

RESOLUTION OF DISPUTES WITH
FINANCIAL SERVICE PROVIDERS
WITHIN THE JUSTICE SYSTEM

ANZ SUBMISSION

March 2019

SUBMISSION

1. ANZ appreciates the opportunity to make a submission to the Legal and Constitutional Affairs References Committee inquiry into Resolution of disputes with financial service providers within the justice system.

Introduction

2. This short submission is intended to provide information about ANZ's particular approach to resolving complex or difficult customer disputes and the matters raised to the Inquiry. It is intended to complement the more detailed submission by the Australian Banking Association that describes in more detail the framework of dispute resolution and recent reforms.
3. We wish to inform the Committee that ANZ as a matter of practice waives confidentiality agreements with customers who may choose to appear as witnesses before the Committee. This is a practice we have adopted to facilitate the work of like-inquiries by the Parliament.
4. All submissions to the Inquiry by any current or former ANZ customers that the bank has unfairly treated them in the manner in which it managed their dispute will be immediately referred to our Customer Advocate for examination and any further action which may be necessary.

Support for AFCA accepting legacy complaints

5. CEO Shayne Elliott has written to the CEO of the Australian Financial Complaints Authority (AFCA) to support AFCA's expanded jurisdiction to accept legacy complaints dating back to 1 January 2008. ANZ has appointed a senior executive to lead ANZ's engagement with AFCA in relation to the legacy complaints.
6. ANZ fully supports AFCA conducting this review of legacy cases. We will do all we practically can to assist. We have already written to AFCA offering to provide a standing consent to enable it to immediately consider complaints against ANZ dating back to 1 January 2008 where those complaints would otherwise be outside of jurisdiction because of AFCA's time limits.
7. It is vital for confidence in the Australian financial services system that consumers have access to redress, even if some time has passed since the matter has occurred. On this front we also recognise the important role of financial counsellors and community legal centres to ensure consumers and small businesses can seek assistance to pursue their complaints.
8. At the same time, we acknowledge the extensive work by FOS, and now AFCA, to ensure that the vast majority of complainants can access their services without representation. Unlike the court system, AFCA is accessible and affordable and is not constrained by court process or evidentiary standards. It is able to take into account general standards of fairness in its decisions providing a better consumer experience and outcome.

9. However, AFCA is a young organisation with a greatly increased mandate compared to its predecessor organisations, and with a considerable task of undertaking the review of legacy complaints. As AFCA operates on a 'user pays' basis, with the ability to recover costs from its members, its resources are not directly constrained. However, developing the human skills and organisational capabilities to achieve its objectives will naturally take time.
10. Recognising this, ANZ suggests that an assessment of effectiveness should be undertaken as part of the independent review required, under the AFCA Act, to occur 18 months from the commencement of AFCA's operation.

Dispute resolution and model litigant principles

11. ANZ will publish principles on how we will manage complaints and disputes from individual retail and small business customers. This includes ANZ acting as a model litigant if their dispute ends up in court. We are conscious that when our retail and small business customers have a complaint against us, or we have a dispute with them individually, we have access to more legal resources than they do.
12. The principles (which were referred to in our 2018 annual reporting) are aimed at giving retail and small business customers an understanding of the steps we will take to ensure that we respond to their complaint against us in a respectful and fair way. The principles extend to setting out standards of conduct we will adopt if a matter ultimately involves litigation.
13. ANZ has also made a public commitment to report on how we are fixing our significant failures where those failures have affected many customers, including the nature of the issues and our progress on paying customers back. This will include the remediation projects already underway which were identified by ANZ during the Royal Commission.

Approach to Farm Debt Mediation

14. We are in the process of changing relevant policies to require all distressed farming customers to be offered farm debt mediation earlier than the pre-enforcement stage (as is presently the case under existing farm debt mediation schemes).
15. The farm debt mediation schemes involve an independent mediator being appointed to ensure fairness in the mediation process. Farmers can access support from rural financial counsellors who also attend the mediation.
16. If a customer raises a complaint at the mediation and a resolution of that complaint is agreed, ANZ's practice is to encourage the customer to obtain legal advice prior to signing a settlement agreement. For customers in financial difficulty, ANZ will consider offering financial assistance to assist the customer to pay for the advice.
17. ANZ also supports provisions in the AFCA Rules which enable it to consider a complaint after a farm debt mediation has been conducted and no agreement reached.

Background – ANZ’s approach to customer complaints and disputes

18. When our customers are dissatisfied with our products or services we have multiple channels available to lodge a complaint. We endeavour to resolve matters quickly and fairly.
19. We encourage our frontline employees to resolve complaints on first contact. If this is not possible the complaint can be escalated to the relevant internal dispute resolution (IDR) team. Alternatively, our customers can complain directly to the IDR team. A dedicated specialist will then investigate the complaint and seek to resolve it with the customer. If a customer is not satisfied with the proposed resolution of their complaint, they may escalate their complaint to our Customer Advocate or AFCA.
20. In the year to September 30 2018, we resolved 41% of complaints within the first day of receipt and 85% within 21 days. This was a reduction in performance from 97% within 21 days in 2017 as a result of consistently higher than average complaint volumes received through internal and external dispute resolution processes (increasing 20% and 24% respectively compared to 2017).
21. Themes contributing to this increase include product fees, interest and rewards, transactions and payments and loan assessments. An increase in complaints has been noted since the commencement of the Royal Commission which has undoubtedly encouraged customers to be more proactive in raising concerns, and has provided us with further insight into how we might improve.
22. Wealth complaint volumes decreased by 3% from 2017. Key drivers of complaints included the transition of customers to new ‘My Super’ wealth management products, changes to the Smart Choice Insurance Significant Event Notices, OneCare repricing, and login issues experienced when ANZ Share Investing was transitioned to CMC Markets platform.
23. The Customer Advocate works with customers and ANZ to facilitate fair complaint outcomes and minimise the likelihood of future problems. The Customer Advocate engages with community and consumer groups, providing a valuable communication channel which enables the bank to more effectively respond to emerging issues and community feedback.
24. Retail, small business and wealth customers in Australia can ask the Customer Advocate to review their complaint if they are not satisfied with the outcome of ANZ’s dispute resolution process. This voluntary pathway offers customers a further opportunity to resolve their complaint with us.
25. The Customer Advocate operates autonomously of ANZ business units and reports to the Group Executive, Australia. ANZ is bound by the Customer Advocate’s findings in all cases. In 2018, the majority of the completed reviews undertaken by the Customer Advocate related to disputes about general banking products (e.g. mortgages, savings accounts and credit cards), with a much smaller number relating to insurance, superannuation and investments.

ANZ customer complaint volumes and related information

Customer complaints	2018	2017	2016	2015
Retail and Commercial Australia	54,690	45,596	51,771	47,140
Wealth Australia	19,470	20,139	20,976	21,405
Complaints to external dispute resolution bodies				
Retail and Commercial Australia ¹	3,519	2,839	2,472	2,360
Wealth Australia	501	374	384	345
Customer Advocate completed reviews (Australia)				
General banking product reviews	1,386	1,128	1,294	1,032
Resolved wholly or partially in favour of the customer (%)	50	45	52	58
Insurance, superannuation and investments reviews	418	423	398	401
Resolved wholly or partially in favour of the customer (%)	29	44	49	50
Hardship				
Customer requests for hardship assistance (Australia)	37,313	40,470	49,150	43,385

Footnote: 1. Based on volumes reported by the Financial Ombudsman Service