



Member forum

General insurance

17 March 2023

Presenters:

- **Emma Curtis** – Lead Ombudsman
- **Chris Lamos** – Senior Ombudsman

Today's session includes



What the data tells us



**Fraud complaints
– our approach**



Information to provide



The AFCA process

General insurance complaints (1 Jan to 31 Dec 2022)



Complaints received

23,934 complaints received
Up 52% from last year

46% resolved at Registration and Referral stage
Up 5% from last year

Complaints closed

20,787 complaints closed
Up 27% from last year

Average time to close a complaint:
76 days
Down 13% from last year

Top five general insurance complaints received by product ¹

Product	Total
Home building	8,799
Motor vehicle – comprehensive	6,879
Consumer credit insurance	1,590
Home contents	1,477
Travel	1,064

Top five general insurance complaints received by issue ¹

Issue	Total
Delay in claim handling	7,114
Claim amount	4,658
Denial of claim – exclusion/ condition	4,165
Denial of claim	2,343
Service quality	1,899

Stage at which general insurance complaints closed

Stage	Total
At registration	9,509
At case management	5,367
Rules review	1,780
Preliminary assessment	1,805
Decision	2,326

Average time taken to close general insurance complaints

Time	Total
Closed 0-30 days	4,751
Closed 31-60 days	6,704
Closed 61-180 days	7,311
Closed 181-365 days	1,748
Closed more than 365 days	273

¹One complaint can have multiple products/ issues

Fraud complaints

> **Presenter** – Chris Liamos

Fraud complaints



- > Complainant needs to establish a claim covered by the policy
- > Onus then shifts to the insurer to establish fraud
- > Fraud is a serious allegation
 - Standard of proof is balance of probabilities
 - Briginshaw sets out how that standard works in context of serious allegations
 - *Clear and cogent evidence required*

Typically need evidence of:

- > Character
- > Credibility
- > Motive
- > Opportunity
- > Expert evidence (where relevant)

Fraud complaints – approach



- > Start from position that people are generally honest
- > Balance their evidence with the rest of the information
- > The evidence should be considered as a whole
- > Various ‘rules of thumb’ in considering witness evidence
- > Fraud is not simply established because false statements have been identified
 - False statement is knowingly made in connection with a claim for the purpose of inducing the insurer to meet the claim
 - There must be an intention to deceive for the purpose of obtaining money or some other benefit.

Fraud complaints – Information to provide



- > Transcripts of interviews
- > Contemporaneous notes of conversations with witnesses (where no transcripts available)
- > Police reports (as well as reports from other bodies, such as a fire department)
- > Expert reports (where relevant)
- > Investigator reports
- > Phone and bank records (if relevant)
- > COI and policy

Fraud complaints – Things to keep in mind



- > Interpreters are appropriately offered and used
- > Interviews are conducted fairly
 - Allow support persons
 - Regular breaks should be offered
 - Interviews should not be too long
- > Best evidence should be provided
- > False statements do not necessarily prove fraud
- > Memory is fallible
- > Provide reasons for requesting information
- > Acknowledge and respect cultural issues and vulnerable consumers

Fraud complaints – Considering the complaint



- > Matters are expedited to Determination
 - AFCA does not generally conciliate, negotiate or provide PAs
 - Given the seriousness of allegation, these methods are generally unsuccessful
- > Includes matters where fraud is not alleged but complainant's credibility is clearly in question
- > All information being relied upon must be exchanged unless special circumstances allowed
 - Special circumstances rarely given as it could be substantially unfair
 - Would only be given if AFCA is satisfied complainant has a way of addressing the substantive evidence it contains

Thank you