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**SUBMISSION FOR THE 2021  
REVIEW OF THE AUSTRALIAN  
FINANCIAL COMPLAINTS  
AUTHORITY**

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**Prepared By**

**Nathan Drage**  


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This document has been prepared strictly for submission to the review of the Australian Financial Complaints Authority. This document briefly details my firsthand experiences with the Australian Financial Complaints Authority (AFCA).

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## 1.1 Brief Overview

I am the victim of insurance fraud undertaken by a major insurance company, with the support of a local third party repairer in South Australia. This insurance fraud has been further enabled by the Australian Financial Complaints Authority (AFCA).

On 16 September 2019, I lodged a complaint with the Australian Financial Complaints Authority (AFCA) and after having not accepted the AFCA's Preliminary Assessment, due to its evidently bias nature, the complaint moved to the AFCA making a Determination.

The Australian Financial Complaints Authority's (AFCA) Determination is their final decision and cannot be appealed within the AFCA according to the AFCA.

On 24 April 2020 (at least 7 months later), the AFCA provided their Determination, written by an AFCA Adjudicator. The AFCA's Determination was a departure from their Preliminary Assessment and was discriminatorily in complete favour of the insurance company.

The Australian Financial Complaints Authority's (AFCA) Determination is their final decision and they state it cannot be appealed within the AFCA. The AFCA has demonstrated it cannot be appealed no matter its unfairness, inaccuracy or the legal implications of the Determination. This is evident from my objections to the Determination for which the AFCA has answered with excuses such as: *'the determination is clear and has addressed all relevant issues.'* And *'it cannot be amended or voided on the basis that one party disagrees with the outcome.'*

My objections to the AFCA's Determination and the integrity of their assessment of my case against the major insurance company are on the evidential grounds that the AFCA has clearly acted in a discriminatory and prejudice manner; having made a Determination on assumptions, personal opinions and illogical reasoning, rather than having actually objectively reviewed documentation to make a determination on facts.

Facts have no moral judgement. They state what is. Not what we think of them. Not what we feel. They just are. A determination based on assumptions, personal opinions and illogical reasoning is in no way fair or reasonable.

The actions and behaviour of the Australian Financial Complaints Authority's (AFCA) shows their first and foremost focus is to support the insurance industry. Therefore, showing the Australian Financial Complaints Authority's (AFCA) allegiance is to the insurance industry and not the rule of law, which is neither fair nor lawful.

## 1.2 Discrimination of Factual Evidence

Within the AFCA's Determination, the AFCA claims there is a conflict with the provided evidence. The AFCA therefore, claimed in their opinion that where the information conflicts it is appropriate to give more weight to the contemporaneous information.

The reasons the AFCA provides for giving more weight to contemporaneous information and documentation are unreasonable, illogical, discriminatory, prejudice and defamatory.

The AFCA recognised two additional repairers (Repairer B & C) had visually inspected the motorcycle in question; one for whom the motorcycle manufacturer themselves advocate. Both provided confirmation in writing that the motorcycle in question isn't damaged to the extent the insurance company alleges it to be. However, the AFCA claims contemporaneous information should be preferred because the inspection by Repairer A took place 13 days following the incident.

The AFCA having used the timeframe of less than 14 days to have the bike inspected as an excuse to discriminate against provided evidence from other, more reputable repairers I was eventually able to have my motorcycle taken to, due to the position I was forcibly placed in by the actions of the insurance company's client, is not only unreasonable but unfair behaviour by the AFCA.

The AFCA were aware of the logistical options available to me. And by the AFCA effectively enforcing unreasonable time restraints after the fact, the AFCA have acted in an unreasonable manner and were insensitive to the circumstances forced upon me.

Furthermore, the AFCA should not have discriminated against the more qualified two repairers (Repairer B & C) I was eventually able to have my motorcycle taken to for assessments. Especially when one of those assessments was performed by the motorcycle manufacturer's trained technicians, for whom the motorcycle's manufacturer themselves advocate and confirmed are the people best suited to assist.

Additionally, the motorcycle in question doesn't have a self healing mechanism. Therefore, contradictory to the opinion of the AFCA, time can in no way be used as an excuse to discriminate against evidence that confirms the motorcycle in question isn't damaged to the extent the insurance company alleges it to be; unless the AFCA are wrongfully accusing me of somehow covering up the insurance company's imaginary areas of damage.

It is therefore, evident that the AFCA has taken it upon themselves to impose a time frame limitation just so they are able to selectively discriminate further against evidence. There is no logical reason nor is it fair to impose a time limit on collected evidence.

### **1.3 AFCA Made Defamatory Claims**

The AFCA further put forth their own opinion that the comment made by Repairer B that they have '*... always been able to repair third party at fault bikes, no matter to the market value or repair cost...*,' suggests to the AFCA that the focus of Repairer B was on repairs, rather than statutory obligations for motorcycles meeting the requirement of statutory write-off.

The AFCA's opinion is unsubstantiated as Repairer B hasn't stated what the AFCA claims they're suggesting; which further shows the AFCA's prejudice towards this case and the AFCA's inability to objectively review the facts of supplied materials.

Additionally, the AFCA's insinuation that Repairer B, an authorised dealership of the motorcycle's manufacturer, with manufacturer trained technicians and a trusted member of the Motor Trade Association (MTA), is neglecting their basic duty of care and would knowingly put myself and other road users in danger just for profits, is disgraceful and extremely unprofessional, as it's only the AFCA's own unsubstantiated personal opinion.

Furthermore, the AFCA agreed there is no evidence that the insurance company's Motor Assessor closely inspected the motorcycle; further agreeing that the extent of the Motor Assessor's inspection is unclear. But the AFCA claims the Motor Assessor would have to of at least been generally familiar with the nature and extent of damages because he attended my premises. The AFCA's claim is based only on their own assumption, which is unreasonable, illogical and not that of facts; again showing the AFCA to be working in a discriminatory and prejudiced manner.

## 1.4 AFCA Plays a Number Guessing Game

Due to the AFCA's prejudiced, illogical and unreasonable reasons for favouring the unsubstantiated opinions of insurance company, the AFCA believed it unnecessary to consider cost of repairs to the motorcycle. Therefore, the AFCA attempted to calculate the prior accident value (PAV) of my motorcycle.

Having discriminated against my presented Australian Government suggested mathematical equations (prime cost method) for calculating the depreciated value of assets; the AFCA claimed estimating the prior accident value of a vehicle or motorcycle not to be an exact science. However, the AFCA's claimed prior accident value of my motorcycle is yet further testament to the AFCA's allegiance to the insurance industry and not the rule of law.

It is unclear exactly how the AFCA estimated their claimed prior accident value of my motorcycle, but the AFCA claims the prior accident value of the motorcycle to be an exact even figure, having only stated:

*'Based on all of the available information, I am of the view, that the PAV of the motorcycle, exclusive of accessories, was \$4,500. This amount makes an assumption that the complainant's motorcycle was in above average condition.*

*Further, I am of the view that it is appropriate to allow an amount of \$1,500 for non-standard accessories. I therefore consider the PAV of the motorcycle, including accessories to be \$6,000.'*

With no reasoning provided by the AFCA as to how they can claim to have determined the value of my motorcycle and its non-standard accessories (some tailored to the user) to be an exact even amount and their admittance to assuming what the prior accident condition of my motorcycle to be, it is therefore reasonable to say the AFCA's prior accident value is nothing short of a rough estimation derived from their own personal opinions and assumptions with no sound reasoning as to why.

It is further unclear why exactly the AFCA believed guessing the value of my motorcycle to be a fairer outcome than using a mathematical equation, such as the government recognised and suggested mathematical equation for calculating the depreciated value of assets.

So why does the AFCA consider it fair to discriminate against Australian Government recognised mathematical equations in favour of guesstimated values? This is because in the eyes of the AFCA, it's fair as long as it works in favour of the insurance company at the end.

## 1.5 Process of Review

Although the Australian Financial Complaints Authority has an Independent Assessor, who they claim deals with complaints about the standard of service provided by the AFCA, the Independent Assessor, however, cannot examine the facts of a case, the use of judgment by a decision maker or the outcome of a case.

So exactly how can the AFCA's Independent Assessor independently review complaints about the standard of service provided by the AFCA if they cannot actually examine the facts of a case, the use of judgment by a decision maker or the outcome of a case?

Furthermore, if the AFCA's Independent Assessor cannot actually examine the facts of a case, the use of judgment by a decision maker or the outcome of a case, than would this not result in decisions being made on assumptions and personal opinions, with a disregard to legal principles, applicable industry codes or guidance and good industry practice? The short answer is yes.

The deliberate ignorance of the facts of any case means any opinion provided by the AFCA's Independent Assessor will be one of prejudice and bias.

This is evident from when I escalated my complaint to the AFCA's Independent Assessor, who insinuated that questions I had raised were frivolous, vexatious, rhetorical and not substantive. Additionally, the AFCA wrongfully accused me of raising questions without the "required good faith" in regards to the AFCA's determination. However, as the AFCA's Independent Assessor has stated that they cannot examine the facts of my case against the insurance company, the use of judgment by a decision maker or the outcome of the case, the AFCA's Independent Assessor was therefore in no position to determine whether questions are substantive, frivolous, vexatious or rhetorical as they do not understand the context for which those questions were asked.

The AFCA's Independent Assessor then claimed to be satisfied that the AFCA met its service standards in the handling of my complaint with the insurance company, despite having stated that the Independent Assessor cannot examine the facts of a case, the use of judgment by a decision maker or the outcome of a case.

If this poor level of service standards are what the Australian Financial Complaints Authority are striving to achieve, than they should be congratulated because they've achieved it with flying colours.

## 1.6 Conclusion

The Australian Financial Complaints Authority (AFCA) has clearly misrepresented themselves, having given the false impression they review cases and make decisions based on facts and evidence. It is however evident the Australian Financial Complaints Authority's (AFCA) has made decisions based on assumptions, personal opinions, illogical reasoning and not on the facts of the case.

The actions and behaviour of the Australian Financial Complaints Authority's (AFCA) shows their first and foremost focus is to support the insurance industry. Therefore, showing the Australian Financial

Complaints Authority's (AFCA) allegiance is to the insurance industry and not the rule of law, which is neither fair nor lawful.

Furthermore, is it not a conflict of interest to have people running the AFCA who have invested interests in the financial firms? Considering the AFCA are suppose to independently assist consumers and small businesses to reach agreements with financial firms about how to resolve their complaints.

I suggest that if we are to have a truly independent body, with the aim of providing fair, free and independent dispute resolution for financial complaints, than we need to look at having such a thing ran by individuals who are themselves aiming at a higher good. And the most effective way, in my opinion, is to improve the moral character of those who currently make-up the Australian Financial Complaints Authority (AFCA).