



Banking and Finance Forum

Evelyn Halls, Lead Ombudsman –
Banking and Finance

20 September 2019

Today's agenda

- > Welcome
- > A snapshot on complaint numbers
- > Trends for Banking and Finance complaints
- > AFCA activities update
- > Legacy complaints
- > Fairness Project
 - Fairness in complaint handling
 - Q&A



Complaint Statistics

Alexia Fink, Senior Manager –
Banking and Finance

Ten months at a glance

60,687 complaints received

73% complaints were resolved

69% resolved within 60 days

73% complaints were resolved by agreement or in favour of complainants

Complaints received by top five products*

Product	Total
Credit cards	8,995
Home loans	5,418
Personal loans	4,672
Motor vehicle - comprehensive	3,318
Home building	2,372

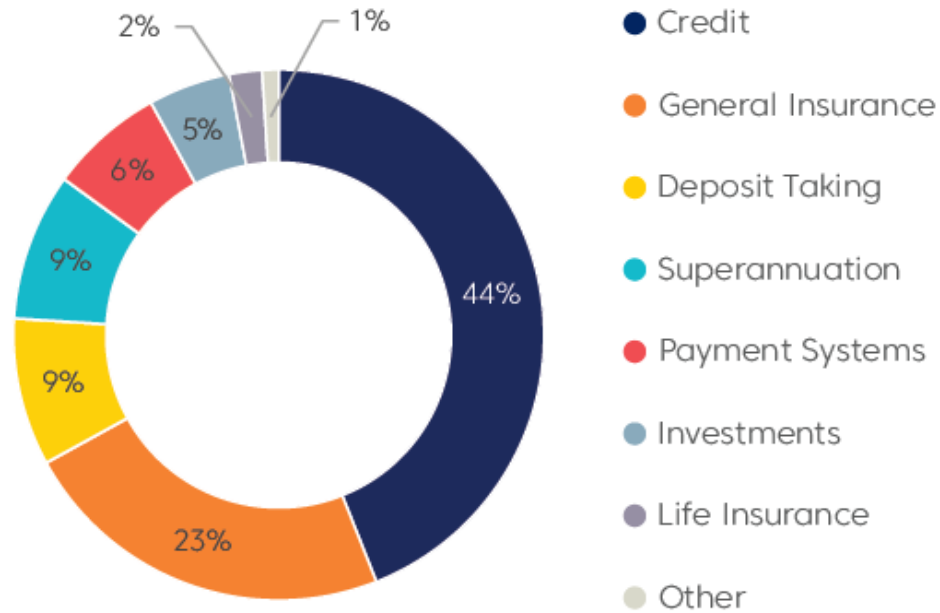
Complaints received by top five issues*

Issue	Total
Credit reporting	4,166
Unauthorised transactions	3,796
Delay in claim handling	3,453
Service quality	3,269
Incorrect fees/ costs	3,215

* One complaint can have multiple products and issues.

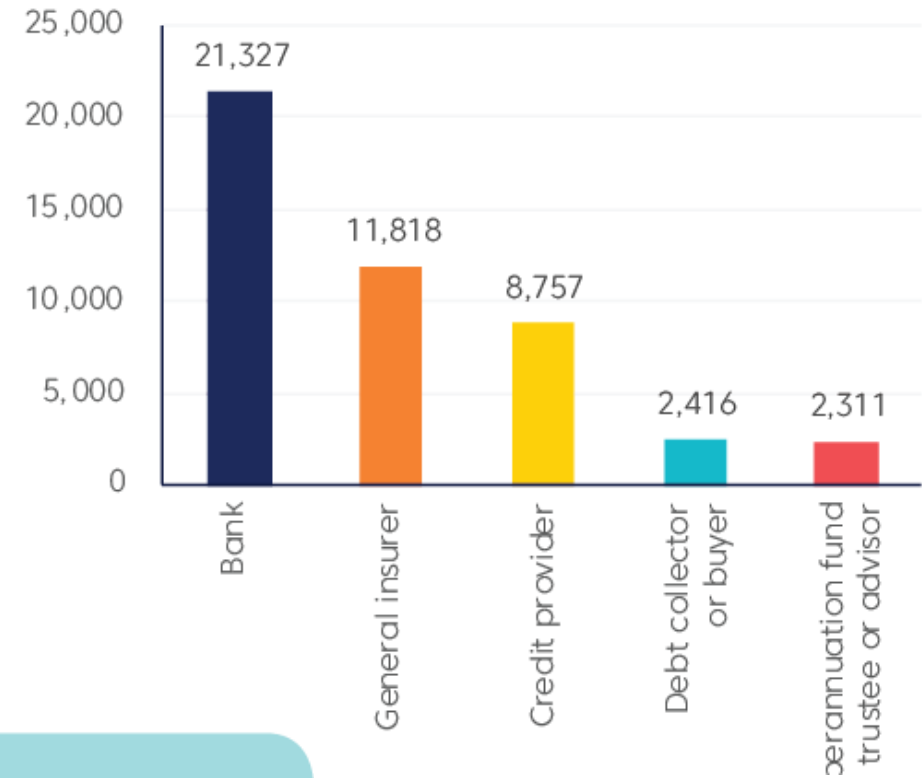
Ten months at a glance

Complaints received by product line²



² One complaint can have multiple product lines.

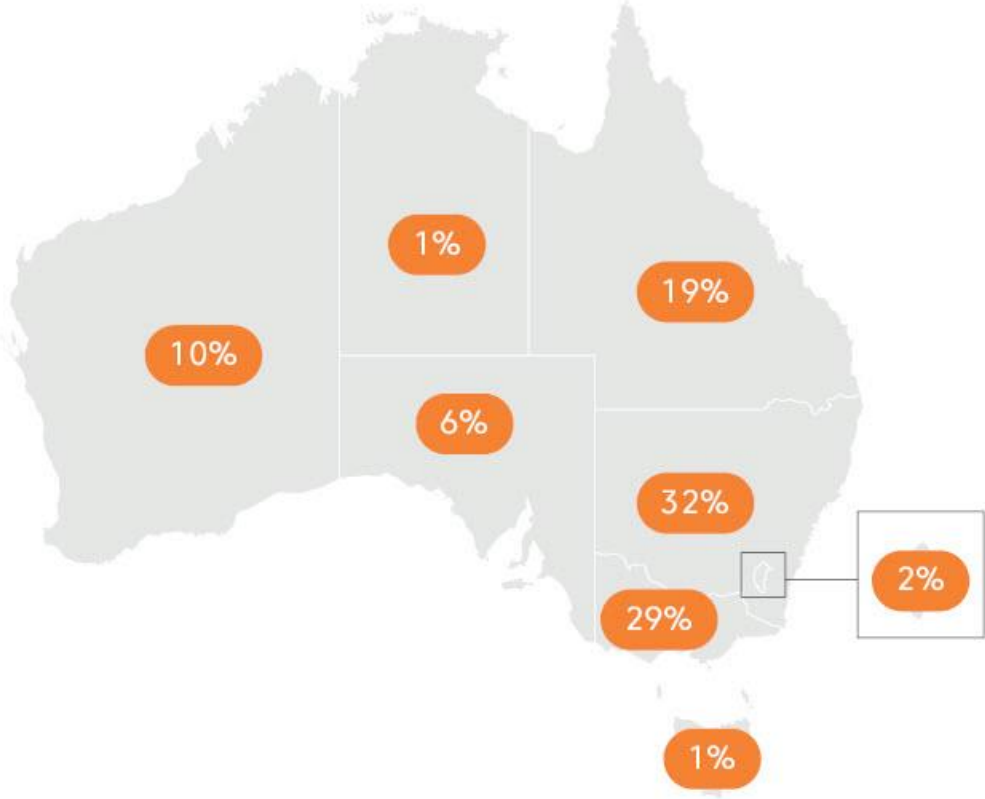
Complaints received by top 5 financial firm types



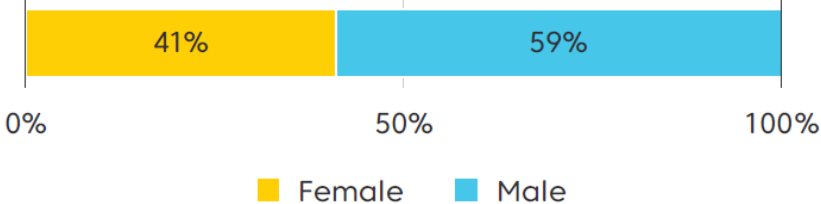
16% of licensee members had a complaint lodged against them in the first 10 months

Who lodged complaints

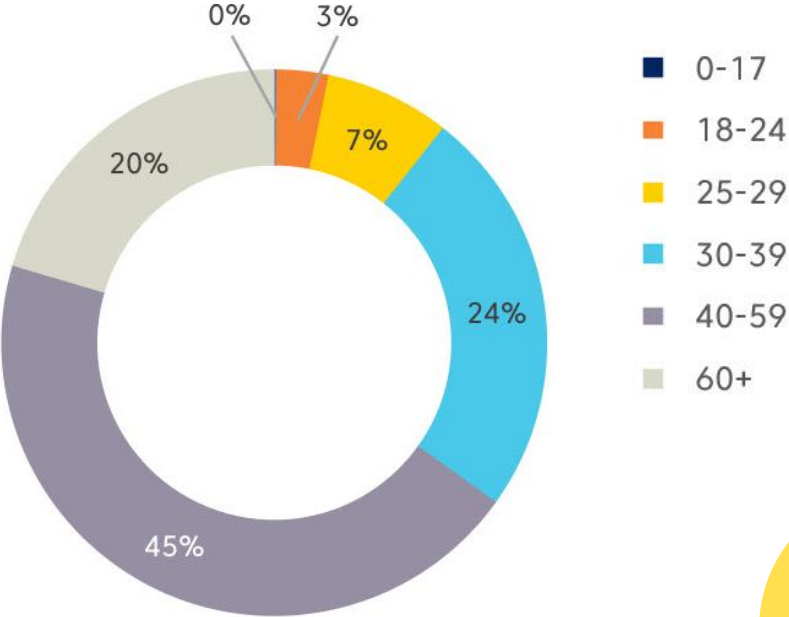
Complaints received by location



Complaints received by gender



Complaints received by age



Banking and finance complaints

36,352 banking and finance complaints received. 60% of all complaints received

63% banking and finance complaints were resolved

79% banking and finance complaints resolved within 60 days

77% complaints were resolved by agreement or in favour of complainants

Top five banking and finance products

Product	Total
Credit Cards	8,995
Home Loans	5,418
Personal Loans	4,672
Personal Transaction Accounts	2,319
Hire purchase/lease	1,559

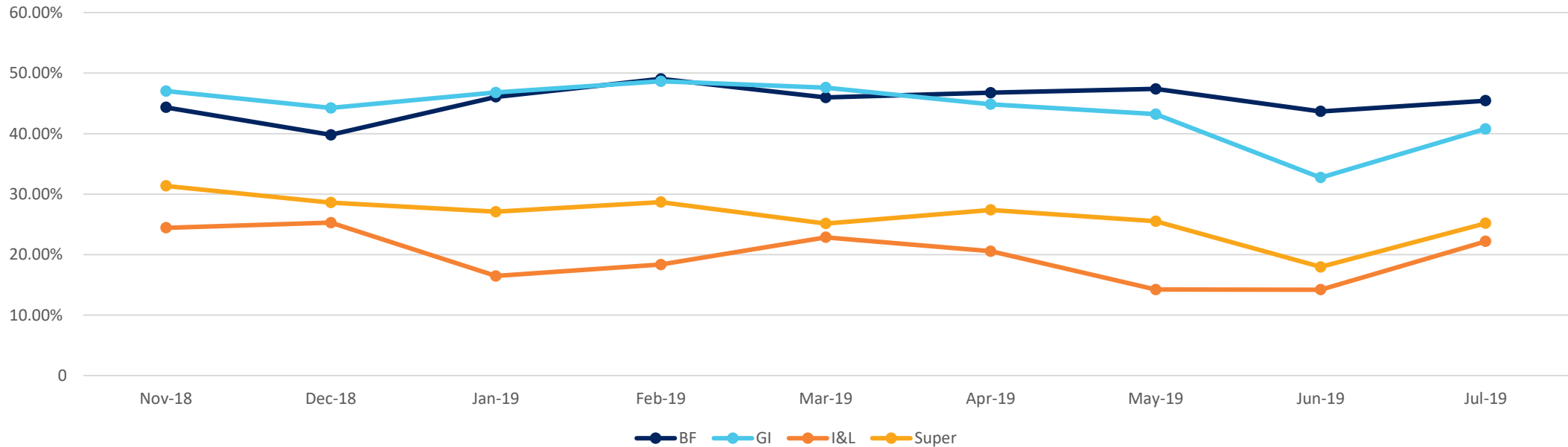
Top five banking and finance issues

Issue	Total
Credit reporting	4,154
Unauthorised transactions	3,683
Responsible lending	2,571
Financial firm failure to respond to request for assistance	2,151
Incorrect fees/ costs	1,986

Areas of concern

- > Growing number of financial difficulty cases
- > Ensuring awareness of AFCA
- > Systemic issues and serious misconduct
- > Members slow to respond to complaints when referred back – timeliness in response to AFCA
- > Members failing to ensure customers know about EDR (only 1 in 5 are informed at IDR about the ombudsman)
- > Firm remediation programs – design, reach, approach

Known closure rate at registration and referral



	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun -19	Jul-19
BF	44.30%	39.80%	46.10%	49.00%	46.00%	46.80%	47.40%	43.70%	45.40%
GI	47.00%	44.20%	46.80%	48.70%	47.60%	44.90%	43.20%	32.70%	40.80%
I&L	24.40%	25.30%	16.50%	18.30%	22.90%	20.60%	14.20%	14.20%	22.20%
Super	31.40%	28.60%	27.10%	28.70%	25.10%	27.40%	25.50%	17.90%	25.20%
Total	42.20%	38.40%	42.00%	44.70%	42.90%	43.10%	41.80%	36.20%	41.20%

Complaints received

Banking and Finance and Financial Difficulty

	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun -19	Jul-19	Aug-19	Total
Banking and Finance	4,030	3,060	3,607	3,629	3,725	3,259	3,665	3,310	4,173	3,894	36,352
Financial Difficulty	614	499	653	659	844	656	742	643	728	747	6,785

- > We see a gradual increase in the number of B&F complaints.
- > We see a gradual increase in the number of FD complaints.

Accepted complaints & non-response rate

Banking and Finance

	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun -19	Jul-19	Aug-19	Total
No response received	242	455	465	335	421	467	373	301	310	395	3,764
Response received	1,433	1,447	1,481	1,381	1,398	1,595	1,493	1,365	1,589	1,633	14,813
Total accepted complaints	1,675	1,902	1,946	1,716	1,819	2,062	1,866	1,666	1,899	2,028	18,577
% of no response	14%	24%	24%	20%	23%	23%	20%	18%	16%	19%	20%

Financial Difficulty

	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun -19	Jul-19	Aug-19	Total
No response received	59	123	91	95	132	125	94	67	86	101	973
Response received	219	251	293	298	353	444	359	335	362	357	3,270
Total accepted complaints	278	374	384	393	485	569	453	402	448	458	4,243
% of no response	21%	33%	24%	24%	27%	22%	21%	17%	19%	22%	23%

Complaints closed by status

Banking and Finance - 1 Nov 18 – 30 Jun 19

Complaints Closed - Status	Number	Percentage
Closed Registration & Referral	16,232	52%
Closed Case Management Level 1	5,382	17%
Closed Rules review	4,746	15%
Closed Case Management Level 2	2,352	7%
Closed Preliminary View	1,470	5%
Closed Decision	964	3%
Closed Before Referral	252	1%
Total	31,377	

> Please note: Overall data is up to 30 June 2019 to reflect the Annual Report 2018-19

Complaints closed by outcome

Banking and Finance - 1 Nov 18 – 30 Jun 19

Outcome	Number	Percentage
Resolved by FF (at Registration and Referral)	16,232	52%
Outside Rules (including Outside Terms of Reference)	4,633	15%
Negotiation	3,274	10%
Discontinued	2,555	8%
Resolved by FF	2,051	7%
Conciliation	721	2%
Decision in Favour of FF	608	2%
Preliminary Assessment in Favour of FF	527	2%
Preliminary Assessment in Favour of complainant	351	1%
Decision in Favour of complainant	301	1%
Assessment	140	0%
Total	31,377	

> Please note: Overall data is up to 30 June 2019 to reflect the Annual Report 2018-19

Complaints closed by stream at CM1 and CM2 status

Banking and Finance - 1 Nov 18 – 30 Jun 19

	FastTrack	Standard	Complex	Total
Closed Case Management Level 1	242	78	97	417
Closed Case Management Level 2		27	38	65
Total	242	105	135	482

> Please note: Overall data is up to 30 June 2019 to reflect the Annual Report 2018-19

AFCA activities update

Alexia Fink, Senior Manager –
Banking and Finance

Public reporting

AFCA is making changes to its public reporting

- > In line with the broader changes arising from the Royal Commission and regulatory changes, including ASIC regulatory guide 165.
- > ASIC has approved changes to the AFCA Rules to allow the scheme to name financial firms in published determinations.

From 2019/2020:

- > AFCA will be naming firms in published decisions.
- > Changes to reporting on definite systemic issues – naming of firms involved
- > Changes to AFCA comparative reporting (requirement under RG237)
 - Complaints received numbers
 - Publish every 6 months
 - Come into effect for our AFCA 18-19 comparative reporting.
 - Published in October 2019

AFCA fees and levies

Funding requirements have been adjusted due to:

- > Significant increase in complaints
- > Significant growth in the organisation
- > Actions required in response to the Royal Commission final report

Key factors:

- > AFCA has grown by more than 250 staff in 8 months
- > AFCA is now operating over 5 sites
- > Complaints currently tracking more than 40% higher than predecessor schemes, with no sign of reducing
- > Superannuation complaints more than double original forecast
- > IT changes, upgrades, recruitment and other support costs

AFCA Financial Fairness Roadshow

77+ Locations across Australia

September – November 2019

- Tasmania
- Victoria
- Canberra
- Regional NSW

February – April 2020

- Sydney
- Queensland
- Western Australia
- South Australia
- Northern Territory



Legacy complaints

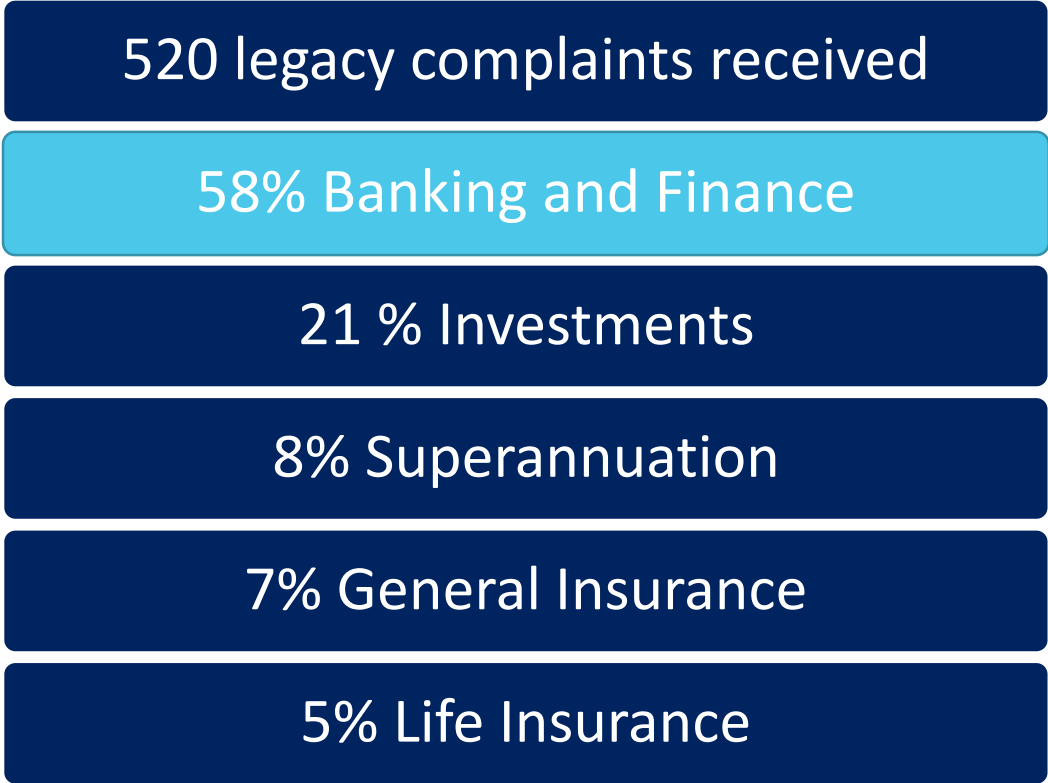
Di Ennis, Executive General Manager
- Resolution

Legacy complaints dating back to 1 January 2008

From 1 July 2019 until 30 June 2020, Australian consumers and small business can lodge complaints that would normally fall outside AFCA's time limits.

- > AFCA will follow our usual process to investigate these complaints which are known as Legacy complaints
- > Process begins with AFCA referring complaints back to financial firms to resolve
- > It is our expectation that firms will engage proactively with their customers to resolve these legacy matters themselves where possible, as part of their commitment to justly remediate the misconduct of the past and meet the community's expectations of fairness
- > Where firms are unable to satisfactorily resolve the complaints, AFCA will start investigating these matters from **1 October 2019**

Legacy complaints at a glance



Top Products	Tops Issues
Consumer Credit (63%)	FF decision (56%)
Business Finance (19%)	Charges (11%)
Deposit Taking (9%)	Financial Difficulty (6%)

Our approach to Legacy complaints

- > AFCA will have regard to the relevant law, codes, industry practice that were in place (and decisions made) at the time of the disputed conduct
- > Approaches to assessing loss will reflect the current AFCA approach
- > We will be constantly reviewing our approaches to provide further guidance to members



What is the same?

AFCA will

- > Apply its Rules in accordance with the Operational Guidelines to assess jurisdiction
- > Apply 912A of the Corporations Act - Require the financial firm to provide information
- > Apply the appropriate decision making test including what is fair in all the circumstances
- > Make a decision based on the weight of information

AFCA may where appropriate

- > Refer a matter to conciliation, provide a preliminary assessment or expedite to determination
- > Require a firm to provide a statutory declaration where material documents are not provided
- > Apply the free decision rebate policy to Legacy complaints

What is different?

- > When a complainant became aware of the loss is not relevant in a Legacy complaint to assess jurisdiction
- > You can request that AFCA reconsider it's classification of the complaint as a Legacy complaint
- > 45 day IDR timeframe for non superannuation complaints whether or not it has been through IDR
- > Legacy complaint costs have a different funding structure;
 - fees will be higher, and
- > Complaints are likely to be complex and relate to matters raised in the Royal Commission
- > All Legacy complaints will be considered as standard or complex

Morning Tea



Focus on fairness – AFCA decision making jurisdiction

Evelyn Halls, Lead Ombudsman – Banking
and Finance

Michelle Kumarich, Senior Manager –
Legal and Remediation



Introduction

- > AFCA's purpose and values
- > AFCA's decision making jurisdiction
- > Fairness project



Our purpose and values

It is inherent in AFCA's purpose and values to provide fair and independent decision making.

Central to this is that all decisions are balanced, considered...

...and fair.



Our decision making jurisdiction

When determining a complaint an AFCA Decision Maker must do what 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

Our decision making jurisdiction

- > Is not new
- > Previous EDR schemes have had a similar jurisdiction
- > We are articulating what we are already doing



What is the fairness project?

Articulation of how AFCA will assess financial firm conduct against existing legal and ethical obligations

Why we are doing it

Clarity

Transparency

Consistency



Fairness standard

Fair dealing

Ensuring that one party does not take unfair advantage of another:

- > in the nature of the bargain struck
- > in the circumstances of entering that financial arrangement

Fair treatment

- > Ensuring that one party is not treated inequitably or in a way that is adverse to their interests

Fair service

Delivering quality, professional financial products and services in a manner that:

- > is fit for purpose
- > meets a consumer's legitimate interests and reasonable expectations

Fair remediation

A prompt and proportionate response when things go wrong

Fairness principles

Play by the rules including:

- > Keep promises made
- > Be open and honest
- > Do not take unfair advantage
- > Be ethical and professional
- > Reasonable care and skill
- > Ensure services are fit for purpose
- > Protect the money of others
- > Provide value and benefit
- > Serve the interests of others
- > Consider consequences and impacts of your actions

Fairness questions

1. Did the parties obey the law?
2. Did the parties make promises or representations they did not meet?
3. Did the parties act honestly, reasonably and in good faith with their dealings with each other?
4. Did one party take unfair advantage of another? Were specific circumstances or vulnerabilities considered?
5. Did the financial firm provide the product or service ethically, with reasonable care and skill and in accordance with industry and professional practice?
6. Did the financial firm meet the consumer's reasonable expectations about the product or service?
7. Did the product or service perform as expected and provide a fair value or benefit?
8. When acting for a consumer, did the financial firm act in the interests of the consumer or group of consumers as a whole?
9. How did the parties treat each other during their relationship or after concerns were raised?
10. What was the impact on the consumer and their experience of the service?

What next?

Starting the conversation

Formal consultation

Updating our approaches



Panel discussion

Case studies: Fairness in decision making



Wrap up and questions

AFCA contact details

- afca.org.au
- info@afca.org.au
- 1800 931 678
- GPO Box 3, Melbourne VIC 3001

AFCA membership contacts

- 1300 56 55 62
- membership@afca.org.au



Australian Financial Complaints Authority



AustralianFinancialComplaintsAuthority



AFCA_org_au

Thank you

