EDR Response Guide

Fraud

This guide has been prepared to assist financial firms in preparing a quality external dispute resolution (EDR) response for complaints about fraud. 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 fraud complaints, an EDR response should include the sections outlined below.

## Complaint summary

|  |
| --- |
| Complaint details |
| Financial firm name |  |
| Financial firm reference |  |
| Complainant name |  |
| AFCA reference |  |

## Policy Summary

|  |
| --- |
| Policy Details |
| Insured |  |
| Policy number |  |
| Policy type |  |
| Insured property |  |
| Excess  |  |

## Complainant’s position

[Outline the financial firm’s understanding of the complainant’s position.

Include necessary background information including (but not limited to):

* claim amount
* any payments made to the insured.]

## Financial firm’s position

[Briefly outline the financial firm’s position in relation to each of the complainant’s issues].

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 reasons for position

Outline how you have considered all of the issues raised in the 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 all fraud complaints, the financial firm should establish and provide details of the following:

**[Motive to commit fraud**

Explain any reasons the financial firm is of the view that the complainant(s) had a clear motive to make a fraudulent claim.

**Opportunity to commit fraud**

Outline any facts which the financial firm says show the complainant(s) had opportunity to make the fraudulent claim.

**Character and credibility issues with the complainant**

Identify any credibility and character issues with the complainant(s) identified during the investigation.

**Forensic opinion (where appropriate)**

Outline the key forensic/expert findings relevant to the claim, particularly those that contradict any statements made by the complainant(s).]

AFCA will consider any fraud allegation on the basis of the Briginshaw test where *“reasonable satisfaction” should not be produced by inexact proofs, indefinite testimony, or indirect inferences.”*

[If the financial firm seeks to rely on Special Circumstances in relation to certain evidence, it must outline (to AFCA only):

* why Special Circumstances should apply
* how the information be given to the complainant so the complainant has the opportunity to respond.]

## 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.

## 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

To support your position and reasoning for declining the claim, the following information is usually required:

* denial letter
* IDR response
* the certificate of insurance for the relevant policy period
* the product disclosure statement
* any claim form and supporting documentation
* a chronology of events, from when the financial firm became aware of the claim, to now
* interview recordings & transcripts
* witness statements
* investigator’s contemporaneous interview statements or notes
* police report
* forensic report
* detailed financial statements (such as bank & credit card statements)
* phone records
* insurance reference check
* criminal history report
* any correspondence and system notes detailing all communication the financial firm has had with the complainant in relation to the claim
* any quotes, scope of works, details of cash settlements and/or assessor’s reports, if applicable
* if the financial firm or its investigator has sought information such as a police report or an interview with a witness but was unable to obtain the information, please outline what steps were taken in pursuit of the information and what response was received so it can be considered by the Ombudsman.

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.