

Improving consumer experiences, choice, and outcomes in Australia's retirement system

Submission to Senate Standing Committees on
Economics Consultation Paper

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Introduction

AFCA is the external dispute resolution (EDR) scheme authorised under the *Corporations Act 2001* (Corporations Act) to deal with consumer complaints about financial products and services including superannuation and retirement products.

In the three financial years to July 2023 AFCA received 17,487 complaints relating to superannuation, including about life insurance offered through superannuation. The top issue raised in these complaints related to delays in claims handling. This issue amounted to 19% of all superannuation complaints AFCA received.

Most of the superannuation related complaints AFCA receives relate to the superannuation accumulation phase¹. We received a much smaller number of complaints specifically about pension products and financial advice given in relation to superannuation.²

AFCA is pleased to provide a submission to the Senate Standing Committee on Economics inquiry on *'Improving consumer experiences, choice, and outcomes in Australia's retirement system'* (the Inquiry). AFCA's submission to the Inquiry draws on our experience and that of our predecessor schemes which have handled superannuation related complaints for more than 30 years.

Executive summary

Internal dispute resolution (IDR) and EDR have been legislated features of the Australian superannuation system since 1993³. This is in recognition of the fact that superannuation is a mandatory and complex financial product that is held for the duration of members' working lives and increasingly into the pension phase.

While superannuation is now many Australians' largest financial asset and is critically important to supporting older Australians in retirement, AFCA's experience is that superannuation and default life insurance products are often poorly understood by the members who hold them and third parties, such as a person who is a potential beneficiary of a death benefit.

Engagement with superannuation often follows life events from new employment and entering (or re-entering) the workforce to positive planning for retirement (fund and investment choice, switching, consolidation, co-contribution and salary sacrifice arrangements, for example). Engagement can also follow from unexpected and confronting life events such as redundancy, illness, disability, or the death of a family

¹ Superannuation is about both saving for retirement (accumulation) and delivering an income for a dignified retirement (decumulation) – [Treasury Retirement phase of superannuation Discussion paper December 2023](#)

² See page 6 for data on superannuation related complaints handled outside our Superannuation stream.

³ Before 1 November 2018, superannuation complaints were dealt with by the Superannuation Complaints Tribunal.

member. Complaints made to AFCA are therefore often made in the context of these challenging life events, and where members expect and deserve appropriate levels of service from their superannuation fund.

The Inquiry's Terms of Reference are broad and have a particular focus on the retirement income system and outcomes. While the data in this submission reveals that most of the complaints AFCA receives relate to the accumulation phase of superannuation, we acknowledge that fair treatment and support for members to make good choices in the accumulation phase, and in relation to life insurance held through superannuation, will heavily influence individual member outcomes through to retirement.

AFCA regularly and proactively engages with superannuation trustees with the aim of seeing funds address issues quickly and meaningfully for their members. Given the prevalence of delay and service quality complaints that we have received, AFCA's view is that trustees must do more to improve service quality and to closely and effectively monitor their insurance providers and third-party administrators to improve member outcomes.

This submission provides the Inquiry:

- data and insights on AFCA's superannuation complaints experience over the past three financial years. This data shows a 32% increase in superannuation complaints in financial year 2023 (6,954) relative to financial year 2022 (5,289) with the top issue relating to delays in claims handling.
- observations about future opportunities and risks for the super system with a focus on potential impacts as more members transition into the decumulation phase, continuing threats from scams and the need for a focus on accessibility, particularly for First Nations members, to ensure good retirement outcomes for all Australians.

About AFCA's superannuation complaints jurisdiction

Superannuation complaints, including those made against a trustee of a superannuation fund, are dealt with differently to other complaints in our general jurisdiction.

Superannuation complaints are subject to specific legislative requirements⁴ which set out what superannuation complaints AFCA can consider, as well as providing for how we determine superannuation complaints, time limits for death benefits and total and permanent disability (TPD) complaints and circumstances in which an appeal can be made to the Federal Court of Australia.

When AFCA determines a superannuation complaint, we have all the same powers, obligations and discretions of the trustee, insurer or retirement savings account (RSA) provider which made the decision or engaged in the conduct that the complaint is about.

If the AFCA decision maker is satisfied that the superannuation provider's decision (or related conduct) operated fairly and reasonably in relation to the complainant in the circumstances, then the AFCA decision maker must affirm it. However, if the AFCA decision-maker is not satisfied and considers there is some unfairness or unreasonableness then they can take one of the following remedial actions:

- Vary the decision
- Set aside the decision and substitute their own decision; or
- Set aside the decision and send the matter back to the superannuation provider (and insurer) to make a new decision in accordance with AFCA's directions.

While there is no monetary limit for superannuation related complaints, our powers to provide a remedy can only be used to place the complainant – as nearly as practicable – in a position that any unfairness or unreasonableness no longer exists.

In our superannuation jurisdiction, AFCA can consider complaints about a broad range of issues in:

- superannuation pensions and annuities
- corporate, industry and retail super funds
- some public sector schemes
- approved deposit funds
- retirement savings accounts
- small APRA funds.

Common issues arising in these complaints include:

- member service complaints about fund administration

⁴ Refer sections 1053 to 158 of the Corporations Act. AFCA's Rules and Operational Guidelines also set out the details on how we handle superannuation complaints.

- 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 about a total and permanent disability or income protection claim
- cancellation of insurance cover
- 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, unauthorised or took too long.

AFCA also deals with complaints that touch on superannuation issues in our general jurisdiction. This includes financial advice, for example where the advice relates to superannuation, including about an SMSF, or a decision by an insurer under a life policy maintained by a trustee of a SMSF.

AFCA Superannuation complaints data and insights

Over the past three financial years, AFCA received 17,487 superannuation related complaints, with **just under 7,000** complaints about superannuation received in the last financial year. That was **a rise of 32%** on the previous year. In financial year 2023-24 to date (1 July 2023 to 21 February 2024), AFCA has received a further 5,051 superannuation related complaints.⁵

Superannuation related complaints accounted **for 7% of all** complaints to AFCA last financial year and are tracking at 8% of all complaints from 1 July 2023 to February 2024. The increase in superannuation complaints is occurring in the context of a **34% overall increase** in complaints to AFCA.

The data presented below sets out:

- superannuation related complaints volumes across the past three years
- detailed breakdown of the complaints within the superannuation product category and the smaller group of complaints from complainants who are in the retirement phase.
- the key issues and trends in those complaints over the relevant period.

The dominant themes emerging from AFCA's superannuation related complaints experience over the past three years are about delays in the handling of insurance claims (as well as about denial of claims and complaints about claim amounts) and service quality issues and errors.

⁵ Incidental variances can relate to reclassification of product/issue or closure date.

Chart 1: Superannuation complaints received and accepted (FY 2021 – Feb 2024)⁶

FY	Complaints received	Complaints accepted
FY 2020-2021	5,244	3975
FY 2021-2022	5,289	3552
FY 2022-2023	6,954	3936
FY 2023-2024	5,051	3039
Total	22,538	14502

Chart 1 shows the financial year statistics, the year-on-year increases and year to date figures for FY 23-24 for superannuation related complaints (1 July 23 – 21 Feb 24). The table shows complaints ‘received’ and complaints ‘accepted’ by AFCA. Under the scheme Rules, AFCA will generally refer a complaint back to a financial firm for a final opportunity to resolve it before it progresses into AFCA’s case management system. ‘Accepted complaints’ are therefore those that were not resolved at this Registration and Referral stage and progress into case management.⁷

Chart 2: Superannuation complaints received and accepted by month (FY 2021 – Feb 2024)

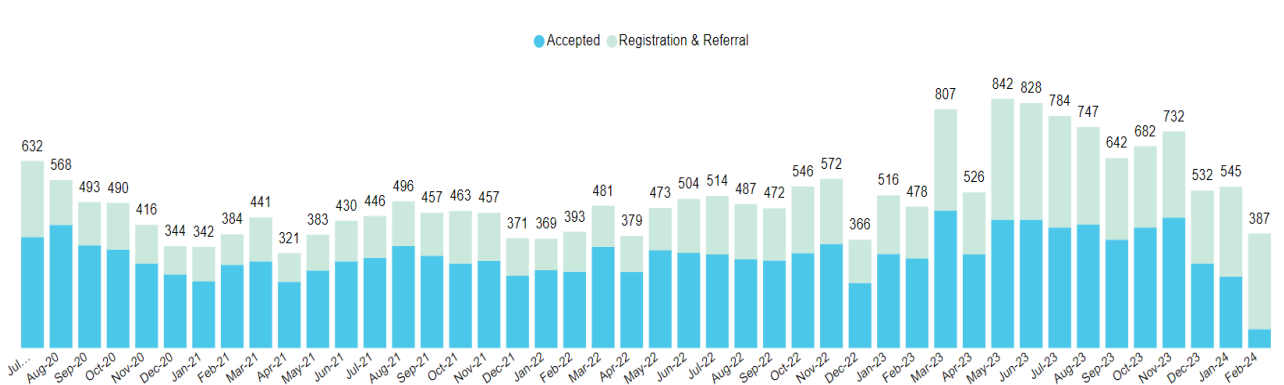


Chart 2 provides a monthly breakdown of total superannuation related complaints received by AFCA from 1 July 2020 to February 2024. This data shows a relative spike in complaints from March to November 2023. Complaints have tapered in recent months however it is unclear whether this decline is seasonal or sustained.

Chart 3A: Total superannuation complaints by product category Superannuation fund FY 2021-2023

⁶ Including a to-date running total for 2023/24

⁷ This process is set out in AFCA’s Rules. See AFCA Rule A 5. An exception to this process are complaints about death benefit distributions which are not referred back to the firm following lodgment with AFCA.

Product Category	Complaints received	Complaints accepted	Complaints closed
Superannuation Fund	17,024	11360	16,882
Superannuation Account	10,023	5789	9,907
Total & Permanent Disability	2,956	2429	2,969
Income Protection	2,568	2138	2,510
Death Benefit	1,522	1174	1,523
Pension	205	131	204
Unknown	69	3	111
Terminal Illness	98	67	96
Total	17,024	11360	16,882

Chart 3A shows that 97% (n17,024 / 17,487) of the superannuation related complaints AFCA received across the last three financial years were made about superannuation funds and that most of these were about member issues in the accumulation phase. The top three complaint categories related to superannuation accounts, insurance products (total and permanent disability and income protection products) and death benefits.

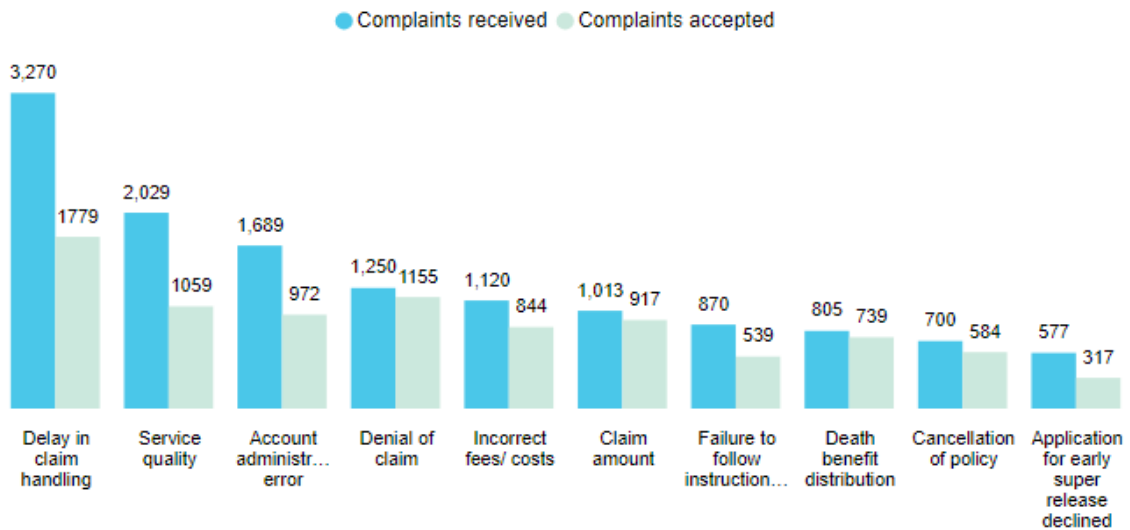
Chart 3B: Superannuation complaints about other super products FY 2021-2023

Product Category	Complaints received	Complaints accepted	Complaints closed
Unknown	296	4	423
Life Policy Fund	119	77	115
Total & Permanent Disability	40	25	39
Income Protection	35	24	35
Death Benefit	20	14	21
Superannuation Account	21	12	18
Terminal Illness	7	6	6
Annuity Policy	22	10	21
Pension	21	10	20
Death Benefit	1		1
Retirement Savings Account	17	9	18
Superannuation Account	17	9	18
Small APRA Fund	9	7	10
Superannuation Account	6	6	6
Income Protection	2		3
Total & Permanent Disability	1	1	1
Approved Deposit Fund	10	6	9
Superannuation Account	9	6	8
Total & Permanent Disability	1		1
Total	473	113	596

Note: Other complaints relating to superannuation that are not specifically listed in section 1053 of the Act are heard in AFCA's non-superannuation jurisdiction. Complaints with an Unknown category include cases where information provided by the complainant at lodgement is insufficient to categorise the complaint. If the complaint does not resolve during the initial stages of AFCA's process, further information is gathered that generally allows AFCA to categorise the complaint.

Chart 3B shows that the balance (3%) of the superannuation related complaints AFCA received across the past three financial years (n473 / 17,487) were made against life policy funds, annuities, RSAs, small APRA funds and Approved deposit funds.

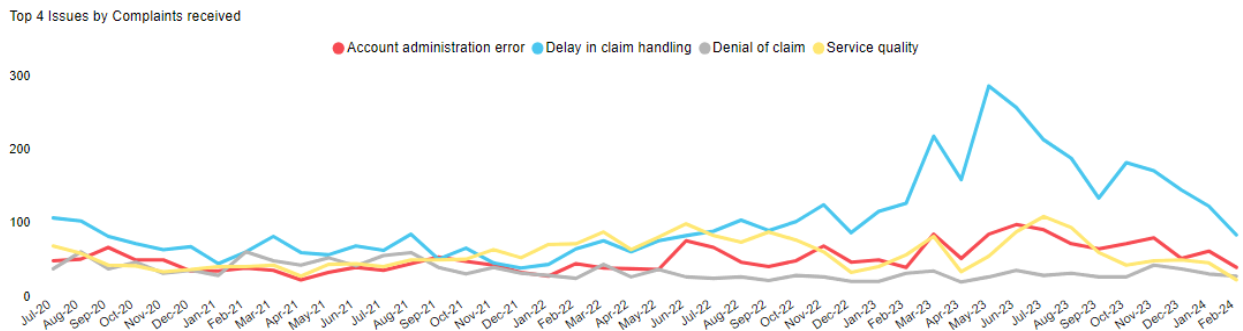
Chart 4: Top 10 issues raised in 'Superannuation fund' complaints: FY 2021-23



Note: Chart 4 shows the total number of superannuation complaints that raised these issues and of those, the number that progressed to AFCA’s case management stage. Also note that a complaint may involve more than one issue.

Chart 4 shows the top 10 issues raised in superannuation fund complaints across the past three financial years. This refers to the 17,024 complaints in Chart 3A. Out of the top 6 issues raised, 3 relate directly to insurance claims handling.

Chart 5: Top 4 issues for the period 1 July 2020 – 21 Feb 2024 (by month)



Note: Data is partial to 21 Feb 2024.

Chart 5 shows that ‘Delay in claim handling’ was the top issue raised during this period and in 2022/23 financial year increased by 136% over the previous financial year. These complaints mainly relate to total and permanent disability (TPD) and income protection (IP) claims. However, AFCA also received increasing numbers of complaints about delays with the finalisation and payment of death benefits in the 2022/23 financial year. From the latter part of 2023 and to date, complaints about delays in claim handling have significantly decreased from their peak but remain elevated relative to historical norms.

Chart 6: Superannuation related complaints by top 30 financial firms (FY 2021 – 2023)

Financial Firm	Complaints received	Complaints accepted	Complaints closed	Resolution rate
AustralianSuper Pty Ltd	3,136	1,801	3,095	42.76%
Host-Plus Pty Ltd	948	537	931	43.86%
NM Superannuation Proprietary Limited	900	615	830	31.84%
BT Funds Management Limited	849	507	816	41.45%
Retail Employees Superannuation Pty Ltd	848	517	835	39.64%
Australian Retirement Trust Pty Ltd	764	523	730	31.54%
Nulis Nominees (Australia) Limited	756	512	740	32.71%
United Super Pty Ltd	748	373	734	50.34%
H.E.S.T. Australia Limited	603	353	596	41.81%
Equity Trustees Superannuation Limited	569	379	565	34.42%
Aware Super Pty Ltd	562	313	543	44.86%
TAL Life Limited	496	489	472	N/A
AIA Australia Limited	456	449	433	N/A
Mercer Superannuation (Australia) Limited	396	227	388	43.78%
Commonwealth Superannuation Corporation	354	260	340	26.86%
OnePath Custodians Pty Limited	337	239	326	29.88%
QSuper Board	249	182	249	27.13%
CARE Super Pty Ltd	220	113	218	49.31%
Unisuper Limited	209	170	200	19.02%
Colonial First State Investments Limited	196	103	194	50.54%
Motor Trades Association of Australia Superannuation Fund Pty Ltd	161	111	158	31.25%
Resolution Life Australasia Limited	161	140	153	N/A
Diversa Trustees Limited	144	86	139	41.13%
Metlife Insurance Limited	130	129	122	N/A
MLC Limited	127	124	117	N/A
LGIAsuper Trustee	119	100	115	16.10%
VicSuper Pty Ltd	117	67	115	43.48%
IOOF Investment Management Limited	115	80	109	30.43%
Qantas Superannuation Limited	115	56	114	51.75%
TWUSUPER	114	62	111	46.02%
Total	14,899	9,617	14,488	N/A

Note: Resolution rate is the percentage of complaints closed after being referred by AFCA back to the financial firm. No resolution rate applies to the life insurers as cases are not referred-back to a life insurer to resolve, so they are designated NA. This Chart also includes data for individual funds / firms that may have merged operations during the three-year period.

Chart 6 shows the top 30 financial firms that AFCA received (and accepted) superannuation related complaints about from 1 July 2020 – 30 June 2023. These complaints represent approx. 85% of the superannuation related complaints AFCA receives. This chart includes complaints registered against the superannuation fund, as well as life insurers we have joined to a superannuation complaint that is accepted against the superannuation fund. In these cases, AFCA’s practice is to create a unique complaint number for each of the trustee and the insurer. This practice is reflected in these figures.

Chart 7: Top 10 Issues raised in complaints involving the Top 30 financial firms FY 2021 – 2023

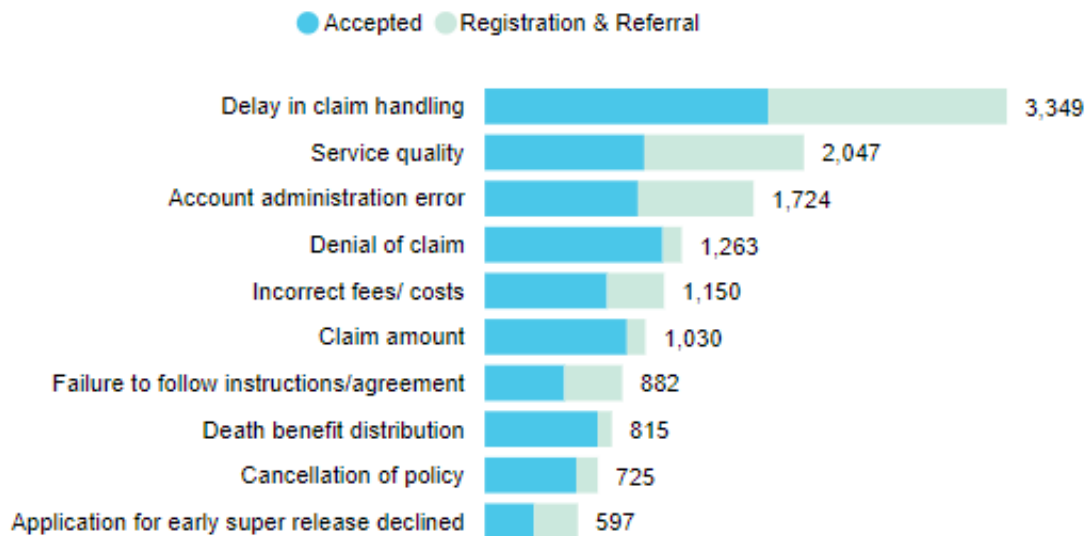


Chart 7 shows the top 10 issues raised in the complaints received by the Top 30 financial firms for the period 1 July 2020 – 30 June 2023.

Chart 8: Complaints received per account by Top 30 trustees FY 2021 – 2023

Member Name	Number of Member Accounts	FUA	Complaints received	Received per 10,000 Member Accounts	Complaints Accepted	Accepted per 10,000 Member Accounts
Qantas Superannuation Limited	26,260	\$8.8bn	115	43.79	56	21.33
BT Funds Management Limited	279,925	\$67.2bn	849	30.33	512	18.29
Commonwealth Bank Officers Superannuation Corporation Pty Limited	65,005	\$12.9bn	96	14.77	61	9.38
TWUSUPER	95,546	\$6.7bn	114	11.93	65	6.80
Equity Trustees Superannuation Limited	502,153	\$19.5bn	569	11.33	379	7.55
Telstra Super Pty Ltd	92,773	\$26.0bn	102	10.99	65	7.01
CARE Super Pty Ltd	222,897	\$22.1bn	220	9.87	119	5.34
AustralianSuper Pty Ltd	3,255,344	\$311.5bn	3,136	9.63	1,804	5.54
NM Superannuation Proprietary Limited	942,182	\$111.7bn	900	9.55	630	6.69
Total Risk Management Pty Ltd	88,231	\$10.2bn	82	9.29	64	7.25
United Super Pty Ltd	917,027	\$86.3bn	748	8.16	375	4.09
Nuis Nominees (Australia) Limited	938,048	\$107.5bn	756	8.06	541	5.77
NGS Super Pty Limited	114,490	\$14.5bn	75	6.55	50	4.37
Together Trustees Pty Ltd	149,453	\$32.9bn	94	6.29	60	4.01
H.E.S.T. Australia Limited	1,026,691	\$78.6bn	603	5.87	362	3.53
IOOF Investment Management Limited	209,091	\$35.6bn	115	5.50	89	4.26
Host-Plus Pty Ltd	1,758,858	\$97.0bn	948	5.39	562	3.20
Commonwealth Superannuation Corporation	690,075	\$281.7bn	354	5.13	259	3.75
OnePath Custodians Pty Limited	696,046	\$35.4bn	337	4.84	256	3.68
LGIAsuper Trustee	250,194	\$40.6bn	119	4.76	98	3.92
Aware Super Pty Ltd	1,194,591	\$163.8bn	562	4.70	307	2.57
Mercer Superannuation (Australia) Limited	848,026	\$67.9bn	396	4.67	199	2.35
Motor Trades Association of Australia Superannuation Fund Pty Ltd	348,425	\$28.6bn	161	4.62	118	3.39
Retail Employees Superannuation Pty Ltd	2,023,006	\$77.4bn	848	4.19	558	2.76
Australian Ethical Superannuation Pty Ltd	123,232	\$7.5bn	51	4.14	23	1.87
Macquarie Investment Management Limited	126,121	\$37.8bn	52	4.12	29	2.30
Diversa Trustees Limited	354,166	\$13.2bn	144	4.07	88	2.48
Australian Retirement Trust Pty Ltd	2,334,304	\$264.4bn	764	3.27	523	2.24
Unisuper Limited	648,818	\$127.4bn	209	3.22	166	2.56
Avanteos Investments Ltd	821,068	\$109.5bn	96	1.17	56	0.68
Total		\$2,304.3bn	13,615	41.82	8,474	26.03

Note: FUA indicates funds under administration.

Chart 8 provides a different perspective by ranking the top 30 superannuation funds that AFCA received the most complaints about by the number of complaints received per 10,000 member accounts. This figure has been calculated referencing APRA's

Annual Fund-Level Superannuation Statistics (June 2023), using ‘Total Number of Member Accounts’.

Chart 9: Non-response rates for Top 30 trustees FY 2022 – 2023 (at Registration and Referral)

Financial Firm	Complaints received	Complaints accepted	Non-response rate (%)
TWUSUPER	39	25	44.00%
SPSL Limited	26	17	41.18%
Equity Trustees Superannuation Limited	276	157	39.49%
NGS Super Pty Limited	28	13	38.46%
LGIAsuper Trustee	62	54	33.33%
Togethr Trustees Pty Ltd	33	26	19.23%
Diversa Trustees Limited	60	32	15.63%
Unisuper Limited	95	75	13.33%
Mercer Superannuation (Australia) Limited	199	73	10.96%
Aware Super Pty Ltd	248	94	10.64%
Telstra Super Pty Ltd	33	19	10.53%
Nulis Nominees (Australia) Limited	204	127	10.24%
AustralianSuper Pty Ltd	1755	879	8.99%
CARE Super Pty Ltd	69	34	8.82%
VicSuper Pty Ltd	43	23	8.70%
Host-Plus Pty Ltd	493	207	6.28%
Total Risk Management Pty Ltd	28	18	5.56%
United Super Pty Ltd	379	157	5.10%
Avanteos Investments Ltd	81	52	3.85%
IOOF Investment Management Limited	41	31	3.23%
Retail Employees Superannuation Pty Ltd	257	118	1.69%
Australian Retirement Trust Pty Ltd	404	266	1.50%
OnePath Custodians Pty Limited	109	73	1.37%
NM Superannuation Proprietary Limited	373	243	0.82%
Commonwealth Bank Officers Superannuation Corporation Pty Limited	30	18	0.00%
Commonwealth Superannuation Corporation	101	72	0.00%
Government Employees Superannuation Board	24	18	0.00%
H.E.S.T. Australia Limited	228	121	0.00%
Motor Trades Association of Australia Superannuation Fund Pty Ltd	52	39	0.00%
Qantas Superannuation Limited	28	13	0.00%

Note: This data is public data sourced from AFCA’s Datacube for FY 2023, (Product line superannuation (all products), Top 30 financial firms based on received complaint volume).

Under AFCA’s Rules and ASIC’s regulatory guidance⁸, financial firms have an obligation to respond to complainants and to AFCA. Chart 9 shows non-response rates for the Top 30 trustees for financial year 2022- 2023. This rate shows the percentage of complaints that progressed to case management without any response at the Registration and Referral stage. This means there was a lost opportunity to resolve the complaint early in the complaint process resolution process.

AFCA expects this number should be less than 2%, particularly for large trustees providing such an essential service to superannuation fund members. Only exceptional circumstances should result in no response. We expect trustees to be well resourced and set up to respond to AFCA within the required timeframes, particularly given these firms are dual regulated by ASIC and APRA and have a range of licensing and approval obligations under the regulatory regime that includes adequate resourcing, training and competence.

⁸ Regulatory Guide 271, *Internal Dispute Resolution*

Insurance in superannuation

Life insurance protection is a key default feature of the superannuation system and plays a critically important role in the pre-retirement phase, recognising that retirement plans can be disrupted or brought forward by the onset of illness or injury.

AFCA sees first-hand the impact of changed retirement plans and the importance of insurance as a safety net in the retirement incomes framework. Access to an insurance benefit is vital for people who have lost a loved one and those who are unable to work. However, because default cover is not generally applied for or subject to direct decision-making or ongoing engagement on the part of members, key features and/or limitations of life and disability insurance (adequacy of cover, definitions, and exclusions) may be unknown until an insured event occurs.

The top issue raised in complaints to AFCA about superannuation over the past three financial years (2021-2023) related to delays in claims handling. This issue amounted to 19% of all superannuation complaints AFCA received. Other common issues we see occurring at the time of a claim include about eligibility (denial), representations about medical history and cancellation of cover resulting from low balances or where policies have ceased.

The impact of delay is significant, affecting consumers at a time of often acute vulnerability as they manage the financial consequences of a life changing episode of illness or disability. Lengthy or unnecessary delay in claims handling can amplify confusion, uncertainty, and stress navigating an already complex process at a difficult time. Unlike similar complaints made in our general jurisdiction, for example about delays in general insurance claims handling, AFCA is unable to award non-financial loss to superannuation members who have been unduly impacted by these delays.⁹

We note that prior to a complaint progressing at AFCA, firms have 45 days at IDR to resolve the complaint and a further 21 days at AFCA, as we generally refer the complaint back to the firm for a final opportunity to resolve it before it progresses into AFCA's case management process. However, in the current financial year to date, we are seeing significant numbers of complaints relating to delays in claims handling being lodged with AFCA have not been through or completed IDR. In AFCA's experience, complainants' bypassing or dropping-out of IDR processes generally signals a lack of trust in their firm's responsiveness or ability to identify their complaint when raised with a call centre or in a claims process (or escalate that complaint to the firm's IDR process).

⁹ See AFCA's submission to the House of Representatives Standing Committee on Economics, page 22.

Drivers of complaints about insurance in superannuation

AFCA's experience is that delays in the processing of insurance claims typically result from:

- Poor processes that see repeat requests for the same or irrelevant information.
- Complexity and a lack of trustee oversight of the insurer's handling of a claim.
- Lack of clarity about the process to be followed in making a claim.
- Reliance on 'standard' letters or templates over more tailored communications.
- Poor or incorrect information (on websites, product documentation, or from call centres).
- Under-resourcing or poor performance on the part of outsourced administration providers.
- Under-resourcing within trustee offices.
- Reduced ability of trustee staff to keep pace with 'business as usual' while also managing work associated with mergers and successor fund transfers.

AFCA's approach to delayed insurance claims in superannuation

If a complainant has expressed dissatisfaction about a delay in the handling of a superannuation-related insurance claim, then AFCA will consider whether there has been a delay and whether it is unreasonable or unfair in the circumstances.

In complaints about delay, once in case management, AFCA will join the insurer to the complaint raised by the member against the superannuation fund. This is because the insurer decides whether to admit or deny an insurance claim, and the trustee holds the insurance policy.

In reviewing the complaint, AFCA will review whether the insurer's decision and the trustee's decision are fair and reasonable in their operation in relation to the complainant. AFCA will also consider whether the trustee has reasonably done everything necessary to ensure there were no unreasonable delays, including by the insurer.

Amongst a range of expectations, AFCA expects trustees to:

- bring claims to the attention of their insurer quickly so that assessment can begin, even where a complete set of documents and evidence has yet to be provided.
- identify if the insurer is delaying the denial of a claim that does not have a reasonable prospect of success (in the trustee's opinion).
- comply with the timeframes set out in the Life Insurance Code of Practice, the *Insurance in Superannuation Claims Handling Guidance Note* from 1 July 2021 and (where applicable and for the period in which it was in effect) the *Insurance in Superannuation Voluntary Code of Practice*.

In reviewing the insurer's decision and conduct, AFCA will consider whether the insurer unreasonably delayed the handling of the claim. Further information about

AFCA's approach is available in AFCA's [Approach Document – Delayed insurance claims in superannuation](#). At Appendix 2 we have included two case study summaries which provide illustrate some of the delay related issues we see in complaints made to AFCA.

Service quality and account administration complaints

Account administration and service quality issues feature prominently in complaints made at AFCA and arise across the full product lifecycle and include complaints relating to:

- delays with rollovers and withdrawals
- failure to consolidate duplicate accounts
- errors in implementing investment switches
- cancellation of insurance cover
- calculation of fees and charges
- eligibility for pensions
- incorrect processing of tax-related forms and elections
- unauthorised withdrawals and transfers / rollovers.

Death benefit complaints

When a member of a superannuation fund dies, the trustee of the fund must pay a death benefit (which may include an insured benefit) in accordance with the fund's rules which also set out how the death benefit is allocated to or among the potential beneficiaries.¹⁰ Death benefit complaints are by their nature complex and sensitive and typically involve issues such as:

- identification of dependants
- allocation of the death benefit
- the validity of binding or non-lapsing nominations
- delays in death benefit distribution decisions
- insured death cover.

Over the period 1 July 2021 – 21 February 2024, AFCA received 1,522 complaints about superannuation death benefits. This included 805 complaints about the distribution of benefit payments. Other complaints included delays by superannuation trustees processing death benefits. Complaints about processing delays are of particular concern given the sensitivity of these matters. We are seeing delays in both

¹⁰ Further information about how we consider death benefit complaints can be viewed in the linked [The AFCA Approach to superannuation death benefit complaints](#).

cases with complex family circumstances and multiple claimants and in relatively straightforward cases where a fund member has died leaving a spouse and adult children who are not claiming part of the benefit.

Our data does not suggest that the issue of delays is an industry wide issue, rather it is occurring in a small number of funds whose performance is out of step with their peers and generally where those funds rely on outsourced administrators. We have raised these issues with the relevant funds and have seen a decline in these complaints over recent months.

Super complaints in AFCA's Investment & Advice jurisdiction

Over the past three financial years, AFCA has received 3,299 (non-trustee) superannuation related complaints in its general jurisdiction. These primarily involve financial advice about superannuation, rather than complaints about the superannuation product itself or trustee conduct.

The most common issues raised in these complaints related to inappropriate advice, failure to act in a client's best interests, incorrect fees and costs and advice service issues. 2,241 (or 68%) of the complaints were about financial advice given to trustees of a SMSF, and 1, 683 of this cohort related to Dixon Advisory & Superannuation Services Pty Ltd.¹¹

Systemic issues

Regulatory Guide 267 *Oversight of the Australian Financial Complaints Authority* (RG267) requires AFCA to identify, refer and report systemic issues arising from complaints to the regulators. AFCA must also report any serious contraventions of the law and other reportable matters listed in section 1052E of the Corporations Act.

AFCA's role in identifying and reporting systemic issues benefits consumers who have not lodged a complaint with AFCA but who may, nonetheless, have been impacted by a systemic issue. The early identification and resolution of systemic issues can reduce consumer complaints and helps to minimise consumer harm. Our work also supports financial firms to identify systemic issues and sits alongside a financial firm's own obligations to manage systemic issues identified through consumer complaints, as outlined in ASIC Regulatory Guide 271.

AFCA publicly reports on its systemic issues work to share information and insights with the financial services industry to help improve industry practice and reduce complaints. In line with our legislative obligations, AFCA also reports definite systemic

¹¹ As at 1 February 2024, AFCA has over 1900 complaints registered for Dixon Advisory. As noted above, the majority of these (n=1,683) are classified in AFCA's system as superannuation non-trustee complaints.

issues identified in our complaints handling work to regulators (APRA and ASIC). In FY 2021-22 and 2022-23 respectively, AFCA reported 9 and 12 superannuation related systemic issues to regulators.¹²

Since July 2023 we have reported 3 further systemic issues relating to superannuation fund complaint handling processes and delays in processing insurance claims and death benefits. These have included:

- High levels of non-response to AFCA at the registration and referral stage of AFCA's process relative to other funds.
- Lack of timely and effective processing of member insurance and death benefit claims.

Affected funds have taken measures to address these issues and AFCA maintains regular engagement with the funds and relevant regulators on their progress.

Identified systemic issues – case studies

Below are two further examples of identified systemic issues arising out of superannuation related complaints, as published in AFCA's [Systemic Issues Insights Reports](#).

Breach of obligations under SIS Act and SIS Regulations

Migration of client data causes system issues¹³

Information identified in multiple complaints to AFCA showed that a trustee was failing to rollover superannuation benefits in the required time, and this appeared to be due to an issue with its systems. These failures were in breach of the trustee's obligations under Regulation 6.34A of the Superannuation Industry (Supervision) Regulations 1994, which require trustees to process rollovers between three and 30 days after receipt of instructions.

AFCA's systemic issues team wrote to the trustee and sought information about its systems error. In response, the trustee acknowledged that a systems issue had occurred and confirmed it had previously reported the matter to APRA.

Given the trustee's delays in rectification, the volume of impacted members, and AFCA's systemic issues notice, the trustee retrospectively re-assessed this incident as a breach of S912A(1)(a) of the Corporations Act 2001 as well as a breach of obligations under Regulation Guide 271.79. The trustee therefore reported the breach to ASIC in December 2022.

¹² See [Systemic Issues Insights Reports](#)

¹³ Both cases reported in AFCA's Systemic Issues Insights Report Quarters 3 and 4 Financial year 2022–23

It was identified that the issue was caused by a migration of clients to a new fund administrator, without comprehensive validation and testing before releasing into production.

As a result of the system issue the administrator was unable to process contributions, and inwards and outwards rollovers. The trustee found that around 15,000 members had been impacted by the issue.

The systems issues were rectified, and remediation applied.

Incorrectly coded superannuation contributions

Information identified in a complaint to AFCA showed that a trustee was incorrectly coding superannuation contributions when reporting to the Australian Taxation Office (ATO). This information was referred to our systemic issues team who wrote to the trustee about this matter.

The trustee responded to AFCA and confirmed the coding issue and that it had reported the issue to ASIC and APRA. It was identified that a reserve distribution to eligible members was incorrectly reported to the ATO as a contribution. For otherwise inactive accounts, this caused the period of inactivity to be reset and therefore impacted the date of insurance cancellation.

The trustee said that the coding error was caused by an administrative oversight and that it had implemented fixes and remediated affected members.

This issue impacted 3,810 customers, who received a total of \$1,627,091 in compensation, including the refund of premiums paid and compensation for lost earnings. Where appropriate, the option to retain insurances was also provided.

Looking forward: opportunities and risks

AFCA engages regularly with funds, industry associations, regulators and government about the issues we see arising in superannuation related complaints. This includes direct and proactive engagement with individual trustees where we see spikes or emerging trends in complaints. We do this to assist funds in efficiently identifying and responding to complaints at IDR.

Some of the industry feedback that we have heard about underlying drivers behind the superannuation related complaints AFCA receives includes:

- resourcing issues with the trustee and/or the fund administrator
- failure by the fund administrator to meet agreed service levels
- systems and human errors
- re-allocation of staff to respond to other issues, including matters arising from successor fund transfers, the implementation of new IT systems and changes to claims management procedures.
- increased claim volume.

While many trustees have positive initiatives underway in response to these issues, AFCA's view is that trustees can, and must, improve service quality for their members and do more to monitor their insurance providers and their outsourced third-party administrators.

In particular, sustained focus must be applied to tracking and monitoring the progress of insurance claims over time and reviewing member outcomes. We have been talking to trustees about the issues we are seeing in claim delay – including claims for death benefits. We would like to see all trustees review the way that they deal with these claims for insured benefits and to see whether there are opportunities to work with their insurer to make sure claims are dealt with more quickly.

Following we identify some future opportunities and risks for the superannuation and retirement incomes system:

1. Transition to retirement / Pensions

ASFA's November 2023 report '*An update on superannuation account balances*' said that by the year 2050 its projections indicate that around 50 per cent of retiree households will be able to afford expenditure at the level of ASFA Comfortable or above. ASFA also says the total amount of pensions paid by funds with more than 6 members increased from \$28.4 billion in 2014-15 to \$40.4 billion in 2021-22. A further 81,000 persons received transition to retirement pensions in 2021-22.

While most AFCA complaints in its superannuation jurisdiction are from fund members in the accumulation phase, with increasing superannuation balances and take-up of pension products, complaints are likely to increase if consumers do

not understand key product features and risks. Trustees have a duty to communicate effectively with pension holders, providing clear information about performance, fees, and any changes or features in current or new pension products. Complaints may arise if there is a lack of transparency or if information provided is unclear.

2. Scams

Given the increasing size of superannuation balances, it is likely that fraudsters including scammers may increasingly target the superannuation system. Losses to affected members of accumulated superannuation life savings are catastrophic and generally these losses are impossible to recover from. We note a recent Federal court judgment in an appeal of an AFCA determination considered a trustee's obligations in a sophisticated scam relating to the rollover of a superannuation benefit. The matter has been remitted to AFCA for re-determination.¹⁴ In AFCA's submission to the Government's recent *Scams – Mandatory Industry Codes* consultation paper, AFCA identified the need for consideration and expansion of the scams framework to other sectors including superannuation to manage the risk that scam losses migrate to other sectors.¹⁵

3. Accessibility and engagement

AFCA encourages the Inquiry to consider what improvements can be made by superannuation funds to ensure that good retirement incomes are accessible to all Australians and to minimise the risk of lost super and disengagement. This includes committing to initiatives to ensure that First Nations members can effectively access and manage their super including through standardised forms for identification and appropriate cultural understanding and support from funds.

¹⁴ See *Braz v Host-Plus Pty Ltd* [2023] FCA 1454

¹⁵ <https://www.afca.org.au/about-afca/submissions>

Appendix 1

About AFCA

AFCA is the EDR scheme authorised under the Corporations Act 2001 (Corporations Act) to deal with complaints about all licensed firms in the financial sector including banks and other ADIs, general and life insurers, credit providers, financial advisers and superannuation funds.

The AFCA scheme is overseen by ASIC and is required by legislation to operate in a way that is accessible, independent, fair, accountable, efficient and effective. AFCA resolves complaints that individual or small business consumers make about their financial firms. Our complaint resolution service, provided free to consumers, is an alternative forum to tribunals and courts, and in most cases our decisions are binding on financial firm members, if accepted by the complainant.

Our scheme operates under the AFCA Rules (Rules) which set out the rules and processes that apply to all complaints submitted to AFCA, including superannuation complaints. This includes what complaints we can consider, the procedures we can use to resolve them, remedies we can provide and related matters including our reporting obligations.

When determining non-superannuation complaints, the AFCA decision maker must do what is fair in all the circumstances, and have regard to:

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

This submission sets out how AFCA deals with superannuation related complaints in accordance with the Corporations Act. AFCA also publishes detailed Operational Guidelines which explain in more detail how we will interpret and apply our Rules when considering complaints involving financial firms including through our superannuation jurisdiction.

In addition to providing solutions for individual financial complaints, AFCA has responsibilities to identify, resolve and report on systemic issues and to notify ASIC, and other regulators, of serious contraventions of the law. AFCA works closely with ASIC and regularly liaises with it to share complaint insights, to inform and assist its regulatory work. Further, AFCA's Code Team supports independent committees to monitor compliance with Codes of practice in the Australian financial services industry, and to achieve service standards that people can trust.

More broadly, AFCA plays a key role in restoring trust in the financial services sector. Since its establishment on 1 November 2018, AFCA has handled over 367,000

complaints and delivered over \$1.07 billion in compensation to consumers. Our systemic issues work has resulted in 4.8 million people receiving more than \$340 million.

Appendix 2

Case study 1 – Unreasonable delay in approving the claim

The complainant lodged a complaint with AFCA about delays in the handling of her TPD claim. The complainant had lodged a TPD insurance claim with the trustee of her superannuation fund because of post-traumatic stress disorder (PTSD) relating to procedures she had for leukemia. The leukemia was now in remission.

The complainant was 62 years old at the time of the claim and had worked as a nurse at a hospital prior to stopping work due to her leukemia treatments. The complainant's PTSD was particularly triggered by being around medical professionals.

The complainant's treating doctor had been seeing her regularly and prescribed medication for her symptoms. The complainant had been regularly taking that medication.

The insurer asked the complainant to attend a medico-legal examination with a psychiatrist. The psychiatrist said he believed the complainant would benefit from seeing a psychologist regularly. He also thought that with regular therapy some of her symptoms would improve and she may regain work capacity within six months, but her symptoms were likely to flare up around medical professionals.

The insurer sought to delay the TPD assessment to see if the complainant responded to therapy and asked the complainant to attend another medico-legal examination with a different psychiatrist. The complainant lodged a complaint to AFCA about the delay and said the insurer had sufficient information to approve her TPD claim.

AFCA reviewed the complaint and determined the insurer did in fact have enough material to approve the claim. AFCA noted the relevant test under the TPD policy was whether the complainant was unlikely to ever work again in an occupation for which she was suited, based on her education, training or experience.

AFCA determined that the medico-legal psychiatrist's report supported the complainant's claim. The complainant was unlikely to ever work again in an occupation for which she was suited (based on her education, training or experience), noting she had previously worked as a nurse and her PTSD symptoms would flare up in a hospital environment.

AFCA also noted the complainant was 62 years old and was unlikely to work in other roles, even if she received a short refresher course in administration skills.

AFCA determined the insurer's decision (or failure to make a decision) was unreasonable and set it aside, remitting the claim to the insurer with a direction to approve the TPD claim and pay interest (calculated with reference to s57 of the

Insurance Contracts Act). AFCA also determined the trustee's decision to agree with the insurer was unreasonable, setting aside that decision as well.

Case study 2 – Addressing TPD claim delay

This case concerned delays in the payment of a claim for total and permanent disability (TPD) under cover held through the complainant's superannuation fund. The complainant lodged a TPD claim with the trustee on 24 May 2018, for symptoms relating to multiple sclerosis. The insurer accepted the claim on 29 May 2019 and notified the trustee.

The trustee and the insurer accepted there had been delays in the claim handling. The insurer decided to pay interest to compensate the complainant for the delay period starting on 1 April 2019. This was 10 business days after the insurer received a report from an independent neurologist, which confirmed the complainant satisfied the policy requirements.

The complainant was dissatisfied. She said the insurer and the trustee caused unreasonable delays and should have been able to pay the claim based on the information and medical evidence she provided when she first lodged her benefit claim.

Findings and outcome

The ombudsman found the insurer had caused unreasonable delay by failing to seek further necessary information in a reasonable timeframe. The ombudsman required the insurer to pay further interest from 10 January 2019. The ombudsman also found the trustee's decision to agree with the insurer's payment of interest was not fair and reasonable.

In reaching these conclusions, the ombudsman noted that:

- medical evidence provided with the initial claim was ambiguous and the insurer was, therefore, justified in not initially accepting the claim
- when the insurer sought clarification from the complainant's neurologist, the neurologist advised there would be significant delays
- the insurer took more than two months to approach another independent neurologist to assess the complainant, which delayed the claim
- had the insurer not delayed in seeking the additional medical evidence it required, it would have been able to accept the claim more than two months earlier.

This case shows that insurers should be willing and timely in reconsidering their claims approach if a key piece of information is not forthcoming. Trustees should also be seeking explanations from an insurer if there are any delays during the claim process.