

ANNUAL REPORT

# Resolution Pathways

2019

This report provides a matter summary, trends and achievements for the Resolution Pathways service for the 2019 year.

## 1. MATTER SUMMARY

There have been 18 new matters in the period:

- 9 matters involve licensees.
- 9 matters involve creators (APRA writer members). The dominant issue in these matters was a dispute with another creator about the split between those creators/writer members.

Further information about the matters is outlined under the heading Matters below, and a table of the matters is set out in Attachment A. We have used matter numbers to avoid identifying participants.

## 2. ACHIEVEMENTS

The system started in 2015 and initially focused on piloting pathways and experimenting with governance. In 2018 we had the benefit of feedback from an Independent Review by Alyson Boyle (the “Independent Review”).

The goal in 2019 was to reflect, refine and create a framework from the learnings since 2015, using the Independent Review’s feedback as a guide to assist in prioritising issues and matters.

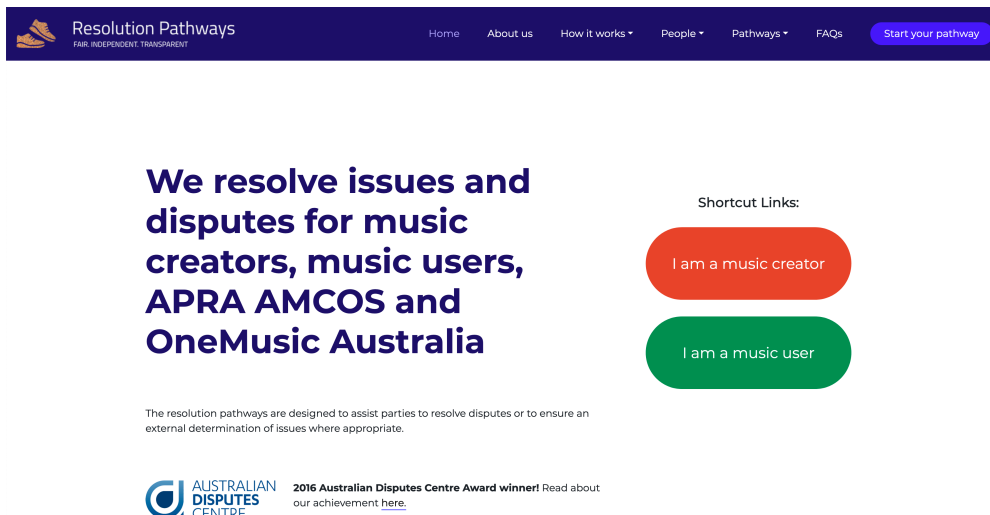
Resolution Pathways also provided substantial submissions to the ACCC about refining both the dispute resolution process and its governance for consideration for the next authorisation period.

Below are the major projects completed in the 2019 calendar year.

### 2.1 Completed Website redesign

In 2019 we redesigned, rebuilt and launched the Resolution Pathways website (the Website, [www.resolutionpathways.com.au](http://www.resolutionpathways.com.au)), incorporating feedback from the Independent Review, the Resolution Pathways Stakeholder Groups, APRA and the ACCC.

The next project will aim to increase the website’s interactivity, focusing on the user experience and outreach.



Resolution Pathways  
FAIR. INDEPENDENT. TRANSPARENT

Home About us How it works People Pathways FAQs Start your pathway

**We resolve issues and disputes for music creators, music users, APRA AMCOS and OneMusic Australia**

Shortcut Links:

I am a music creator

I am a music user

The resolution pathways are designed to assist parties to resolve disputes or to ensure an external determination of issues where appropriate.

**AUSTRALIAN DISPUTES CENTRE** 2016 Australian Disputes Centre Award winner! Read about our achievement [here](#).



## 2.2 Finalised: Structure of the Governance and Operational team

### Resolution Team

The Independent Review recommended that the scheme's governance and administration should be separate from the Resolution Facilitator role, acknowledging the budgetary limits on the scheme. During 2019, Sarah Nicholson was engaged to be the primary contact for the stakeholders and administration. An independent chair for oversight of the Resolution Facilitator was appointed through the Governance group.

### Stakeholders Group and Governance Committee:

The Stakeholder Group comprises both creator and licensee representatives. It is designed to enable consultation and information flow from and between the primary user groups in the APRA eco-system.

The Stakeholder Group is also the place from which we recruit members of the Governance Committee.

The Governance Committee comprises 2 writer representatives and 2 licensee representatives (one representing licensees/royalty above \$3000 per annum and one below that amount). This group was confirmed as being the group referred to in the ACCC authorisation. A charter and roles were further developed with a view to being finalised once that committee is fully formed.

In late 2019 we undertook recruitment of new writer members with annual royalties above \$3,000.

In 2019 we also appointed an Independent Chair of the Governance Committee. This provides mechanism for ensuring that the committee is able to provide feedback and manage the Resolution Facilitator.

### Meetings

The Stakeholder Group met twice in 2019, in addition to smaller groups of stakeholders meeting where required. The Governance Committee met 4 times during 2019.

More information about the Resolution Pathways team, roles and responsibilities is available on the Website, along with a list of the Governance Committee members and stakeholders at <https://resolutionpathways.com.au/governance-stakeholders/>.

## 2.3 OneMusic

Following OneMusic's introduction, we met with internal and external stakeholders to ensure the team is briefed and available to assist with issues referred to us by members of the licensee stakeholder group and by APRA AMCOS. We were also provided with a project management timeline by APRA AMCOS to help track the project and ensuring appropriate resources on standby.



## 2.4 Fine-tuned: Peer Pathway

Besides managing disputes with APRA AMCOS, we have innovated to give creators a less formal and expensive option for resolving disputes about royalty splits that arise between them.

This has involved:

- Establishing a group of peers available to assist one participant or both participants by providing a disinterested view of the issue.
- A mechanism and interface to support this process.
- Fine-tuning APRA's internal membership process to interact effectively with the pathway.

We have worked with APRA's Writer Services team to provide information packs on the resolution of disputes and the peers.

Peer Mentoring:

- As part of the new pathway it became evident that some creators could resolve their issues through mentoring.
- We have met with APRA Writer Services and are working on a peer pathway that will make available both paid and unpaid mentors and coaches.

## 2.5 Submissions to the ACCC:

The 2014 ACCC authorisation is the mandate under which we operate. The first 5-year period of the scheme under the first ACCC authorisation concluded in June 2019. We have continued to operate under an Interim Authorisation.

In 2019 we engaged with the ACCC to provide feedback on the central pillars of the dispute resolution mechanism to assist them in a future framework.

This was primarily done through a series of submissions prepared by the Resolution Facilitator with input from the various committees. The Resolution Facilitator also attended the ACCC pre-decision conference on 19 July 2019.

We are awaiting the final determination to set the framework and mandate for the next period of the scheme.

## 3. MATTERS

New matters

There have been 18 new matters in the 2019 period:

- 9 matters involving licensees; and
- 9 involving creators.



A summary of each new matter is outlined in Attachment A.

These numbers include the creator disputes (member to member disputes).

This is a decrease from all previous years, even with a new website advertising the Scheme and the advent of OneMusic.

Part of the reason for the decrease is that we have delayed processing some of the member-to-member (MTM) matters while we fine-tune the peer pathway to ensure that it is cost-efficient and safe. Without that pause, the number of matters would be consistent with past years.

The Interim Authorisation does not authorise coverage of MTM matters. Applying this rule would have reduced the 2019 total to 10 matters, which is consistent with previous years.

### Matters carried over from 2018

9 matters carried over from 2018 into 2019. Details of the matters carried over from 2018 are also outlined in Attachment A to the Annual Report. Please note the matters carried over also include MTM matters.

### Matters compared to previous years

Year	Total Matters	License Matters	Creator Matters
2019	18	9	9
2018	24	9	15
2017	10	3	7
2016	19	3	16

## 4. SUMMARY OF FEEDBACK ON THE SCHEME

Feedback is optional. Where it has been received, it is positive in nature. Please see examples at matter numbers 066L and 071L in Attachment A, and the survey at Attachment B (survey deidentified for this report).

The committee feedback includes:

- The need to start to capture and include testimonials about customer experience.
- The need for evaluations to be undertaken by someone other than the Resolution Facilitator herself.
- More outreach through social media.

We are working on these items.



5. COMPLAINTS ABOUT THE RESOLUTION FACILITATOR OR THE SCHEME

We have established the ability for the Independent Chair to take complaints about the Resolution Facilitator and the Scheme. This has been suggested to the ACCC in a submission and we are awaiting the ACCC determination to see if the suggestion has been accepted.

6. EVALUATION OF GOALS:

The goals set by the committee were operational in nature and also tracked the Independent Report.

METRIC	ASSESSMENT
Finalise Website	COMPLETED
Provide feedback to the ACCC on authorisation	COMPLETED
2 meetings for stakeholder groups	COMPLETED/ONGOING
Finalise stakeholder group succession	COMPLETED
4 meetings for governance committee	COMPLETED
Communications re OneMusic and interface	COMPLETED
Peer assist trial/streamline reporting for peer process	COMPLETED
Reporting protocol for matters	COMPLETED/ONGOING

7. GOVERNANCE AND FUNDING

Funding

APRA AMCOS has funded all the requests made by the Resolution Facilitator including the necessary funding for MTM matters which fall outside the ambit of the authorisation. Peer pathways and coaching are included in that category.

Funding to Resolution Pathways has been provided as a retainer based on an estimate of the overhead and project needs and a number of category 1 matters, so that the Resolution Facilitator does not need to ask APRA to use funds for a particular purpose or participant. This is an important cornerstone in independence.

The Independent Chair and Governance Committee worked with the Resolution Facilitator in



assessing whether the funding was adequate to cover the deliverables outlined in 6 above which form the core of the overhead, and matter resolution of 1 matter per month for category 1. The budget was increased for the end of 2019 to allow for the website build. The requested increase was approved by APRA AMCOS. APRA AMCOS also approved a flexible amount for direct costs of resolution using mediation and expert evaluation.

## 8. CONCLUSION

2019 saw the program increase its effectiveness by including matters beyond those stipulated by the ACCC.

The scheme has delivered both individual dispute resolution outcomes and broader projects.

The program's success continues to rely on the strategic and effective contribution of the stakeholder groups who volunteer and support the Resolution Facilitator and the program. These groups include representatives from Industry, creators and representatives of APRA. We thank them for their commitment and contribution in making dispute resolution effective and accessible for all.

The challenge for the next period will be to continue to refine the triage process and simultaneously ensure that the project has good external visibility and reach.

Shirli Kirschner / Sarah Nicholson

Resolution Facilitator Team





## ATTACHMENT A

### 1. NOTES ABOUT TERMINOLOGY IN THE REPORT

#### Meaning of closed/resolved when applied to matters

Resolved means the matter has been through a pathway(s) controlled by the Resolution Facilitator and is finalised, or where participants have reported as such.

Closed means that the matter has been referred out of our pathways by consent of the participants.

A matter can be referred back by a participant as an associated matter if it is not resolved by whatever means the participants have chosen (typically direct negotiation or court). This process is designed to ensure participants remain in control of their matters and also to protect the privacy of pathways such as mediation. The need to report back to us could be in contravention of a standard mediation or mapping agreement which keeps the process and the outcome confidential.

#### Associated matters

A matter that is closed and does not resolve after being allocated to an external pathway will be allocated as an associated matter if it is reopened. Matters where a number of pathways are tried, will have multiple matter numbers which are associated.

Two of the new creator matters opened in 2019, were associated with earlier matters (069M and 072M). These are identified with an \*.

### 2. MATTERS

Below is a summary of new matters opened by Resolution Pathways in 2019, in addition to a summary of matters that were carried over into 2019 from 2018.

#### KEY:

**OPTION 1** = Informal Resolution facilitated by  
Resolution Facilitator

**OPTION 2** = Mediation

**OPTION 3** = Expert Opinion (non-binding)

**OPTION 4** = Expert Decision (binding)

In addition to a pathway we also use a letter  
to denote the sector:

**L** = Licensee Matter

**M** = Creator Matter (Writer Member)



# Resolution Pathways

FAIR. INDEPENDENT. TRANSPARENT

Matter number	Type of dispute	Subject matter of dispute	Time taken to resolve the dispute	Period open [additional information that we think is important for metrics]	Fees borne by Applicants and the fees borne by APRA	Outcome and evaluation	Comments
064L of 2019	Licensee	Dispute over licence fees. This matter was referred to mediation.	Option 2: 1 day	Option 1: Open 22 days before referral to Option 2.	>10k license fee 50% each	Resolved.	Figures and output not disclosed due to mediation agreement terms. Mediator reported satisfaction.
065L of 2019	Licensee	Dispute over licence fees. This matter was referred to an expert opinion (non-binding process). >\$10k costs borne equally	N/A.	Option 1: Open 2 months and 25 days before referral to Option 3	>10k license fee 50% each figure confidential	Closed. No information	The parties agreed to deal direct with the expert evaluators (2 qualified experts) and only to disclose to the Resolution Facilitator if they chose.
066L of 2019	Licensee	Dispute over ongoing licence following the closing of a business.	Option 1: 7 days	Option 1: 7 days	N/A	Resolved. Licensee gave written feedback to the Resolution Facilitator's team that "Shirli was a delight to work with and up until reaching out to her we were frustrated with multiple attempts to resolve the matter directly...Thanks again and please pass on my thanks to Shirli and the Resolution Pathways team".	
067L of 2019	Licensee	Dispute with APRA AMCOS regarding licence categorisation, and the quantum of a proposed licence under OneMusic. This was resolved by negotiation through the Resolution Facilitator.	Option 1: 5 weeks and 6 days.	Option 1: 5 weeks and 6 days.	N/A	Resolved.	



# Resolution Pathways

FAIR. INDEPENDENT. TRANSPARENT

Matter number	Type of dispute	Subject matter of dispute	Time taken to resolve the dispute	Period open [additional information that we think is important for metrics]	Fees borne by Applicants and the fees borne by APRA	Outcome and evaluation	Comments
071L of 2019	Licensee	Dispute regarding the rate structure of a OneMusic licence for a business with multiple locations, and a service complaint. This was resolved by negotiation through the Resolution Facilitator.	Resolved 3 months and 9 days after referral to OneMusic.	Option 1: Open 3 weeks and 4 days before referring internally to OneMusic.	N/A	Resolved. The licensee gave verbal feedback to the Resolution Facilitator that they were really happy with their contact and complementary about the skills of the OneMusic team.	
075L of 2019	Licensee	Dispute by a retail store regarding change in licence fee from APRA licence to OneMusic. This dispute also involved a service complaint against OneMusic, and in issue around filling in forms.	N/A	Option 1: 2 months and 2 weeks.	N/A	Closed.	Closed at the date that Resolution Pathways received the information required for the licence. Awaiting confirmation if the license is paid.
076L of 2019	Licensee	Query by a hospitality group about a OneMusic licence for one of its venues. Referred internally by consent to OneMusic for direct negotiation.	N/A.	Option 1: Open 2 days before referring internally to OneMusic.	N/A	Closed.	Remains open with OneMusic in 2020.
077L of 2019	Licensee	Referral regarding a licence. The licensee has not made contact with the Resolution Facilitator.	N/A	As at 31 December 2019 this matter had been open for 1 month and 19 days.	N/A	Closed.	Matter closed in February 2020 on the basis that there had been no contact from the licensee for a period of 3 months.

# Resolution Pathways

FAIR. INDEPENDENT. TRANSPARENT

Matter number	Type of dispute	Subject matter of dispute	Time taken to resolve the dispute	Period open [additional information that we think is important for metrics]	Fees borne by Applicants and the fees borne by APRA	Outcome and evaluation	Comments
061M of 2019	Creator	Dispute between creators over the splits in the registration of works. This was referred to Resolution Pathways as part of the new peer pathway. It was subsequently referred to peer mentoring to take place in 2020. Following peer mentoring, the creator will determine whether he wishes to proceed with the dispute component.	N/A	Option 1: Open for 1 month and 4 days prior to referring to peer mentoring.	N/A	Pending process finalisation at the conclusion of peer mentoring.	
062M of 2019	Creator	Error in registration from publisher. APRA AMCOS facilitated the correction of the error by contacting the publisher and asking that they withdraw the incorrect claim.	9 days.	Option 1: 9 days.	N/A	Resolved.	
068M of 2019	Creator	Dispute between creators over the splits in the registration of works. The creator was referred to APRA to apply for membership and register the relevant works.	N/A	5 months and 12 days.	N/A	Closed.	Resolution Pathways kept the matter open to enable the creator time to complete the relevant registrations and decide how she wished to proceed. The matter was closed following confirmation from the creator that she had decided not to proceed.
069M of 2019*	Creator	Creator splits where the quantum has been determined and the cost of a pathway.	N/A	This matter was open for 6 months and 24 days before referral to APRA writer services for the new pathway. Reopened when we established a new pathway.	N/A	Pending.	Awaiting confirmation from APRA as to whether the creator wants to pursue the new pathway (it wasn't available prior to this new pathway coming into being, as it is likely to be unilateral).

# Resolution Pathways

FAIR. INDEPENDENT. TRANSPARENT

Matter number	Type of dispute	Subject matter of dispute	Time taken to resolve the dispute	Period open [additional information that we think is important for metrics]	Fees borne by Applicants and the fees borne by APRA	Outcome and evaluation	Comments
072M of 2019*	Creator	This dispute was the subject of a peer review undertaken in 2018 and involves multiple parties and jurisdictions represented by 2 publishers. The dispute was not resolved at that time.	N/A	Referred to new pathway November 2019 Opened	N/A	Active.	
073M of 2019	Creator	Dispute between creators over the splits in the registration of works. One of the creators is overseas and represented by a publishing company with an Australian presence. Accordingly, the unilateral pathway does not apply.  Resolution Pathways is working with the parties to get consent to a bi-lateral process.  There are large amounts of money involved some of which is in suspense.	N/A	Option 1: As at 31 December 2019 this matter had been open 3 months and 25 days	N/A	Active.	
074M of 2019	Creator	This is a matter where at its core is the amount that is collected may not be reflective of the music.	N/A	Option 1: As at 31 December 2019 this matter had been open 3 months and 15 days	N/A	Active.	
078M of 2019	Creator	Inquiry from a law firm on behalf of a writer.	N/A	Option 1: As at 31 December 2019 this matter had been open for 1 month and 4 days.	N/A	Closed.	Matter closed in March 2020 on the basis that there had been no contact from the law firm for a period of 3 months.

## MATTERS CARRIED OVER FROM 2018 TO 2019

Matter number	Type of dispute	Subject matter of dispute	Time taken to resolve the dispute	Period open [additional information that we think is important for metrics]	Fees borne by Applicants and the fees borne by APRA	Outcome and evaluation	Comments
016M of 2016*	Creator	Dispute between creators over the splits in the registration of works. Peer review finalised in 2018 for 1 party (associated matter 036M). Facilitated discussions continued in 2019 with the assistance of an external consultant and will carry over into 2020.	N/A	As at 31 December 2019 this matter has been open for 3 years 7 months.	Nil 100% APRA	Active.	
034L of 2017	Licensee	Dispute over licence fees. In July 2018 this matter was referred internally to APRA AMCOS to progress directly with the licensee to implement a OneMusic Licence.	N/A	Option 1: Open 8 months and 9 days before referral internally to APRA AMCOS	N/A	Closed.	
041L of 2018	Licensee	Dispute over licence fees. Negotiations continued between the parties in 2019 with the assistance of the Resolution Facilitator. Terms of a resolution were agreed between the parties in May 2019.	N/A	Option 1: 1 year, 1 month and 1 week	N/A	Closed.	This matter was closed once agreement was reached between the parties on the terms of resolution. The matter is with the parties for documentation finalisation and execution.
055M of 2018	Creator	Dispute between creators over the splits in the registration of works. This matter has progressed as part of the new creator pathway, and may be the subject of a mediation or unilateral peer review in 2020.	N/A	Option 1: As at 31 December 2019 this matter had been open for 3 months and 5 days. Please also see comments.	N/A	Active, carried over to 2020.	This matter was first referred to Resolution Pathways in 2018, however it was not able to proceed until the new pathway was implemented. The formal referral to Resolution Pathways for the new pathway did not take place until late 2019. The period open is calculated from this date.

# Resolution Pathways

FAIR. INDEPENDENT. TRANSPARENT

Matter number	Type of dispute	Subject matter of dispute	Time taken to resolve the dispute	Period open [additional information that we think is important for metrics]	Fees borne by Applicants and the fees borne by APRA	Outcome and evaluation	Comments
056M of 2018	Creator	Dispute between creators over the splits in the registration of works.	N/A	3 months. Please see comments.	N/A	Closed.	This matter was closed after 3 months as the representative for the creator did not make any further contact with Resolution Pathways.
057M of 2018	Creator	Dispute between creators over the splits in the registration of works.	N/A	As at 31 December 2019 this matter had been open for 1 year, 1 month and 3 days. Please see comments.	N/A	Pending.	This matter is on hold pending process finalisation with APRA AMCOS for creator split disputes involving published works. At this time, the dispute is not captured by criteria for the new pathway.
058L of 2018	Licensee	Dispute over licence categorisation and interpretation of the Copyright Act.	N/A	Option 1: 5 months and 20 days	N/A	Closed.	This matter was kept open to allow the licensee time to decide how it wished to proceed. The matter was closed in April 2019 upon confirmation from the licensee that it had paid the licence fees requested by APRA AMCOS.
059M of 2018	Creator	Inquiry from a law firm on behalf of a creator.	N/A	3 months.	N/A	Closed.	This matter was closed after 3 months as no further assistance was required by the inquiring law firm.
060M of 2018	Creator	Dispute between creators over the splits in the registration of works.	N/A	Option 1: 8 months and 29 days.	N/A	Closed.	This matter was closed as it was resolved by the parties externally to Resolution Pathways.

## ATTACHMENT B

April - June 2019

#1

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Tuesday, May 28, 2019 4:09:36 PM  
**Last Modified:** Tuesday, May 28, 2019 4:24:55 PM  
**Time Spent:** 00:15:19  
**IP Address:** 115.70.109.97

Page 1: Dispute resolution.

**Q1** How well did we:

Understand your needs?	Excellent
Identify the issues in need of resolution?	Excellent
Communicate with you?	Excellent
Deal with the matter in a timely fashion?	Excellent
Handle the process?	Excellent

**Q2** How would you rate how easily you were able to:

Access information?	Good
Understand the options ?	Good

**Q3** How would you rate the process:

The ease of initiating the resolution process?	Excellent
Impartiality?	Excellent
Time efficiency of the process?	Excellent
The resolution process overall?	Excellent

**Q4** How would you rate the outcome?

Satisfaction with the outcome	Excellent
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**Q5** Is there anything that worked particularly well?

Following a website inquiry on the Resolution Pathway site, I was surprised but grateful to receive a phonecall from Shirli directly to be able to summarise the issue at hand.





April - June 2019

**Q6** What, if anything, could be improved for the future?

The ability to reach out to Resolution Pathways wasn't overt on the APRA website and we weren't made aware that that was the official escalation pathway for a dispute. It was only after spending a fair bit of time exploring options/blogs that I came across it.

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**Q7** If appropriate, we would appreciate a short testimonial that we can use on the website for information purposes.

After several attempts to resolve a billing issue, I was pleasantly surprised to find Resolution Pathways. Through their escalation process, the matter was quickly and satisfactorily dealt with with a professional and fact based approach.

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**Q8** Optional:

Name:

Position:

Location/State:

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