

1 May 2023

Senior Consultant – Approach Frameworks
Australian Financial Complaints Authority

Via email: approaches@afca.org.au

To the Senior Consultant – Approach Frameworks

Consultation on AFCA’s approach to claims for non-financial loss

COBA appreciates the opportunity to contribute to AFCA’s consultation on its proposed approach to claims for non-financial loss.

COBA is the industry association for Australia’s customer owned banks (mutual banks, credit unions and building societies). Collectively, our sector has over \$160 billion in assets and is the fifth largest holder of household deposits. Customer owned banks account for around two thirds of the total number of domestic Authorised Deposit-taking Institutions and deliver competition and market leading levels of customer satisfaction in the retail banking market.

COBA supports AFCA’s proposed updated approach to claims for non-financial loss. We appreciate AFCA’s efforts to increase the objectivity of its approach and for the inclusion of the matrices to provide guidance on how AFCA will make compensation awards.

While supportive of these changes, we believe that additional details and examples will help provide further insights to all parties on how AFCA will apply its approach, especially in how it assesses “impact” and “duration”. We suggest the following areas for additional clarification:

- Increased guidance or examples on what levels of significant distress, delay or inconvenience will result in an award of compensation for non-financial loss.
- Increased guidance or examples about what is an “unusual amount” of the listed factors where AFCA will award compensation, for example, the time taken to resolve a situation and whether this considers any delays that are related to the actions of the consumer.
- Where there are joint complainants to the dispute, whether an award for non-financial loss is automatically provided to both parties if it is awarded to one. If not awarded automatically to each party, further details about how each individual’s claim will be assessed by AFCA to arrive at the appropriate outcome.
- The level of expected evidence or proof that persons should be providing to substantiate their claims, this could include the linkage between the financial firm’s conduct and the impact and how this evidence substantiates the claim.

We thank you for taking our views into account. Please do not hesitate to contact Robert Thomas, Senior Policy Adviser (rthomas@coba.asn.au) if you have any questions about our submission.

Yours sincerely



MICHAEL LAWRENCE
Chief Executive Officer