

Engagement Charter

Purpose

AFCA's Engagement Charter outlines AFCA's expectations about how people using our service will engage with us and each other during our complaint resolution process. It also describes the service standards others can expect from AFCA.

It is a living document, based on core principles and designed to respond to an ever-changing financial landscape. We may amend and expand on the principles set out in this document from time to time.

AFCA's role

AFCA's purpose is to provide fair, independent and effective solutions for individuals and small businesses who have a complaint about a financial product or service.

AFCA has a specific and important role assisting individuals and small businesses to resolve complaints about financial services and products. We are:

- impartial and independent – we do not advocate for either party or their position.
- fair and focussed on dispute resolution outcomes – if everyone cannot come to an agreement, it is our role to decide an appropriate outcome.

AFCA's vision is to be a world class ombudsman service, by:

- improving practices and minimising complaints
- meeting diverse community needs; and
- being trusted by all.

AFCA's jurisdiction

Our **Rules** set out the complaints we can consider, the procedures we use to resolve complaints and the remedies we provide. Our **Operational Guidelines** and **Transitional Superannuation Guidelines** set out how we interpret and apply our Rules.

We can consider a broad range of financial complaints, including:

- errors in banking transactions and credit listings
- difficulty repaying loans, credit cards and short-term finance
- denial of an insurance claim (such as car, home and contents, pets, travel, income protection and trauma)
- investment and financial advice
- a trustee's decision in relation to the administration of a superannuation account including distribution of a death benefit.

Expectations for engagement

What this Charter covers

AFCA's Engagement Charter explains our promise to users of our service, setting expectations and obligations that apply. This includes:

- **AFCA** – in our capacity as the operator of the scheme.
- **Financial firms** – members of AFCA whose conduct must reflect their license obligations and their role as commercial and professional financial services providers.
- **Legal practitioners and Representatives of parties (including a fee charging representative)** – reflecting their professional obligations and community expectations of their conduct.
- **Individuals and small businesses and their informal representatives such as friends and family** – being voluntary users of our service.

Ensuring a fair process and fair outcome

To ensure a fair outcome is achieved in dispute resolution, all parties must engage in a fair process. This occurs when parties co-operate reasonably and genuinely with a common goal, to bring finality to the complaint.

Parties are expected to engage with each other and AFCA, in a way that is:



Transparent and honest



Respectful and fair



In good faith



Efficient and cooperative

All parties are also expected to comply with AFCA's **Privacy Policy** which can be found on AFCA's website.

What you can expect from us

We live our values. We are fair, independent and impartial. We are honest, respectful and treat parties with dignity. We are transparent and accountable for what we do. We are proactive in our approach with a focus on service. We are accessible to diverse audiences – including those who may need extra help or who are vulnerable.

We demonstrate our values by:

- treating you with courtesy and respect
- being professional and respectful
- listening to you and giving you an opportunity to have your say
- guiding you through the complaints process by explaining the next steps that will be taken and sharing relevant information
- being helpful and keeping things as simple as we can
- doing what is fair for each complaint

- making fair and balanced decisions
- explaining the reasons for our actions
- being timely, efficient and flexible
- valuing feedback.

We will also share information to improve industry practice and minimise disputes (such as publishing guidance on how AFCA approaches certain complaint types, previous decisions made by AFCA and complaint-related statistics).

AFCA commits to abide by these values when working with users of our service, the **Independent Assessor**, other external dispute resolution or ombudsman schemes, and regulatory or government bodies.

When operating the complaint resolution scheme AFCA itself may be involved in proceedings in court. We will adopt the values outlined in this document when engaging in such proceedings.



Expectations for financial firms

Financial firms are bound by the AFCA Constitution to comply with our Rules. If a financial firm's representative (such as their lawyer or debt collector) is not a member of AFCA, we expect financial firms to make their agents aware of (and to comply with) this Charter.

In their engagement with AFCA and complainants, we expect financial firms (and their representatives) to meet their AFCA membership obligations and:

- deal with complaints fairly and promptly, and respond without unnecessary delay

- pay legitimate claims without the need for external dispute resolution, including where there is clear liability and wrongdoing
- provide all information to AFCA relevant to the complaint within set timeframes
- proactively participate in the complaint resolution process
- where appropriate, consider a broad range of possible remedies including providing explanations and apologies
- carry out any settlement reached and implement Determinations promptly
- reasonably co-operate with AFCA.



Expectations for complainants

AFCA provides a free service for people to complain about financial products and services. Complainants may withdraw their AFCA complaint at any time – **See AFCA Rule A.1.4**. However, those who wish to use AFCA do so subject to the Rules and our expectations outlined in this Charter.

A complainant must provide a reasonable basis for their complaint and be willing to provide information at our request to support their position.

AFCA expects complainants to:

- act fairly in lodging a complaint including not lodging complaints that are frivolous or vexatious or without merit
- co-operate with our investigations including providing all information and evidence requested within the set timeframes, if this is available
- actively participate in the complaint resolution process including genuinely considering possible remedies offered by a financial firm
- not contribute to delays in resolving a complaint.

AFCA understands that many people will be unfamiliar with how we operate – individuals and small businesses can work with us effectively by telling us if they:

- have specific communication needs, like the National Relay Service or an interpreter, including Auslan
- would like to authorise someone to help them, such as a friend or family member
- would like us to explain each step of the process
- need more time to provide information.



Expectations for representatives

Both paid and unpaid representatives are bound by this Charter through their participation in any complaint submitted to AFCA.

Representatives are expected to:

- act in the best interests of the complainant and avoid conflicts of interest
- act fairly and professionally towards AFCA and financial firms
- avoid lodging complaints that are frivolous, vexatious or without merit
- support the reasonable negotiation of complaints
- provide all relevant documentation that could reasonably be expected, including confirmation that the complainant is aware the complaint has been lodged at AFCA and authorises the representative to act on their behalf
- co-operate with our investigations including facilitating provision and exchange of information and evidence
- actively participate in the complaint resolution process and avoid unnecessary delays.

AFCA may need to contact a complainant directly for the purposes of satisfying ourselves that the complainant is aware of information relevant to their complaint.

We will not tolerate unreasonable behaviour

AFCA must provide a safe environment for our staff to resolve complaints and to ensure a fair process in the resolution of complaints.

We expect you to treat AFCA staff and one another with courtesy and respect. We will not tolerate conduct that puts our people or parties at risk of physical or mental harm, including behaviour that is:

- threatening
- intimidating
- abusive
- bullying
- discriminatory
- unreasonable.

We also ask that parties communicate with staff through AFCA's formal communication channels and comply with AFCA's confidentiality requirements (**Rule A.11**).

“We are led by our values. We are fair, independent and impartial. We are honest, respectful and treat parties with dignity.”

Meeting the expectations in this Charter

What you can do if we are not meeting the Charter

Where an AFCA staff member behaves inappropriately, it should be reported to the staff member's manager or through our feedback process in the first instance.

If our service has not met your expectations, you can make a service delivery complaint. If you are not happy with AFCA's service complaint team's response, you can refer your concerns to the Independent Assessor, who is appointed by the AFCA Board. (**Rule A.16**)

Further details about our service complaints process can be accessed on **our webpage**.

What we will do if you are not meeting the Charter

Our expectations focus on a fair process to achieve a fair outcome. This means parties must engage genuinely and respectfully with our service and each other to help us to resolve a complaint. We expect parties to engage with our complaint resolution process and do what is requested and required of them to facilitate a timely and fair outcome.

AFCA will use all of the tools available to us under our Rules to ensure that complaints are dealt with efficiently and effectively. If, for example, you fail to provide information when we request it, we may draw an adverse inference. **See AFCA Rule A.9.5.**

We may stop engaging with a party in exceptional circumstances. This includes if a party refuses to engage with our process or displays conduct that is not in accordance with this Charter.

If we think you are not meeting the standards set out in this Charter, we will raise that with you.

Implications for financial firms

Where a financial firm behaves inappropriately, we may take steps in line with our constitution to expel the financial firm or refer such conduct for review by the appropriate body. **See AFCA Rules A.17 and A.18.**

Implications for complainants

Where a complainant behaves inappropriately or fails to provide information (**see AFCA Rules A.8.4b), A.9.5b), B.6.1a), C.2.2d) and C.2.2h)**), we may:

- communicate with them only by phone or in writing
- require the complainant to appoint a representative with whom we can communicate
- continue looking at a complaint subject to further criteria (for example, providing more information)
- close (or otherwise exclude) the complaint
- exclude the complainant from the AFCA scheme for a period of up to 6 months.

Implications for representatives (paid or unpaid)

Where a representative behaves inappropriately, or against the complainant's best interests (**see AFCA Rules A.8.4, B.6.1**), we may:

- communicate with the representative only by phone or in writing
- deal only with the complainant directly, including communicating only with the complainant
- close (or otherwise exclude) the complaint
- exclude a Paid Representative from the AFCA scheme for a period of up to 12 months.

If the representative is also a member of AFCA, AFCA's membership obligations also apply.

If you have any queries about this Charter, please raise it with your complaint handler.

Contact us

Australian Financial
Complaints Authority

1800 931 678 (Free call)

(9am to 5pm from Monday to Friday)

(03) 9613 6399 (Fax)

info@afca.org.au (Email)

afca.org.au/complaints (Complaint form)

GPO Box 3 Melbourne VIC 3001

www.afca.org.au