

AFCA Approach Consultation Superannuation jurisdiction

Consultation Paper

1. Approach to sections 29(6) and 29(7) of the Insurance Contracts Act 1984 (Superannuation) (New)
2. Approach to delayed insurance claims in superannuation (Updated)

August 2024

This consultation paper seeks feedback from relevant stakeholders and interested members of the Australian community. The consultation paper covers:

- AFCA's Approach to sections 29(6) and 29(7) of the Insurance Contracts Act 1984 (Superannuation), which applies to complaints we receive about life insurance claims in our superannuation jurisdiction that involve consideration of the availability and application of the remedies available to an insurer under sections 29(6) and 29(7) of the Insurance Contracts Act 1984; and
- minor amendments to AFCA's existing Approach to delayed insurance claims in our superannuation jurisdiction.

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1. Background

About AFCA

The Australian Financial Complaints Authority (AFCA) is a free, fair and independent dispute resolution scheme. We consider complaints about financial products and services. AFCA's service is an alternative to tribunals and courts to resolve complaints consumers and small businesses have with their financial firms.

About AFCA's Approach Documents

AFCA Approach Documents help consumers and financial firms to better understand how we reach decisions about key issues. These documents explain the way AFCA approaches common issues and complaint types. They give the parties to a complaint real insight into what they can expect during our process and the types of submissions they should make in support of their case.

However, it is important to understand each complaint that comes to us is unique, so the information in an Approach Document is a guide only. No determination (decision) can be seen as a precedent for future cases, and no AFCA Approach Document can cover everything you might want to know about a key issue.

About this consultation

We invite stakeholder feedback on two AFCA Approaches dealing with common life-insurance related complaints in AFCA's superannuation jurisdiction. This is set out in Part 3 of this consultation paper.

2. The consultation process

About the consultation

AFCA is seeking feedback about the draft Approach Documents through a public consultation process. The draft Approaches are in Appendix 1 of this document and on our [consultation webpage](#).

The Approaches are currently in draft form. AFCA will consider feedback from all stakeholders before they are finalised.

The public consultation process will run from **Monday 9 September 2024** until **Monday 30 September 2024**.

Our final updated Approaches will be published on the AFCA website. We will also publish a Feedback report to inform stakeholders of the outcomes of our consultation process.

How to make a submission

We invite you to comment on the key consultation questions in this paper and any other issues you wish to raise. Your feedback will help us to decide on the final content.

Our consultation process is designed to be flexible and accessible. AFCA invites stakeholders to provide feedback or make a submission through one of the following channels:

- **email general questions and comments** to us at consultation@afca.org.au
- **send us a written submission** by emailing it to consultation@afca.org.au
- **post/mail a written submission** to:

Lead Ombudsman - Superannuation
Australian Financial Complaints Authority
GPO Box 3
Melbourne VIC 3001

Please provide your feedback by **30 September 2024**. AFCA will consider and respond to consultation submissions and feedback after the consultation period has closed.

How we handle personal information

Submissions will be published on the AFCA website at the end of the consultation period. We will:

- include your name or organisation on the published version of the submission unless you ask for the submission to not be published or to be de-identified.
- not publish personal information (e.g. phone number, email or postal address).

If you would like your submission to be **de-identified** or you do not want your submission to be published on AFCA's website, please let us know.

By making a submission:

- you consent to AFCA handling your personal information. Any personal information obtained through the consultation process may be used for the purpose of analysis or to contact you if we require further information.
- you acknowledge you understand your submission may also be used for the secondary purpose of considering the submission in future consultations.

Please refer to our privacy policy at www.afca.org.au/about-afca/policies/privacy-policy for more information about how we handle personal information.

What will happen next

Stage	Date	Milestone
Stage 1	9 September 2024	AFCA consultation paper released
Stage 2	30 September 2024	AFCA consultation period ends – comments due
Stage 3	October 2024	AFCA to consider and respond to consultation feedback and submissions
Stage 5	November 2024	AFCA publishes updated final Approaches

Table 1: Expected consultation timeline

3. The proposed Approach and consultation questions

Below we set out some background and some specific questions about our draft Approaches. We also welcome your general feedback about changes that could be made to these Approaches to better achieve our objectives.

3.1 Approach to sections 29(6) and 29(7) of the Insurance Contracts Act 1984 (Superannuation)

AFCA has extensive experience dealing with complaints about life insurance within superannuation. We deal with these complaints in a consistent way.

To support transparency and efficiency for consumers and financial firms, we have prepared this Approach which explains how AFCA deals with complaints that involve the application of sections 29(6) and 29(7) of the *Insurance Contracts Act 1984* (the Act). These sections provide remedies to insurers where there have been certain misrepresentations or a failure to comply with the duty of disclosure by an insured fund member.

This Approach is intended to reflect the way in which AFCA has consistently addressed these issues in its published determinations and does not represent any change to AFCA's views. We seek the following feedback:

1. Are there aspects of the Approach that could be further improved or clarified? Please provide examples if available.
2. Are there any unintended consequences that you envisage may result from the Approach?
3. Do you have any suggestions for how AFCA could amend the Approach to better achieve the objectives of the Approach?

3.2 Approach to delayed insurance claims in superannuation

AFCA has made minor clarifying updates to our existing Approach to delayed insurance claims in superannuation (tracked in the document). These updates are not intended to reflect any change to the substance of AFCA's existing Approach.

We invite stakeholders to provide any feedback on the updated draft Approach.

4. Attachments

Appendix 1 – Approach documents

- [AFCA's new draft Approach to sections 29\(6\) and 29\(7\) of the Insurance Contracts Act 1984](#)
- [AFCA's amended draft Approach to delayed insurance claims in superannuation](#)