

30 March 2021

[REDACTED]
Director, AFCA Review Secretariat
Financial System Division
The Treasury
Langton Crescent PARKES ACT 2600

Sent by email: AFCAreview@treasury.gov.au

Dear [REDACTED]

TREASURY CONSULTATION: REVIEW OF THE AUSTRALIAN FINANCIAL COMPLAINTS AUTHORITY

The Insurance Council of Australia (Insurance Council)¹ welcomes the opportunity to comment on the performance of the Australian Financial Complaints Authority (AFCA) since its establishment on 1 November 2018².

When combining the Financial Ombudsman Service (FOS), the Credit and Investments Ombudsman (CIO) and the Superannuation Complaints Tribunal (SCT) together to form AFCA, the objective was for AFCA to deliver improved consumer outcomes and enhanced consistency in decision making across the entire Australian financial services sector³. This review provides a timely opportunity to assess whether AFCA is achieving its intended purpose.

We appreciate this review is not looking to make wholesale changes to AFCA, and instead is seeking to conduct a 'health check' to gauge whether AFCA is operating as intended since its establishment. On behalf of our members, we attach our responses to Treasury's specific consultation questions, as well as feedback on some additional matters we consider of importance to the review.

The Insurance Council recognises the positive working relationship it enjoys with AFCA, and the engagement we have had, together with our members, throughout the COVID-19 pandemic. In particular, the Insurance Council recognises its long-standing engagement with

¹ The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent approximately 95 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

September 2020 Australian Prudential Regulation Authority statistics show that the general insurance industry generates gross written premium of \$51.8 billion per year and has total assets of \$136.5 billion. The industry employs approximately 60,000 people and on average pays out about \$171.4 million in claims each working day.

² *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018*.

³ Final Report [Review of the financial system external dispute resolution and complaints framework](#) (April 2017)

██████████, Lead Ombudsman ██████████ at both AFCA and FOS, through many insurance catastrophes, Code reviews and changes to the External Dispute Resolution (EDR) scheme. We wish ██████████ all the best as he transitions to retirement in coming months.

Based on our members' considerable experience using AFCA's services⁴, we have identified areas where AFCA's processes could be strengthened to ensure AFCA can more effectively deliver its statutory objectives – accessibility, independence, fairness, efficiency, effectiveness and accountability.

By way of summary, we recommend that:

1. governance and operating mechanisms be introduced so AFCA actively manages its growth and performance.
2. there be clear and transparent performance and accountability measures for the timely handling of complaints by AFCA.
3. AFCA have sufficient and appropriately skilled resources to meet its key performance and accountability measures for timely complaints handling.
4. the process for information gathering and early identification of the issues in dispute at AFCA be revised to enhance efficiency, impartiality and procedural fairness.
5. the regulatory framework be strengthened so AFCA has appropriate regard for the law and the customer contract, including the terms and conditions of the customer's general insurance policy when applying 'fairness in all the circumstances'.
6. the reasons for AFCA decisions be clearly set out and there be clear and transparent guidance as to AFCA's methodology and approach for awarding a customer compensation for non-financial loss.
7. when an AFCA decision or approach (including for a systemic issue) has the potential to impact the broader general insurance industry, before AFCA delivers its final determination, that AFCA consult with the Insurance Council and impacted general insurers for their views, including inviting an industry submission.
8. the appropriateness of AFCA's \$16,300 monetary jurisdiction for uninsured motor vehicle claims be re-evaluated.
9. a formal AFCA internal review mechanism be available to general insurers, that can consider consistency of decision making, including the application of AFCA's fairness principles as they apply to both the consumer and to the insurer, correct factual errors, and review the merits of the determination across a range of AFCA decisions (e.g. about remit, systemic issues and decisions impacting the broader general insurance industry).

The Insurance Council and its members welcome the opportunity to further discuss the views expressed in this submission.

⁴ AFCA, [Two Year Report](#) (1 November 2018 – 31 October 2020), page 4

If you have any questions about this submission, please feel free to contact [REDACTED]

Yours sincerely



Andrew Hall
Executive Director and CEO

RESPONSES TO TREASURY'S QUESTIONS

Delivering against statutory objectives

Q1 Is AFCA meeting its statutory objective of resolving complaints in a way that is fair, efficient, timely and independent?

- 1 By way of general context for our feedback, our members have observed that in transitioning from FOS, AFCA has grown very quickly in a short timeframe. This appears to be impacting on AFCA's delivery of its statutory objectives.
- 2 Areas of concern identified by our members include:
 - (a) new staff with limited general insurance industry experience;
 - (b) loss of FOS' quality review process before a matter reaches Ombudsman determination;
 - (c) loss of established FOS communication and engagement protocols with general insurers that previously assisted with resolving matters quickly.
- 3 We encourage Treasury to consider whether improved governance and operating mechanisms could assist AFCA in managing its growth and improving its performance across the areas we identify below. We welcome the opportunity for further discussion with Treasury about how these mechanisms could be most appropriately designed.

Recommendation 1: That governance and operating mechanisms be introduced so AFCA actively manages its growth and performance.

Accountability for timeliness

- 4 Our members have a keen interest in the time AFCA takes to resolve complaints and are particularly concerned about the impact of delays in this process on customers. We suggest that all dispute resolution processes should be focused on delivering positive customer outcomes, with time and effort kept to a minimum and any barriers that slow resolutions removed.
- 5 While AFCA publicly reports that during its first two years, it took on average 75 days to close general insurance complaints⁵, some of our members have examples of substantially longer timeframes to resolve general insurance complaints.
- 6 For example, some relatively simple matters involving home contents and motor insurance can take more than double the average resolution period reported by AFCA, and in some cases can take up to a year or more to resolve. These delays may impact on, and exacerbate, customers' emotional stress, inconvenience and potentially vulnerability.
- 7 From the customer's perspective, the AFCA process is part of the end-to-end customer journey and may also impact on their overall experience with a general insurer. However, as the AFCA process is outside the control of general insurers they are unable to actively manage their customer's expectations. Limitations of the AFCA process can result in significant delays and lack of customer engagement. These further delays in reaching an outcome will contribute to customer dissatisfaction and loss of confidence and trust in the general insurance industry.

⁵ AFCA, [Two Year Report](#) (1 November 2018 – 31 October 2020), page 10

- 8 Delays in AFCA's resolution of complaints also impact on general insurers, including:
 - (a) increased compensation awards for non-financial loss and/or interest payments that a general insurer is required to pay to the customer; and
 - (b) increases in associated costs, for example the costs of continuing to provide a hire car or temporary accommodation to the customer while the complaint remains in-progress at AFCA.
- 9 AFCA is not required to meet specified timeframes as part of their complaint resolution process, unlike insurers⁶, although we note AFCA has published indicative timeframes⁷. Our members suggest that AFCA should be accountable for meeting clear and transparent maximum resolution timeframes and these should form part of AFCA's key performance measures. Reporting against these measures should also be transparent so it is clear what the cause or source of any delay is in the resolution process. This would better underpin AFCA's statutory objectives, particularly timeliness and efficiency, and drive certainty and improved outcomes for customers.
- 10 We welcome further discussion with Treasury about how AFCA's key performance measures for timeliness could be most appropriately designed.

Recommendation 2: That there be clear and transparent performance and accountability measures for the timely handling of complaints by AFCA.

Recommendation 3: That AFCA have sufficient and appropriately skilled resources to meet its key performance and accountability measures for timely complaints handling.

Efficient, impartial and procedurally fair AFCA processes

- 11 In our members' experience, the manner in which AFCA gathers information in the early stages of complaints handling may be contributing to delays in the resolution of customer complaints by AFCA.
- 12 AFCA often requests documentation simultaneously from both parties – the complainant and insurer, creating inefficiencies where documentation is collected that might be irrelevant to the complaint. This is unlike the process used by FOS whereby insurers would respond directly to the issues in dispute.
- 13 Although our members received initial letters from AFCA outlining AFCA's understanding of the complaint, the process for providing the insurer with an opportunity to make submissions or clarify the position is inconsistent. This is also unlike the previous FOS process where this opportunity was provided and members could forward relevant supporting information and documentation.
- 14 Our members are finding the information gathering process inefficient as some AFCA case managers request all possible documents and information that may be available, even when that information might go well beyond what is relevant and therefore needed to effectively and expeditiously consider all the issues in dispute. Such broad

⁶ As part of a condition of their ASIC licence, general insurers are subject to strict timeliness requirements. That is, a maximum 45 days for handling a complaint at internal dispute resolution (ASIC Regulatory Guide 165: [Licensing: Internal and external dispute resolution](#)), which will reduce to a maximum 30 days from 5 October 2021 (ASIC Regulatory Guide 271: [Internal dispute resolution](#))

⁷ AFCA, [Annual Review 2019-2020](#), page 16

information requests have impacts on the time and resources it takes for our members to gather and respond to these broad information requests.

- 15 Our members' experience is that this process also often leads to the need for supplementary responses, with a significant increase in supplementary responses as compared to the previous experience with FOS. This further extends the time taken to progress a complaint.
- 16 Members have also noted there can be significant gaps in time when a case is not being actively managed. This may also contribute to situations frequently experienced by our members when AFCA case managers continue to request the same documents and information already provided as part of the insurer's initial response to the complaint.
- 17 Some of our members also find that during this stage of the AFCA process, when they are requested to provide more documents and information, the AFCA case manager may not have had any further contact with the complainant for up to two – three months since initial contact. The AFCA case manager may even be progressing a request for more information, with our member taking the time to respond, even though for example, the complainant is unresponsive, and the complaint is ultimately closed by AFCA because it cannot be progressed further.
- 18 Our members have also encountered situations when a complaint moves to an AFCA Panel or Ombudsman determination without a Preliminary Assessment. This process limits the insurer's opportunity to respond to the relevant issues and/or provide relevant supporting information.
- 19 In relation to procedural fairness, some members have identified an issue relating to requests for extensions of time. There may be times when each party reasonably needs to request an extension to be able to provide important information to AFCA to assist with resolution of the complaint (for example, over a holiday period). It is observed by some members that AFCA case managers might automatically grant customers an extension, while our members' requests for extensions may be denied. Further, consumers are regularly provided with an opportunity to approve or reject a financial firms' request for an extension, whereas a financial firm is not provided with an opportunity to comment on a consumers' request for more time. This is of concern as it leads to a perception of unfairness and potentially impacts the consideration of all the critical information relevant to understanding the factual circumstances and resolving the issues in dispute.
- 20 There may be other occasions when our members are not invited to make a submission on what they consider to be a critical issue in dispute. This is a procedural fairness issue of significance to our members because an inability to make submissions on critical issues relevant to AFCA's consideration of the dispute means our member has lost their opportunity for a fair hearing at AFCA when the AFCA decision is ultimately binding on the financial firm. In the absence of a current mechanism to seek internal review of the AFCA outcome, there is no avenue for our members to seek that AFCA correct their decision if relevant new information comes to light.
- 21 Our members also observe that in the transition to AFCA, the loss of standard FOS communication protocols may also be contributing to inefficiencies. Under FOS protocols, our members might have received a telephone call so the FOS case manager could quickly verify the factual circumstances of the case, or their understanding of the issues in dispute, before a complaint proceeded to a decision. This could prevent errors in AFCA decision-making. Our members would like to see

improved direct communication with them and access to an internal review mechanism to correct factual errors in AFCA decisions.

Recommendation 4: That the process for information gathering and early identification of the issues in dispute at AFCA be revised to enhance efficiency, impartiality and procedural fairness.

AFCA resolution outcomes be substantively fair

- 22 Our members have observed that AFCA determinations inconsistently apply the concept of ‘fairness in all the circumstances’. We suggest that ‘fairness’ in this context should include a balanced consideration of ‘fairness in all the circumstances’ as it applies to both the customer and the insurer, and with due regard for, the law and the contract between the customer and insurer as set out in the terms and conditions of the policy. Our members have experienced outcomes where AFCA determinations effectively override legal precedent or the terms of the contract.
- 23 The Insurance Council has previously noted concerns relating to AFCA not being bound by legal precedent and the uncertainty and challenges this creates⁸. Similarly, overriding the terms of a general insurance policy also creates uncertainty and does not adequately consider the implications for the broader customer base who have accepted the same policy terms. Not only are potential claims impacted as previously highlighted, but the uncertainty and potential for increased claims are factors that insurers consider when pricing their products.
- 24 The Insurance Council and its members suggest there is scope to strengthen the regulatory framework so AFCA is obliged to have regard to legal precedent and the contractual terms, and therefore fairness to all parties when applying ‘fairness in all the circumstances’ in its decision-making. We note AFCA’s Fairness Project had intended to consult on how AFCA would deliver ‘fairness in all the circumstances’ consistently and that as a starting point this work could be resumed (noting it remains on hold due to COVID-19)⁹. Our members keenly await further progress of this project in the hope that it will provide greater certainty as to how AFCA intends to approach and use fairness in its decision-making.
- 25 Other ways in which the AFCA decision-making framework could be strengthened for fairness would be by introducing a process for the Insurance Council and its members to be consulted before AFCA makes a determination that impacts the broader general insurance industry, and by giving our members access to an internal review mechanism for merits review. We discuss these below in more detail at our responses to Treasury questions 1.2 and 3 – 4.

Recommendation 5: That the regulatory framework be strengthened so AFCA has appropriate regard for the law and the customer contract, including the terms and conditions of the customer’s general insurance policy when applying ‘fairness in all the circumstances’.

⁸ Insurance Council, [submission](#) to AFCA’s consultation on proposed AFCA Rules (5 July 2018)

⁹ AFCA, [Fairness Project](#)

Q1.1 Is AFCA's dispute resolution approach and capability producing consistent, predictable and quality outcomes?

26 Our members report some issues, outlined below, that were not as apparent with predecessor scheme FOS. These issues are being experienced across a range of AFCA decisions that relate to AFCA's remit, substantive decision-making, and even when a different Ombudsman makes a decision.

27 We consider that some of these issues could be managed by AFCA introducing governance and operating mechanisms for actively managing its growth (discussed above at our response to Treasury question 1) and an internal review mechanism for merits review (discussed below at our response to Treasury questions 3 – 4).

AFCA remit decisions

28 Our members experience inconsistent and unpredictable AFCA decisions regarding how AFCA interprets its rules for out of remit decisions.

29 When AFCA handles a matter that general insurers believe should not have been handled because it is outside AFCA's remit under its Rules, there is no avenue for our members to challenge AFCA's decision or the associated charges for AFCA's case handling fees.

30 Our members would like to see improved consistency and predictability with these types of decisions, as well as the opportunity to seek a review of such decisions.

Clear articulation of reasoning and reliability of decisions

31 Our members experience inconsistency in AFCA decision-making when a complaint moves from an AFCA Preliminary Assessment to an Ombudsman determination.

32 In our members' experience, an increasing number of AFCA Preliminary Assessments are being overturned by an Ombudsman determination, even when no new information has been considered. This raises questions about the quality of AFCA decision-making at the Preliminary Assessment stage. Having a quality review mechanism could drive down the number of Preliminary Assessments being overturned by Ombudsman determinations. Overturns may involve a change in resolution outcome in favour of the other party (e.g. the insurer), or a change in the amount of compensation awarded by AFCA.

33 Even at the AFCA determination stage, our members are finding they cannot always discern the rationale for the resolution due to the way in which AFCA's determinations are written.

34 Requiring AFCA determinations to clearly set out the rationale for each resolution outcome, would lift the quality of decision making and provide general insurers with clear insights into the considerations AFCA takes into account when arriving at its decision. This will greatly improve consistency and reliability in AFCA decision-making for general insurers. It would also be relevant to introducing an internal review process for merits review because any legitimate grounds for a review would only be able to be discerned from a clear articulation of the reasons for the decision.

35 Setting out AFCA's reasoning would be especially helpful when compensation is awarded as part of the resolution outcome. Under AFCA's Rules, AFCA can award compensation for direct financial loss¹⁰ and AFCA has broad discretion to award

¹⁰ AFCA Rule D.3.1

compensation to a customer for non-financial loss¹¹ taking into account ‘fairness in all the circumstances’.

- 36 Our members report uncertainty and unpredictability as to the basis and quantum for AFCA awarding contingency fees for cash settlements as well as compensation for non-financial loss, due to there being no discernible methodological calculation in the awards AFCA makes. It is not clear to our members how AFCA applies fairness when awarding such compensation. In some cases, there is a concern that payments for non-financial loss may be treated as an incentive to the general insurer resolving the complaint, even when the customer may not be entitled to such compensation because they were not caused any inconvenience.

Recommendation 6: That the reasons for AFCA decisions be clearly set out and there be clear and transparent guidance as to AFCA’s methodology and approach for awarding a customer compensation for non-financial loss.

Q1.2 Are AFCA’s processes for the identification and appropriate response to systemic issues arising from complaints effective?

- 37 A finding of a systemic issue by AFCA can impact all firms across the general insurance industry, especially if AFCA’s decision results in a change to industry practice, re-interprets legislation or seeks to improve the standard of conduct across the sector.
- 38 Our members report that findings from a systemic issues inquiry with respect to one general insurer, can be held out by AFCA as representing ‘good industry practice’ in relation to disputes involving other general insurers not involved in the original complaint. To this extent, our members are finding AFCA expects them to follow the systemic issues finding, even though there might not be transparency about the particular factual circumstances for that particular systemic decision, and whether it is relevant to the other general insurer’s case.
- 39 In other instances, AFCA has made single determinations about an issue that impacts the broader general insurance industry without providing the opportunity for consultation with the Insurance Council and impacted general insurers. This single determination is then applied as AFCA’s approach to the topic, when the single determination might not have raised all the relevant considerations that might inform the development of an AFCA approach.
- 40 With respect to both systemic issues and single determinations and approaches that impact the broader general insurance industry, the general insurance industry requests that they be afforded procedural fairness.
- 41 Ways in which procedural fairness could be improved could be to introduce an AFCA process whereby there is early engagement with the general insurance industry so we are given an opportunity to make submissions and introduce an internal review mechanism for merits review.

Recommendation 7: That when an AFCA decision or approach (including for a systemic issue) has the potential to impact the broader general insurance industry, before AFCA delivers its final determination, that AFCA consult with the Insurance

¹¹ AFCA Rule D.3.3. and AFCA Operating Guideline D.3.3

Council and impacted general insurers for their views, including inviting an industry submission.

Q1.3 Do AFCA’s funding and fee structures impact competition? Are there enhancements to the funding model that should be considered by AFCA to alleviate any impacts on competition while balancing the need for a sustainable fee-for-service model?

- 42 Our members are of the view that AFCA’s funding and fee structure impacts fairness and has a disproportionate impact on smaller firms because there is no fee scale.
- 43 Our members who are smaller firms find the one size fits all AFCA case fees do not take into account the impact of the quantum of the fee on their business. For these smaller firms, the AFCA case fee can exceed the cost of their small value premium product offerings.

Monetary jurisdiction in relation to primary production businesses

Q2 Do the monetary limits on claims that may be made to, and remedies that may be determined by, AFCA in relation to disputes about credit facilities provided to primary production businesses, including agriculture, fisheries and forestry businesses remain adequate?

AFCA’s monetary jurisdiction for uninsured motor vehicle claims

- 44 While our members have no comment on the monetary jurisdiction for primary production business loans, our members would like to raise for Treasury’s consideration the increase in AFCA’s monetary jurisdiction for uninsured motorist vehicle claims.
- 45 When AFCA’s enabling legislation was under development, the Insurance Council made a submission that it did not support the then \$5,000 monetary jurisdiction for uninsured third party motor vehicle property claims being trebled to \$15,000 without clear substantiating reasons¹².
- 46 While our views were acknowledged at the time by the then Minister for Financial Services, the then Minister recommended that this review of AFCA could reconsider the appropriateness of the trebled monetary jurisdiction.
- 47 We understand that under the indexation rules for AFCA’s remit¹³, AFCA’s monetary jurisdiction for uninsured motor vehicle claims has recently increased to \$16,300 for complaints received on or after 1 January 2021¹⁴.
- 48 The expanded remit has meant that compared with FOS, AFCA receives more than double the number of complaints about uninsured motor vehicles on an annual basis. In FY 2017-2018, FOS reported they received 552 complaints about uninsured motor vehicle complaints¹⁵. Whereas, in its first two years of operation, AFCA reported 2,328

¹² ICA, [submission](#) to Treasury’s consultation on the Establishment of AFCA (20 November 2017)

¹³ AFCA Rule D.4.3.

¹⁴ AFCA Rule, B.2.1 f)(i), and table at page 41

¹⁵ FOS [Annual Review](#) FY 2017-2018, page 79

(or 6.4%) of all general insurance complaints were about uninsured motor vehicle claims¹⁶. Of these, 529 uninsured motor vehicle complaints were received by AFCA in its first six months of operation¹⁷.

- 49 We maintain our view that access to an Ombudsman scheme for an insurance dispute is primarily for an individual consumer who has a complaint about an insurance product they have purchased. In the case of uninsured motorists, we caution that AFCA will need to take care to ensure that increased limits do not act as a disincentive for taking out appropriate insurance. This could result in increased premiums for those that do insure, in order to absorb the additional AFCA case fees which will be incurred as additional uninsured third-party claims fall within a higher monetary award amount.
- 50 It is the experience of some of our members that the jurisdiction is currently being accessed by parties for whom the remit was never originally intended.

Recommendation 8: That the appropriateness of AFCA's \$16,300 monetary jurisdiction for uninsured motor vehicle claims be re-evaluated.

Internal review mechanism

- Q3 AFCA's Independent Assessor has the ability to review complaints about the standard of service provided by AFCA in resolving complaints. The Independent Assessor does not have the power to review the merits or substance of an AFCA decision. Is the scope, remit and operation of AFCA's Independent Assessor function appropriate and effective?**
- Q4 Is there a need for AFCA to have an internal mechanism where the substance of its decision can be reviewed? How should any such mechanism operate to ensure that consumers and small businesses have access to timely decisions by AFCA?**
- 51 Notwithstanding that the AFCA Rules refer to the Independent Assessor service¹⁸ being available to general insurers to access, when AFCA first engaged with our members about the development of its Rules involving the Independent Assessor, our members were advised the review mechanism was intended to only be available to complainants.
- 52 As outlined in our response to Q1.1, we consider that introducing a quality review mechanism during case management could enhance AFCA's ability to produce consistent and predictable outcomes. A merit review conducted in the case management phase could also be beneficial in order to prevent cases without merit from progressing further. However, these measures of themselves would not be a substitute for a formal internal review mechanism where the substance of a decision could be reviewed.
- 53 We are of the view that such a formal internal review mechanism that can be accessed by general insurers is needed, whether this be delivered by an Independent Assessor or in another way. We suggest this mechanism is unlikely to be needed for AFCA

¹⁶ AFCA, [Two Year Report](#) (1 November 2018 – 31 October 2020), page 10

¹⁷ AFCA, [Six Month Report](#), page 12

¹⁸ AFCA Rule, A.16.1

determinations made by an AFCA Panel, as the outcomes delivered by Panels tend to be more consistent.

- 54 To be effective, an internal review mechanism would need to be available in a timely, independent, transparent and cost-effective way and be designed to support the achievements of AFCA's statutory objectives. In particular, the mechanism could be designed so as not to further exacerbate timeliness issues and impacts on customers.
- 55 We suggest that at a minimum the formal review mechanism would need to cover:
- (a) correcting factual errors or mistakes in AFCA decisions, including when new information comes to light;
 - (b) thematic review for consistency of AFCA decision making; and
 - (c) merits review of:
 - (i) AFCA decisions;
 - (ii) AFCA's interpretation of its rules, including outside of rules decisions;
 - (iii) AFCA systemic issues matters and AFCA decisions that impact the broader general insurance industry.
- 56 We welcome further discussing with Treasury how the formal review mechanism might be appropriately designed.

Recommendation 9: That a formal AFCA internal review mechanism be available to general insurers, that can consider consistency of decision making, including the application of AFCA's fairness principles as they apply to both the consumer and to the insurer, correct factual errors, and review the merits of the determination across a range of AFCA decisions (e.g. about remit, systemic issues and decisions impacting the broader general insurance industry).

Other

Governance and accountability

- 57 As highlighted in this submission, our members consider there is scope to strengthen the governance and accountability of AFCA particularly as it relates to AFCA's performance against its statutory objectives. We consider there are a range of possible measures to achieve greater accountability and transparency, including through clear KPIs and reporting.
- 58 Our members would like to see greater transparency and accountability with respect to how the performance of AFCA case managers is measured (i.e. their applicable KPIs), and with respect to AFCA appointments at the level of Ombudsman and on AFCA Panels.
- 59 As suggested in our response to Q1, we believe there is a need for greater accountability as it relates to timeliness and efficiency with clear timeframes and performance reporting against these, particularly in recognition of the impact that delays can have on customers.
- 60 In addition, our members would also like to see more transparent, balanced and impartial AFCA reporting about resolution outcomes. Ideally, not only would AFCA's role in contributing to confident consumers participating in the general insurance industry be clear and acknowledged, but also would the contribution of general insurers.

- 61 For example, in its most recent Annual Report, AFCA reports it awarded \$258.6 million in compensation and refunds to customers¹⁹, but this does not acknowledge that a large proportion of this amount reflects previous offers general insurers made to the customer, or that were negotiated settlement outcomes achieved through the referral back to member stage, and not through the complaint progressing further to an AFCA decision.

¹⁹ AFCA [Annual Review 2019-2020](#), pages 10, 12, 25.