EDR Response Guide

Financial Difficulty

This guide has been prepared to assist financial firms in preparing a quality external dispute resolution (EDR) response for complaints about financial difficulty. This is a **guide only**.

It is important to note the following:

* All issues raised in a complaint should be addressed. If there are multiple issues, please refer to the additional EDR response templates available or consider addressing them in a separate section, as it is important that all issues are addressed.
* This is your EDR response. As such it is to be sent to both AFCA and the complainant. It is to the benefit of all parties for the complainant to understand the reason for your position.
* AFCA will generally seek more information if a complaint does not resolve at Registration & Referral. AFCA still expects a response to any subsequent requests for information.

This guide may change over the time to reflect any feedback.

To ensure a comprehensive response for financial difficulty complaints, an EDR response should include the sections outlined below.

## Complaint details

|  |  |
| --- | --- |
| Complaint details | |
| Financial firm name |  |
| Financial firm reference |  |
| Complainant name | [consumer or business name] |
| AFCA reference |  |

## Summary of complaint

Details of the credit facility:

|  |  |  |  |
| --- | --- | --- | --- |
| Approved date | Regulated/Unregulated | Purpose of loan | Current status |
|  |  |  |  |

If there are multiple credit facilities in complaint, you may refer to the loans as set out in the Credit Facilities Table which is available here (attaching the table to the EDR response).

Summarise all issues raised by the complainant: [include necessary background information]

If the financial firm has taken steps to attempt to resolve include details: (eg. the financial firm provided a response to the complainant, offering to [ ]. The complainant rejected the offer and said [ ].)

## Financial firm’s position

Outline how you have considered all of the issues raised in a complaint and set out the financial firm’s reasons for its position, noting what information you have considered to reach this view. It is important you consider your obligations and whether you have met them.

In relation to Financial Difficulty complaints, the complainant might have no understanding of the financial firm’s obligations and/or why the financial firm has responded the way it has. In such a case, it might be more appropriate to provide a narrative response outlining what has happened, with reference to any supporting documents, and if the financial firm has acted in accordance with the relevant obligations (eg, the National Consumer Credit Protection Act 2009 (Cth)).

It will assist if you provide a brief history of previous financial difficulty assistance provided to the complainant. It may be easier to do so in the form of a table, like the one below.

The example shows a history of the financial difficulty assistance provided to the complainant:

|  |  |
| --- | --- |
| Date | Action |
| DD Month YYYY | Account went into arrears. |
| DD Month YYYY | Based on SOFP provided and reasons for financial difficulty, a 3 month moratorium from repayments was granted. |

## Jurisdictional issues?

Include the details of any jurisdictional issues the financial firm wishes to raise. Ensure you refer to the AFCA Operational Guidelines and any relevant approach documents.

Full details of the section of the AFCA Rules must be included to ensure that AFCA and the complainant understand the jurisdictional issue(s) being raised.

## Complainant’s position (optional)

[If necessary, outline the complainant’s position on the financial firm’s decision].

## Proposals to resolve the complaint

Set out any action the financial firm is willing to take/accept to resolve the complaint.

[If you require further information before you can offer a resolution, please provide details of what information is required].

## Supporting information

Provide a list of all the supporting information provided. In relation to a complaint about financial difficulty, the following information is usually required:

* a completed Credit Facilities Table for all facilities which the complainant holds with the financial firm
* details of any proposal sent directly to the complainant to resolve the complaint
* loan contracts, guarantees and terms and conditions
* account statements from when the account(s) went into arrears
* contact records from when the account(s) went into arrears
* any demand and default notices sent to the complainant
* any correspondence exchanged with the complainant regarding previous requests for assistance
* any information you relied upon to make your decision about providing assistance, such as a statement of financial position or other documents
* please confirm (if applicable) what stage legal proceedings are up to and provide documents filed with the court.

If other issues are raised, we offer a range of resources in the member resources section of the Secure Services portal. These include other EDR response guides, specific complaint topic guides and the Complaint Information Documentation guide.