

Insurance in superannuation

This fact sheet provides information on how a complaint about insurance in superannuation should be lodged with AFCA.

For a complaint about insurance in superannuation to be accepted by AFCA, the complaint must first be lodged against the superannuation fund trustee.

There are very limited circumstances where AFCA can consider a superannuation complaint against an insurer only.

It is important that the trustee and the insurer work together

The trustee is the policy holder and key decision maker. The trustee has a duty to review the insurer's decisions, and to pursue the insurer if the trustee disagrees with a decision.

Where the insurer was involved in the underlying decision that gives rise to the complaint, we expect the trustee to engage with the insurer as part of its consideration of the complaint. Both parties should consider the matter with a fresh outlook. We would expect this to occur during both the Internal Dispute Resolution (IDR) and post-IDR refer-back periods.

It is important to note that a separate IDR response time will not be provided to the insurer if it is appropriate to join the insurer after the refer-back period.

What happens when a complaint is initially raised against the wrong entity?

There will be times when the complainant will not understand the relationship between the trustee and the insurer and they will raise their complaint with AFCA against the insurer.

Where AFCA has enough information from the complainant to understand that the complaint is about insurance within superannuation, we will make all efforts through our Registration and Referral process to ensure that the complaint is raised against the appropriate trustee in the first instance.

This may include contacting the complainant or the insurer to understand who the trustee is. If we need to change the financial firm from the insurer to the trustee, we would also explain to the complainant why we are making this change.

What happens when AFCA is unable to identify the correct entity?

When AFCA is unable to correctly identify at the Registration and Referral stage that the complaint has been raised against the wrong entity, it is important that you let us know as soon as possible so that the complaint can progress against the superannuation trustee and the correct IDR or post-IDR refer-back period can be allowed.

We expect the insurer to separately advise the trustee about the complaint as soon as the insurer becomes aware of it.



In what circumstances will AFCA consider joining an insurer to the complaint?

AFCA has statutory powers to join an insurer and any other person responsible for determining the existence and/or the extent of disability to a complaint lodged against a trustee.

AFCA can remedy any unfairness or unreasonableness in the trustee's or insurer's decision.

AFCA can determine that interest is payable by the insurer under the Insurance Contracts Act or by the trustee if there's been an unfair or unreasonable delay.

If a complaint relates only to administration or disclosure, AFCA will proceed with the complaint against the trustee but may join the insurer as necessary.

At what point in the process will AFCA join an insurer to the complaint?

If the trustee is unable to resolve the complaint during the refer-back period the complaint will generally progress to case management.

At case management an assessment will be made whether the insurer should be joined to the complaint. Formal joinder notices will be issued to all parties.

Where a joinder is appropriate, a new case will be opened against the insurer. The new case will be progressed to the same stage in AFCA's complaint management process as the trustee case, and the two cases will run in parallel. The insurer will not be provided with an additional IDR period. However, depending on the circumstances of the case, the insurer may be provided with up to 21 days as part of AFCA's initial information request.

While there will be two separate complaint cases, there will be a single AFCA outcome dealing with both the trustee's and the insurer's decisions.

Collection of information

There may be similarities between the information that we request at case management from a trustee and an insurer. While this may create some duplication, it is important that both entities respond to the information request as there may be differences in the information held.

If a party wishes to rely on information provided by another party, it should identify the information and discuss its position with the case worker.

Minimum AFCA requirement: A letter outlining the information which a party relied on in making their decision. This information would be cross checked against the information received from the other party to the complaint

When would AFCA proceed against the insurer alone?

There are very limited circumstances when AFCA can consider a superannuation complaint against an insurer alone. These are:

- annuity policies or
- policies where premiums are paid from a Retirement Savings Account.

There are also situations where AFCA will consider a complaint against an insurer under our general jurisdiction, even if the policy is held within superannuation. This would generally be where the complaint is outside the time limits for a disability complaint. The superannuation trustee will not be joined to the complaint and monetary limits and other conditions for our general jurisdiction will apply. Complaints about insurance held within an SMSF would also come under AFCA's general jurisdiction.