

How to lodge a bank dispute

Should you be seeking compensation for misconduct?



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Fact-checked

Holding the financial industry to account has been a long-standing priority for CHOICE, and the [horror stories](#) coming out of the banking royal commission show why it continues to be one.

Many bank customers have suffered financial loss at the hands of banking misconduct and are seeking compensation.

But what if you're not sure you're a victim?

Along with our friends at [Financial Counselling Australia](#), we lay out the steps for determining whether you've been wronged by your financial services provider and, if so, what to do about it.

On this page:



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Examples of wrongdoing

- Irresponsible lending (including mortgages and credit cards).
- Finance brokers (mainly mortgage brokers) failing to comply with responsible lending requirements, such as realistically assessing your ability to repay a loan.
- Bank reps flogging unsuitable insurance products (especially consumer credit or credit card insurance).
- Financial planners falsifying client documents and otherwise putting their interests above the client's.
- Banks charging fees where no service was delivered.
- Financial advisors forging client signatures and fraudulently enacting powers of attorney.
- Remuneration structures not designed in the client's best interest – advisers chasing bonuses and commissions in violation of FoFA legislation.

What to do if you've been affected

If you think you may be a victim of misconduct, follow our step-by-step guide.

Step 1

Get some general legal advice about whether you have a legitimate dispute.

- If you're unsure whether you have a legitimate dispute, the Australian Financial Complaints Authority (AFCA) outlines the types of disputes it will consider.
- The National Debt Helpline (1800 007 007) can provide advice and referral to a free lawyer from Legal Aid or a community legal centre for matters involving loans and credit.
- ASIC provides a list of organisations providing free legal advice.
- If you can afford the legal fees, think about hiring a lawyer to consider your case.

Step 2

Depending on any initial advice you may receive, you're probably going to need some documents to get things moving. Consumers have a right to **request documents** from a Financial Services Provider (FSP) under various parts of the National Credit Act, Privacy Act, and Code of Banking Practice.

- For **loan disputes** you'll need the application form, assessment, loan contract, account statements.
- For **financial planning disputes** you'll need the statement of advice. (And access the product disclosure statement (PDS) and financial services guide online.)
- Further detailed information may be required depending on the dispute.
- If you get the runaround after asking for documents, consider proceeding directly to an External Dispute Resolution (EDR) scheme as below. The EDR scheme will request all relevant documents from the FSP.

Step 3: Internal Dispute Resolution

- Lodge a dispute with the **Internal Dispute Resolution (IDR)** team at the bank or other FSP via its website and include any supporting documents you think are relevant. The FSP has **45 days** to respond to the dispute before you can escalate it to EDR.
- The big four and some other banks have established **Customer Advocates** as an alternative to EDR. Whether this second tier of internal resolution will get you better results than the first is unclear at this point, but the option is there.

Step 4: External Dispute Resolution

- If your FSP hasn't responded or you're not satisfied with the outcome of the IDR process, lodge a dispute with AFCA.
- EDR is free, but you'll have to spend some time going through the process.
- EDR decisions are binding on the FSP but not the customer (you don't have to agree to the outcome, but the bank does).

Read more: [Shockers from the banking royal commission](#)

Time limits for lodging a compensation claim

- Time limits for lodging a claim vary and you should get legal advice about your particular situation, but as a general rule the limit is **six years** from the date of the misconduct that caused the loss.
- For EDR schemes the time limit is generally six years from the date you reasonably became aware of the loss.
- There's a time limit of **two years** if you received a final IDR response from an earlier dispute.

- For responsible lending the time limit would usually expire six years from the date you got the loan.
- If you think you've been adversely affected, get advice now. Even if the deadline has passed, the bank may consider the dispute anyway.
- **IMPORTANT:** AFCA was granted powers as of 1 July 2019 to handle complaints that would normally fall outside of its time limits, but only for 12 months. From 1 July 2019 to 30 June 2020 AFCA will accept complaints for misconduct dating back to 1 January 2008.

Should I join a class action?

It all depends on the class action in question. If interested, speak to the law firm involved and get further details. Class actions can take a long time. If you want to resolve the dispute as soon as possible, it may be better to seek a resolution on your own.

Is there a clear line between bank misconduct and incompetence?

The standards vary depending on the dispute. The royal commission has exposed a number of systemic practices in which misconduct took place. If you have reason to believe you've been affected, get legal advice and the relevant documents. The paperwork may just tell the whole story.

We care about accuracy. See something that's not quite right in this article? [Let us know](#) or read more about [fact-checking at CHOICE](#).

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