

**AFCA Rules Change Consultation –  
Rule A.14.5**

**Legal Aid NSW submission to Australian  
Financial Complaints Authority**

*17 June 2019*

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**Legal Aid**   
NEW SOUTH WALES

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## About Legal Aid NSW

The Legal Aid Commission of New South Wales (**Legal Aid NSW**) is an independent statutory body established under the *Legal Aid Commission Act 1979* (NSW). We provide legal services across New South Wales through a state-wide network of 24 offices and 221 regular outreach locations, with a particular focus on the needs of people who are socially and economically disadvantaged.

We assist with legal problems through a comprehensive suite of services across criminal, family and civil law. Our services range from legal information, education, advice, minor assistance, dispute resolution and duty services, through to an extensive litigation practice. We work in partnership with private lawyers who receive funding from Legal Aid NSW to represent legally aided clients.

We also work in close partnership with LawAccess NSW, community legal centres, the Aboriginal Legal Service (NSW/ACT) Limited and pro bono legal services. Our community partnerships include 29 Women's Domestic Violence Court Advocacy Services.

The Legal Aid NSW Civil Law Division focuses on legal problems that impact most on disadvantaged communities, such as credit, debt, housing, employment, social security and access to essential social services.

Legal Aid NSW welcomes the opportunity to make a submission to the Australian Financial Complaints Authority's consultation about changes to Rule A.14.5. Should you require any further information, please contact:

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## Introduction

Legal Aid NSW welcomes the opportunity to contribute to the Australian Financial Complaints Authority's (**AFCA**) consultation about proposed changes to Rule A.14.5. Legal Aid NSW strongly supports AFCA's proposed changes, which will allow AFCA to identify financial firms in published determinations.

### Question 1: Does the proposed change satisfy AFCA's transparency requirements?

The proposed change to Rule A.14.5 is a significant step towards satisfying AFCA's transparency requirements. Publishing the names of financial firms in determinations will increase accountability and motivate a positive change in industry conduct. This change will also give more information to consumers about the behaviour of financial firms, which may inform their choice to purchase a particular financial product, or to keep their business with a particular financial firm.

### Question 2: Do the Operational Guidelines adequately explain how the Rules as amended will apply?

Yes. Legal Aid NSW supports the guidance in the Operational Guidelines that financial firms will be identified, but that other parties to the dispute will not.

The Operational Guidelines note that it is open for the parties to request that the determination should not be published provided there are compelling reasons. Similarly, a party can request a determination that has already been published to be further de-identified or removed. This discretion should be used sparingly by AFCA. For the reasons outlined above, the vast majority of determinations should be published with the names of financial firms included.

### Question 3: Do you have any other comments about the proposed change?

No comment.