

## **MEDIA STATEMENT**

19 June 2019

### **Small businesses hurt by financial misconduct encouraged to file legacy complaints**

The Australian Small Business and Family Enterprise Ombudsman, Kate Carnell has encouraged eligible small businesses impacted by financial misconduct as far back as 1 January 2008, to lodge a complaint with the Australian Financial Complaints Authority (AFCA).

From July 1, eligible small businesses will only have a one year window to apply to AFCA regarding complaints dating back to 1 January 2008.

“This is a positive step forward for small businesses who have fallen victim to financial misconduct, as AFCA previously only took complaints going back six years,” Ms Carnell said.

“It’s a very simple process that involves clicking the yellow “Make a complaint” button on the AFCA website.

“Small businesses could be awarded up to \$1 million in compensation if their claim is successful, and the maximum compensation for primary producers is \$2 million.”

A small business is eligible to apply if:

- it has less than 100 employees
- the complaint relates to loans under \$5 million
- the submission is about a financial entity that was a member of AFCA at the time of the complaint
- the small business has not already had their case heard by the Financial Ombudsman or a court.

“It is unfortunate that AFCA is bound by the \$5 million limit as we know of a range of cases where the small business loan was over this amount and those businesses have nowhere to go – no access to justice,” Ms Carnell said.

“These businesses don’t have the resources to take financial misconduct to court and they deserve justice too.”

AFCA will refer the complaint back to the financial firm to resolve and if the financial firm is unable to satisfactorily resolve a legacy complaint, AFCA will begin investigating from 1 October 2019.

Before small businesses submit their complaint they are encouraged to:

- identify the financial firm to which they have the complaint
- identify the main issues as part of the complaint
- identify the losses incurred and what outcome is sought
- collect any relevant documents that support the complaint. However it is not mandatory to have all of the documentation.

“This will go some way to providing access to justice and redress to many small businesses, but we will continue to put pressure on the government to adopt Ramsay’s supplementary report on a scheme for small businesses with complaints relating to loans over \$5 million that includes options such as an independent forum to hear past disputes or government supported legal funding,” Ms Carnell says.

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