

2021

Annual Report



Resolution Pathways

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Overview

This Annual Report for Resolution Pathways is provided in the format required by the ACCC Authorisation which came into effect on 4 August 2020 (the “[authorisation](#)”). The report covers the period 1 January 2021 to 31 December 2021 (2021 reporting period). It considers the matters set out in C6.21 of the authorisation.

The format of this document differs from the 2020 Report, given a new authorisation was published in July 2020, this was halfway through a reporting year and the 2020 Report conforms to the format mandated in the authorisation that was in effect until that date.

Like the prior report, it is divided into 2 parts:

- **Part 1** is an overview of matters received and/or managed within the reporting period. This includes data on complaints about the scheme (C6.21(i-iii))
- **Part 2** provides a list of goals and an annotation of how they have been met. This includes a response to the feedback received (C6.21(iv-viii))
- The Report attaches the first draft of a comprehensive **Governance and Risk Matrix** that will be used to guide the Resolution Pathways facility as the industry faces the challenges of a post COVID world. The governance and risk matrix document was prepared by the Governance committee of Resolution Pathways under its Independent Chair, Peta Irvine, with input from the Resolution Facilitator and an independent consultant.

Report Terminology

Like all services, ours has specialist terminology that might be useful for the reader.

Matters: means issues referred to Resolution Pathways during the reporting period. This includes active disputes and emerging issues that are referred for early assistance and advice.

Music user(s): refers to those entities that license music from APRA and from whom royalties are collected and distributed by APRA AMCOS to Music Creators.

Music creator(s): refers those members who have works registered with APRA.

Closed: Is used where a matter and the file has been closed. This could mean the matter has been referred out of our pathways by consent of the participants, it was a file for advice and support only, or there is no consent from one or both of the parties to pursue the matter further where consent is needed.

Associated matters: Matters where several pathways are tried will have multiple associated matter numbers if the pathways are opened at different times or because there are multiple issues or multiple players.



PART 1

An analysis of matters received and/or managed during the reporting period

C6.21 (i-iii) of the ACCC authorisation August 2020

PART 1- Executive Summary

There were 16 matters managed in the reporting period.

Three matters were brought over from 2020 and 13 were from the 2021 year.

11 matters have summary report notes in this section; the remaining 5 reports being Music Creator/Music Creator disputes are in a category of matters NOT covered by the authorisation and therefore are counted in the summary form for the purpose of comparison, but do not have summaries included. The data from those matters can be made available on request to anyone who has a specific need for the data.

There was one complaint about the service made during the period and this was referred to the independent chair of Resolution Pathways.

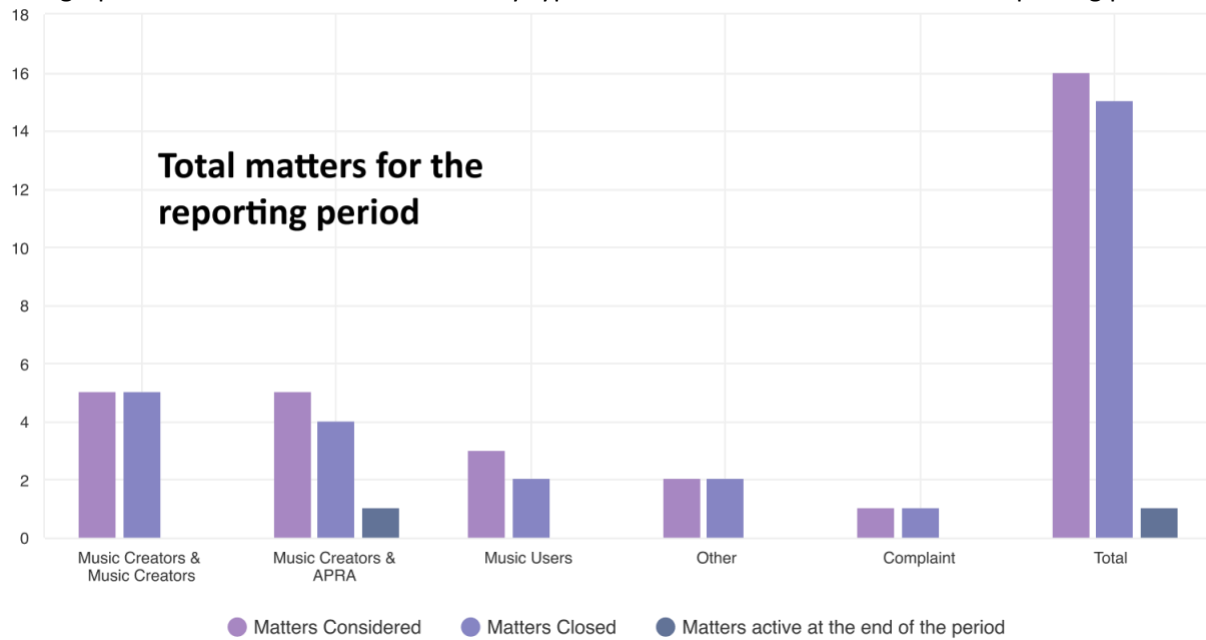


Disputes considered and disputes resolved within the reporting period

(C6.21(i))

Category	Matters Considered	Matters Closed	Matters active at the end of the period
Music Creators & Music Creators	5	5	0
Music Creators & APRA	5	4	1
Music Users	3	2	0
Other	2	2	0
Complaint	1	1	0
Total	16	15	1

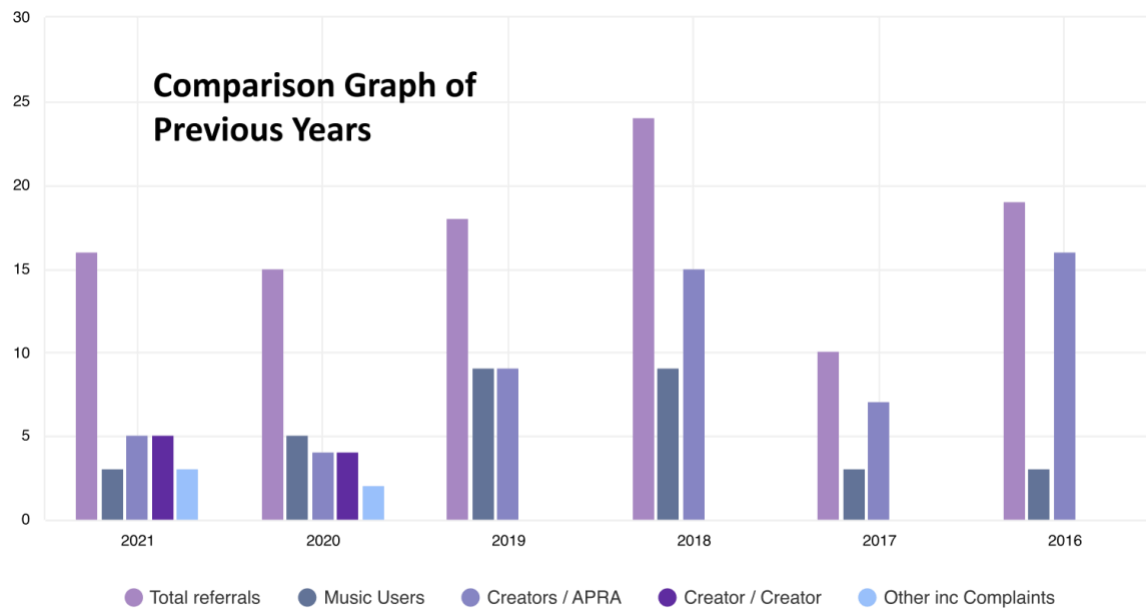
The graph shows the number of matters by type and their status at the end of the reporting period.



Comparison with previous years

Note: Prior to 2020 Authorisation the Music Creator matters and Music Creator/APRA matters were not separated.

Year	Total Matters	Music Users	Music Creator / APRA	Music Creator/ Music Creator	Other, inc. complaints
2021	16	3	5	5	3
2020	15	5	4	4	2
2019	18	9	9	9	0
2018	24	9	combined	15	0
2017	10	3	combined	7	0
2016	19	3	combined	16	0



Individual Matters Detail Overview

Music Creator and APRA

Matter No.	01/21
File No.	AZ013670
Status	Open
Type of Matter	Music Creator [carried forward from 2020] (Associated with RP matters 016M, 2016, and 036M, 2017)
Process and Timeline	<ul style="list-style-type: none"> The matter was referred to external triage by the Facilitator due to a perceived conflict on 2 February 2021. The external triage consultant then met with the parties and suggested Early Neutral Evaluation (ENE)/Investigation on 14 April 2021. ENE is a process that allows an expert to evaluate the matter, including jurisdiction to provide advice on the scope, appropriateness, practicability cost and methodology of any investigation or allied process. The expert chosen was a former Judge assisted by a counsel. Investigation within the ENE framework began on 28 June 2021 and required input and collaboration of the parties. A report setting out the ENE was delivered on 20 January 2022 after the reporting date. The matter was carried forward to 2022.
Fees	<ul style="list-style-type: none"> Fees for ENE with counsel and the former Judge came to \$46,986.25. Resolution Facilitator paid by APRA under the retainer.
Outcome and Evaluation	<ul style="list-style-type: none"> The matter is complex, with many of those involved in the original transactions no longer alive. This ENE outlines the difficulty of resolving a historic matter of this nature which rely on record keeping. The report is helpful in providing an external opinion of the boundaries of the Resolution Pathways process.



Matter No.	02/21
File No.	AZ013689
Status	Closed
Type of Matter	Music Creator [carried over from 2020]
Process and Timeline	<ul style="list-style-type: none"> • 6 months were spent in 2020 collecting data and possible metrics for analysing the use of the creator’s music in the after-school dance classes • With the data collected the matter was referred to mediation with consent of the parties due April 2021 • While the individual matter of historical royalties was resolved there is still work to be done closing the gap in data transparency for this sector – difficult due to the complexity of the task in this sector.
Fees	<ul style="list-style-type: none"> • One day mediation fees paid by APRA \$2,500 • Around 10 days of Resolution Pathways team time for collection of data and analytics paid by APRA under the retainer
Outcome and Evaluation	<ul style="list-style-type: none"> • A private note from the reporter suggested satisfaction with process but notes structural issue have not yet been resolved.



Matter No.	03/21
File No.	AZ013931
Status	Closed
Type of Matter	Music Creator [repeat reporter]
Process and Timeline	<ul style="list-style-type: none"> • Referred an issue about industry issues broadly • This matter is associated with previous issues and the reporter is a proponent of creative commons for music • We corresponded in writing to address various issues and supply information to them
Fees	<ul style="list-style-type: none"> • Resolution Facilitator, covered by the retainer
Outcome and Evaluation	<ul style="list-style-type: none"> • Closed. There may be future referrals as reporter has a pattern of reporting



Matter No.	04/21
File No.	AZ14022
Status	Closed
Type of Matter	Complaint [Music Creator Matter resolved in 2020]
Process and Timeline	<ul style="list-style-type: none"> • This was a matter that had successfully resolved with a payment to the reporter for royalties after a non-binding external expert evaluation. • 12 weeks • A complaint was referred to the Chair about whether the consent was informed and the process generally including the Resolution Facilitator and the independent expert. • This was resolved without need for further action
Fees	<ul style="list-style-type: none"> • Covered by the Chair’s honorarium
Outcome and Evaluation	<ul style="list-style-type: none"> • Resolved without action



Matter No.	05/21
File No.	[NZ01]
Status	Closed
Type of Matter	Music Creator [APRA New Zealand]
Process and Timeline	<ul style="list-style-type: none"> • 12 weeks with a Resolution Facilitator • The reporter made a complaint about the significant number of royalties from APRA, the services and general state of the industry. They applied to resign as a member • The Resolution Facilitator worked with them to uncover the core issues within the dispute and develop a decision tree to explore other options • Time was taken to allow the member to explore available options. The Resolution Facilitator also chaired a meeting between the music creator and the New Zealand office • The matters were resolved and the music creator reapplied for membership.
Fees	<ul style="list-style-type: none"> • Resolution Facilitator for 6 hours' time paid for by APRA under retainer
Outcome and Evaluation	<ul style="list-style-type: none"> • Closed • The Resolution Facilitator conducted a review. The music Creator confirmed that they were happy to return as a member of APRA AMCOS because it was the best available option for collection of Royalties. They continue to be upset at the levels of royalties paid to music creators, especially from streaming services but this is beyond our reach.



Matter No.	06/21
File No.	AZ014023
Status	Closed
Type of Matter	Music User
Process and Timeline	<ul style="list-style-type: none">• Report that royalties were not being correctly apportioned to music creators in the child dance space. This arises out of them being involved in a previous dispute (AZ013689 -above).
Fees	<ul style="list-style-type: none">• Resolution facilitator, covered by the retainer
Outcome and Evaluation	<ul style="list-style-type: none">• Closed – this was not continued due to the business shutting for COVID.



Matter No.	07/21
File No.	AZ014020
Status	Closed
Type of Matter	Music User
Process and Timeline	<ul style="list-style-type: none"> • 3 weeks of facilitated conversation from 23 March – 14 April • A OneMusic complaint about the licence, service and format of automatic notices • Feedback provided on a no-names basis to OneMusic
Fees	<ul style="list-style-type: none"> • Resolution Facilitator paid for by APRA under retainer
Outcome and Evaluation	<ul style="list-style-type: none"> • Closed. Underlying licence issue resolved.



Matter No.	08/21
File No	AZ014007
Status	Closed
Type of Matter	Music User
Process and Timeline	<ul style="list-style-type: none"> • 2-month resolution from 22 February – 30 April • The reporter made an enquiry about OneMusic licences on his own behalf and as a representative of an industry association looking to challenge the boundaries of OneMusic licensing • The Resolution Facilitator worked with him to identify other industry bodies that might have similar issues and benchmarks about what might be appropriate • A confidential peer discussion was arranged with another industry body by the Resolution Facilitator • Following the discussion, the reporter indicated they were not proceeding further with the matter
Fees	<ul style="list-style-type: none"> • Resolution Facilitator paid for by APRA under retainer
Outcome and Evaluation	<ul style="list-style-type: none"> • Closed. The reporter did not proceed with the matter



Matter No.	09/21
File No.	AZ
Status	NFA - Closed
Type of Matter	Music User
Process and Timeline	<p>Part 1 of the process, RF facilitation, took place between 16 June – 21 July</p> <ul style="list-style-type: none"> The Resolution Facilitator worked with APRA, and the other party with their legal adviser to understand the issues in dispute and outline the questions between them to be evaluated by an expert(s). These related to whether a specific use of works was covered by a blanket licence or had to be individually licensed. <p>Part 2, the independent Expert Process, occurred from 27 July – 17 August</p> <ul style="list-style-type: none"> The independent expert process involved an exchange of information, a zoom round table with the parties, advisers, resolution facilitator and experts. A non-binding report was provided. The report from the experts was used by the parties to reach a commercial resolution between them and additional stakeholders.
Fees	<ul style="list-style-type: none"> Experts Fees paid 50% by APRA and 50% by the other party: \$58,350.00 Counsel paid \$10,000 plus GST per day – 3 days (\$30,000) Consultant expert paid \$4,500 plus GST per day – 3 days (\$13,500) Facilitator and team paid (\$14,850) Additional Resolution Facilitator time in logistics and interviewing experts/documenting the process was paid for by APRA under retainer
Outcome and Evaluation	<ul style="list-style-type: none"> Closed



Matter No.	10/21
File No.	AZ014024
Status	Closed
Type of Matter	Other
Process and Timeline	<ul style="list-style-type: none">• A referral from APRA of a dispute between a music creator and their publisher• The publisher did not consent to participate in the process. Advice was provided to the Music Creators
Fees	<ul style="list-style-type: none">• Resolution Facilitator paid for by APRA under retainer
Outcome and Evaluation	<ul style="list-style-type: none">• Closed - no consent to referral



Matter No.	11/21
File No.	AZ014401
Status	Closed
Type of Matter	Other - Closed
Process and Timeline	<ul style="list-style-type: none"> • 2-month resolution process from October – 24 December • The Reporter complained key artists were using their life as subject matter for the creation of works and wanted APRA to act • The Resolution Facilitator corresponded about the issue and the commonality of the human condition and provided options • The reporter acknowledged the issue
Fees	<ul style="list-style-type: none"> • Resolution Facilitator paid for by APRA under retainer
Outcome and Evaluation	<ul style="list-style-type: none"> • Closed



PART 2

An operation of the scheme by reference to goals and KPIs

C6.21 (iv-viii) of the ACCC authorisation August 2020

Background and Context

This part identifies the operations of the scheme by reference to goals and key performance indicators and metrics set for the scheme in C6.21(vi), the Resolution Facilitator and her team C6.21(vii) and an evaluation of the governance and funding arrangements of the scheme C6.21(viii).

About the Goals

The goals set out below were identified by the Resolution Facilitator in 2020 with reference to the Independent Report of Alysoun Boyle (2018). These goals and metrics were reviewed and approved by the governance committee and APRA as part of the last 2020 report.

There has been the need to pivot deliverables to meet unprecedented market conditions and this is reflected below.

High level goals for the Scheme and its governance

A primary aim is to have an external scheme that is **accessible** and that provides safeguards for **independent dispute resolution** funded by APRA AMCOS, without influence on the operations. Below are the goals that support this and their level of achievement.

Scheme Goal (C6.21(vi))



1. Accountability and transparency to support independence

The scheme has a separate website, a governance committee, an independent chair and an external Resolution Facilitator. All these elements are now in place and operational. This provides a check and balance to support an accountable and transparent organisation and ensure independence from APRA AMCOS.



2. Accountability and transparency to support independence

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3. Clarity of roles, and a place for feedback on the scheme outside APRA AMCOS

The 2020 Authorisation provides for a simplification of the roles and the inclusion of an external independent chair. There is now a much more effective operational structure and a number of clear options for feedback which are represented on the Resolution Pathways website. The independent chair and a representative governance committee ensure that the Resolution facilitator is accountable beyond APRA AMCOS.



4. Establish a Governance and Risk Matrix for the operation of the scheme

One of the outstanding projects as of 2020 was a framework for operational and risk oversight of the system. This is a major piece of work requiring implementation by a committee. It has been completed by the governance committee and is attached as Annexure A. It will be reviewed and implemented over the next year.

5. Outreach and awareness raising for the scheme

With the industry in shutdown this has not been relevant in 2021. There has been some planning for a social media presence and discussions with APRA AMCOS about a joint approach for 2022.



6. Clear and strong governance and transition

There was a transition plan for the Resolution facilitator team followed by a change of the governance committee. While regular meetings have continued Zoom, there has not been the opportunity for operationalisation of a transition program for the team. This will be done when the market settles.

7. Increase capacity of the Stakeholder Group. Strengthening of capacity

With additional demands on everyone this has been difficult in the face of COVID and was put on hold in 2021.

Resolution Facilitator Goals (C6.21(viii))



1. Ensure Successful resolutions

NB: This includes matters being completed and also tracked and within the budget defined

The scheme has operated within its block funding and on budget. All matters referred have been finalised.

There were 3 large matters of significant complexity dealt with in 2021. These are included in Part 1 of this report. There is only 1 matter carried over from 2021. This is testament to an effective process for resolving issues.





2. Reporting of time periods and comments from reporters maintaining transparency

Part 1 of the report shows the consistency of time frames.

There has not been a general willingness to participate in surveys. Participants have preferred private emails with gratitude. This may be indicative that people have no major gripes with the survey, or it could be the effects of COVID where participation generally has fallen due to stress.



3. A panel available for all processes

The response in Part 1 shows the ability of the Resolution Facilitator team to both resolve matters and provide resources.



4. Succession of the Resolution Facilitator and her team

Succession plans were placed on hold to allow the Resolution Facilitator to assist with providing services during unprecedented disruption - Fires and then COVID. The ability of the scheme to ensure this continuity is testament to good governance.

The Governance team has met and are planning a revised succession timeline together with their Chair and Resolution Facilitator.

Funding Arrangements (C6.21 (viii))



1. Block funding-and an opportunity to fine-tune the budgeting process

The notion of block funding has worked well to ensure the independence of the Resolution Facilitator team and allocation of resources. This is easier to control in a market where disputes have not increased. We acknowledge that the last 2 years do not represent a test case of the facility.

The governance committee and APRA AMCOS are beginning to review discussions.



Summary of feedback received by APRA, and by the Facilitator, in relation to the operation of the Scheme, including the feedback and recommendations provided by the Committee (C6.21(iv))

The 2021 year was characterised by a closing of the market for COVID which impacted venues that use music, the music industry and APRA and therefore the Resolution pathways processes. There was no substantive feedback from users in the period.

The committee recommendation from the Committee was to formalise the KPIs for the scheme in readiness for the re-emergence post COVID. This was captured in a document named Governance and Risk Matrix as Annexure A to this report.

Number and nature of all complaints received about the Facilitator or the Scheme (C6.21(v))

There was one complaint about the facilitator and the scheme received in the period which is noted in the data analytics. This was from a matter between APRA and a music creator referred to an independent expert member of the panel. A deal was then agreed based on the expert evaluation and the Resolution Facilitator team assisted in finalising the agreement and the documentation. The allegation was that the deal had not been done with full consent.

The matter was referred to the Independent Chair of Resolution pathways under a newly finalised process for complaints about the Resolution Facilitator. The Chair spoke to all parties and there was no further action required.

Achievements for 2021

- Ensuring a pivot on succession with the Resolution Facilitator to ensure that the service continued over the disrupted year.
- Moving all meetings to zoom and keeping them regular.
- Integrating the Independent Chair.
- Successfully completing all matters referred and 3 large matters using electronic means (zoom and DocuSign) on budget and in a timely manner.
- Completing the Governance and Risk matrix for the Governance committee.

"We all need to stand together in creating the future we all want to see" — Sia

Final Words

2021 was another difficult year for the world and especially for the industry. We appreciate the contribution of our committees the extended panels and teams in allowing us to continue over this period.



Resolution Facilitator



Annexure A: Resolution Pathways Governance Committee Governance and Risk Matrix

Current as at 2022

The purpose of this document is to establish goals for the management and running of the Resolution pathways program.

1. Program Goals

Goal	Ensure	Oversight	Measure	Review
1.1 Executing mandate of scheme as set out by the ACCC	Offer a dispute resolution scheme external to APRA AMCOS	Governance Committee APRA AMCOS	<ul style="list-style-type: none"> Maintain governance arrangements and the other key indicators set out in the ACCC determination Funding not determined by individual matters 	Annually
	Resolve disputes in a timely, efficient and effective manner	Resolution Facilitator, Chair	<ul style="list-style-type: none"> Matters resolved within agreed timeframes Reviews from participants and APRA AMCOS 	Quarterly
1.2 Ongoing operational credibility & integrity of the scheme	Resolve matters within timeframes set.	Resolution Facilitator	<ul style="list-style-type: none"> Analysis of resolution timeframes 	Half Yearly
	Scheme respected as 'independent', fair and transparent process.	Governance Committee	<ul style="list-style-type: none"> Measure of the Scheme's credibility. E.g., poll/survey to Licensees through APRA-AMCOS Measure of Scheme's integrity. E.g., cost of running a matter (includes trend) 	Exit survey, complaints Annually
1.3 Increased use of scheme	Increase visibility of Scheme for APRA AMCOS members and Licensees	APRA AMCOS	<ul style="list-style-type: none"> Number of approaches to the Scheme 	Half yearly
		Governance Committee	<ul style="list-style-type: none"> APRA AMCOS to provide a yearly outreach plan in July, detailing its efforts in the coming year APRA AMCOS report to Governance Committee on progress/outcomes of the outreach plan 	Yearly Quarterly
1.4 Effective user pathways	Update the website with feedback given by stakeholder group	Resolution Facilitator	<ul style="list-style-type: none"> Feedback and sign off from the stakeholder group and APRA 	Quarterly
	Monitor usage and any barriers to access	Resolution Facilitator	<ul style="list-style-type: none"> Positive user feedback 	Regularly

2. Facilitator Goals

Characteristic	Skills and tools	Oversight	Measure	Review
2.1 Knowledge & experience of multiple ADR processes	Ability to discuss, engage and change based on new information and best practice	Chair, Governance Committee	<ul style="list-style-type: none"> Check suitability when recruited Number of changes / adjustments made to existing processes 	Annually
	Variety of resolution processes and success of resolutions	Chair, Governance Committee	<ul style="list-style-type: none"> Breadth of resolution pathways used Meeting timelines 	Quarterly
	Effective triage of matters	Chair, Governance Committee	<ul style="list-style-type: none"> Number of pathways before matter closed Cost of a resolution 	Quarterly
2.2 Willingness to take on feedback / open to change	Feedback given is considered and actioned as appropriate	Chair, Governance Committee	<ul style="list-style-type: none"> Uptake of feedback from Governance Committee/ Panel/ APRA AMCOS by Resolution Facilitator Number of times feedback is actioned Number of complaints about Facilitator to chair 	Regularly
2.3 Access to resources	Ability to find new people to support program: Panel members, lawyers, volunteers	Chair, Governance Committee, Panel	<ul style="list-style-type: none"> Time and money spent on networking by the Resolution Facilitator Quality of Panel as measured by ability to refer as needed. 	Annually
2.4 Operationalisation of strategic intent	Implementing relevant governance, process, and system changes to support Resolution Pathway purpose – running the organisation	Chair, Governance Committee, APRA AMCOS	<ul style="list-style-type: none"> Manage budgets Integration of technology to support reporting Succession plan Implementation of ACCC and Review suggestions 	Quarterly
2.5 Operate and think strategically	Keep across relevant developments, conversations and relationships that provide strategic benefit.	Chair, Governance Committee	<ul style="list-style-type: none"> Number of strategic connections made Contribution to strategic conversations 	Annually



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Characteristic	Check	Oversight	Measure	Review
2.6 Ensure case management and operation of Business as Usual	Scheme is managed on a day-to-day basis smoothly and professionally	Chair, Governance Committee	<ul style="list-style-type: none"> • Attendance at Governance Committee meetings • Appropriate resourcing of scheme • Matters are addressed within agreed timeframes 	Regularly



3. Governance Committee Chair Goals

Goal/ Characteristic	Performance Indicators/skills	Oversight	Measure	Review
3.1 Lead Governance Committee	Effectiveness of the Governance Committee	Governance Committee, Resolution Facilitator	<ul style="list-style-type: none"> Contribution to Governance Committees, agenda and minutes and driving change Review performance and constitution of Committee members Meetings with APRA AMCOS 	Annually
3.2 Maintain integrity of Scheme	Complaints about the Scheme and the Resolution Facilitator managed professionally and promptly	Governance Committee, APRA, Resolution Facilitator	<ul style="list-style-type: none"> Complaints dealt within agreed timeframes and in following with the complaint process 	Six monthly
3.3 Integrity of the Resolution Facilitator and external nature of the scheme	Review, feedback and succession	APRA, Governance Committee.	<ul style="list-style-type: none"> Review completed for Resolution Facilitator and team and strategic objectives for the scheme, Resolution Facilitator and Governance Committee all reviewed 	Annually
	Ability to discuss, engage and change based on new information and best practice	Resolution Facilitator Governance Committee	<ul style="list-style-type: none"> Check suitability when recruited Check in with team 	Annually



4. Governance Committee KPIs

Goal	Ensure	Oversight	Measure	Review
4.1 Competent Governance Committee	Support the Facilitator and Scheme with expert and relevant advice and direction.	Chair, Resolution facilitator	<ul style="list-style-type: none"> ● set Budget ● Succession plan ● Number of meetings attended by each Committee member 	Annually
4.2 Oversight of resolution Facilitator	Resolution Facilitator is performing well in the role.	Chair	<ul style="list-style-type: none"> ● Set and monitor KPIs for Resolution Facilitator ● Make recommendations to APRA AMCOS and chair on performance of Resolution Facilitator ● Provide feedback to APRA/AMCOS 	Regular meetings Annually As needs



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5. APRA AMCOS Reporting/Liaison KPIs

Goal	Performance Indicator	Oversight	Measure	Review
5.1 Manage Resolution Facilitator employment	Resolution Facilitator performance is managed appropriately.	Governance Committee Chair	<ul style="list-style-type: none"> APRA AMCOS takes on advice on the performance of Resolution Facilitator Current contract and budget Feedback on reports to RF Review performance 	Annually
5.2 Executing role within the ACCC Authorisation	Meeting ACCC requirements	Governance Committee Resolution facilitator	<ul style="list-style-type: none"> APRA Report to Governance Committee regarding: <ul style="list-style-type: none"> – Outreach – Budget 	quarterly
		APRA AMCOS engagement with scheme	<ul style="list-style-type: none"> Number of Governance Committee meeting attended by APRA AMCOS Number of times feedback is taken on board by APRA AMCOS 	Annually
5.3 Promotion of Resolution Pathways services	Resolution Pathways access information included on licensee correspondence and information	Governance Committee chair	<ul style="list-style-type: none"> Quality and Frequency of information to licensees 	Quarterly
5.4 Liaison with Resolution Pathways	Annual meeting between APRA/AMCOS and Resolution Pathways Chair and Facilitator	Chair	<ul style="list-style-type: none"> Consistency of meetings Transparency of discussion 	Annually

