



# **Dispute Resolution Policy and Procedure for Complaint Handling**

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# Glossary

<i>AFCA</i>	Australian Financial Complaints Authority
<i>COBCoP</i>	Customer Owned Banking Code of Practice
<i>CR Code</i>	Privacy (Credit Reporting) Code 2014
<i>EDR</i>	External Dispute Resolution
<i>IDR</i>	Internal Dispute Resolution
<i>MIP</i>	Mistaken Internet Payment
<i>NCC</i>	National Credit Code
<i>NCCPA</i>	National Consumer Credit Protection Act
<i>Policy</i>	the Dispute Resolution Policy & Procedure for Complaint Handling
§	the paragraph at that number e.g. §1
§§	the paragraph starting at that number and the following paragraphs e.g. §§1-3

# Part A: Policy

## Overview

1. LCU must have an appropriate dispute resolution process to handle complaints for the purposes of:
  - ) the Customer Owned Banking Code of Practice;
  - ) *Corporations Act 2001* Chapter 7 (Financial services and markets) ;
  - ) the *National Consumer Credit Protection Act 2009* and the *National Credit Code*, in relation to:
    - hardship notices
    - postponement requests.
  - ) the ePayments Code;
  - ) the *Privacy Act 1988*, the Australian Privacy Principles and the Privacy (Credit Reporting) Code 2014 (v 1.2);
  - ) *ASIC Act 2001* Part 2 (Consumer protection in relation to financial services);
  - ) its role as a mortgage manager under a securitisation arrangement i.e. when it acts as a credit licensee acting on behalf of exempt SPFEs under a servicing agreement, under Table 1 of *RG 271 "Internal Dispute Resolution"*; and
  - ) the Consumer Data Right regime under Part IVD of the *Competition and Consumer Act 2010*
2. The dispute resolution process operates in two stages:
  - ) an internal dispute resolution (IDR) process under which LCU will use best efforts to resolve a Member's complaint to the mutual satisfaction of LCU and the Member; and
  - ) failing resolution, an external dispute resolution (EDR) process under which the Member, dissatisfied with LCU's decision, can refer the complaint to an external body for resolution.
3. This Dispute Resolution Policy and Procedure sets out the requirements for:
  - ) LCU's IDR scheme; and
  - ) management of LCU's EDR process, through AFCA.

## Who can access our IDR and EDR processes?

4. The persons who can access our IDR and EDR processes are:
  - ) Members;
  - ) persons the member has given authority to operate ;
  - ) non-members / non-customer loan applicants when LCU declined the application;
  - ) guarantors of our members' consumer loans;
  - ) any person with a privacy complaint; and
  - ) any person with a consumer data right (CDR) complaint.
5. For the purposes of this Policy, reference to a Member includes reference to the persons described above who can access our IDR & EDR processes.

## Scope & purpose of Dispute Resolution Policy and Procedure

6. The Dispute Resolution Policy and Procedure ('Policy') provides a process for the prevention, handling and resolution of complaints between LCU and its Members.
7. The purpose of this Policy is to empower our staff to:
  - J effectively respond to Members' complaints in a professional and timely manner; and
  - J treat each complaint as an opportunity to retain and build a more valuable relationship with our Members.
8. The objectives of this Policy are to establish:
  - J an IDR process that complies with Australian Standard AS/NZS 10002:2014: *Guidelines for complaint management in organizations* and ASIC Regulatory Guide 271 – *Internal dispute resolution*;
  - J a process to record, action and resolve Members' complaints;
  - J a process to provide Members, dissatisfied with a decision, a referral to an external process for resolution of their complaint; and
  - J a process to review and monitor LCU's performance against its policies, procedures, compliance systems and the Customer Owned Banking Code of Practice (COBCoP).

### For securitisation activities

9. This policy also includes LCU's IDR obligations in relation to its role as mortgage manager for a securitisation body under a securitisation agreement.
10. LCU must notify ASIC when it enters into a servicing agreement with a securitisation body, with the body's details and the name of the body's EDR scheme. LCU must also advise ASIC when it ceases being a party to the securitisation arrangement.

**It should be noted that LCU currently has no securitisation arrangements in place.**

## Policy

### Policy outline

11. LCU will establish and maintain good working relationships with its Members to more effectively prevent complaints. To that end, LCU will:
  - J respect Members' rights to lodge a complaint whether written or verbal;
  - J value complaints from Members as an opportunity to enhance relationships with LCU;
  - J promote organisational improvements by identifying systemic issues or ineffective processes;
  - J encourage all staff to take a proactive approach to Member retention by providing a system available for staff to access and track resolution of complaints.
12. LCU recognises that good working relationships with its Members are based on:
  - J effective and efficient complaint and dispute resolution processes;
  - J open and effective communication;
  - J good faith and respect for each other's views.

### For securitisation activities

13. These procedures cover both LCU's and the securitisation body's activities, namely:
- ) complaints that relate to the credit activities LCU engages in when it acts on behalf of the securitisation body; and
  - ) complaints about the conduct of the securitisation body such as a request to change the credit contract because of hardship or because the contract is unjust or unsuitable.

### Effective and efficient complaint and dispute resolution process

14. LCU will have an effective and efficient complaint and dispute resolution process that:
- ) is provided free of charge;
  - ) is accessible;
  - ) is documented;
  - ) is communicated to Members and staff;
  - ) has stated time limits for each stage of the process; and
  - ) provides for review and evaluation of Members' complaints.

### Open & effective communication

15. Staff should:
- ) effectively communicate adequate and relevant information to the Member;
  - ) communicate the process to the Member and agree on a *timetable for communication*;
  - ) be prepared to listen to the Member's views, concerns and comments;
  - ) try to understand the effect of the complaint on the Member; and
  - ) be patient and make allowance for any perceived disability the Member may have, such as English not being the Member's native language.
16. Staff should manage each complaint fairly, ethically and reasonably, including those from complainants who display unreasonable or challenging behaviour. Staff who encounter unreasonable complainant conduct should refer to Part C of this Policy and Procedure.
17. LCU will have information readily available to its Members and other interested parties in the form of Complaints Policy which provides for the following:
- ) where, and to whom, complaints can be made;
  - ) how complaints are to be made;
  - ) information to be provided by the complainant (in order to assist in resolving the dispute);
  - ) the process for handling complaints;
  - ) time periods for each stage of the complaint handling process
  - ) remedies available to the complainant, including EDR; and
  - ) how the complainant can obtain general feedback and progress/status report of the complaint.

### Good faith

18. Staff should:
- ) be committed to achieving a mutually beneficial outcome for the Member and LCU;
  - ) strive to instil a sense of trust in the Member and LCU's processes;
  - ) be flexible, within the context of achieving a mutually beneficial outcome; and

- ) recognise that confidentiality may be an important concern for the Member.

## **IDR remedies**

19. The types of remedies available to staff are:
  - ) offering the Member compensation;
  - ) re-performing the particular service or function;
  - ) correcting the particular error complained of;
  - ) offering the Member an apology or explanation for the error complained of;
  - ) any combination of these.

## **Board & GM commitment**

20. The Board of LCU and its GM are committed to the implementation of this Policy, as evidenced by:
  - ) ensuring relevant staff are aware of and educated about LCU's IDR procedures;
  - ) ensuring that adequate resources are allocated to IDR; and
  - ) implementing management systems and reporting procedures to ensure timely and effective complaints handling and monitoring.

## **Communication**

21. All relevant staff must receive a copy of this Policy.

## **Responsibility**

22. The General Manager is LCU's designated IDR and EDR Manager responsible for managing LCU's Dispute Resolution Policy and Procedure for Complaint Handling.

## **Training**

23. All relevant staff will receive training on this Policy. New staff, where relevant, will receive training during staff induction.
24. All relevant staff will receive refresher training on this Policy every 2 years from the date of their first training session.

## Part B: Procedure

25. Staff must use their best efforts to resolve complaints to LCU to the benefit of LCU and the Member.

### What is a ‘complaint’?

26. A complaint is an expression of dissatisfaction, made to or about LCU, related to LCU’s products, services, staff or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected or legally required.

#### For credit activities

27. A complaint will include:

- ) a member’s hardship notice
- ) a Member’s request for postponement of enforcement proceedings.

#### For securitisation activities – including where LCU is acting as mortgage manager for securitisation body

28. A complaint extends to:

- ) a Member’s complaint relating to the credit activities undertaken by LCU in its role as mortgage manager for the securitisation body
- ) a Member’s complaint about the securitisation body’s conduct.

It should be noted that LCU currently has no securitisation arrangements in place.

## Receiving and processing the complaint

### General principles

29. LCU does not require the Member to put the complaint in writing. In particular, a hardship notice and postponement request can be written or verbal.
30. Staff will approach the complaints-handling process with the following principles in mind:

<b>Openness</b>	The IDR process needs to be clearly stated for both staff and Members.
<b>Impartiality</b>	Staff are to remain impartial and not prejudge the complainant. Emphasis must be placed on solving the complaint and not on assigning blame. Furthermore, a complaint must not be investigated by staff who are involved in the subject matter of the complaint.
<b>Confidentiality</b>	The IDR process must respect the complainant’s privacy in accordance with the Australian Privacy Principles.

<b>Accessibility</b>	<p>The complainant may lodge a complaint at any time.</p> <p>The complainant must be given access to information detailing how they can make a complaint.</p> <p>LCU must make this information available in several forms to cater for most complainants, for example, larger print for those who are vision-impaired or giving the complainant access to an interpreter service in order to enable them to make a complaint.</p> <p>LCU must provide this information to the Member free of charge.</p>
<b>Completeness</b>	<p>Fact finding and talking to parties from both sides of the complaint is essential in order to verify explanations and also to properly investigate the matter.</p>
<b>Equitability</b>	<p>Everyone involved in the complaint, and its investigation, is to be treated equally and fairly.</p>
<b>Sensitivity</b>	<p>LCU must treat each complaint separately and on its merits.</p> <p>Individual differences and needs of all those concerned must be considered.</p>
<b>Listening</b>	<p>When receiving a complaint from a Member, staff must take time to listen to the Member. They must:</p> <ul style="list-style-type: none"> <li>) be patient</li> <li>) acknowledge emotions</li> <li>) be interested in, and responsive to, what the Member has to say</li> <li>) be non-judgmental about what the Member has to say</li> <li>) remain focused on what the Member has to say</li> <li>) not pre-judge the Member's complaint</li> <li>) take care to get accurate information from the Member.</li> </ul>

***Tips on complaint handling***

Complaining is not an easy thing to do for many people so it makes sense to make the Member feel comfortable about making a complaint. What a Member can tell us about LCU is the most reliable and inexpensive form of market research available.

Most people prefer to do business with a financial institution which can offer a guarantee of accountability in their dealings with Members. Effective complaint handling is the most visible and immediate way to demonstrate such accountability.

When a complaint is received from a Member it is important to take the time to listen, even when the Member is angry or upset. If they know that they are being listened to they

will find it a lot easier to focus on the problem and a possible solution because someone has empathised with their situation.

## Receiving the complaint – identifier codes

- Each complaint must be given a unique identifier code for future access.

## Acknowledging the complaint

- Staff must acknowledge the Member's complaint as soon as practicable. This should be within 1 business day of receiving the complaint.
- The complaint may be acknowledged verbally or in writing. How staff acknowledge the complaint should take into account how the complaint was made and any preferences indicated by the Member.
- Staff should acknowledge the complaint by:
  - ) giving the Member LCU's Complaints Policy: see §§172–173;
  - ) pointing out LCU's timeframe for responding to the Member's complaint.

## For LCU acting as mortgage manager for a securitisation body

- Staff must acknowledge the Member's complaint by informing the Member of their right to complain to the EDR scheme of the securitisation body and provide them with the name and contact details for the securitisation body and its EDR scheme or directly referring the dispute to the EDR scheme of the securitisation body.

## General procedure when resolving the dispute

- LCU should make every reasonable effort to fully investigate the complaint. The extent of the investigation will depend on the seriousness of the complaint and reference should be made to the factors outlined in the information required to be recorded when the complaint is made.
- The officer receiving the Member's complaint should attempt to resolve the complaint on the spot with the Member. To help achieve this, officers have authority to offer compensation, where it is appropriate, within these following delegations:

for all staff	up to \$50
for investigating officers	up to \$200
for Senior Managers	discretionary, subject to approval by the General Manager or Assistant General Manager

- If the complaint cannot be resolved on the spot, the officer will refer the matter to the Dispute Resolution Officer, and provide the name and contact details of the responsible Officer to the Member.

### **Tip**

When you have developed a clear picture about what the problem is, it is time to move into positive problem solving. This can involve:

- identifying the issues clearly;
- asking the Member to suggest how they would like the problem to be sorted out;
- investigating the matter so you can provide the Member with information about their problem;
- deciding on a course of action and making sure it happens.

## Follow up

39. LCU should keep the Member informed of the progress of the complaint, especially when dealing with postponement requests and hardship notices.
40. It is critical that the complaint is followed up. There is no better way of losing a Member or making the problem seem to be worse than not responding. Even if the decision is one that the Member may not be pleased with, they will feel better if they have been dealt with in a fair, respectful and timely manner.

## Documentation of IDR responses

41. All IDR responses to the Member are to be written and dated and must inform the Member of:
  - ) the final outcome
    - if the complaint is accepted – the actions taken to fully resolve the complaint
    - if the complaint is rejected or partially rejected – the reasons for rejection or partial rejection including:
      - identifying and addressing the issues raised in the complaint
      - setting out LCU's findings on material questions of fact and referring to the information that supports those findings
      - providing enough detail for the Member to understand the basis of the decision and to be fully informed in deciding whether to escalate the matter
  - ) their right to take the complaint to AFCA if they are not satisfied with the response
  - ) AFCA's contact details.
42. LCU will have a process to retain a copy of the IDR response to the Member and a record of when the response was sent to the Member.

## Additional 'Final response' requirements

43. AFCA imposes some additional requirements for 'final response' letters. It requires that, in addition to the final response/notice requirements in the relevant section below, the final response/notice must also contain the following:
  - ) state the timeframe which the Member has to take their complaint to AFCA;
  - ) state that LCU's IDR process has concluded and that the final decision about the complaint has been made.

## Exceptions to IDR response requirements

44. A written IDR response is not required if:
  - ) LCU closes the complaint by the end of the fifth business day after receipt of the complaint because it:
    - resolved the complaint to the complainant's satisfaction; or
    - gave the complainant an explanation or apology and LCU can take no further action to reasonably address the complaint; and
  - ) the complainant has not requested a written response; and
  - ) the complaint is not about a Privacy complaint, Mistaken internet payment report, or a complaint relating to a Hardship notices or Postponement Request.

## Complaint-specific requirements

45. The procedures for dealing with complaints vary depending on the type of the complaint – refer to the relevant sections below:

Complaint involves...	See...
) a hardship notice	<i>Hardship notices</i> at p10
) a postponement request	<i>Postponement requests</i> at p14
) a default notice	<i>Default notices</i> at p16
) an electronic transaction	<i>ePayments</i> at p18
) the handling of personal information	<i>Privacy</i> at p23
) the handling of CDR data	<i>Consumer Data Right</i> at p28

46. If the complaint does not fall within the above categories, refer to *Other ('general' complaints)* at §§160.

## Hardship notices

### Dedicated facilities for receiving hardship notices

47. LCU has a dedicated telephone number and website page to accept and handle hardship notices.

### Providing a hardship notice

48. LCU will have systems in place to easily identify a complaint involving a hardship notice.
49. From 1 March 2013, a member gives a hardship notice to LCU whenever they mention that they consider that they are, or will be unable to meet their obligations under a credit contract. The member may say something to the effect that they are having difficulty with payments or are unable to pay.
50. Before 1 March 2013, the NCC specified requirements for a hardship application, namely:
- ) the member is unable reasonably, due to illness, unemployment or other causes, to meet their obligations under the credit contract, and
  - ) reasonably expects to be able to discharge their obligations if the contract terms are changed in the manner sought (*below*), and
  - ) seeks to change the terms of the contract in one of 3 ways:
    - extend the period of the contract and reduce the amount of each payment due
    - postpone during a specified period the dates on which payments are due
    - extend the period of the contract and postpone during a specified period the dates on which payments are duewithout a change being made to the annual percentage rate(s).
51. However, consistently with the approach to hardship taken by the COBCoP, LCU's policy is to work with the Member and consider other possible variations to the loan contract.

**Recording the hardship notice**

- 52. When recording a Member’s hardship notice, staff must include the following information in the record:
  - ) a description of the Member’s hardship and any relevant supporting documentation, including the Member’s circumstances relevant to the hardship notice;
  - ) the specific product or products that financial assistance is requested for;
  - ) the remedy sought or requested by the Member;
  - ) the date that a response is expected, such as a progress update or that the matter is to be resolved no later than 21 days from the date of receiving the complaint (or where relevant, the appropriate timeframes for responses where LCU requires further information);
  - ) any immediate action taken on the matter.

**Tips on complaint handling**

After listening to the Member, sometimes you may request that the Member provide further information or documentation. It is important to ensure that the Member does not think that you are putting up an obstacle. Try to help them understand that the requested information and documents will make it easier for you to help them and come to an arrangement which accurately reflects their circumstances.

Note that the Member must be allowed to give an oral hardship notice to LCU – you must not require them to provide a written hardship notice.

- 53. At this time the hardship notice should be assessed according to the following criteria:
  - ) Severity;
  - ) the member’s credit history;
  - ) safety implications (for issues such as breach of privacy);
  - ) complexity;
  - ) impact, in particular, whether delay could adversely impact the Member’s basic living conditions
  - ) need for immediate action – a hardship notice is to be treated as an urgent matter.

- 54. From this point on, the matter should be closely monitored so LCU can provide an up-to-date status report to the member upon request.

**Timeframes for resolving the hardship notice**

- 55. Best efforts should be used to address the hardship notice and notify the member as soon as possible.
- 56. The timeframes for handling hardship applications are set out in the following tables:

**Contract entered into on or before 28 February 2013**

<b>response</b>	within one business day, preferably immediately
<b>resolution (best practice)</b>	within 14 days
<b>resolution (maximum)</b>	within 21 days after the day of receiving the hardship application

### Contracts entered into on or after 1 March 2013

<b>response</b>	within one business day, preferably immediately
<b>resolution (best practice)</b>	within 14 days
<b>no further information required from member – resolution (maximum)</b>	within 21 days after the day of receipt of the hardship notice
<b>further information required from member – resolution (maximum)</b>	<p>LCU has 21 days after receiving the hardship notice within which to require the member to provide specified information. The member must provide this information within 21 days of the date stated in LCU's notice.</p> <p>The member <b>MUST</b> comply with the notice.</p> <p>If, within the 21 days, the member:</p> <ul style="list-style-type: none"> <li>) does not provide the requested information – LCU has further 7 days</li> <li>) provides the information – LCU has a further 21 days from date of receipt of the requested information</li> </ul>

57. If the complaint is not resolved within these timeframes, there will be no further time at IDR to deal with the complaint and the Member should be referred to AFCA.

### Dealing with a hardship notice

#### Contract entered on or before 28 February 2013

58. After receiving the hardship application, determine whether you need further information to satisfy yourself that the Member meets the hardship application requirements as set out above at §§50-51.
59. Within 21 days after the day of receiving the hardship application, LCU must provide the Member with a written notice of LCU's decision.

#### Contract entered into on or after 1 March 2013

60. After receiving the hardship notice, determine whether there is any need to ask the Member for further information or documentation.
61. The information requested must be relevant to deciding:
- ) whether the Member is or will be unable to meet their obligations under the contract
  - ) how to change the contract if the Member is or will be unable to meet those obligations
62. If further information or documentation is required – provide the Member the time allowed in §56 to provide it.

63. Within the relevant timeframe in §56 for handling hardship notices, assess the available information and make a determination on whether or not to grant hardship, and the terms of any hardship arrangement.
64. LCU need not agree to change the contract – particularly if they:
  - ) do not believe there is a reasonable cause for the Member’s inability to meet their obligations, or
  - ) reasonably believe that the Member would not be able to meet their obligations even if there was a change.

### Legal or enforcement action after a hardship notice

65. While a hardship notice is being addressed, LCU must cease or postpone any legal proceedings or other enforcement action unless the statute of limitations is about to expire.

#### *(Contract entered into on or after 1 March 2013) Commencing legal action after hardship notice*

66. If before or after LCU gives a default notice, the Member provides a hardship notice, and the Member:
  - ) has not provided another hardship notice in the last four months before the date of the current hardship notice; or
  - ) if they have given hardship notice(s) in the last four months but this current hardship notice relates to materially different reasons from the others provided,
 LCU must not begin enforcement proceedings unless:
  - ) LCU has given the hardship rejection notice in §68 in response to the current hardship notice, to the Member, stating that LCU has not agreed to change the credit contract, and
  - ) a period of 14 days beginning on the day the §68 hardship rejection notice was given, has expired.
67. Despite the above, LCU may take possession of mortgaged goods if it reasonably believes that:
  - ) the Member or mortgagor has or intends to remove/dispose of the mortgaged property without LCU’s permission, or
  - ) urgent action is necessary to protect the goods.

### Communicating the decision

#### *Notice of decision*

68. LCU must provide, within the relevant timeframe at §56, a written notice to the Member in the form (if any prescribed by the regulations) stating:

***for an agreement to vary contract ...***

- ) LCU and Member have agreed to change the contract
- ) informing the Member of their right to complain to AFCA
- ) AFCA’s contact details

**Note:** LCU must also issue a notice of changes to contract within 30 days – see §69-70

***for a rejection of hardship notice...***

- ) LCU and Member have not agreed to change the contract,
- ) the reasons why they have not agreed,
- ) inform the Member of their right to complain to AFCA
- ) AFCA's contact details and the Member's rights under the scheme.

### **Notice of changes to contract**

69. Where LCU has agreed to vary the contract, LCU must, within 30 days of the date of agreement, provide a written notice to the Member and any guarantor under a guarantee related to the contract. The notice must contain:
- ) particulars of the change in the terms of the contract;
  - ) any information required by regulations;
  - ) Member's right to complain to AFCA;
  - ) AFCA's contact details
70. Practically, the notice of the particulars of the changes to the member would be incorporated in the notice of the decision to the member at §68.

## **Postponement requests**

### **Making a postponement request**

71. A Member's complaint may include a postponement request, which can be made orally or in writing.
72. LCU will have systems in place to easily identify a complaint involving a postponement request.
73. A postponement request can only occur after LCU has issued a default notice or demand for payment, and the debtor, mortgagor or a guarantor requests that LCU negotiate a postponement of the enforcement proceedings. The Member must make the postponement request before the end of the period specified in the default notice or demand for payment.

### **Recording the complaint**

74. When recording the Member's request, staff must include the following information in the record:
- ) details on the requested postponement and any relevant supporting documentation
  - ) date that a response is expected, such as a progress update or that the matter is to be resolved no later than 21 days
  - ) any immediate action taken on the matter
75. At this time the postponement request should be assessed according to the following criteria:
- ) Severity;
  - ) safety implications (for issues such as breach of privacy);
  - ) complexity;

- ) impact, in particular, whether delay could adversely impact the Member’s basic living conditions; and
    - ) need for immediate action – note that a postponement request is to be treated as an urgent matter
76. From this point on, the matter should be closely monitored in order to enable LCU to provide an up-to-date status report to the Member upon request.

### Timeframes for handling the request

77. Best efforts should be used to address the postponement request and notify the Member as soon as possible.
78. The timetable for handling postponement requests should be:

<b>response</b>	within one business day, preferably immediately
<b>resolution (best practice)</b>	within 14 days
<b>resolution (maximum)</b>	within 21 days after the day of receiving the postponement request

### Legal or enforcement action after a postponement request

79. While a postponement request is being addressed by LCU, LCU must cease or postpone any legal proceedings or other enforcement action unless the statute of limitations is about to expire.
80. For a contract, mortgage, or guarantee entered into on or after 1 March 2013, if the debtor, mortgagor, or guarantor has given a postponement request, LCU must not begin enforcement proceedings unless:
- ) it has given to the Member the notice in §82 responding to the postponement request, and
  - ) a period of 14 days after the above notice was given has expired.
81. Despite §80 above, LCU may take possession of mortgaged goods if it reasonably believes that:
- ) the Member or mortgagor has or intends to remove/dispose of the mortgaged property without LCU’s permission, or
  - ) urgent action is necessary to protect the goods.

### Communicating the decision

#### Notice of decision

82. LCU must provide, within 21 days after the day of receiving the postponement request, a written notice to the Member that states:

***for an agreement to negotiate a postponement ...***

- ) that LCU agrees to negotiate a postponement, and
- ) informing the Member of their right to complain to AFCA
- ) AFCA’s contact details

**Note:** LCU must also issue a notice of conditions of postponement within 30 days – see §83-84

***for a refusal to negotiate a postponement ...***

- ) that LCU does not agree to negotiate a postponement,
- ) reasons for not agreeing to negotiate
- ) the Member's right to complain to AFCA
- ) AFCA's contact details and the Member's rights under the scheme

### **Notice of conditions of postponement**

83. Within 30 days of reaching an agreement on the postponement, LCU must provide a written notice to the Member setting out:
- ) the conditions of postponement – including the condition that the mortgagor must pay LCU's reasonable costs of taking possession if the postponement has been negotiated with LCU after they have taken possession of property subject to a mortgage;
  - ) that if any of the conditions of a postponement are not complied with – LCU is not required to give a further default notice under the NCC to the debtor, mortgagor, or guarantor with whom the postponement was negotiated before proceeding with enforcement proceedings;
  - ) Member's right to complain to AFCA;
  - ) AFCA's contact details.
84. Practically, the notice of the postponement conditions would be incorporated in the notice of decision to the member at §82.

## **Default notices**

### **Recording the dispute**

85. When recording a Member's complaint, staff must include the following information in the record:
- ) a description of the complaint and any relevant supporting documentation;
  - ) details of the default notice sent (date, reference number, contact, relevant loan facility);
  - ) the remedy sought or requested by the Member;
  - ) date that a response is expected, such as a progress update or that the matter is to be resolved no later than 21 days;
  - ) information on involved parties to the complaint, namely, people, departments, branches etc.; and
  - ) any immediate action taken on the matter.

#### ***Tips on complaint handling***

After listening to the Member, sometimes you may require that the Member put their complaint in writing because of the nature of the problem. It is important to ensure that the Member does not think that you are putting up an obstacle. Try to help them understand that a letter will make it easier for you to help them and accurately respond to their issues of concern.

86. At this time the complaint should be assessed according to the following criteria:
- ) Severity;
  - ) safety implications (for issues such as breach of privacy);
  - ) complexity

- ) impact, in particular, whether delay could adversely impact the Member's basic living conditions;
  - ) need for immediate action e.g. domestic/financial abuse, serious/terminal illness
87. From this point on, the matter should be closely monitored so LCU can provide an up-to-date status report to the Member upon request.

### Timeframes for handling the dispute

88. LCU must use best efforts to resolve a Member's complaint and notify the Member as soon as possible, in accordance with the following timeframe:

<b>response</b>	within one business day, preferably immediately
<b>resolution (best practice)</b>	within 14 days
<b>resolution (maximum)</b>	within 21 days of receipt of default notice dispute

### Legal or enforcement action after complaint about default notice

89. LCU must cease or postpone any legal proceedings or other enforcement action (unless the statute of limitations is about to expire) until final resolution of the default notice dispute and for, as is recommended, at least 14 days after the final response at §90 - 92.

### Communicating the decision

90. LCU must provide the Member with a final response in writing within 21 days of receiving the complaint.
91. LCU does not need to provide a written final response if the complaint is resolved to the Member's satisfaction by the end of the fifth business day after the complaint was received and meets the requirements set out at §44.
92. LCU's final response must include the following:

<b>where the complaint is accepted</b>	<ul style="list-style-type: none"> <li>) the final outcome of the complaint</li> <li>) the Member's right to take the complaint to AFCA</li> <li>) AFCA's contact details</li> </ul>
<b>where the complaint is rejected</b>	<ul style="list-style-type: none"> <li>) the final outcome of the complaint, carefully detailing: <ul style="list-style-type: none"> <li>▪ the decision</li> <li>▪ the reasons for the decision</li> <li>▪ a statement which explains the evidence relied upon for the decision and the availability of such evidence if required by the Member</li> <li>▪ the consequences of the decision</li> </ul> </li> <li>) the Member's right to complain to AFCA</li> <li>) AFCA's contact details</li> </ul>

# ePayments

## Mistaken internet payment report

### Mistaken internet payments

- 93. The ePayments Code requires all subscribers to provide (free of charge or no more than the cost of a local call) an effective and convenient process for users to report mistaken internet payments.
- 94. Mistaken internet payments (MIP) are those made under a 'Pay Anyone' internet banking facility and processed by LCU through direct entry where the funds are paid into the account of an unintended recipient because the Member enters or selects a BSB and/or account number that is incorrect (as a result of the Member's error or the Member being advised of the incorrect BSB/account number).

### Exclusions from MIP

- 95. Payments made using BPAY are excluded from the MIP regime.

### Acknowledging receipt of a MIP report

- 96. LCU must acknowledge receipt of every report of a MIP, including reports made by phone.
- 97. The acknowledgment does not have to be in writing, but must enable a Member to verify that they have made a report and when it was made – e.g. by providing the Member with a reference number.

### Timeframes for handling the MIP

- 98. For a report about a mistaken internet payment, the timeframe is:

<b>response</b>	within one day of receipt of the report, preferably immediately
<b>return of recovered funds</b>	as soon as practicable
<b>outcome communicated – mistaken internet payments (best practice)</b>	within 21 days of the day the report is made
<b>outcome communicated – mistaken internet payments (maximum)</b>	within 30 business days of the day the report is made

## Investigation requirements and returning of funds

### LCU as the 'sending ADI'

- 99. If the funds were sent from a LCU account, LCU must investigate whether a MIP has occurred.

If LCU is...	then...
<b><i>satisfied that a MIP has occurred</i></b>	<ul style="list-style-type: none"> <li>) LCU must send the receiving ADI a request for the return of the funds; and</li> <li>) the receiving ADI must within 5 business days: <ul style="list-style-type: none"> <li>▪ acknowledge the request for the return of the funds;</li> <li>▪ advise LCU whether there are sufficient funds in the account of the unintended recipient to cover the MIP.</li> </ul> </li> <li>) LCU must credit any recovered funds to the member's account as soon as practicable</li> <li>) LCU must inform the Member of the outcome as in §104.</li> </ul>
<b><i>not satisfied that there has been a MIP</i></b>	<ul style="list-style-type: none"> <li>) LCU is not required to take any further action</li> <li>) LCU must inform the Member of the outcome as in §104.</li> </ul>

#### **LCU as the 'receiving ADI'**

100. If LCU (receiving ADI) receives a request from the sending ADI for the return of funds, LCU must, within 5 business days:

- ) acknowledge the request for the return of the funds;
- ) advise the sending ADI whether there are sufficient funds in the account of the unintended recipient to cover the MIP.

101. If the funds received are available, LCU must take action as shown in the table below:

<b>MIP report is made ...</b>	<b>Action LCU as receiving ADI must take ...</b>
within 10 business days of payment being made	<p>If LCU is <u>satisfied that a MIP has occurred</u> – return funds to the sending ADI within 5 business days of receiving the request, if practicable, or up to a maximum of 10 business days if reasonably necessary</p> <p>If LCU is <u>not satisfied that a MIP has occurred</u> – seek the consent of the unintended recipient to return the funds to sender.</p>
between 10 business days and 7 months of payment being made	<p>LCU must complete its investigation into the reported MIP within 10 business days of receiving a request.</p> <p>If LCU is <u>satisfied that a MIP has occurred</u> –</p> <ul style="list-style-type: none"> <li>) freeze the funds for 10 further business days and</li> </ul>

	<ul style="list-style-type: none"> <li>) notify the recipient that the funds will be withdrawn from the account if they fail to establish they are entitled to them within the 10 business days</li> <li>) if the recipient does not establish they are entitled to the funds within the 10 business days – LCU must return the funds to the sending ADI within 2 business days after the 10 business day period expires</li> </ul> <p>If LCU is <u>not satisfied that a MIP has occurred</u> – seek the consent of the unintended recipient to return the funds to the sender</p>
<p>made after 7 months of payment being made</p>	<p>If LCU is:</p> <ul style="list-style-type: none"> <li>) <u>satisfied that a MIP has occurred</u> – must seek consent of unintended recipient to return the funds</li> <li>) <u>not satisfied that a MIP has occurred</u> – may seek consent of the unintended recipient to return the funds</li> </ul> <p>If the unintended recipient consents to returning the funds, LCU must return the funds to the sending ADI, who must return the funds to the member as soon as practicable.</p>

MIP and Code of Operation for Centrelink Direct Credit Payments

102. If the unintended recipient of the MIP is receiving income support payments from Centrelink, LCU, being the receiving ADI, must recover the funds according to the Code of Operation for Centrelink Direct Credit Payments.

Funds are not available

103. Where the sending and receiving ADI are satisfied that a MIP has occurred but there are insufficient funds in the recipient’s account, LCU as the receiving ADI must use reasonable endeavours to retrieve the funds from the unintended recipient – for example by instalments.

**Communicating the outcome**

104. Where LCU is the sending ADI, they are required to notify the Member of the outcome of the reported MIP. The notification must be:
- ) in writing, and
  - ) within 30 business days of the day on which the report is made.
105. Members should also be made aware of their right to complain to LCU or to LCU’s EDR scheme as noted at §§106–108.

## Complaints about a MIP report

### LCU is sending ADI

106. Where LCU (the sending ADI) receives a complaint from a Member (who has made a MIP report) about how their MIP report was dealt with – e.g. that the sending and/or receiving ADIs:
- ) were not satisfied that a MIP has occurred, or
  - ) failed to comply with the processes and timeframes set out in the ePayments Code
- LCU:
- ) must deal with the complaint under its IDR procedures under §110, and
  - ) must not require the Member to complain to the receiving ADI.
107. If the Member is unhappy with the outcome of the complaint, they must be able to complain to LCU's EDR scheme.
108. If LCU is unable to return the funds to its member because the unintended recipient of a MIP does not cooperate, the Member must be able to complain to LCU's EDR scheme.

### LCU is receiving ADI

109. If a complaint is made to the sending ADI's EDR scheme – LCU, as the receiving ADI, must also cooperate with the sending ADI's EDR scheme. This includes complying with any decision of that scheme.

## Complaints about ePayment transactions (other than Mistaken internet payments)

### Recording the complaint – ePayment transactions

110. If the complaint is about an unauthorised ePayment transaction, make a record of:
- ) the type of facility;
  - ) where relevant, an identifier (i.e. a reference number for the transaction);
  - ) the type of device (card) and/or pass code used to perform the transaction
  - ) name and address of the holder;
  - ) the name of the other user(s);
  - ) whether a device (card) used to perform the transaction was signed by the user
  - ) whether a device (card) was lost, stolen or misused or the security of the pass code was breached and if so:
    - the date and time of the loss, theft misuse of the device (card), or breach of pass code security
    - the date and time the loss, theft or misuse of the device (card), or breach of pass code security, was reported to LCU
    - the date, time and method of reporting the loss, theft or misuse of the device (card), or breach of pass code security, to the police
  - ) where one or more pass codes were required to perform transactions, whether the user recorded the pass code(s), and if so:
    - how the user recorded the pass code(s)
    - where the user kept the record
    - whether the record was lost or stolen, and if so, the date and time of the loss or theft
  - ) where one or more pass codes were required to perform transactions, whether the user had disclosed the pass code(s) to anyone

- ) details of where and how the loss, theft or misuse of a device, or breach of pass code security, occurred (for example, housebreaking, stolen wallet);
  - ) details of the transaction to be investigated, including:
    - a description
    - the date and time
    - the amount
    - the type and location of electronic equipment used
  - ) details of any surrounding circumstances;
  - ) any steps taken by the user to ensure the security of any device or pass code(s) needed to perform transactions that the user considers relevant to the liability of the holder;
  - ) details of the last authorised transaction performed using the facility.
111. At this time the complaint should be assessed according to the following criteria:
- ) Severity;
  - ) safety implications (for issues such as breach of privacy);
  - ) complexity;
  - ) impact, in particular, whether delay could adversely impact the Member's basic living conditions; and
  - ) need for immediate action e.g. domestic/financial abuse, serious/terminal illness.
112. From this point on, the matter should be closely monitored so LCU can provide an up-to-date status report to the Member upon request.

### *Timeframes for handling the complaint*

113. For ePayment complaints, the timeframe is: \*\* see note

<b>response</b>	within one day of receiving the complaint, preferably immediately
<b>cooperation between subscribers (responding to request for further information)</b>	within 15 days of request for information from other subscriber, unless exceptional circumstances apply
<b>resolution (best practice)</b>	within 21 days of receiving a complaint
<b>notice of extension for resolution</b>	if the investigation has not been completed within 21 days of receipt of the complaint, advise the Member in writing of the need for more time to complete the investigation
<b>resolution (maximum)</b>	within 30 days of receipt of the complaint, unless there are exceptional circumstances

\*\* If LCU seeks to resolve a complaint about a credit card, scheme debit card or charge card subject to the rules of the card scheme, the time frames above do not apply. Instead, the rules of the particular card scheme will apply, for example, the Visa Claims Resolution.

### **Requirements where complaint covered by card scheme rules**

114. Where the complaint is being resolved under a particular card scheme's rules, LCU must follow the timeframes under the rules of that particular card scheme instead of those at §113.
115. LCU must:
  - ) inform the Member in writing of:
    - the relevant timeframes (under the card scheme's rules)
    - when the Member can reasonably expect a decision
  - ) suspend the member's obligation to pay any amount which is the subject of the complaint and any credit and other charges related to that amount, until the complaint has been resolved, and inform the member of this.
116. If LCU is unable to resolve a complaint being investigated under a particular card scheme's rules within 60 days, it must give the Member:
  - ) the reason for the delay;
  - ) updates on progress with the complaint once every 2 months; and
  - ) the date when the Member can reasonably expect a decision, unless LCU is waiting for a response from the Member and has advised them that it requires their response

### **Investigation requirements**

117. LCU must respond to requests for information from other subscribers to the ePayments Code within 15 days unless there are exceptional circumstances.
118. If the matter is being resolved under a separate card scheme's rules, then the 15 day requirement does not apply.

### **Communicating the decision**

119. LCU must tell the Member of:
  - ) the outcome of the complaint;
  - ) the reasons for the outcome – including references to the relevant clauses of the ePayments Code;
  - ) inform the Member of their right to take their complaint to EDR; and
  - ) the name and contact details of LCU's EDR scheme
120. LCU must give the Member written notice including the information at §119 of the outcome of the complaint within the appropriate timeframe in §113 or the timeframe of the particular card scheme rules that LCU is resolving the complaint under.
121. LCU is not required to give the Member written notice of the outcome where the complaint is settled to the Member's complete satisfaction within 5 business days, unless the Member requests a written response.

## **Privacy**

### **Dedicated facilities for receiving privacy complaints**

122. LCU has a dedicated position title, telephone number and email address to accept and handle privacy complaints.

## Making a privacy complaint

123. When a complaint is made, before processing it as a privacy complaint, staff must make the following preliminary assessments:

) the complaint must concern:

- LCU's handling of an individual's personal information
- the Member's request for a correction of their personal information.

**Note:** Where LCU holds at least one item of credit-related personal information about the individual, LCU must deal with that individual's correction request even if LCU does not hold the particular item of information that the individual is seeking to have corrected

) the complainant must be either:

- the individual (whose personal information has allegedly been mishandled) themselves
- a representative of the individual or somebody with authority to act for the individual whose personal information the complaint is about – staff must clarify the complainant's authority to act for the individual. Continuing without the proper authority may result in LCU accidentally disclosing personal information

) the complaint must be one to which the Privacy Act applies – for example:

- Australian Privacy Principle issues – including:
  - collection of personal (including sensitive) information
  - use and/or disclosure of personal information
  - accuracy of personal information
  - security of personal information
  - refusal to give access to personal information
  - refusal to correct personal information
- other interferences with the complainant's privacy under the Privacy Act – including breaches of Part IIIA (Credit Reporting) of the Privacy Act, and of the CR Code ("credit reporting complaints")

124. Staff must request any further information from the complainant as required, so they can be satisfied in making their preliminary assessment.

125. If the complaint is one which should be made to the Commissioner, LCU should provide the complainant with the relevant contact details.

126. If staff assesses the complaint as not a privacy complaint – best efforts should be made to deal with the complaint under LCU's other IDR complaint categories: see table at §45.

## Recording the privacy complaint

127. When recording a complaint, staff must include the following information in the record:

) a description of the complaint and any relevant supporting documentation, including details of the specific practice complained about and the relevant product (if any);

) the provision in the Privacy Act which has allegedly been breached and any other relevant privacy obligations and legislative exceptions;

) the remedy sought or requested by the complainant;

) date that a response is expected, such as a progress update or that the matter is to be resolved no later than 30 days from the date of receiving the complaint;

) information on involved parties to the complaint, namely, people, departments, branches etc.;

) any immediate action taken on the matter.

### ***Tips on complaint handling***

After listening to the complainant, sometimes you may require that the complainant put their complaint in writing because of the nature of the problem. It is important to ensure that the complainant does not think that you are putting up an obstacle. Try to help them understand that a letter will make it easier for you to help them and accurately respond to their issues of concern.

128. At this time the complaint should be assessed according to the following criteria:
- ) Severity;
  - ) safety implications (for issues such as breach of privacy)
  - ) complexity;
  - ) impact, in particular, whether delay could adversely impact the Member's basic living conditions; and
  - ) need for immediate action e.g. domestic/financial abuse, serious/terminal illness.
129. From this point on, the matter should be closely monitored so LCU can provide an up-to-date status report to the complainant upon request.

### **Acknowledging the complaint**

130. Staff must acknowledge the complaint by:
- ) advising the complainant of LCU's understanding of the conduct complained about, and the privacy obligations at issue (e.g. APP 3);
  - ) advising the complainant that an investigation is being conducted (if appropriate);
  - ) provide the name, contact details and title of the staff member handling the complaint and note how the staff member is independent of the person responsible for the conduct in the complaint;
  - ) (if not already recorded) requesting the Member outline the outcome they are expecting
  - ) giving the Member LCU's Complaints Policy: see §§172–173; and
  - ) pointing out LCU's timeframe for responding to the complaint, and when the Member will be contacted next.
131. If the complaint is about a breach of the Privacy Act credit reporting provisions (Pt IIIA) or the Credit Reporting Code ("credit reporting complaint"), LCU must acknowledge the complaint within 7 days by giving the Member a written notice:
- ) acknowledging the making of the complaint, and
  - ) setting out how LCU will deal with the complaint.

Generally, good practice dictates that LCU will have provided this response within one business day.

### **Investigating the complaint**

132. When processing the complaint, staff should investigate:
- ) whether the alleged conduct occurred;
  - ) what the relevant privacy obligations are;
  - ) whether it breached any privacy obligations – e.g. Privacy Act
133. LCU must investigate all "credit reporting complaints".

### **Timeframes for handling the complaint**

134. The timetable for handling privacy complaints should be:

<b>response</b>	within one business day, preferably immediately* <small>see note</small>
<b>resolution (best practice)</b>	within 14 days
<b>resolution (maximum)</b>	within 30 days of the day the complaint is made, or longer if the complainant has agreed to it in writing

\* For complaints about credit reporting breaches as noted in §131, the Privacy Act specifies that the maximum response timeframe is 7 days.

## Credit reporting complaint – consultation requirements

135. When dealing with complaints about a breach of Part IIIA (credit reporting) of the Privacy Act or the CR Code, if LCU considers it necessary to consult a credit reporting body or credit provider about the complaint in order to make a determination about the complaint, LCU must consult the body or provider.

## Request to correct personal information

136. If LCU is satisfied that the personal information is inaccurate, out-dated, incomplete, irrelevant or misleading, LCU must take reasonable steps to correct the information within 30 days of the request being made (or longer as agreed to in writing).
137. Reasonable steps are:
- ) correcting the credit information;
  - ) taking reasonable steps to ensure that any future derived information is based on the corrected credit information; and
  - ) taking reasonable steps to ensure that any derived information based on the pre-corrected credit information is not disclosed or used for assessing the individual's creditworthiness.

## Communicating the decision

138. If possible, the complainant should be called first, and then the decision should be confirmed in writing as soon as reasonably practicable, but within 5 business days of LCU's decision.
139. LCU must give written notice of its decision within 30 days of the complaint containing the following:
- ) setting out the decision\* see note (including the details about the information relied upon in developing the response);
  - ) (if appropriate) apologise for breaching your privacy obligations;
  - ) stating that, if the individual is not satisfied with the decision, the individual may:
    - access a recognised EDR scheme of which LCU is a member; or
    - make a complaint to the Commissioner under Part V
  - ) setting out the name and contact details of the EDR Scheme and Commissioner
- \* If the response is a refusal to correct personal information as per the complainant's request for correction – when setting out the decision, LCU should state that:
- o the correction has not been made; and
  - o set out their reasons for not correcting the information (including evidence substantiating the correctness of the information)

140. The OAIC recommends that this written response invite the individual to reply to your response, and where appropriate, offer a discussion or meeting.

141. If the decision is to correct information:

- ) the written notice to the complainant must also:
- include the relevant information held by LCU – so that the individual can check it has been appropriately corrected
  - inform the individual that they have a right under the CR Code to obtain their credit reporting information from a Credit Reporting Body free of charge if the access request relates to a decision by a Credit Reporting Body or a Credit Provider to correct information about the individual
  - explain how the individual's right to obtain their credit reporting information may be exercised
  - list the Credit Reporting Bodies, Credit Providers and information recipients that LCU will be notifying of the correction – this list will consist of the following:
    - Credit Reporting Bodies from whom LCU received the pre-corrected information
    - Credit Reporting Bodies to whom LCU disclosed the pre-corrected information
    - Credit Providers from whom LCU received the pre-corrected information
    - Credit Providers and information recipients to whom LCU has disclosed the pre-corrected information within the previous 3 months
  - ask the individual if there are any other Credit Providers or information recipients (e.g. mortgage insurers) that the individual would like to be notified of the correction
- ) as soon as reasonably practicable but within 7 business days of the correction, a written notice of the correction\* <sup>see note</sup> must also be given to the Credit Reporting Bodies, Credit Providers and other information recipients it identified in its notice to the complainant, any parties consulted at §135 and any other parties the complainant nominates

\* Note that where LCU disclosed information derived from the pre-corrected information to a Credit Provider or information recipient, the written notice of correction must include updated derived information based on the corrected information.

## **Notification requirements when dealing with complaints about failure to correct information**

142. When a LCU receives a complaint about

- ) either:
- LCU's failure to correct inaccurate, out-dated, incomplete, irrelevant, or misleading information about an individual; or
  - where LCU has disclosed the incorrect information to a 3<sup>rd</sup> party, LCU's failure to provide a notice of correction to the recipients;

and

- ) the complaint relates to:
- credit reporting information that a credit reporting body holds, or
  - credit information or credit eligibility information that another credit provider holds

LCU must notify, in writing:

- J Credit Reporting Bodies and Credit Providers from whom LCU received the information;
- J Credit Reporting Bodies and Credit Providers to whom LCU disclosed the information within the previous 3 months;
- J any other Credit Provider the complainant nominates

of the following:

- J the making of the complaint;
- J the decision about the complaint

as soon as practicable after they are made.

143. If LCU discloses personal information to which the complaint relates before a decision on it is made – then, at the time of disclosure, LCU must, in writing, notify the recipient of the information of the complaint.
144. The notification requirements at §§142-143 do not apply to LCU if giving such notifications are impracticable, or there is a court order or law requiring LCU not to give the notice.

## Consumer Data Right (CDR)

### Making a CDR complaint

145. When a complaint is made, before processing it as a CDR complaint, staff must make the following preliminary assessments:
- J the complaint must relate to:
    - LCU's handling of a CDR request or CDR data;
    - the Member's request for a correction of their CDR data.
  - J the complainant must be either:
    - the Member (whose CDR data has allegedly been mishandled) themselves
    - a representative of the person or somebody with authority to act for the person whose CDR data the complaint is about – staff must clarify the complainant's authority to act for the person. Continuing without the proper authority may result in LCU accidentally disclosing CDR data
  - J the complaint must be one to which Part IVD of the Competition and Consumer Act 2020, the Competition and Consumer (Consumer Data Right) Rules 2020, or the CDR data standards applies – for example:
    - Privacy Safeguard issues – including:
      - collection of CDR data
      - use and/or disclosure of CDR data
      - accuracy of CDR data
      - security of CDR data
      - refusal to correct CDR data
    - other breaches of LCU's CDR obligations – including failure to respond to CDR requests.
146. Staff must request any further information from the complainant as required, so they can be satisfied in making their preliminary assessment.
147. If the complaint is one which should be made to the Office of the Australian Information Commissioner (OAIC), LCU should provide the complainant with the relevant contact details.

148. If staff assesses the complaint as not a CDR complaint – best efforts should be made to deal with the complaint under LCU’s other IDR complaint categories: see table at §45.

### Recording the CDR complaint

149. When recording a complaint, staff must include the following information in the record:

- ) a description of the complaint and any relevant supporting documentation, including details of the specific conduct complained about;
- ) the provision of the CDR regime which has allegedly been breached;
- ) the remedy sought or requested by the complainant;
- ) date that a response is expected, such as a progress update or that the matter is to be resolved no later than 30 days from the date of receiving the complaint;
- ) information on involved parties to the complaint, namely, people, departments, branches etc.; and
- ) any immediate action taken on the matter.

#### **Tips on complaint handling**

After listening to the complainant, sometimes you may require that the complainant put their complaint in writing because of the nature of the problem. It is important to ensure that the complainant does not think that you are putting up an obstacle. Try to help them understand that a letter will make it easier for you to help them and accurately respond to their issues of concern.

150. At this time the complaint should be assessed according to the following criteria:

- ) Severity;
- ) safety implications (for issues such as breach of privacy);
- ) complexity;
- ) impact, in particular, whether delay could adversely impact the Member’s basic living conditions;
- ) need for immediate action e.g. domestic/financial abuse, serious/terminal illness.

151. From this point on, the matter should be closely monitored so LCU can provide an up-to-date status report to the complainant upon request.

### Timeframes for handling the complaint

152. The timetable for handling CDR complaints should be:

<b>response</b>	within one business day, preferably immediately* see note
<b>resolution (best practice)</b>	within 14 days
<b>resolution (maximum)</b>	within 30 days of the day the complaint is made, or longer if the complainant has agreed to it in writing

\* For requests to correct CDR data the maximum time for resolution is 10 business days, see §153

### Request to correct CDR data

153. LCU must acknowledge a request to correct CDR data as soon as practicable and should update the consumer dashboard if it has such functionality.

154. If LCU is satisfied that the CDR data is inaccurate, out-dated, incomplete, irrelevant or misleading, LCU must take reasonable steps to correct the data within 10 business days of the request being made.
155. Reasonable steps are:
  - ) correcting the CDR data;
  - ) taking reasonable steps to ensure that any future derived data is based on the corrected CDR data; and
  - ) taking reasonable steps to ensure that any derived information based on the pre-corrected CDR data is not disclosed or used.

## Communicating the decision

156. For CDR complaints that are requests to correct CDR data, after taking the appropriate action, if any, LCU must give the Member a written notice, by electronic means, that:
  - ) indicates what LCU did in response to the request;
  - ) if LCU did not think it a correction or statement was appropriate or necessary, states why; and
  - ) sets out the complaint mechanisms available to the consumer.
157. The notice must include the following information about the complaint mechanisms available:
  - ) LCU's internal dispute resolution processes relevant to the Member including any relevant information from LCU's CDR policy;
  - ) the external complaint mechanisms the Member is entitled to access including the Member's right to complain to the OAIC and AFCA.
158. The correction notice may be given to the Member via the consumer dashboard.
159. For all other CDR complaints, LCU should provide a final response under the Other ('general' complaints) section at §165.

## Other ('general' complaints)

### Recording the complaint

160. When recording a Member's complaint, staff must include the following information in the record:
  - ) a description of the complaint and any relevant supporting documentation;
  - ) the remedy sought or requested by the Member;
  - ) the specific product or practice complained about, for example, a particular aspect of an account or customer service;
  - ) date that a response is expected, such as a progress update or that the matter is to be resolved no later than 30 days from the date of receiving the complaint;
  - ) information on involved parties to the complaint, namely, people, departments, branches etc.; and
  - ) any immediate action taken on the matter.

#### ***Tips on complaint handling***

After listening to the Member, sometimes you may require that the Member put their complaint in writing because of the nature of the problem. It is important to ensure that the Member does not think that you are putting up an obstacle. Try to help them understand that a letter will make it easier for you to help them and accurately respond to their issues of concern.

161. At this time the complaint should be assessed according to the following criteria:
- ) Severity;
  - ) safety implications (for issues such as breach of privacy);
  - ) complexity;
  - ) impact, in particular, whether delay could adversely impact the Member's basic living conditions;
  - ) need for immediate action e.g. domestic/financial abuse, serious/terminal illness.
162. From this point on, the matter should be closely monitored in order to enable LCU to provide an up-to-date status report to the Member upon request.

### Timeframes for handling the complaint

163. Best efforts should be used to resolve a Member's complaint and notify the Member as soon as possible.
164. The timeframe for handling complaints should be:

<b>response</b>	within one business day of receiving the complaint, preferably immediately
<b>resolution (best practice)</b>	within 14 days of receipt of the complaint
<b>resolution (maximum)</b>	within 30 days of receipt of the complaint <sup>** see note</sup>

\*\* Note that the 30-day time frame:

- begins from the date that the complaint is received and does not re-commence if LCU obtains further information during the investigation of the complaint
- applies to the entire IDR process, including all internal appeals or escalation mechanisms e.g. customer advocate reviews.

### Communicating the decision

165. LCU must provide the Member with a final response in writing within 30 days of receiving the complaint.
166. LCU does not need to provide a written final response if the complaint is resolved to the Member's satisfaction by the end of the fifth business day after the complaint was received and meets the exception requirements set out at §44.
167. LCU's final response must include the following:

<b>where the complaint is accepted</b>	<ul style="list-style-type: none"> <li>) the final outcome of the complaint confirming actions taken by LCU to fully resolve the complaint</li> <li>) the Member's right to take their complaint to AFCA</li> <li>) AFCA's contact details</li> </ul>
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***where the complaint is rejected or partially rejected***

- ) the final outcome of the complaint, carefully detailing:
  - the decision
  - the reasons for the decision by:
    - identifying and addressing the issues raised in the complaint
    - setting out LCU's findings on material questions of fact and referring to the information that supports those findings
    - providing enough detail for the Member to understand the basis of the decision and to be fully informed when deciding whether to escalate the matter
  - the consequences of the decision
- ) the Member's right to take their complaint to AFCA
- ) AFCA's contact details.

## Unresolved complaints or complaints not resolved within appropriate timeframes

168. The Member must be told that they can pursue their complaint through AFCA if the complaint remains unresolved after IDR, or if it is not resolved within the appropriate timeframe listed above for the particular complaint.
169. If the complaint is not resolved within the appropriate timeframe listed above, the Member must, before the end of that timeframe:
- ) be informed of the status of the complaint or dispute;
  - ) be informed of the reasons for the delay;
  - ) be informed of the expected timeframe for resolution of the matter;
  - ) be advised of their right to complain to AFCA; and
  - ) be provided with AFCA's contact details.

## Referral to EDR

170. If the Member informs staff that they want to refer LCU's decision to AFCA, staff must:
- ) give the Member LCU's Complaints Policy;
  - ) refer the complaint to LCU's EDR Manager for further action, in accordance with the procedures.

### For securitisation activities

171. If LCU is unable to resolve a dispute between the Member and the securitisation body, LCU must either:
- ) inform the Member of their right to complain to the securitisation body's EDR scheme and provide them with the scheme's contact details; or
  - ) directly refer the dispute to the securitisation body's EDR scheme.

## LCU's Complaints Policy

172. LCU's Complaints Policy must be made available to Members at LCU's branches and agencies and available on LCU's internet site.
173. Staff must give Members a copy of the Complaints Policy:
  - ) on request;
  - ) when receiving a complaint;
  - ) when communicating LCU's decision on a complaint to the Member.

## Membership of EDR process

174. As required by LCU's Australian Financial Services and Credit Licences, LCU is a member of the Australian Financial Complaints Authority.
175. The Dispute Resolution Manager is LCU's designated EDR Manager responsible for managing LCU's relationship with the Australian Financial Complaints Authority.

## Complaints monitoring and reporting

176. The Dispute Resolution Officer will maintain a central register of complaints.
177. LCU will review complaints so as to continually monitor its performance against policy and compliance systems. LCU's Compliance Officer will:
  - ) review all complaints to assess whether there are any systematic or recurring patterns;
  - ) identify the underlying causes of these complaints, particularly if those causes relate to:
    - non-compliance with consumer protection laws or LCU's Conditions of Use for the relevant product or service
    - any failures in LCU's systems and procedures
  - ) liaise with managers responsible for the relevant systems and procedures to identify any remedial action;
  - ) provide quarterly reports to the Audit Committee setting out
    - the number of complaints received
    - the number of complaints closed
    - the circumstances giving rise to complaints (e.g. products, services, issues and reasons)
    - the time taken to acknowledge complaints
    - the time taken to resolve or finalise complaints
    - complaint outcomes
    - possible systemic issues identified
    - underlying causes of complaints
    - complaint trends
    - number of complaints escalated to AFCA
    - recommendations for improving products and services.

## Review of Policy & Procedure

178. The Dispute Resolution Officer will review this Policy every 2 years, with input from all managers.

## **Audit of the dispute resolution process**

179. The Internal Auditor will carry out an annual audit of compliance with this Policy & Procedure. In addition, the Internal Auditor will monitor whether the IDR timeframes are being observed, particularly finalisation of complaints within 30 days (or within a shorter timeframe as required for hardship, postponement, default notice complaints, certain ePayments complaints, privacy complaints or CDR complaints).

# Part C: Dealing with Unreasonable Complainant Conduct

## What is ‘unreasonable complainant conduct’?

180. Complainant conduct is likely to be unreasonable if it involves any behaviour which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for LCU, its staff, other customers and complainants or the complainant themselves.
181. Unreasonable complainant conduct (“UCC”) can be divided into five categories, including:

<b><i>unreasonable persistence</i></b>	<ul style="list-style-type: none"> <li>) persisting with issues even though they have been finalised</li> <li>) refusing to accept a final decision</li> <li>) continual and incessant calls, emails or letters in support of the complaint (when requested not to)</li> </ul>
<b><i>unreasonable demands</i></b>	<ul style="list-style-type: none"> <li>) insisting on unattainable outcomes</li> <li>) demanding more reviews than provided for in LCU’s review policy</li> <li>) demanding a different outcome without demonstrating error in the original decision</li> </ul>
<b><i>unreasonable lack of cooperation</i></b>	<ul style="list-style-type: none"> <li>) providing disorganised, excessive or irrelevant information</li> <li>) unwillingness or inability to cooperate with the complaints system</li> <li>) refusing to follow or accept instructions without a justified reason</li> </ul>
<b><i>unreasonable arguments</i></b>	<ul style="list-style-type: none"> <li>) expressing irrational claims, beliefs or conspiracy theories</li> <li>) making vexatious complaints</li> <li>) illogically denying any responsibility for actions or inaction</li> </ul>
<b><i>unreasonable behaviour</i></b>	<ul style="list-style-type: none"> <li>) acts of aggression</li> <li>) verbal abuse</li> <li>) derogatory, racist or grossly defamatory remarks</li> <li>) harassment</li> <li>) intimidation</li> <li>) physical violence or threats of harm to self, complaint handlers or third parties</li> </ul>

## Approach to Managing Unreasonable Conduct

182. When dealing with UCC, LCU should consider the following key principles set out in Appendix E of AS/NZS 10002:2014:

- J individuals in a liberal democratic society have the right to freedom of expression which includes the right to express dissatisfaction with LCU or its decisions, conduct, service, products and policies;
- J focus on a complainant's conduct and communication, not the person;
- J a complainant cannot be changed, but LCU can change how they communicate with the complainant;
- J appropriate policies on the options available for dealing with UCC (including this manual);
- J the aim of managing UCC is to provide a better level of service for the complainant than would otherwise be the case, if their unreasonable conduct was not addressed;
- J all parties to a complaint have certain rights and responsibilities and appropriate policies setting out those rights and responsibilities
- J a complainant has the right to communicate with LCU and to be informed of the way in which service will be provided to them, subject to their reasonable compliance;
- J LCU has an obligation to ensure a healthy and safe work environment for staff, which includes regular assessment and management of the risks faced by complainant handlers

### ***Tips on resolving/avoiding escalating conflict***

Conflict can often arise when the complainant has different expectations about how an issue will be dealt with. It is important to manage those expectations from the outset, explaining what you can and cannot do. It is also important to be emphatic and respectful of the complainant and where possible avoid confrontational language.

## Responding to and managing unreasonable complainant conduct

183. LCU can manage UCC incidents by limiting or adapting the ways they interact with and deliver services to complainants.

### **Limiting who they have contact with**

184. Where a complainant tries to forum shop internally within the organisation or change their issues of complaint repeatedly, LCU may restrict their access to a single staff member who will exclusively manage the complaint. LCU would need to ensure that the staff member is provided with regular support and guidance and appoint an alternative staff member for when the primary contact is unavailable.

### **Restricting what they can raise**

185. Where a complainant repeatedly sends letters, emails or online forms that raise trivial or insignificant issues, relate to a complaint that has been comprehensively considered or contains inappropriate or abusive content, LCU may restrict the issues raised by the complainant. For example, LCU can:

- J refuse to respond to an issue that has already been dealt with or an issue that is trivial or not supported by clear evidence;

- ) return correspondence to the complainant requesting them to remove any inappropriate content before considering its content. NOTE: LCU should keep a copy of any inappropriate correspondence for a record to identify repeat UCC incidents.

### Limiting when and how they can have contact

186. Where a complainant's telephone, written or face-to-face contact is placing an unreasonable demand on time and resources or affects the health, safety and security of staff, LCU may limit when and how the complainant can interact with LCU. For example, LCU may:
- ) limit the length or duration of telephone calls and written correspondence;
  - ) restrict how often the complainant can send emails or written correspondence to the office;
  - ) limit face-to-face interviews to secured areas of the office;
  - ) restrict a complainant to sending emails to a particular email account or block their email address and request that correspondence be sent through Australia Post only.

### Terminating access to services

187. As a last resort, LCU may decide that it is necessary to completely restrict a complainant's contact/access to services. The circumstances which would give rise to termination of access includes:
- ) an unwillingness to modify unreasonable conduct;
  - ) acts of aggression, verbal and/or physical abuse, threats of harm, harassment, intimidation, stalking, assault;
  - ) damage to property while on the premises;
  - ) threats of harm to another person or themselves; and
  - ) unlawful conduct
188. If the complainant's conduct does not pose a substantial risk to the health and safety of staff or other parties, LCU is required to provide a written warning before access is terminated. If the complainant's conduct poses a substantial risk or continues after the warning, LCU is required to send a notification letter explaining that the complainant's access has been terminated.
189. A complainant can make one appeal to a decision restricting/changing access to LCU's services. The appeal must be reviewed by a senior staff member who was not involved in the original decision.
190. A complainant's access may also be restricted using trespass laws or legal orders if necessary.

#### ***Tips on responding to threats, hostility and aggression***

If you recognise any signs of anger, ask yourself whether you are in danger. If yes, you need to remove yourself from harm's way as quickly as possible. If no and the person's behaviour improves, you should explain the consequences if their behaviour continues and where possible refocus on the issue.

### Recording and reporting

191. Staff must record and report all UCC incidents they experience or witness to their supervisor within 24 hours of the incident occurring. LCU should ensure that accurate and detailed file notes regarding client contact are kept.

192. Staff must also record and report incidents of non-compliance with a change or restriction of access by complainants. This should be recorded in a file note.

## Adoption

Adopted by the Board 17 June 2009.

## Review

This policy will be reviewed at least annually or as required (e.g. If the regulations are amended).

## Review History

17 Mar 2010	Addition of requirements of ASIC RG 165
Aug 2010	Addition of requirements of the National Credit Code
Nov 2010	Additional requirements of NCC added
Jun 2011	Reviewed by the BAC and Board
May 2012	Annual review by AGM
May 2013	Annual review by BAC, addition of new timeframes for hardship applications
May 2014	Reviewed by BAC
Jun 2015	Annual review by Board, updated to include changes recommended under our legal retainer
Aug 2015	Adopted by the Board
May 2016	Reviewed by GM and Board
July 2017	Annual review by RCO, GM and Board
Nov 2017	Full review – updated policy from DB Legal template
Nov 2018	Updated to amend FOS to AFCA
Dec 2018	Updated version to include changes recommended by DB Legal, mainly references and fine tuning new AFCA requirements.
Dec 2019	Reviewed by RCO and adopted by GM. No changes were required.
Dec 2020	Reviewed by RCO and adopted by GM. No changes were required.
Aug 2021	New updated policy incorporates regulatory changes to reporting time frames and has two new sections: ) Consumer Data Right (CDR) , ) Dealing with Unreasonable Complaint Conduct. Reviewed by RCO and GM, adopted by the Board