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COMPENSATION LAWYERS



A guide to the complaints process with the Australian Financial Complaints Authority (AFCA)

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The Australian Financial Complaints Authority (AFCA) is an independent dispute resolution service that assists consumers and small businesses in resolving complaints related to financial products and services. If you have a dispute with a company that provides financial services (“financial firm”) and are unable to resolve it directly, lodging a complaint with AFCA can be a viable option.

What complaints can AFCA deal with?

Before you proceed to lodge any complaint with AFCA, ensure that the issue comes within its jurisdiction. AFCA handles complaints related to the following:

Banking and finance - e.g., loans, credit cards, and accounts;

Insurance - e.g., health insurance and other general insurance;

Investments and financial advice;

Superannuation - disputes regarding TPD and/or income protection policies and death benefits (like insurance) attached to your super fund;

Other financial services.

Internal dispute resolution must be undertaken before complaints are made to AFCA

One of the more important things to be aware of is that prior to making a complaint to AFCA, you must first attempt to resolve the issue directly with the financial firm. This is a very strict pre-requisite to lodging an application with AFCA.

Contact the relevant entity's Internal Dispute Resolution ("IDR") team and provide them with a reasonable opportunity to address your concerns. Ensure that you keep records of **all** communications, including emails, letters, and notes of what you might discuss during any phone calls with the IDR representatives. This is important as, should you pursue a complaint through AFCA, they are usually interested in noting how each party to any dispute has acted during the IDR stage.

Supporting documentation required for an AFCA complaint

You need to carefully consider what you will need to supply AFCA to support your complaint.

You will need to gather all relevant documents, such as:

Contracts or agreements;

Correspondence with the financial firm;

Bank statements or transaction records (if relevant);

Policy documents (for insurance complaints);

Medical reports and medical records (in the case of disability insurance claims through super, like TPD and income protection);

Copies of all relevant correspondence which you have had with the financial firm regarding the issue(s) in dispute;

Any evidence that might substantiate your complaint.

Particularly in relation to complaints about super funds (e.g. disputes related to TPD claims, income protection claims, death benefit claims), obtaining legal advice regarding what type of additional medical or other evidence you should obtain in support of your AFCA complaint is well advised.

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Lodging a complaint with AFCA

Once you have gathered all your supporting evidence, you need to complete and lodge the AFCA application.

You can do that in one of the following ways.

Online via the AFCA website

The easiest way to lodge a complaint is through the online complaint form available on the AFCA website here.

The form will guide you through the process, prompting you to provide details about your complaint, the financial firm involved, and the outcome you are seeking.

Phone or email

If you prefer not to use the online form, you can call or email AFCA to lodge your complaint.

Phone: 1800 931 678

Email: info@afca.org.au

By post

If you wish to submit your complaint by post, send it to:

Australian Financial Complaints Authority

GPO Box 3

Melbourne VIC 3001

When lodging your complaint (particularly if you are not using the online portal), ensure you include:

Your contact details;

The name of the financial firm involved;

A clear description of the issue;

The steps you've taken to resolve the issue directly with the firm through IDR;

The outcome you are seeking - e.g., a refund, compensation (for example, payment of the income protection benefits you had applied for but were denied by the insurer), or other corrective action;

Copies of relevant documents.

Once you have lodged your application, AFCA will acknowledge receipt and provide you with a reference number. They will then assess your complaint to determine if it falls within their jurisdiction and if it is eligible for further investigation. This process typically takes a few weeks.

If your complaint is accepted, AFCA will work with both parties to facilitate a resolution. This may involve:

Mediation: AFCA may mediate between you and the financial firm to reach a mutually acceptable outcome.

Investigation: If mediation is unsuccessful, AFCA will investigate the complaint and make a decision based on the evidence provided.

AFCA's decision is binding on the financial firm if you accept it. However, you are not obligated to accept the decision and can pursue other avenues if you are dissatisfied. You should seek legal advice if you are not satisfied with the outcome of your AFCA complaint.

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Throughout the process, stay in contact with AFCA and provide any additional information that they may request of you. This is very important, as it is your complaint, and if AFCA need further information and/or documentation from you and you fail to do so, then the likelihood is that you will be unsuccessful with your complaint.

How long does the AFCA complaints process take?

AFCA aims to resolve complaints as quickly as possible, but the timeframe can vary depending on the complexity of the issue. Simple complaints may be resolved within weeks, while more complex cases can take several months.

Some complaints are quite involved and complex in nature. For example, most TPD and/or income protection claims can involve difficult medical concepts and involved calculations of outstanding benefits, including interest claims.

Need help with your AFCA complaint?

AFCA is a structured and accessible process designed to be relatively quick and informal (when compared to going to court). AFCA was set up to provide fairness and accountability in the financial services industry, and many types of disputes are better referred to AFCA rather than proceeding with court action, which can take a lot longer and be more costly.

It is important to reiterate that AFCA determinations are binding on the financial firm, but not the individual complainant, who can proceed with a court case should they not be satisfied with the AFCA decision.

If you are in any way unsure about how to proceed with your AFCA complaint, then get some legal help from a lawyer experienced in the area.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.