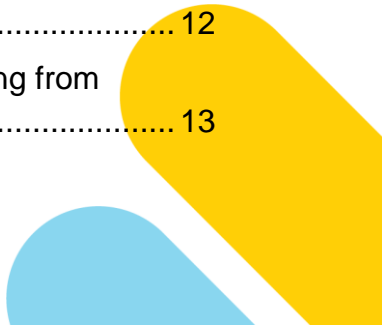


Code of Conduct

1 November 2018

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1 Purpose

The mission of the Australian Financial Complaints Authority (AFCA) is to provide fair, accessible and independent dispute resolution services in which consumers and financial firms can place their confidence and trust in us. To achieve this, it is essential that the public and all our stakeholders trust and have confidence in the integrity of our service and our staff.

Our Code of Conduct sets out the high standards of professional and ethical behaviour we expect at all times from all AFCA employees when performing their duties as an employee.

These standards demonstrate our commitment to conducting ourselves in an exemplary manner, which builds and maintains the public's trust.

The Code of Conduct reflects and reinforces that employees must at all times behave in a way that upholds the AFCA values: respectful, efficient, trustworthy and forward thinking.

2 The Code of Conduct

All AFCA employees will:

- Work towards the objectives of AFCA as set out in the Constitution.
- Demonstrate a high standard of ethical behaviour and exercise proper diligence, care and attention in our work.
- Provide accurate, impartial information and advice in a manner that treats all people equitably and consistently, and provides procedural fairness.
- Behave with integrity and without bias, managing any actual or perceived conflict of interest appropriately.
- Be accountable and as transparent as possible.
- Maintain the confidentiality and privacy of parties to the extent possible while performing our duties.
- Promote the interests and good reputation of AFCA.
- Be free to report concerns or breaches of policy, procedure or this Code to senior management without fear of reprisal.

All employees will comply with the spirit, as well as the letter, of this Code. Any breach of this Code may result in disciplinary action up to and including dismissal.

3 Explanatory notes

3.1 Work towards the objectives of AFCA as set out in its Constitution

Clause 2.1 of the [AFCA Constitution](#) sets out the reasons AFCA was formed and the objectives we seek to achieve. These objectives set out the foundations for why we provide our service.

3.2 Demonstrate a high standard of ethical behaviour and exercise proper diligence, care and attention in our work

AFCA is committed to maintaining its independence and to conducting its business according to the highest ethical, legal and professional standards in dealings with stakeholders, employees and the general community.

To ensure we maintain and continually enhance the quality of our service, we have an internal audit function, a comprehensive quality and continuous improvement framework, and a complaints and feedback process.

Every five years, the AFCA Board of Directors commissions an independent review of our operations. Details of the most recent independent review can be found [here](#).

All employees are required to demonstrate a high standard of ethical behaviour, exercise proper diligence, care and attention in their work, and comply with applicable company policies and procedures including this Code.

3.3 Provide accurate, impartial information and advice in a manner that treats all people equitably and consistently, and provides procedural fairness

The [AFCA Terms of Reference](#) set out the process through which we resolve disputes. They are designed to provide procedural fairness to all parties to a dispute. The [Operational Guidelines](#) provide additional information about how we interpret our responsibilities and functions that are set out in the Terms of Reference.

All employees must follow the Terms of Reference and Operational Guidelines when managing disputes.

3.4 Behave with integrity and without bias, managing any actual or perceived conflict of interest appropriately

3.4.1 Conflicts of interest

AFCA employees must manage real or apparent conflicts of interest. Having a conflict of interest is not necessarily unethical or wrong – it is how the situation is identified and managed that is important. If conflict of interest situations are not properly

identified and managed, they can endanger the integrity of AFCA. The procedure for managing conflicts of interest is outlined in Appendix 1.

If you are unclear about how to manage a conflict of interest, please contact your manager or the Senior Manager – People and Development.

3.4.2 Disputes lodged by AFCA employees or related parties

As consumers of financial services, AFCA employees or their related parties may encounter situations where they have concerns with the service provided to them by a financial firm that is a member of AFCA.

AFCA is keen to ensure that employees are not disadvantaged by their employment, but also seeks to ensure that its operations are not compromised by a perception of improper conduct. The procedure that AFCA will follow in these circumstances is outlined in Appendix 2.

3.5 Be accountable and as transparent as possible

All employees are responsible for their own decision-making, but are also accountable to their manager, the Chief Ombudsman and, ultimately, to all stakeholders.

This accountability extends to using our resources and facilities in a responsible and effective manner. Each employee has a clear position description setting out what is expected of them, and all managers have clearly delegated authorities for the proper discharge of their responsibilities.

All employees must fulfil the requirements of their position, including those set out in their position description, together with any other reasonable direction provided by their manager, and act within their delegated authority.

3.6 Maintain the confidentiality and privacy of parties to the extent possible while performing their duties

Paragraph 13.4 of the AFCA [Terms of Reference](#) requires AFCA to keep confidential all information pertaining to a dispute that is provided to us, except:

- to the extent reasonably necessary to carry out AFCA's responsibilities including under these Terms of Reference or for any incidental purpose
- as required or permitted by law.

As a result, we will not discuss the details of any dispute with anyone who is not entitled to know that information.

Under the *Privacy Act 1988* (Cth) and the Australian Privacy Principles, individuals may make a request to privacy@afca.org.au to receive copies of their personal

information held by AFCA, or to request amendment of any personal details. The [Privacy Policy and Procedures](#) contains more information about this.

All employees must comply with the [AFCA Terms of Reference](#), the *Privacy Act 1988* (Cth), the Australian Privacy Principles and the [Privacy Policy and Procedures when carrying out their duties](#).

3.7 Promote the interests and good reputation of AFCA

AFCA is the primary external dispute resolution service for Australia’s financial services industry. Part of our vision is to be a trusted organisation and authority on financial dispute resolution services. We recognise the important role that the media can play in helping us achieve this mission.

How we behave and communicate with our members, stakeholders and the public play an important role in shaping AFCA’s reputation.

As such, it is important that AFCA has a clear policy and operational framework regarding our relationship and interaction with, and representation in, traditional media outlets and on social media.

All employees must comply with AFCA's media and social media policies [and procedures](#).

3.8 Be free to report concerns or breaches of policy, procedure or this Code to senior management without fear of reprisal.

Breaches of the Code of Conduct require immediate attention and employees have a duty to report known or suspected breaches of the Code to the responsible person:

Concern	Responsible person
Corrupt conduct Conduct involving substantial risk to the environment that would, if proved , constitute a criminal offence	Company Secretary or Chief Ombudsman or Director of AFCA
Conduct involving a substantial mismanagement of AFCA resources	Company Secretary or Executive General Manager – CSS or Chief Financial Officer
Conduct involving a substantial risk to health or safety	OHS Representative Senior Manager – People and Development Company Secretary or Executive General Manager – CSS

Concern	Responsible person
Other conduct	Line manager or otherwise as per relevant policy/procedure

Employees seeking advice on the application of this Code may contact the Senior Manager – People and Development.

4 Appendix 1: Conflicts of interest procedure

Consumers and businesses rely on us to give fair, independent and unbiased answers, and we have the power to issue decisions that are final and binding. So we take conflicts of interest very seriously, and we take active steps to ensure they don't arise.

We have a policy in place to deal with conflicts of interest at all levels, not just in relation to individual disputes. This policy applies if something could be seen to give rise to a conflict, even if we don't think there's an actual conflict.

We require all employees to declare any relevant financial or personal interests when they join us. For example, they should declare if they have a financial interest, or any other interest, in a financial firm that we consider disputes against. Financial and personal interests that must be declared by employees are outlined below.

Any financial or personal interest that arises after an employee has commenced with AFCA must also be declared immediately.

We expect and encourage all our staff to tell us as soon as they become aware of any circumstances that could give rise, or be seen to give rise, to a conflict of interest in a dispute they are trying to resolve (whether or not the potential conflict has been raised by the parties to a dispute). The dispute will then be passed to someone else to investigate and decide.

4.1 What is a conflict of interest?

A conflict of interest is where an employee's private life or private interests could conflict, or be seen to conflict, with their duties as an AFCA employee, and where an employee may be in a position to obtain a private benefit from actions they take as an employee.

The term 'conflict of interest' is used to incorporate real, perceived and/or potential conflicts of interest. Even if an individual may be confident there's no conflict of interest, we need to think about how the situation might look to someone else.

Perception really counts. So if an employee has any doubts at all, they must talk things through with their manager.

Having a conflict of interest is not necessarily unethical or wrong. It's how the situation is identified and managed that is important. If conflict of interest situations are not properly identified and managed, they can endanger the integrity of AFCA.

4.2 When do conflicts of interest occur?

Some examples of potential conflicts of interest are:

- needing to lodge a dispute with AFCA against a financial firm
- holding a financial interest or secondary employment with a financial firm or organisation wishing to do business with AFCA
- having a close personal relationship with another AFCA employee, or with an employee of a financial firm or organisation that wishes to do business with AFCA,
- gifts or offers of hospitality from financial firms or organisations wishing to do business with AFCA.

AFCA managers play an important role in ensuring conflict of interest situations are managed appropriately, but it is an individual's responsibility to identify and report each situation where they may have a conflict of interest.

The following questions can help employees identify potential conflicts:

- Could there be benefits for me/partner/friend/family now or in the future that could cast doubt on my objectivity?
- Does my involvement in the decision/action appear fair and reasonable in all the circumstances?
- Perception is important. How will my involvement in the decision or action be viewed by others? Are there risks associated for me or for AFCA?
- What are the consequences if I ignore a conflict of interest? What if my involvement were questioned publicly?

4.3 What happens when a conflict of interest exists?

Where a conflict of interest exists employees must do one or more of the following:

- Advise their manager and the Senior Manager – People and Development.
- Register the conflict of interest on the [Conflict of Interest Registration Form](#) where specified.

- Restrict, remove or relinquish their involvement in the activity.

Declared conflicts of interest are maintained confidentially on the employee's personnel file, or on the relevant Company Registers.

4.4 What are the different types of conflict of interest?

There are many different types of conflict of interest and the policy is not exhaustive. However, broadly speaking, conflicts can be categorised as either financial or personal.

4.4.1 Financial conflicts of interest

A financial interest is an interest in equity or other security, debenture, loan or other debt instrument of an entity, including rights and obligations to acquire such an interest, and derivatives directly related to such interests.

This policy applies to financial interests including those held by:

- an employee or their spouse/partner
- an employee's child, where the employee is responsible for managing their child's interests (typically this will be where an employee's child is a minor)¹.

4.5 Non-declarable financial interests

Certain financial interests held by an employee, their spouse/partner or their children do not need to be declared. These interests are:

- superannuation or investment accounts or funds, where there is no day-to-day control over the actions of the account or fund
- home mortgages
- personal loans or lines of credit used for non-investment or domestic purposes
- credit cards
- transaction accounts, savings accounts or term deposits.

Basic deposit accounts in an employee's or their family member's name, and credit products in the staff or their family member's name that are regulated by the *National Consumer Credit Protection Act 2009* (Cth) including credit cards, home loans, lines of credit and personal loans, do not need to be disclosed by a staff member.

In addition, holding insurance cover does not need to be declared for:

- general insurance products, including, but not limited to, home, contents, motor vehicle and travel insurance

¹ Financial interests of an employee's minor child include interests held in trust for the child. Financial interests held by a child include where an employee acts as guardian, trustee or holds power of attorney for their child.

- life insurance products, whether held through superannuation or otherwise such as life, income protection, trauma or total and permanent disability insurance.

If, however, an employee has an active claim under any form of general or life insurance, the claim will be a declarable financial interest and must be disclosed accordingly.

4.6 Declarable financial interests

Financial interests that must be declared include an employee's, their spouse/partner's and their children's:

- financial interests in private or public companies or other entities that are AFCA members, or which conduct or seek to conduct business with AFCA
- investment loans, lines of credit, margin loans or any other credit facility used for investment or non-domestic purposes.

AFCA employees maintain independence by declaring financial interests in companies that conduct business or seek to conduct business with AFCA, and where the employee or their spouse/partner has a financial interest in, or is employed by, a company or business that:

- conducts or seeks to conduct business with AFCA²
- seeks to supply goods and services to AFCA – such as a consultancy, information technology services or supplies, or office supplies.

4.6.1 Personal conflicts of interest

AFCA employees maintain independence by declaring close personal relationships with:

- owners and employees of companies that conduct or seek to conduct business with AFCA³
- another staff member at AFCA, where the role of one employee has a direct impact on the other. For example – a manager required to make decisions regarding employment, performance, remuneration or promotional opportunities.

4.6.2 Previous employment at, or ownership of, a financial firm

If an employee was previously employed by, or had ownership in, a financial firm within two years prior to their employment with AFCA, this must be declared.

² Examples of companies that conduct or seek to conduct business with AFCA include member financial firms and FSP companies that have not yet joined AFCA – consultants, contractors, IT and office suppliers.

³ Examples of close personal relationships include, but are not necessarily limited to, are spouse/partner, sibling, parent and child. This list does not include all personal relationships and it is up to the individual to identify and declare relationships that could lead to a real or perceived conflict of interest. Close personal relationships arising through previous employment at, or ownership of a financial firm, are covered under the previous employment declaration section and do not need to be separately declared.

Employment with a financial firm includes any employment with a related entity or representative of a financial firm.

If an employee has provided professional advice while being employed by a financial firm within six years prior to their AFCA employment, this must also be declared.

The employee will not investigate any complaints:

- against that financial firm for a period of 12 months after commencing at AFCA
- that they worked on in their capacity as an employee of the financial firm.

4.6.3 Professional services provided by a financial firm

With the exception of the non-declarable financial interests outlined above, if an employee or their spouse/partner has received a professional service such as financial advice from a financial firm that is an AFCA member, this must be declared.

The employee will not investigate any dispute involving that financial firm for 12 months after receiving the professional service, or after ceasing to pay any fees or commissions to the financial firm – whichever is the later.

4.6.4 Gifts and hospitality

Employees maintain independence in dispute resolution by either refusing or declaring gifts and offers of hospitality, depending on each situation.

An employee involved in the resolution of a dispute must not accept a gift from that applicant or the relevant member financial firm either during or after the completion of the dispute. Similarly, employees involved in awarding business contracts to companies or businesses must not accept a gift from that company or business.

An employee may receive a token gift for doing a presentation or training. Where an employee receives a gift of substantial value (more than \$50), the employee's manager and the People and Development Team will decide if the employee may keep the gift.

Offers of hospitality (for example, an invitation to lunch), which must not be extravagant, to discuss a project may be accepted, but must be declared. If a member financial firm invites an AFCA employee or employees to lunch to discuss work-related issues it may be appropriate for AFCA to pay for lunch for its own employee/s. This should be discussed with the relevant manager or the Senior Manager – People and Development.

Offers of hospitality (for example, an invitation to pre-Christmas drinks) from member companies and other stakeholders may be accepted if the invitation is reasonable in the circumstances and does not constitute a conflict of interest. However, offers of

hospitality to attend sporting or cultural events are considered to be a conflict of interest and should be declined.

Token offers of hospitality – for example, an offer to go out for coffee when conducting a business discussion do not have to be declared on the register.

4.6.5 Secondary employment (paid or unpaid) and membership of organisations

Employees may undertake paid or unpaid employment in other organisations while working at AFCA, provided the employment is endorsed by their manager and approved by the Senior Manager – People and Development.

The Senior Manager – People and Development will consider whether this employment may lead to a conflict of interest and whether it may affect the employee's ability to perform their AFCA duties.

Membership and involvement in organisations, such as sporting groups and school councils, does not usually need to be registered. If, however, there may be a conflict of interest, the employee should notify their manager or the Senior Manager – People and Development.

Unpaid employment at a Community Legal Centre also requires this approval. Employees engaged at a community legal centre must not give advice or assistance in relation to disputes at AFCA. If a dispute is not at AFCA, but may potentially be dealt with at AFCA, then only basic referral information should be provided by the employee.

5 Appendix 2: Disputes involving a AFCA employee

As consumers of financial services, AFCA employees may encounter situations where they have concerns with the service provided to them by a financial firm that is a member of AFCA.

In certain situations, a dispute may also involve an AFCA employee due their previous employment with the financial firm involved in the dispute.

AFCA is keen to ensure that employees are not disadvantaged by their employment, but also seeks to ensure the following:

- Our operations are not compromised by a perception of improper conduct.
- There is clear oversight of the dispute resolution process in order to minimise any risk to the independence of AFCA.
- We reduce any potential allegation of actual or perceived bias in the handling of the dispute.

5.1 Who is covered by this procedure?

This procedure applies to any AFCA employee or a related third party who lodges a dispute. A 'related third party' includes spouses, relatives, friends and acquaintances – whether or not the AFCA employee is representing the applicant.

The term 'conflicted applicant' is used to refer to AFCA employees or related third parties who have lodged a dispute at AFCA where it may be perceived there is a conflict of interest.

This procedure also applies to employees who are subject to, or involved in, a dispute due to their previous employment with a financial firm.

5.2 What is expected of a conflicted applicant?

Employees may not:

- handle a dispute in which they, or a related third party, are the applicant
- access details of their own dispute using the AFCA case management system or other dispute records retained by AFCA
- use AFCA contact details (telephone numbers, email or postal addresses) when lodging or pursuing a dispute.

If the relevant financial firm tries to engage with the conflicted applicant as if they were handling the dispute as part of the course of their normal employment, the conflicted applicant must immediately refer the contact to the relevant case worker handling the dispute, and record the content of the interaction for review by their line manager.

If a financial firm representative contacts the conflicted applicant via an AFCA communication medium, the conflicted applicant should decline to engage with the financial firm representative and transfer the contact either to the relevant case worker handling the dispute, or to the conflicted applicant's personal telephone or email address.

5.3 What is expected of AFCA employees handling the conflicted applicant's dispute?

Other AFCA employees involved in the handling of the dispute should respect the privacy of the conflicted applicant and not discuss the dispute in any manner that would not normally be used when communicating with an applicant.

All employees involved in the handling of the conflicted applicant's dispute should adhere strictly to the normal procedures in the Terms of Reference and Operational Guidelines, including:

- consulting the conflicted applicant's line manager (or their line manager), not the conflicted applicant, if advice is required about how to handle the dispute
- communicating with the conflicted applicant only via the recorded contact details and not face-to-face within the office
- where practicable, only communicating with the conflicted applicant in writing using the conflicted applicant's non-AFCA contact details.

5.4 How should a conflicted applicant lodge a dispute?

If a conflicted applicant has a dispute they wish to bring to AFCA, the employee must advise their line manager of their intention to lodge the dispute prior to doing so.

The conflicted applicant's manager must inform the Executive General Manager (EGM) – Resolution, who will then arrange for the dispute to be assigned to a senior case worker who has no personal interest in the matter.⁴ The senior case worker's manager should be notified of this decision.

Before the dispute is lodged, the EGM – Resolution must ensure that the relevant employees have read and understood this procedure.

⁴Once the dispute is lodged, the senior case worker must notify the Company Secretary of the existence of the dispute and its dispute number. The Company Secretary will keep a register of disputes brought by conflicted applicants.

At the earliest possible opportunity, the financial firm should be informed that the dispute has been brought by a conflicted applicant and is being handled accordingly.

Prior to the dispute being assigned to a different case worker (if required under the normal process), the senior case worker must inform the EGM – Resolution. The EGM – Resolution will, in consultation with the relevant team manager, assign the dispute to an employee with no personal interest in the matter who is required to have read and understood this procedure.

5.5 What happens if there is a systemic issue?

If any issues of a systemic or serious misconduct nature are identified in the course of the handling of the dispute, those issues should be referred to the systemic issues manager in accordance with the normal process, unless the systemic issues manager has a personal interest in the matter.

If the systemic issues manager has a personal interest in the matter, the investigation of the alleged systemic or serious misconduct issues will be conducted by an appropriately qualified AFCA employee who has no personal interest in the matter.

⁴ Where an EGM is the AFCA applicant, the Chief Ombudsman should be informed instead, and the Chief Ombudsman, or delegate, will fulfil the EGM responsibilities under this policy.

Depending on when the issues are identified, the relevant EGM must ensure that the AFCA employee handling the systemic or serious misconduct investigation has read and understood this policy.

5.6 What if the conflicted applicant has a complaint about AFCA arising from the dispute?

Either party to the dispute may use the normal complaints and feedback process, unless the complaints manager has a personal interest in the matter. If the complaints manager has a personal interest in the matter, the investigation of the complaint about AFCA will be conducted by an appropriately qualified AFCA employee who has no personal interest in the matter.

The Senior Manager – Quality, Knowledge and Improvement must ensure the employee handling the complaint about AFCA has read and understood this policy.

5.7 How should a dispute involving an AFCA employee through their previous employment with a financial firm be handled?

In certain situations, a dispute may involve an AFCA employee, due their previous employment with the financial firm involved in the dispute.

Where this occurs the dispute should be handled in the same way as if the AFCA employee is a conflicted applicant, as outlined above. The employee must have no involvement in the dispute. In some circumstances it may be appropriate for the dispute to be handled by a senior staff member outside of the dispute resolution teams. Arrangements for the handling of such disputes will be determined by the relevant EGM/s.

6 Controls

6.1 Owner and current status

Policy owner	Version	Approval date	Approved by	Date of next review	I drive classification Internal and/or external document
EGM CSS	Version 3.2	15 August 2017	SLG	15 August 2018	HR – Ethics and Conduct

6.2 Modification history

Version	Date approved	Approved by	Description of what was changed
Version 3	7 May 2014	SLG	Updated responsible persons for breaches of Code of Conduct
Version 3.1	Sep 2016	SLG	Conflict of Interest and Code of Conduct policies were merged into a single Code of Conduct
Version 3.	15 August 2017	SLG	Content reviewed and updated