



Member forum

Banking and finance

- Credit and financial difficulty
- Small business and transactions

16 March 2023

Presenters:

- **Suanne Russell** – Lead Ombudsman
- **Natalie Cameron** – Lead Ombudsman
- **April Blair** – Senior Ombudsman
- **Neva Skilton** – Senior Ombudsman

Data and insights

Natalie Cameron

Lead Ombudsman, Banking & Finance

Today's session includes



B&F and small business data and insights



Spotlight on financial difficulty



Spotlight on scams



Q&A

Banking and finance complaints (1 Jan to 31 Dec 2022)



Complaints received

45,705 complaints received
Up 9% from last year

61% resolved at Registration and Referral stage
Up 4% from last year

Complaints closed

43,747 complaints closed
Down 0.3% from last year

Average time to close a complaint:
55 days
Down 17% from last year

Top five banking and finance complaints received by product ¹

Product	Total
Personal transaction accounts	9,793
Credit cards	9,083
Home loans	6,376
Personal loans	5,869
Electronic banking	2,352

Top five banking and finance complaints received by issue ¹

Issue	Total
Unauthorised transactions	8,073
Service quality	6,003
Default listing	2,823
Interpretation of product terms and conditions	2,528
Financial firm failure to respond to request for assistance	2,492

Stage at which banking and finance complaints closed

Stage	Total
At registration	26,813
At case management	10,324
Rules review	3,683
Preliminary assessment	1,470
Decision	1,457

Average time taken to close banking and finance complaints

Time	Total
Closed 0-30 days	17,462
Closed 31-60 days	14,017
Closed 61-180 days	10,188
Closed 181-365 days	1,419
Closed more than 365 days	661

¹One complaint can have multiple products/ issues

Observations in a changing banking and finance climate



Areas of strong complaints performance in 2022

- > The banking and finance industry should be proud of its strong resolution rate of 61%. This compares favourably to other industries and is a 4% increase on the prior year
- > We also continue to see relatively low financial difficulty inflows. While failure to respond to a hardship request still sits in the top 5 issue types, it has been steadily reducing volumes, decreasing 7% in Q2 from 1,066 to 989, and 9% below projections
- > AFCA has also performed well, dropping its average turnaround time 17% to 55 days
- > Our aged cases under active management (i.e., not paused for a reason such as litigation) also reduced significantly (by 52%) over the period.

Systemic issues



In banking and finance, **41 systemic issues** were referred to a regulator in the 2021/22 financial year.

Common issues included:

- > **Errors in credit listings:** e.g., failing to investigate and correct disputed credit card file data; delay in correcting information given to credit reporting bodies
- > **Unauthorised transactions:** e.g., lack of adequate systems and processes to help identify and prevent scams
- > **Financial difficulty approach:** e.g., lack of adequate systems to ensure customers receiving hardship assistance were not charged interest at default rates

Reliance on manual processes carries risk. Where financial firms have work procedures and processes with a heavy reliance on manual steps, we have seen that process steps can be missed through human error.

This can be caused by inadequate staff training, unclear instructions or procedure documents or systems that allow processes to move forward without all required data fields being completed.

The implementation of automated system solutions and removal of manual processes minimise the risk of human error and may reduce the likelihood of issues arising.

2023 outlook



Storm clouds gathering?

- > As interest rates continue to rise, and inflationary challenges put additional pressure on Australian households, it is expected that financial difficulty and other banking complaints will increase
- > Across the last quarter, inflows have already increased, though not yet linked to increasing credit stress. Banking and finance complaints were 34% above projections with the most significant increase in unauthorised transaction complaints, up 30% from 2,069 to 2,683. The four major banks accounted for 63% of unauthorised transaction complaints
- > With changes to regulation being considered for BNPL providers, new or changed complaints handling expectations may lie ahead at a time when BNPL could be relied on more by consumers experiencing financial difficulty
- > We received 141 possible systemic issue referrals in the December 2022 quarter. This is an increase from the 91 referrals received in the previous quarter.

Conclusion



How can we work together to avoid and reduce complaints in 2023?

- > We know our members are focused on the challenges ahead
- > We are hoping to see focus on proactive identification of customers headed for hardship, especially those who are vulnerable
- > Proactivity in communication is key, along with continued refinement of hardship processes
- > Adequate resourcing for complaints handling teams
- > We are seeking to provide greater clarity on AFCA's approach in key areas. We are well advanced with our Responsible Lending, Appropriate Lending and Scams Approaches, which we will consult on broadly, to deliver greater certainty and consistency for the benefit of our members, consumer advocates and stakeholders
- > AFCA is reinforcing its team, with new Sessionals and Ombudsmen appointments
- > We hope to see continued strong engagement between AFCA and our members.

Financial difficulty

April Blair

Senior Ombudsman, Banking & Finance

Financial difficulty

Reminder of the obligations to assist a customer in financial hardship

- > Give real and genuine consideration to a request for assistance
- > Complainants should be willing to work with financial firms to repay the debt
- > Complainants do not need to mention hardship
- > Each case needs to be looked at individually
- > AFCA has developed Approaches to assist

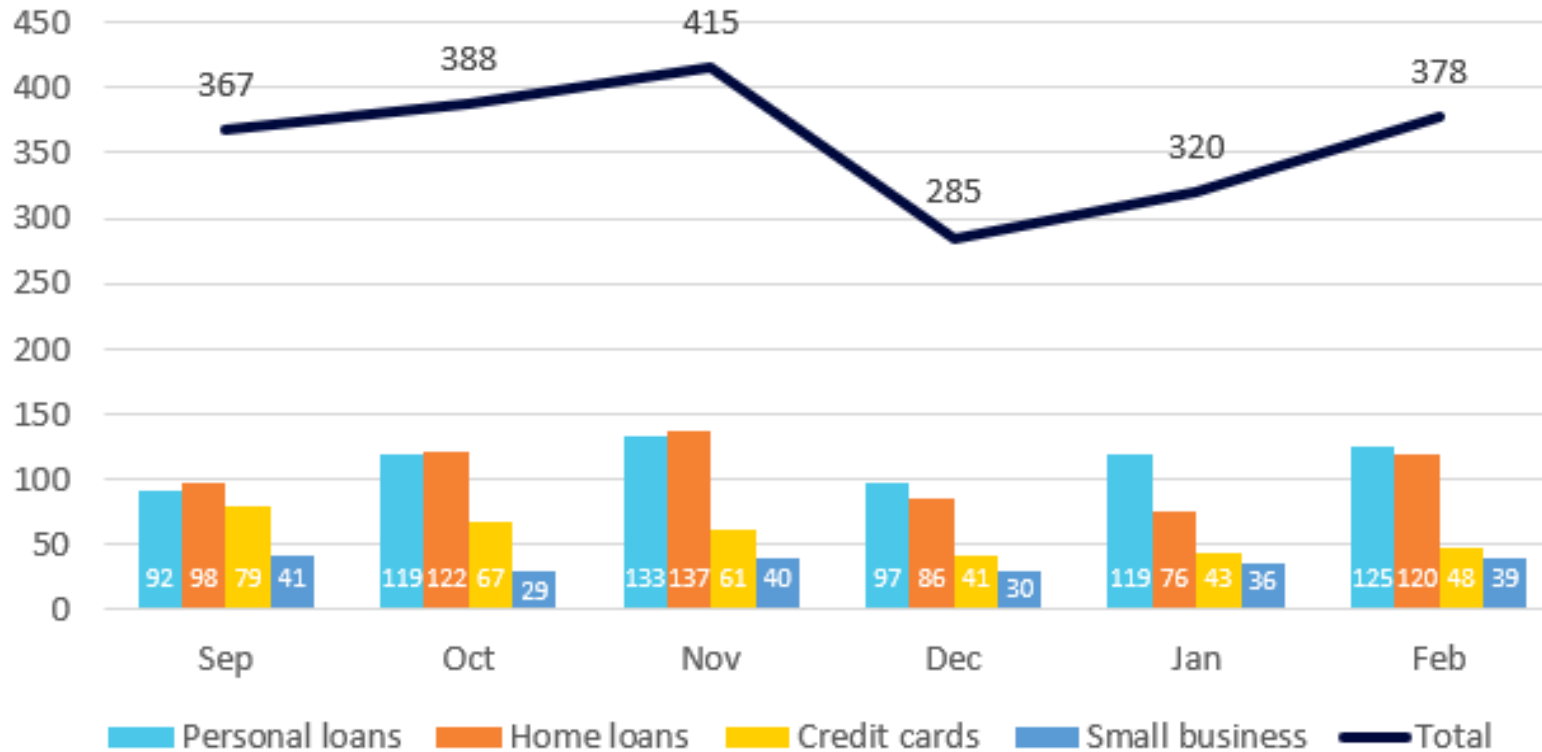


Data and insights



Financial difficulty complaints received over six months

(1 September 2022 to 28 February 2023)



- > Financial difficulty complaints remain lower than expected given the conditions
- > AFCA data is limited
- > Change in landscape has not resulted in increased complaints
- > Future outlook is uncertain

Keep up the good work!

Case study 1



- > The complainant was in financial difficulty due to COVID-19 and unfortunately was involved in an accident
- > The complainant returned to work after 18 months
- > The complainant requested early release of super to clear arrears
- > The bank met hardship obligations by working with the complainant
- > The agreed outcome was to capitalise arrears and vary the contract rather than early release of super
- > This is a good example of how the bank applied hardship obligations and worked with the complainant over a period of time
- > The complainant was able to keep his home and not erode their retirement savings.



Case study 2



- > The complainant is a victim survivor of domestic violence
- > The complainant's ex-partner coerced the complainant into taking out a car loan in her name, though he had possession of the vehicle
- > The loan was finalised by the financial firm, which listed adverse Repayment History Information (RHI) on complainant's credit file
- > Even though the financial firm was unaware of the domestic violence at the time, it was considered unfair for the adverse RHI to remain on complainant's credit file
- > This is a good example of where AFCA considers the law, but also what is fair in all the circumstances.



Case study 3 – Small business



- > The complainant was a sole director company placed into liquidation in June 2021. In April 2021, the financial firm provided the company with a loan and a line of credit. The director of the complainant provided a personal guarantee
- > The financial firm was a signatory to the AFIA Code
- > The financial firm did not have a reasonable basis to consider whether the complainant had the capacity to repay the loans
- > The financial firm did not work in good faith with the complainant and its director, as guarantor, when she and the company were in financial difficulty
- > This is a good example of where it is important to take into account relevant Codes when making lending decisions, as they often set out what is expected as good industry practice.



Small business and transactions

Suanne Russell

Lead Ombudsman, Small Business & Transactions

Small business complaints (1 Jan to 31 Dec 2022)



Complaints received

3,483 complaints received
Down 4% from last year

40% resolved at Registration and Referral stage
Up 5% from last year

Complaints closed

3,476 complaints closed
Down 8% from last year

Average time to close a complaint:
93 days
Up 23% from last year

Top five small business complaints received by product ¹

Product	Total
Business loans	1,405
Business transaction accounts	853
Commercial property	326
Business credit card	215
Commercial vehicles	144

Top five small business complaints received by issue ¹

Issue	Total
Service quality	376
Financial firm failure to respond to request for assistance	263
Interpretation of product terms and conditions	237
Unauthorised transactions	225
Delay in claims handling	179

Stage at which small business complaints closed

Stage	Total
At registration	1,385
At case management	996
Rules review	512
Preliminary assessment	210
Decision	373

Average time taken to close small business complaints

Time	Total
Closed 0-30 days	781
Closed 31-60 days	988
Closed 61-180 days	1,237
Closed 181-365 days	312
Closed more than 365 days	158

¹One complaint can have multiple products/ issues

Trends in small business complaints



Many Small Businesses that have had the benefit of Government support and support from financial firms during the COVID-19 pandemic have reached the end of that support. There is high inflation and low growth, interest rates, utility prices and goods are increasing. There are still supply chain issues especially if the Small Business is reliant upon shipping for import or export.

This has led to a change in the type of Small Business Complaints we are seeing.

Some of the common issues are:

- > Inappropriate lending where the complainant says the small business lending was not affordable. Often the complainant is of the view the business lending should be subject to the same checks required for consumer lending under the NCCP Act. NCCP Act obligations don't apply, rather the requirements under the Banking Code of Practice
- > Complainants feel that the financial firm should have some responsibility when the business purchased using loan funds, or the commercial development does not realise the anticipated returns
- > Service complaints covering failure of the financial firm to provide funding, extend facilities, taking too long in approving loans. The loan provided does not suit the purpose it was required for. The operation of the product provided was not clear.

Trends in small business complaints *(continued)*



- > Confusion over the director/ guarantor's rights in relation to leased assets or assets securing a loan such as vehicles when a company goes into liquidation. Directors sometimes treat the vehicle as their own and seek to take over the repayments for the full term as if they are the borrower
- > Companies still trying to recover from COVID-19 related impact on their business, needing some lender assistance for a further period. This is generally financial difficulty assistance
- > Complaints about Equipment Finance contracts and what happens at the end (trade in rights, guaranteed future values) – possibly poor communication with the borrower about how the product features operate at the time of loan commencement of the facility
- > Instances where the small business lender has not understood the NCC 'Business Purpose Declaration'. The BPD is obtained even when the loan is clearly for a personal purpose.

Systemic issues relating to small business



Systemic issues impacting Small Businesses over the last quarter and reported to ASIC related to:

- > Insufficient controls to prevent guarantors being contacted to pay payment under a guarantee, despite being released from the guarantee and all liability under it
- > Coding errors resulting in incorrect credit scores being applied
- > Business loans being provided to customers, when they should have been consumer loans regulated by the National Consumer Credit Protection Act
- > An online small business lender using templated settlement agreements with unreasonably broad release clauses.

Insurance – small business



- > On 30 November 2022, the Insurance Council of Australia (ICA) reported that the insurance bill for storms and floods since January 2020 has topped \$12.3 billion
- > Significant impact of floods over the last three years. South Australia and Western Australia have been hit by storms and cyclone activity over that period leading to 788,000 claims
- > These natural disasters have led to increased numbers of insurance complaints. AFCA continues to experience delays in allocating general insurance claims to case management
- > In the year ended 31 December 2022, AFCA received 23,934 complaints, an increase of 52% on the previous year. We continue to work to reduce queues to ensure timely decisions. We are recruiting and have reallocated case management and decision-making resources to general insurance.

Business interruption insurance

- > AFCA is still receiving business interruption insurance claims, but the numbers are greatly reduced with only 39 claims being received in the period 1 July to 23 November 2022
- > Most of these complaints are being processed given the conclusion of the second test case.

Focus for the Small Business Team in 2023



- > Finalisation of the Appropriate Lending Approach – you may have already received an email advising of the timing of our proposed public consultation
- > Application of relevant codes to ensure consistency across decision making
- > Gearing up to handle what we believe will be an increase in financial difficulty complaints and associated issues
- > More proactive engagement with financial firms so we can better understand future trends
- > Ongoing focus on aged cases.

Case study – Small business



- > The complainant company borrowed money to acquire an existing car wash business.
- > Not long after, it became apparent the revenue was insufficient to repay the debt. The complainant was not experienced in running a car wash business but had some financial and business experience.
- > The complaint was the bank failed to exercise the care and skill of a diligent and prudent banker in assessing whether the complainant could repay the loan as required under the Code of Banking Practice. It failed to consider in its assessment that the directors:
 - *were in their 60s*
 - *the loan term was 30 years, and*
 - *they were running another business*
- > The Ombudsman found:
 - *The bank was required to assess the complainant's loan proposal (which included its business plan); and*
 - *the bank had enough information on the financial figures and about the future plans to assess the circumstances and form the view the complainant would be able to repay the loan.*

Scams update

Neva Skilton

Senior Ombudsman, Small Business & Transactions

Key scam statistics

1 January 2022 – 31 December 2022



- AFCA received **4,705** scam complaints
- Average of **392** per month



- **59%** of scam complaints close at the Registration & Referral stage
- **28%** of scam complaints close during the case management stage
- **4.15%** of scam complaints progress to final decision

- **26.5%** of scam complaints resolve with full reimbursement to the complainant
- **33.9%** of scam complaints resolve with partial reimbursement to the complainant
- **\$14.5** million paid to consumers who lodged scam complaints at AFCA

Scam trends – AFCA observations



- > Scams are becoming increasingly sophisticated and continue to change
- > AFCA recognises the impacts of being scammed can be devastating and life changing
- > There is often a lag between when the customer is scammed and when their claim is lodged with AFCA, so we do not see the latest scams immediately
- > The main scam types are still investment and romance scams often coupled with remote access on a computer or increasingly a mobile device. We are also starting to see the bank ID spoofing scams
- > The main scam impacting small business complainants continues to be business email compromise scams. They are particularly concerning as the sums involved are often very large. This scam type also involves individuals
- > Scammers often request payments be made to crypto wallets sometimes in the customer's name
- > Scammers often impersonate a person in authority such as the ATO or a service provider, retailer, health fund or bank.

AFCA's scam strategy

- > Finalise AFCA's approach to scams
- > Continued stakeholder engagement with both consumer and financial firm representatives
- > Continued specialisation and upskilling within both the decision making and case management teams
- > Involvement in the National Anti-Scams Centre and other Industry forums.



Case study – Business email compromise



- > The complainants used a broker to arrange a home loan with their financial firm
- > The broker's email was hacked
- > The complainants were directed to transfer their portion of the purchase price to an account – \$760,000
- > The complainant called the bank to increase his daily transfer limit
- > The call recording shows the bank appropriately warned the complainant the account he wanted to transfer the funds into, was not in his name
- > The complainant emailed the broker, but as the email address had been intercepted, those emails were compromised, and the complainant was likely dealing with the scammer
- > The complainant proceeded to make nine transfers
- > The scam was discovered on the day of the proposed settlement, when the complainants' contribution to the property purchase was not available
- > As there was no bank error the complainant was not able to receive compensation for his loss.

Case study – Remote access scam



- > The complainant fell victim to a remote access scam
- > The complainant lost \$60,000 through a combination of online and in-branch withdrawals
- > The branch teller queried the first in-branch withdrawal, which the complainant explained was to purchase a caravan
- > Two subsequent BPay payments were made, which triggered the bank's internal fraud monitoring system, and an alert was placed on his profile
- > A final in-branch withdrawal was made for \$8,000
- > The bank should not have processed final withdrawal because:
 - *It did not act in relation to the known alert*
 - *It did not make any enquiries about the final withdrawal, and*
 - *It did not warn the complainant of the possibility he was being scammed.*

Thank you