was lodged with the predecessor scheme and finalised by AFCA.*

## Complaints to Independent Assessor compared to complaints to AFCA overall by product line

Product type	Independent Assessor	AFCA <sup>1</sup>
Banking and finance	56%	58%
General insurance	17%	24%
Investments and advice	14%	6%
Superannuation	9%	9%
Life insurance	4%	2%

The percentages received per product line are generally in line with the number of complaints AFCA receives per product line from complainants about financial firms, although the Independent Assessor receives relatively more complaints about investments and advice, and fewer general insurance complaints.

<sup>1</sup> Data rounded to nearest whole number.

## Nature of complaints received

Complaints received alleged a wide range of service-related issues, including:

- process or staff were biased
- delays
- failure to take account of relevant information
- breach of procedural fairness
- discourtesy.

Almost all complaints alleged more than one service failing and many included five or more issues.

A proportion of complaints were solely about the scheme's findings or decisions, including determinations. Many others included similar merit-based complaints.

Under clauses 8 and 9 of the Independent Assessor's Terms of Reference, I cannot consider the merits of a decision or finding. Therefore, complaints that were solely about decisions or findings were ruled outside my jurisdiction to consider.

I received eight complaints from financial firms. Four financial firms referred to AFCA's fees and membership, three referred to procedural fairness and three were about AFCA's determinations (some had multiple issues). Fifty per cent of complaints received from financial firms were closed as outside my Terms of Reference, as a service complaint had not been made to AFCA.

## Findings

A total of 168 complaints were closed during the financial year, 60 of which were closed following my issue of an assessment.

Most of the others were closed because they were outside my Terms of Reference to consider. Six complaints were withdrawn, due to a lack of response by the complainant or at the complainant's request.

### Proportion of complaints closed as a result of assessment or Outside Terms of Reference ruling

	2019	2020
Assessment	59%	35%
Closed Outside Terms of Reference/withdrawn	41%	65%

Complaints that were outside the Independent Assessor's Terms of Reference because the original complaint was ongoing, or a service complaint to AFCA had not been made, or was ongoing, may be re-submitted if the complainant remained dissatisfied with the service received once the other processes were completed.

### Outside Terms of Reference rulings

	2018-19	2019-20
Ongoing/open complaint with a financial firm or an AFCA service complaint	29%	43%
Complaint not yet made to AFCA	42%	24%
Merits-based complaint	17%	15%
Withdrawn	12%	6%
Time period expired	0%	4%
Other reason	0%	9%

Other reasons a complaint was outside my Terms of Reference included the complainant not being a party to the complaint with the financial firm, the substance of the complaint was the same as a previous complaint to me, and the complaint was about AFCA's case fees and/or membership.

Just under half of all assessments found at least some element of a complaint was substantiated. Some examples of complaints that were substantiated are:

- timeframes not met (overall, response to calls or emails)
- poor or confusing communication
- failure to address complaints or 'key issues' as submitted
- failure to take account of complainant's special needs.

Some of the complaints that were not substantiated were the result of complainants misunderstanding AFCA's role. For example, complainants sometimes believed AFCA should request information or 'evidence' from a financial firm even when AFCA did not require it to reach a finding. Or complainants believed AFCA was biased against them because they did not receive the outcome they wanted.

## Recommendations

When a complaint is substantiated, I may make a recommendation to AFCA's Chief Ombudsman that AFCA should offer an apology, should pay compensation for any distress or inconvenience caused by the poor service (non-financial loss) or take other action.

During the 2019–20 financial year, I recommended AFCA apologise to 29 complainants for service failings and pay a total of \$10,050 non-financial compensation. AFCA accepted and actioned all recommendations in full.

In addition to the recommendations made in response to individual complaints, I have also made business-improvement recommendations to AFCA under clause 3 of my Terms of Reference. These include that AFCA reviews its financial difficulty complaint process to ensure, for the sake of procedural fairness, that where a Preliminary Assessment is made, complainants always receive it in some form before a complaint is referred for Decision.

## Reporting

I have continued to report quarterly to AFCA's Board. I have also liaised with, reported to, and/or met with representatives from AFCA and ASIC.

## In conclusion

During the year, the Independent Assessor's function has been further bedded down by formalising processes, reviewing and updating the Independent Assessor webpage to include a list of frequently asked questions. The Independent Assessor feedback form was converted to an electronic form, which has made it easier to complain and to provide further detail to a complaint. I have also spent more time on outreach and meeting with AFCA's senior leaders to share outcomes and insights. I appreciate the positive and responsive attitude with which AFCA has responded to my observations and recommendations.

At the centre of all assessments is consideration and application of AFCA's values. These are fairness and independence, transparency and accountability, honesty and respectfulness, and being proactive with a customer focus.

I would like to thank all the individual complainants for taking the time to bring their complaints to me, as well as Assessments Manager Hannah Noonan and the AFCA officers who have assisted me in assessing those complaints.

### **Melissa Dwyer**

The Independent Assessor of the Australian Financial Complaints Authority

# Financial statements

AFCA is a not-for-profit, non-government, industry-funded ombudsman service.

We are funded by membership levies, complaint fees and user charges received from members.

Most Australian financial firms must be members of AFCA by law and are required to pay a membership levy and other complaint-related charges to contribute to our operating costs.

If we receive a complaint against a firm, the firm is required to pay an individual complaint fee.

Our services are free of charge to small businesses and consumers who make a complaint.

In our first full year of operations, AFCA saw rising rates of member insolvency that led to over \$2.9m in bad and doubtful debt expense. AFCA also had to cover \$1.3m in residual costs of handling legacy complaints from its predecessor, the Credit Investments Ombudsman. Despite these challenges, we have been able to minimise the deficit for the year ending 30 June 2020, and position AFCA to move towards a balanced result.

Following is an overview of our revenue and expenses for 2019–20. For detailed financial statements, please see the AFCA General Purpose Financial Report on our website.

## Statement of profit or loss for the year ended 30 June 2020

	Year ending 30 June 2020 \$	Part year 1 November 2018 – 30 June 2019 \$
Revenue	123,815,520	80,084,915
Employee benefits expense	(100,836,411)	(65,463,573)
Office costs	(1,160,165)	(877,149)
Communication & Stakeholder relations expenses	(2,510,534)	(2,719,159)
Interest expense on leases	(378,994)	-
Occupancy expenses	(8,630,926)	(4,968,344)
Board expenses	(875,674)	(683,100)
Impairment losses on financial assets	(2,903,977)	(1,546,028)
Insurance expenses	(124,333)	(126,215)
Professional assistance expenses	(2,524,645)	(2,100,075)
Depreciation & amortisation expense	(2,976,507)	(1,306,823)
Free decisions provided to members	(828,650)	(239,882)
Technology expenses	(5,374,525)	(3,941,688)
Other expenses	(155,102)	(99,863)
<b>Deficit for the period</b>	<b>(5,464,923)</b>	<b>(3,986,984)</b>

# Code compliance and monitoring

Between 1 July 2019 and 30 June 2020

The Code Compliance and Monitoring Team (Code Team) is a separately operated and funded business unit of AFCA. It works on behalf of independent committees that monitor compliance with industry codes of practice in the Australian financial services industry. Its services are funded by the industry associations and subscribers of the codes. The Code Team provides code compliance monitoring, investigation and secretariat services to five committees and helps financial firms improve their services and achieve standards customers can trust.

## Codes of practice

Codes of practice set standards of good industry practice for financial firms when dealing with people who are, or who may become, individual or small business customers in areas relating to service provision, standards of professional conduct, practice standards and ethical behaviour.

The Code Team administers and monitors compliance with five industry codes of practice:

1. Banking Code of Practice
2. General Insurance Code of Practice
3. Customer Owned Banking Code of Practice
4. Insurance Brokers Code of Practice
5. Life Insurance Code of Practice

Through its work for the committees, as a separate business unit of AFCA, one of the aims of the Code Team is to work with financial firms to ensure they comply with their code obligations, thereby raising industry standards and minimising disputes.

## Code compliance committees

Monitoring of the five industry codes is conducted by separate independent code compliance committees, each of which consists of an independent Chair, a consumer representative and an industry representative. The code compliance committees are independent of the industries that are responsible for each code, and have the power to identify and address breaches of code obligations.

## Sharing experience with stakeholders

In 2019–20, the Code Team continued to engage with stakeholders to help improve industry practice, including by:

- providing submissions to code reviews and other initiatives and reforms in the industry
- sharing outcomes of code committees' enquiries
- providing guidance to Code subscribers about good industry practice
- participating or presenting at industry forums and conferences.



## Banking Code Compliance Committee

The Banking Code Compliance Committee (BCCC) began the year by conducting an inquiry into banks' transition to the 2019 Banking Code of Practice. The inquiry found that while banks had taken significant steps to implement the Code, which came into effect on 1 July 2019, banks needed to continue their efforts to meet the BCCC's expectations and the higher standards required under the 2019 Code. The BCCC made recommendations for improved practice and highlighted the importance of staff awareness of Code obligations, a culture that prioritises good customer outcomes, and developing initiatives for customers experiencing vulnerable circumstances and improve products and services that are inclusive and accessible to all groups of customers.

In some circumstances the BCCC requires banks to conduct audits to support its targeted investigations work. One of the findings made by the BCCC was informed by the outcomes of an external audit and resulted in the BCCC naming a bank for serious and systemic non-compliance with the 2013 version of the Code.

Throughout 2019–20, the BCCC has been conducting an inquiry into banks' compliance with the guarantee obligations in the 2013 version of the Code and also scoped an inquiry into how banks consider vulnerability, inclusivity and accessibility throughout the entire consumer and small business banking experience – this inquiry is now underway.

The BCCC published two reports on banks' compliance with the Banking Code: one for the 2018–19 reporting period, and the other detailing banks' compliance with the 2019 Code for the first six months of the 2019–20 reporting year. While both reports note there is evidence of some improvement in banks' breach reporting, the BCCC continues to see human error attributed as the cause for most Code breaches. In light of this, the BCCC has conducted research into how banks can build organisational capability and support staff to comply with the Code and will shortly publish the results of this work.

The BCCC established an expert Small Business and Agribusiness Advisory Panel to provide guidance and advice on the experiences and needs of small business and agribusiness customers when engaging with banks.

Further information about the BCCC, including news and reports, is available on its website [bankingcode.org.au](https://bankingcode.org.au)

## Life Code Compliance Committee

The Life Code Compliance Committee (Life CCC) completed its investigation into a bulk referral received from a plaintiff law firm, and published the Claims and Complaints Handling Obligations report in March 2020. The Life CCC's investigation involved a substantial amount of work with each individual subscriber, including reviewing the adequacy of subscribers' processes and procedures in relation to claims and complaints handling. The Life CCC's review confirmed more than 300 of the 700 alleged breaches as breaches of the Code.

The Life CCC also undertook its second Annual Data Compliance Programme (ADCP) and issued its second Data Report. Unfortunately, inconsistencies in the data received and the poor overall quality of the data meant that the Life CCC's ability to provide meaningful insights was limited. Notwithstanding these challenges, the Life CCC was able to make a number of worthwhile findings, including the apparent ineffectiveness of some subscribers' staff training programs and monitoring frameworks, and the need for subscribers to improve their claims management processes and recording and analysis of complaints.

The Life CCC also continued to provide guidance to subscribers to help improve the quality and consistency of their compliance reporting. This involved meeting with, and talking to, subscribers about their obligations under the Code, including engaging directly with the Boards and senior executives of some subscribers. As the COVID-19 pandemic took hold in the last few months of 2019–20, this engagement was undertaken remotely as travel and other social restrictions were enacted across Australia.

Investigating Code breach allegation referrals and assessing self-reported breaches remained a priority for the Life CCC throughout the year. Forty de-identified determinations and two case studies were published to assist subscribers' understanding of compliance issues. Determinations and case studies are published on the Life CCC's website, which was successfully launched in September 2019.

Further information about the Life CCC, including news and reports, is available on its website [lifeccc.org.au](http://lifeccc.org.au)

### **Customer Owned Banking Code Compliance Committee**

The Customer Owned Banking Code Compliance Committee (COBCCC) published two 'own motion inquiry' reports:

The inquiry into the *Sale of consumer credit insurance* (CCI) by customer owned banking Code subscribers (published in September 2019) was undertaken by the COBCCC, in light of the concerns raised by consumers, regulators and government for offering poor-quality add-on insurance products and pressure selling, in particular regarding CCI. The report established whether and how Code subscribers sell CCI and other add-on general insurance products, and examined their compliance with related Code obligations, in particular the obligation to ensure that products are useful, reliable and of value to consumers. To assist Code subscribers, various Code compliance recommendations are included throughout the report, as well as the applicable recommendations from ASIC's Report 256 on CCI for reference. Compliance with the Code by subscribers in selling CCI will be reviewed by the COBCCC in 2020–21.

Following government moves to update and strengthen privacy laws and a rise in self-reported privacy-related *Code breaches*, the *second inquiry* Compliance with privacy obligations follow-up inquiry outcomes (published in June 2020) was a follow-up into how Code subscribers applied recommendations issued by the COBCCC inquiry

report in 2018 to improve compliance with privacy obligations under Section D23 and Key Promise 8 of the Code. The matters considered by the inquiry included privacy policies, staff access to data, document storage and destruction, and privacy and data breaches. Code subscribers were asked to consider how they embed compliance within the privacy obligations in the Code into their risk frameworks; how they review their organisation's compliance with data and security policies; and how they protect privacy in third-party arrangements. The inquiry identified that despite examples of good practice and dedication to compliance, there were gaps in some areas and the COBCCC's recommendations and checklist had not been taken up fully by all subscribers.

Each Code subscriber was provided with an individual tailored Benchmark Report regarding the self-reported breach and complaints data for the 2018–19 period. The report assisted subscribers to review their compliance outcomes against industry performance overall and against institutions of the same category relating to size of business. This was followed up by a video conference with one third of subscribers.

The COBCCC agreed to extend the deadline for Code subscribers to self-report breach and complaints data via the Annual Compliance Statement for the 2019–20 period due to the COVID-19 challenges. Therefore, this data is not yet available.

It also increased its engagement with Code subscribers via telephone/video conferences and published articles on its website, including its ongoing concern regarding compliance with privacy obligations.

The COBCCC continued to engage with the Customer Owned Banking Association (COBA) and the Code reviewer, Phil Khoury, as part of COBA's review of the Code, which is still in progress.

The number of Code subscribers decreased from 62 to 60, due to ongoing mergers and acquisitions.

Further information about COBCCC, including news and reports, is available on its website [www.cobccc.org.au](http://www.cobccc.org.au)

### **Insurance Brokers Code Compliance Committee**

The Insurance Brokers Code Compliance Committee (IBCCC) published one own motion inquiry report *Improving complaints handling timeframes* in October 2019. In its report, the IBCCC provided a better understanding of how Code subscribers manage their timeframes for handling complaints based on obligations under Service Standard 10, and set out several recommendations for improvements to managing timeframes during the internal dispute resolution (IDR) process. The report demonstrated there is room for significant improvement in the way subscribers manage timeframes for handling complaints, in particular in view of ASIC's revised Regulatory Guide (RG) 271, which includes new requirements for recording complaints as well as tighter response timeframes.

Self-reported breach and complaints data received via the Annual Compliance Statement showed about half (43%) of non-compliance is in the area of buying insurance, followed by non-compliance with legal obligations (23%), scope of covered services (13%) and money handling (7%). The high number of Code subscribers self-reporting nil breaches (49%) and nil complaints (40%) is an ongoing matter of concern.

Each Code subscriber was provided with an individual tailored Benchmark Report regarding the self-reported breach and complaints data. The report assisted subscribers to review their compliance outcomes against industry performance overall and against institutions of the same category relating to size of business. This was followed up by a video conference with 10% of subscribers.

The IBCCC increased its engagement with Code subscribers via telephone/video conferences and webinars. It published several reports and articles in industry magazines and websites, some of which focused on subscriber Code compliance and others that were aimed at building consumer awareness of the Code. The IBCCC's developed its own website [www.insurancebrokerscode.com.au](http://www.insurancebrokerscode.com.au).

The IBCCC continued to engage with the National Insurance Brokers Association (NIBA) and the Code reviewer Marigold Magnaye as part of its review of the Code, which is still in progress. It addressed its concerns with NIBA regarding the inadequacy and non-transparency of the review process.

The number of Code subscribers increased by 60% following a decision made by Steadfast that all its members become Code subscribers effective 1 December 2019.

Further information about IBCCC, including news and reports, is available on its website [www.insurancebrokerscode.com.au](http://www.insurancebrokerscode.com.au)

### **General Insurance Code Governance Committee**

The General Insurance Code Governance Committee (GICGC) released three significant publications during 2019–20, as well as beginning work on the transition to the new 2020 General Insurance Code of Practice.

In April 2020, the GICGC published its annual report 'General Insurance in Australia: 2018–19 and current insights'. The report presented a snapshot of trends and service standards in the general insurance industry in 2018–19, and into the first half of 2019–20, with a focus on retail general insurance products and services.

The GICGC published a further report in June 2020 entitled *Living the Code: Embedding Code obligations in compliance frameworks*. The report was the result of an own motion inquiry into insurers' practices that built on the work of the Financial Services Royal Commission and provided valuable guidance on how to place the Code – and the Code's purpose of doing the right thing by consumers – at the heart of all strategy and decision-making.

The own motion inquiry was launched in response to the GICGC's concerns that an underreporting of Code breaches reflected weaknesses in insurers' compliance monitoring frameworks, and that insurers were not taking the Code's obligations as seriously as they should. The report outlines how the GICGC has been actively working with the general insurance industry to implement the Royal Commission recommendations around culture, leadership and governance at all levels.

The GICGC released its second guidance note for Code subscribers in June 2020, outlining its approach and expectations regarding significant breaches of the Code. *Guidance Note No. 2 Significant breach obligations – General Insurance Code of Practice* sets out the GICGC's expectations of subscribers to ensure that they can appropriately identify a significant breach, report significant breaches to the GICGC in an efficient and timely manner, understand the expected timeframe for correcting a significant breach, and understand the circumstances in which the GICGC will close a significant breach matter.

The 2020 General Insurance Code of Practice was formally released by the Insurance Council of Australia (ICA) at the beginning of 2020. Following its release, the GICGC commenced its program of work for transition to the new Code, focusing on the key areas of governance, operations and subscriber transition. While the ICA deferred the adoption of the majority of the 2020 Code by six months to 1 July 2021 due to the impact of COVID, it brought forward by six months to 1 July 2020, key consumer provisions in Parts 9 (*Supporting customers experiencing vulnerability*) and 10 (*Financial hardship*) of the new Code.

As the general insurance industry adapted to new ways of working as a result of the COVID-19 pandemic, the GICGC increased its engagement with the industry by holding regular meetings with individual Code subscribers, as well as with the ICA. Topics of discussion included the impact of COVID on insurers' operations, the GICGC's publications, transition to the 2020 Code, and insurers' responses to catastrophes such as the bushfires and extreme weather events.

The GICGC launched its own independent website, [www.insurancecode.org.au](http://www.insurancecode.org.au) in October 2019. Further information about the GICGC, including news and reports, is available on this website.

### Compliance investigations

An important role of all committees is to investigate alleged breaches of the codes they monitor. The Code Team, on behalf of the committees, commences investigations in response to referrals of alleged Code breaches by consumers, their representatives or AFCA, or in response to external intelligence such as ASIC media releases. The Code Team also investigates self-reported breaches by Code subscribers.

Compared to the previous reporting period the Code Team has seen a 13% increase in compliance investigations, from a total of 467 to 527. These compliance investigations include investigations of self-reported breaches by subscribers. The Code Team received a sustained high number of self-reported breaches, continuing the trend of a significant increase in the number of self-reported breaches since the 2018 Financial Services Royal Commission. For example, in relation to the General Insurance Code of Practice there were 63 significant breach reports from subscribers, compared to 65 the previous year. In relation to the Life Insurance Code of Practice the Code Team opened 21 investigations in response to self-reported breaches by subscribers this year, compared to 23 self-reported breach matters the previous year.



# Previous schemes

On 1 November 2018, AFCA replaced the Financial Ombudsman Service (FOS), the Credit and Investments Ombudsman (CIO) and the Superannuation Complaints Tribunal (SCT).

All outstanding disputes with FOS and CIO were transferred to AFCA to be resolved.

- Complaints with FOS were handled by AFCA under the FOS Terms of Reference.
- Complaints with CIO were handled by AFCA under the CIO Rules.

Unlike the CIO and FOS, there was no transfer of complaints between the SCT and AFCA.

The SCT continues to operate beyond AFCA's commencement to resolve existing complaints that were lodged with the SCT before 1 November 2018, and will cease operations at the end of 2020.

All superannuation complaints lodged after 1 November 2018 were received and dealt with by AFCA.

Under the ASIC policy applying to the CIO and FOS schemes (*Regulatory Guide 139: Approval and oversight of external dispute resolution schemes*), AFCA must publish information about complaints and disputes received and closed by FOS and CIO for the period of 1 July 2018 to 30 October 2018.

# Financial Ombudsman Service

The Financial Ombudsman Service Australia was an ASIC approved External Dispute Resolution scheme under RG 139.

It considered complaints about:

- banking and finance
- home, contents, travel and life insurance
- insurance broking
- financial planning
- managed funds
- mortgage and finance broking
- pooled superannuation funds
- estate planning and management
- traditional trustee services.

On 1 November 2018, FOS transferred 7,738 open complaints to AFCA to resolve. Between 1 November 2018 and 30 June 2019, AFCA closed 7,469 complaints previously lodged with FOS.

**334** complaints closed were over  
180 days old

## FOS complaints closed by outcome in 2019–20

Outcome	Total	%
Negotiation	19	6%
Conciliation	1	0%
Preliminary Assessment in favour of complainant	11	3%
Preliminary Assessment in favour of financial firm	2	1%
Decision in favour of complainant	180	54%
Decision in favour of financial firm	118	35%
Discontinued	3	1%
<b>Total</b>	<b>334</b>	<b>100%</b>

# Credit and Investments Ombudsman

The Credit and Investments Ombudsman was an ASIC-approved external dispute resolution scheme under RG 139.

It considered complaints about:

- mortgages
- credit products
- financial planning
- managed investment
- deposit taking

On 1 November 2018, CIO transferred 2,490 open complaints to AFCA to resolve. Between 1 November 2018 and 30 June 2019, AFCA closed 2,098 complaints previously lodged with CIO.

**376** complaints closed were over 180 days old

## CIO complaints closed by outcome in 2019–20

Outcome	Total	%
Decision for consumer	140	37%
Decision for financial services provider	130	35%
Discontinued	28	8%
Outside of jurisdiction	5	1%
Resolved by agreement	73	19%
<b>Total</b>	<b>376</b>	<b>100%</b>

# Appendix 1

## Product Glossary

Product	Definition
Business credit card	A form of short-term finance allowing goods and services to be purchased sooner by a business.
Business loans	A loan provided to a business (may be secured or unsecured, fixed or variable interest).
Business transaction accounts	A deposit account used by businesses for everyday transactions.
Contracts for difference	A contract between two people that mirrors the situation of trading a security, without actually buying or selling the security. The two parties make a contract that the seller will pay the buyer the difference in price after a certain period of time if the designated security's price increases, and the buyer will, in return, pay the seller the difference in price if the security's price decreases.
Credit cards	Credit cards are a form of short-term finance, allowing goods and services to be purchased sooner, even if at greater cost, than if you had to save up for them.
Death Benefit	When a member of a superannuation fund dies, the trustee of the fund must pay a death benefit in accordance with the fund's rules. This might be to the nominated beneficiary (binding) or according to the trustee's discretion. The death benefit may include an insured component.
Foreign exchange	Cash or other claims (for example, bank deposits and bonds) on another country, held in the currency of that country. We only have jurisdiction to consider a complaint if the product is governed by Australian law.
Funeral plans	A type of insurance cover that pays a lump sum on death.
Hire purchases/ leases	Buying goods by instalment payments. The 'hirer' has the use of the goods while paying for them but does not become the owner until all instalments have been paid.
Home building	An insurance policy that covers destruction or damage to a home building.
Home contents	An insurance policy that covers loss of, or damage to, the contents of a residential building.
Home loans (also called mortgages)	The funds a buyer borrows (usually from a bank or other credit provider) to purchase a property; generally secured by a registered mortgage to the bank or other credit provider over the property being purchased.
Income protection	Income protection insurance pays a monthly benefit where the life insured is unable to work due to injury or illness. Business expenses may be covered separately or form part of the policy for self-employed.
Investment property loans	The funds a buyer has to borrow (usually from a bank or other financial institution) to purchase an investment property.



Product	Definition
Lines of credit/ overdrafts	A line of credit allows you to make the bulk of your purchases or payments through a credit card with an interest free period. You use the credit card for most purchases allowing you to leave the bulk of your wage in the loan until your credit card account is payable. This slightly reduces the balance of the home loan debt for part of the month and, therefore, slightly reduces the interest payable.
Merchant facilities	Facility offered by financial firms to businesses to accept payment in forms other than cash (e.g. EFTPOS, credit cards etc.). Different card providers may require different merchant facilities (e.g. AMEX, Diners, Visa and MasterCard).
Mixed asset funds	Multiple managed investments or mixed funds. (So you might have an investment portfolio involving various managed investments).
Motor vehicle	An insurance policy that covers loss or damage to a vehicle with a carrying capacity of less than two tonnes.
Pension	<p><b>Account-based pension</b></p> <p>An account-based pension (also called an allocated pension) is one of a number of concessional tax products that investors can buy with a lump sum from a superannuation fund, or pay from a self-managed superannuation fund, to give them an income during retirement. An investment account is set up with this money from which they draw a regular income. A minimum payment must be made at least annually. It is also possible to nominate a reversionary pensioner to continue to receive income payments after the member's death.</p> <p><b>Lifetime pension</b></p> <p>A lifetime pension is a type of superannuation pension that is payable for the life of the pensioner and, in some cases, the life of a reversionary pensioner such as a spouse. Lifetime pensions are sometimes called defined benefit pensions.</p> <p><b>Transition to retirement pension</b></p> <p>A transition to retirement pension (or TRIS) is a form of account-based pension that can be paid to a superannuation fund member even if the member has not yet retired. In addition to the minimum annual pension payment (see account based pension), there is a maximum annual payment of 10% of the account balance. Unlike an account-based pension, the investment earnings of a TRIS are not eligible for concessional tax treatment, and it is not usually possible for income payments to continue on the death of the pensioner. Instead, if the pensioner dies, the account balance must be paid as a lump sum.</p>
Personal loans	A type of loan available from banks, finance companies and other financial institutions, generally for purposes such as buying a car, boat or furniture.
Personal transaction accounts	A deposit account used by consumers for everyday transactions.
Property funds	A type of collective investment where investors collect their money together and a professional manager operates the scheme, which invests in residential or commercial properties.
Self-managed superannuation funds	Small superannuation funds where the members are also the trustees (or directors of the corporate trustee).

Product	Definition
Shares	A share is simply a part-ownership of a company. For example, if a company has issued a million shares, and a person buys 10,000 shares in it, then the person owns 1% of the company.
Superannuation account	An account held by a member of an approved deposit fund. A member's superannuation account can only be paid in cash to the member if the member has satisfied a condition of release but, subject to the rules of the fund, the member can usually request to rollover their account to another approved deposit fund or to a superannuation fund at any time.
Superannuation fund	<p>Superannuation fund A superannuation fund is a trust-based vehicle where compulsory Superannuation Guarantee (SG) contributions and voluntary contributions can be paid. Superannuation funds are usually divided into three broad categories:</p> <ul style="list-style-type: none"> <li>• Registrable Superannuation Entities (RSEs) that are regulated by the APRA,</li> <li>• Self-managed superannuation funds regulated by the ATO, and</li> <li>• Exempt public-sector superannuation schemes providing benefits for government employees or schemes established by Commonwealth, State or Territory law, that are not directly subject to the SIS Act 1993 and APRA regulation.</li> </ul> <p>APRA-regulated RSE licensees are generally classified into four types:</p> <ul style="list-style-type: none"> <li>• Corporate funds – a private superannuation fund that is supported by an employer. Corporate funds are generally only open to people working for a particular employer or corporation.</li> <li>• Industry funds – a type of not-for-profit superannuation created for people who work in a particular industry or under a particular industrial award. Industry funds are often open for anyone to join.</li> <li>• Retail funds - a retail fund is a type of superannuation fund that is open to everyone. Retail funds can also have sub-plans that are only open to particular employee groups.</li> <li>• Public sector funds - a superannuation fund established for employees of federal and state government departments. They are generally only available to government employees. They may provide higher employee contributions than the statutory minimum.</li> </ul>
Term life	Term life insurance pays a death benefit if the life insured dies during the term of the policy (before the policy expires).
Total and permanent disability	Total and permanent disability insurance (TPD) provides a lump sum payment if a person become totally and permanently disabled.
Trauma	Trauma (or critical illness) insurance provides a lump sum benefit if a person is diagnosed with a specified illness or injury. These types of products cover major illnesses or injuries that will impact a person's life and lifestyle.
Travel insurance	A policy that covers things such as lost luggage, illness, loss or theft while you are travelling or any disruption to your travel plans.

## Issues glossary

Issue	Definition
Account administration error	An error in the administration of an account. For example, an error in the calculation of a superannuation account balance.
Appropriate lending	The provision of credit to a small business in breach of the financial firm's lending obligations.
Claim amount	A disputed insurance claim amount. For example, the financial firm has accepted the complainant's claim, but for a different amount to that which the complainant believes they are entitled.
Claim cancellation of policy	The financial firm has cancelled the insurance policy of a complainant. For example: <ul style="list-style-type: none"> <li>• inappropriate cancellation of an insurance policy</li> <li>• policy cancellation without the authority of the complainant.</li> </ul>
Credit reporting	Complaints about consumer or commercial credit reporting.
Decline of financial difficulty request	The financial firm declines a request for assistance made on the basis of financial difficulty. For example: <ul style="list-style-type: none"> <li>• a request for assistance, such as a repayment variation, is declined and no offer is made by the financial firm</li> <li>• the financial firm has not provided reasons for its decision to decline a request for assistance.</li> </ul>
Default judgment obtained	The financial firm has obtained default judgment, but the complainant considers that it should be stayed on the basis of financial difficulty.
Default notice	The financial firm issues a default notice under section 88 of the <i>National Consumer Credit Protection Act 2009</i> (Cth) or section 80 of the Uniform Consumer Credit Code when the complainant is in financial difficulty (regardless of whether assistance has been requested).
Delay	The financial firm followed instructions but not within an agreed or acceptable timeframe. For example: <ul style="list-style-type: none"> <li>• redemption requests actioned only after the unit price has dropped</li> <li>• renewal notices not issued on time</li> <li>• insurance cover not arranged on time</li> <li>• delay in clearing a cheque</li> <li>• loan approval delay</li> <li>• settlement delay.</li> </ul>
Delay in claim handling	The financial firm has delayed actioning or processing a complainant's claim. For example: <ul style="list-style-type: none"> <li>• delay in handling an insurance claim</li> <li>• delay in processing a chargeback request or EFT claim.</li> </ul>

Issue	Definition
Denial of claim	The financial firm has denied the complainant's claim. For example: <ul style="list-style-type: none"> <li>• the denial of a claim for insurance benefits</li> <li>• an unsuccessful request for a cardholder chargeback</li> <li>• a disputed merchant chargeback</li> <li>• a PayPal buyer/seller complaint.</li> </ul>
Denial of claim – exclusion/condition	An insurance claim is denied on the basis that loss or damage occurred as the result of an excluded event, or a breach of an insurance policy condition. For example: <ul style="list-style-type: none"> <li>• damage caused by an event such as a flood and the event is excluded under an insurance policy</li> <li>• where a claim on a life insurance policy relates to an excluded medical condition under the policy, such as a pre-existing illness or injury.</li> </ul>
Failure to act in client's best interests	Failure to act in the client's best interests in providing financial advice.
Failure to follow instructions/agreement	Failure to follow instructions or to act in accordance with an agreement (written or oral). For example: <ul style="list-style-type: none"> <li>• breach of contract (written or oral)</li> <li>• failure to follow written instructions (e.g. direct debit authority not followed, payee name on cheque ignored, internet banking instructions not followed)</li> <li>• non-redemption following request; failure to sell stock; failure to buy or sell a financial product when requested to do so</li> <li>• insurance cover not arranged, including renewals</li> <li>• insurance policy not cancelled</li> <li>• sum insured not increased or change of vehicle not noted on the contract.</li> </ul>
Financial firm failure to respond to request for assistance	The financial firm fails to respond to a request for assistance due to financial difficulty. The request may be actual or implied.
Inappropriate advice	Inappropriate or insufficient financial advice provided. For example: <ul style="list-style-type: none"> <li>• inappropriate product or investment strategy advice</li> <li>• inappropriate client advice</li> <li>• general financial advice provided when personal advice was needed.</li> </ul>
Incorrect fees/costs	The financial firm has charged the complainant the wrong amount of fees or other costs for the product or service provided. For example: <ul style="list-style-type: none"> <li>• fees/costs not charged in accordance with disclosed information</li> <li>• fees/costs excessive, inappropriate or wrong.</li> </ul>
Incorrect premiums	Incorrect premium charged by the financial firm. For example: <ul style="list-style-type: none"> <li>• the financial firm has charged the complainant the wrong amount of premiums for the insurance provided</li> <li>• the broker has charged the client the wrong amount of premiums for the insurance provided.</li> </ul>

Issue	Definition
Misleading product/service information	<p>The financial firm provided information about a financial product or service that was misleading or misrepresented the features of the product or service. For example:</p> <ul style="list-style-type: none"> <li>the financial firm provided information about a banking, insurance or investment product or service that was both inaccurate and misrepresented the product or service or misled the complainant</li> <li>NB: if the complaint relates to a fee or charge use 'Fee disclosure' or 'Fixed interest loan break cost disclosure' instead.</li> </ul>
Mistaken internet payment	<p>A payment made to the wrong person via internet banking. For example:</p> <ul style="list-style-type: none"> <li>where the sender entered a wrong account number or BSB</li> <li>where an error by the sending or receiving financial firm has resulted in the payment being sent to the wrong account.</li> </ul>
Request to suspend enforcement proceedings	<p>The financial firm continues action to recover a debt after a financial difficulty request has been made. For example:</p> <ul style="list-style-type: none"> <li>the financial firm continues or commences legal proceedings</li> <li>the financial firm commences or continues general recovery action, including taking possession of secured property and inappropriate collection activity (including harassment claims after a financial difficulty request).</li> </ul>
Responsible lending	<p>The provision of credit in breach of the financial firm's responsible lending obligations, or without proper assessment of the borrower's capacity to meet repayment obligations.</p>
Service quality	<p>Other service-related issues that do not fit within other service categories. For example:</p> <ul style="list-style-type: none"> <li>staff behaviour</li> <li>other service issues.</li> </ul>
Unauthorised transaction	<p>Unauthorised transactions performed on a complainant's account. For example:</p> <ul style="list-style-type: none"> <li>unauthorised direct debit</li> <li>forged cheques and withdrawal slips</li> <li>stolen card ATM withdrawals</li> <li>credit card transactions not authorised by the cardholder</li> <li>purchase or sale of investments without written or verbal authority to do so</li> <li>an insurance claim paid to someone other than the insured and/or a refund provided to another party.</li> </ul>
Unconscionable conduct	<p>A statement or action by the financial firm that is so unreasonable or unjust that it is against good conscience. For example:</p> <ul style="list-style-type: none"> <li>not allowing enough time to consider a contract</li> <li>requiring someone to sign a blank agreement.</li> </ul>

“We are deeply thankful for your diligence and balanced support through the process. A very difficult matter was resolved very professionally and reduced the considerable stress we had been under”

- *Feedback from consumers*





## Contact us

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Complaints Authority

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