

Resolution Pathways Annual Report – Overview

Introduction

This Annual Report for Resolution Pathways is provided under Sections C6.17-C6.21 of the ACCC Authorisation which came into effect on 4 August 2020 (see <https://www.accc.gov.au/system/files/public-registers/documents/Final%20Determination%20-%2013.07.20%20-%20PR%20-%20AA1000433%20APRA.pdf>)

This report is divided into 2 parts:

- Part 1 is an analysis of the disputes/matters referred to Resolution Pathways which are covered by the authorisation.
- Part 2 is an analysis of the performance of the scheme, governance and Resolution Facilitator against the goals set.

In reviewing this report please note that 2020 was the year of COVID and industry shut down from March 2020 for the rest of the year.



Part 1 - Matters during the reporting period

Metrics on matters (C6.21(i) - (iii) of the ACCC Authorisation)

Summary

Note on terms:

Music users refers to those entities that license music from APRA AMCOS.

Music creators refers those members who have works registered with APRA AMCOS.

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

Closed applies where a matter that has been referred out of our pathways by consent of the participants, or the reporter has decided not to pursue the matter, or stops corresponding after reasonable attempts to contact them and the file is closed.

Pending means that the matter is not started. This can be due to availability, practicality (COVID) or the need for a data analysis change in process etc.

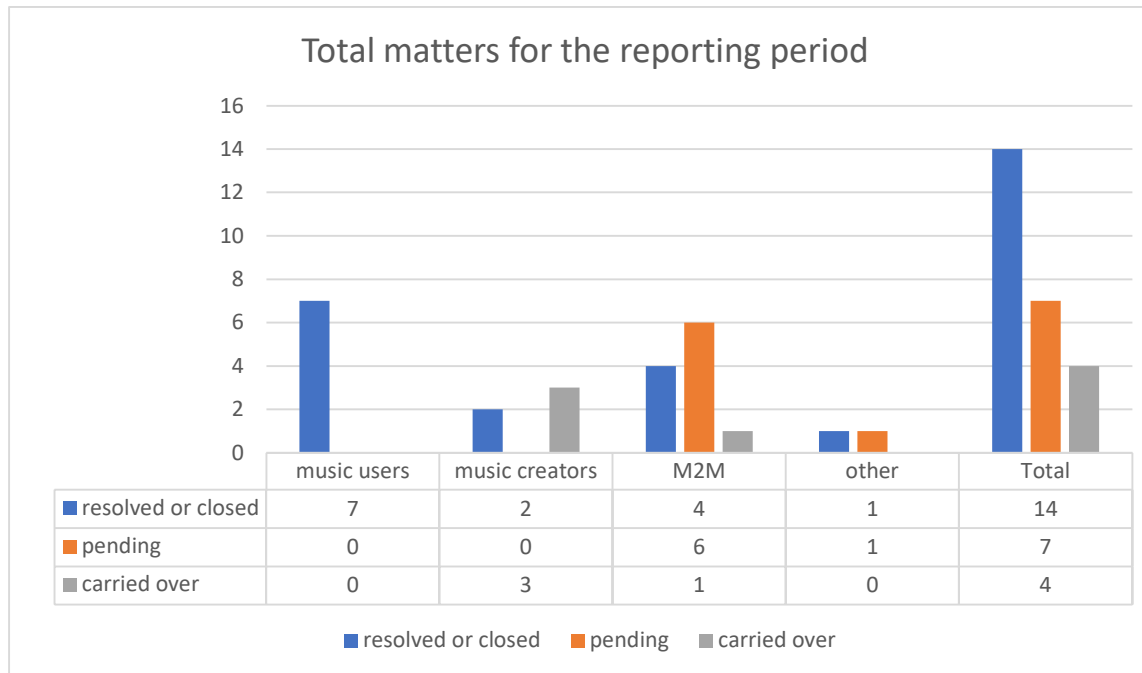
Associated matters: Are where there are a number of pathways being explored and it is necessary to have multiple matter numbers which are associated. These may be contemporaneous or sequential.

Member to member dispute: M2M is a dispute between two creators often resulting in a dispute over the correct splits in writers credits.



1. Total number of matters for the reporting period

The total number of matters for the reporting period was **25**, comprising **15** matters received and opened during the reporting period and **10** brought forward from 2019. The graph below shows the number of matters by type and their status at the end of the reporting period.



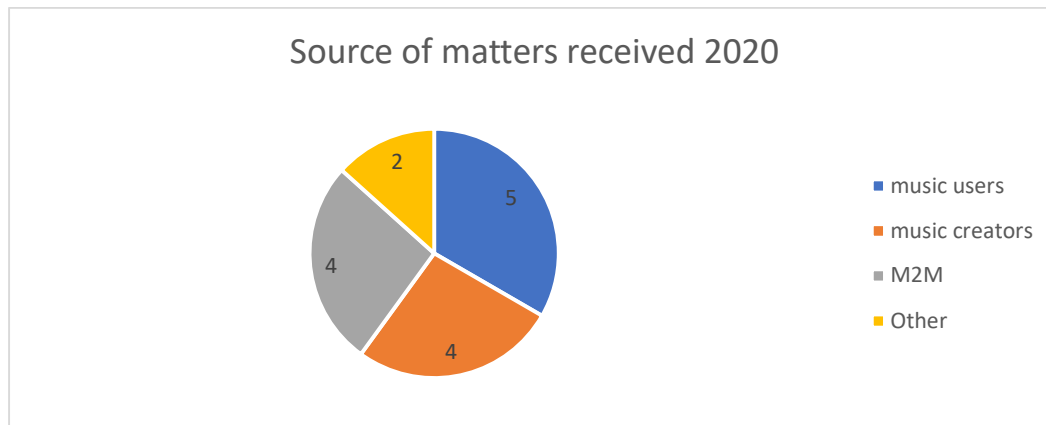
*Note: 2 of the 3 music creator matters carried over are associated matters (ie 2 pathways arising from the 1 dispute)



1.1 Overview of matters received and opened in the reporting period (C6.21(i))

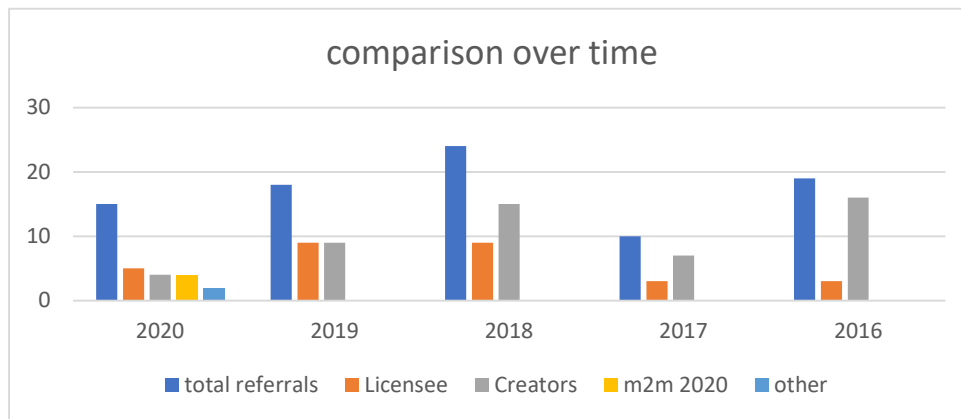
15 new matters were received and opened in the reporting period:

- 5 matters involving music users.
- 4 involving music creators in dispute with APRA.
- 4 member to member disputes (**MTM**), being disputes between music creators.
- 2 other inquiries.



1.2 Comparison with previous years:

Year	Total Matters	Licensee matters	Creator matters	M2M	Other
2020	15	5	4	4	2
2019	18	9	9	n/a	0
2018	24	9	15	n/a	0
2017	10	3	7	n/a	0
2016	19	3	16	n/a	0

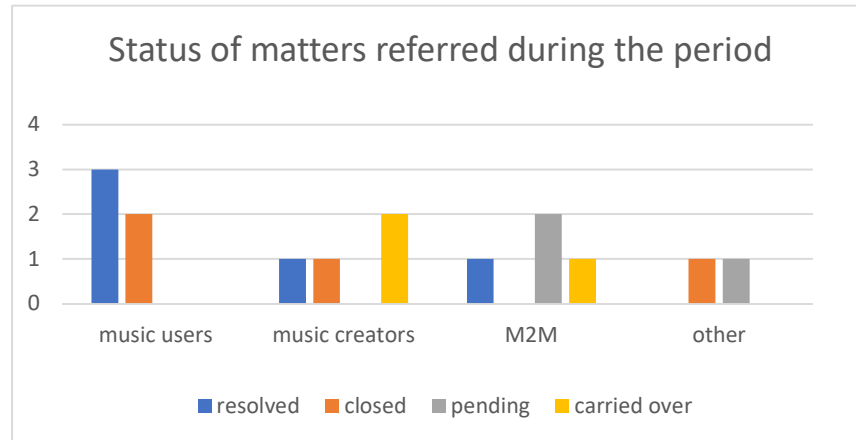


Note prior to 2020 Authorisation the M2M matters and creator matters were not separated.



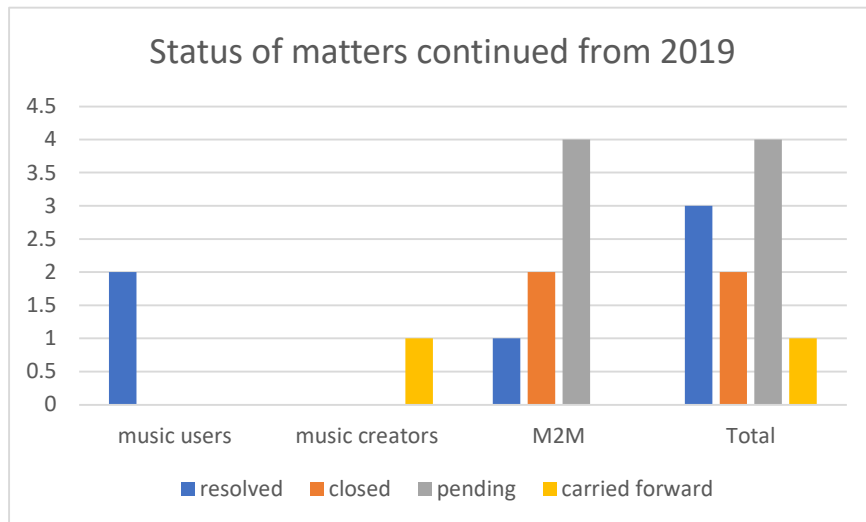
1.3 Status of matters received and opened during the Reporting period at the end of the period.

Category	matters resolved	matters closed	matters pending	carried forward to 2021
[5] Music users	3	2	-	-
[4] Music creators	1	1	-	2
[4] Member to member Not covered by authorisation	1	0	2	1
[2] Other	-	1	1	-
[15] Total	5	4	3	3



1.4 Status of matters continued from 2019.

Category	matters resolved	matters closed	matters pending	carried forward to 2021
[2] Music Users	2 [note: these were closed in 2019 Carried over for confirmation that those matters were resolved]	-	-	-
[1] Music Creators	-	-	-	1
[7] Member to member disputes [not covered by the authorisation]	1	2	4	-
Total	3	2	4	1



1. Summary of matters (C6.21(ii-iii))

Analytics of time and fees for the matters covered by the authorisation. This does not include member to member disputes which are funded as an additional commitment by APRA AMCOS.

Key:

Option 1 = Facilitated by Resolution Facilitator
 Option 2 = Mediation
 Option 3 = Expert Opinion (non-binding)
 Option 4 = Expert Decision (binding)

Matter number	Source	Subject matter	Option used and time periods	Fees Applicants -RP under funding- APRA	Status	Comments
AZ013415	Music user	Notified by OneMusic. Small restaurant and bar business. Resolution Pathways made itself available. The dispute was resolved by solicitors and the file closed.	3 months 25 days	N/A	Closed.	OneMusic confirmed that its solicitors were dealing directly with solicitors of the music user.
AZ013425	Other	Inquiry logged through the Resolution Pathways website	N/A	N/A	Closed.	



		<p>regarding an issue with APRA AMCOS.</p> <p>The inquirer resolved this issue directly with APRA AMCOS</p>				
AZ013439	Music creator	<p>Dispute with APRA AMCOS over the payment of live performance claims lodged by the creator.</p> <p>Complaint by writer over personal treatment</p> <p>This matter was referred to an expert opinion in circumstances where APRA was to be bound by the opinion should the creator accept the opinion. It required an investigation during the COVID shut down resulting in a delay.</p> <p>The creator accepted the opinion and the dispute was resolved.</p> <p>Creator referred back to agree a process for future live performance claims.</p>	<p>Option 1: triage by RF. Open 1 month and 10 days before referral to option 3.</p> <p>Option 3: Non binding expert process. Expert process open for 2 months 22 days.</p> <p>Open for a further 2 months and 4 days from receipt of the expert opinion to resolution.</p>	Fixed fee for expert scoping study and then investigation and report: \$6,500 plus GST paid from the RP funds .	Resolved.	
AZ013447	Music user	Request for assistance with a publisher, backed by a peak body for finalising a licence for a live	Option 1: Open 2 days	N/A	Resolved.	



		show which was resolved with the assistance of the Resolution Facilitator.				
AZ013647	Music user	Inquiry by a music user with concerns about the validity of OneMusic Australia licence for a cafe. By consent, Resolution Pathways referred the music user to liaise directly with OneMusic Australia. Following the referral ongoing assistance was required as the music user did not return calls	Option 1: Open 9 days before referral to OneMusic Australia	N/A	Closed.	
AZ013670* See also 016M of 2016* below	Music creator	Dispute with APRA AMCOS. The matter has been referred to triage with an external consultant. This matter is associated with Resolution Pathways matters 016M of 2016 and 036M of 2017.	Open 5 months and 29 days before referral to an external consultant for triage. [see comments].	N/A to date. Fees to be incurred engaging the expert in 2021 to be borne by APRA outside RP funds.	Active. Carried over to 2021.	Awaiting the terms of the new authorisation before referral.
AZ013671	Music creator	Dispute lodged against APRA AMCOS for fraudulent registration (and distribution of earnings) of multiple works currently registered to other	Option 1 plus coach. 4 months 8 days	\$187.70 for 2 coaching/support sessions borne by RP funds	Closed.	This matter was closed at the date that the creator was referred to seek independent legal advice.



		<p>established artists. The creator claimed fraud.</p> <p>The creator is not an APRA member having had not fulfilled the criteria for membership.</p> <p>Resolution Pathways referred the creator to a coach to for assistance and support in navigating the claim.</p> <p>Following 2 coaching sessions, Resolution Pathways referred the creator to seek independent legal advice on options available to her given she was not an APRA member.</p>				<p>The creator has continued to make contact with Resolution Pathways after that date, however no new claims or pathways have arisen.</p>
AZ013689	Music creator	<p>Dispute with APRA AMCOS regarding the distribution of royalties from dance schools.</p> <p>Resolution Pathways worked with the creator and APRA AMCOS to agree a process of sampling the relevant market to collect data that can be used as a tool for negotiating resolution.</p>	<p>Option 1: As at 31 December 2020 this matter has been open for 6 months and 20 days. [See comments]</p> <p>Referred to Option 2 with the data in 2021.</p>	\$200.00 fee paid for assistance with data collection, plus an additional resource for data analytics borne by RP funds	Active. Carried over to 2021.	<p>The Option 1 time period includes the process of sampling the relevant market and collecting the data. This process was undertaken internally by Resolution Pathways.</p>

		The data collection was completed in 2020. Carried over to 2021.				
AZ013696	Music user	Inquiry by a licensee regarding billing for a OneMusic licence. By consent, Resolution Pathways referred the licensee to liaise directly with OneMusic Australia.	Option 1: Open for 4 days before referral to OneMusic. Time taken for resolution was 3 months 8 days [see comments].	N/A	Resolved.	The time taken to resolve is the time from referral to OneMusic, to confirmation from OneMusic that the matter was resolved. Resolution may have been reached in a shorter timeframe.
AZ013885	Music user	Dispute raised by a dance school regarding a licence renewal from an APRA licence to a OneMusic licence.	Option 1: 8 days	N/A	Resolved	



Matters carried over from 2019 to 2020

Matter number	Type of dispute	Subject matter of dispute	Option used and time periods	Fees borne by Applicants and the fees borne by APRA [in 2020]	Status	Comments
016M of 2016*	Music Creator	A complex legacy issue. Peer review finalised in 2018 for 1 party (associated matter 036M). Facilitated discussions with the assistance of an external consultant to assist with resolution of a portion of the dispute that involved another creator. This is not categorised as M2M as that characterisation is one of the matters in dispute.	As at 31 December 2020 this matter had been open for 4 years 7 months.	Option 1: RF triage and meetings Option 1: volunteer facilitator with M2M	Closed	The associated dispute with APRA (AZ013670) has standing as a result of the new authorisation and has been referred to an external consultant for triage in 2021.
075L of 2019	Music User	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 an issue around filling in forms.	Option 1: 2 months and 2 weeks.	N/A	Resolved.	Confirmation that the license was paid was received in 2020.
076L of 2019	Music User	Query by a hospitality group about a OneMusic licence for one of its venues.	Option 1: Open 2 days before	N/A	Resolved.	This matter was closed at the time of filing the 2019 Annual Report.



		Referred internally by consent to OneMusic for direct negotiation.	referring internally to OneMusic. Time taken from referral to OneMusic to notification that the matter was resolved: 6 months and 13 days.			Confirmation that the license was finalised was received in 2020.
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Resolution Pathways Annual Report – Part 2

1 Background and Context

This part identifies achievements for the scheme operations, the stakeholder groups involved, and the Resolution Facilitator and her team.

Resolution pathways was established under the framework of an ACCC authorisation. An independent review was conducted by Alysoun Boyle in 2018. (the ‘Independent Review’). Resolution pathways has continued to refer to the Independent Review to guide changes, formulate submissions to the ACCC during the authorisation process and set goals.

Resolution Pathways as a more mature scheme was able to define goals and measure achievements against them.

The most recent ACCC authorisation was finalised on 13 July 2020 (the ‘2020 Authorisation’). In this document the process of setting performance indicators for the Resolution Facilitator has been allocated to the Governance Committee under its newly appointed independent chair (a position established by the 2020 authorisation). Given the timing of the release of the 2020 authorisation together with COVID, an evaluation of the scheme’s operation by reference to goals and performance has been the responsibility of the Resolution Facilitator. This will be reviewed by the Governance Committee for the next reporting year.

2. Overview of Goals

Goals were established forming the basis of what is to be measured by reference to each of the items outlined in Condition C6.21 of the 2020 Authorisation. There is necessary overlap between the categories. The goals and achievements are listed with notes to show the categories in the Condition:

Goals for the scheme : 

(vi) an evaluation of the Scheme’s operations, by reference to any key performance indicators and metrics set for the scheme

Goals for the Resolution Facilitator 













(vii) an evaluation of the Scheme’s performance, by reference to any key performance indicators and metrics set for the Facilitator.

Goals for Governance 

(viii) an evaluation of the governance and funding arrangements for the Scheme.



A primary aim is to have an external scheme that is **accessible** and that provides safeguards for **independent dispute resolution** while remaining external to, but funded by, APRA AMCOS. Below are the goals that support this and their level of achievement. Specific analysis follows.

- Accountability and clarity to support independence. 
- Clarity of the role of Resolution Pathways (what the scheme does/does not cover), and an ability to safely provide feedback on the scheme outside APRA AMCOS and the Resolution Pathways team. 
- Block funding-and an opportunity to fine-tune the budgeting process. 
- Reporting of time periods and comments from reporters maintaining transparency. 
- Establish measurable performance indicators for the operation. 
- Review the corporate structure of Resolution Pathways entity to support its aims. 
- Ensure Succession of the Resolution Facilitator and her team. 
- Clear and strong governance and sustainable transitions for members of the Stakeholder Group, Governance Committee, Chair, APRA + Resolution Pathways Interface Committee (to ensure orderly and regular succession of those roles, which is a crucial part of substantiality and independence. 
- Increase capacity of all members of the Stakeholder Group. Strengthening of capacity augments independence. 
- Successful resolutions. This includes matters being completed and also tracked and within the budget defined. 
- A panel available for all processes. 
- Recognition and feedback of trends and improvements for APRA AMCOS 
- Accessibility - of the look, feel and style of the Resolution Pathways is in line with industry standards, awareness of the Scheme, and the ease of contacting Resolution Pathways. 
- Outreach and awareness raising for the scheme. (COVID) 



3. Analysis of achievements and categories met.

3.1 Key Achievement: Separation and clarity of roles within Resolution Pathways



The Independent Reviewer made recommendations about the scheme. The first was the establishment of two roles to ensure **greater clarity of operational roles**:

Internal management of the Scheme: It is suggested that two roles be established to manage the Scheme. One role would administer the Scheme, including the administrative side of referrals to the panel of third-party neutrals (a Scheme Co-ordinator role) and one role would be a first point of contact for the Scheme, including responsibility for attempting early and quick resolution of matters, as well as assessment of referral to other processes within the Scheme (a Case Manager)

During the reporting period, Sarah Nicholson's time was increased to allow her to administer the scheme including stakeholder liaison with each of the Resolution Pathways committees. This means the Resolution Facilitator is responsible for triage, dispute resolution and strategy.

This is consistent with the recommendation and the change has been implemented giving greater breadth of roles and also reducing the risk of a single point of failure.

3.2 Key Achievement: Clarifying and defining the roles of the committees



The Independent Review included a clarification of the role of the various committees. It also commented on the issues of the Resolution facilitator taking feedback about her own performance and the challenge of her running her own complaints.

Structure – Committees •

Now that the Scheme is beyond its development stages, it would be appropriate to review the purpose of the Governance Committee, the Steering Committee, and other Sub-Committees, and to clarify and document their roles in the operation of the Scheme.

Resolution pathways has defined the role of the various stakeholder groups more clearly to facilitate a nimble structure.

The stakeholder group which is a group of representative members from the ecosystem who act as a sounding board for the Resolution Facilitator and her team and are available for outreach.

The Governance committee which is a smaller group, including 2 music creator representatives and 2 music user representatives and an independent chair. This group is responsible for ensuring that the dispute resolution remains independent and sets performance indicators for the Resolution Facilitator and also takes complaints.

The **APRA and Resolution Pathways Interface** Committee to provide a focal point for feedback and discussion and continuous improvement.





3.3 Key Achievement: Separation of committees and Independent Chair

The ACCC adopted the Resolution Pathways recommendation to refine the role of the committees and for the Governance Committee to have an independent chair at C6.8 of the 2020 Authorisation.

To implement this requirement, Resolution Pathways prepared a brief for advertising the chair position. 37 applications were received. Resolution Pathways established a selection committee including APRA, music creators and users. Interviews were held in groups and individually online.

The Independent Chair, Peta Irvine was confirmed by the **ACCC on 17 December 2020** within the reporting period.

Acknowledgement to Jake Mason (music creator representative) and Maree Andrews (music user representative) and Sarah Nicholson (Resolution Pathways representative) for their commitment and leadership on the selection committee.

We acknowledge and farewell David Cosgrave, who assisted with defining the role of the governance committee and the chair of Resolution Pathways. We thank David for his long-standing contribution to the scheme and his assistance in formulation of the role.

3.4 Key Achievement: Establishing an APRA Interface Committee.

Having fine-tuned the committees we also recognised the benefit of being able to liaise with APRA AMCOS and One Music.

Resolution Pathways, APRA AMCOS and One Music have established an Interface Committee. The Interface Committee is designed to streamline the communication with APRA and One Music and make it easier to discuss, reflect on, and embed learnings from matters before Resolution Pathways.

Members of the Interface Committee include the Resolution Facilitator team and senior representatives of APRA AMCOS and OneMusic. The Interface Committee met twice in the reporting period.

This has allowed a reflection on streamlining internal APRA processes for Member to Member disputes, establishing a peer assist pathway and piloting the peer pathway in New Zealand.



3.5 Key Achievement: Funding

Block funding was agreed for the operation of the scheme. This was set at \$200,000 for the year being:

- \$12,000.00 Independent chair (not fully paid in the reporting period)
- \$3,615.00 per week plus GST.

This covers the infrastructure, the stakeholder interface work and **options 1** – Resolution Pathways facilitation of disputes. It also covers the basic overhead costs being web- site hosting, web site updates, case management software, insurances for the Resolution Facilitator, employment on-costs for the team.

Capital expenses (web site build) are able to be funded in addition to this amount. Matters requiring multiple days of external consultant time in options 2 and 3 are also additional as they cannot be estimated ahead of time.

This scheme is clearly able to achieve well beyond the reach of these fees due to the contribution of the volunteers.

For the first 2 quarters the team were supplemented by Job Keeper and did not need to draw down fully on the block funding.

3.6. Key Achievement: Accessible system – defining and documenting key processes

Another opportunity identified by the Independent Review and the 2020 Authorisation was to simplify and clarify the pathways and the costs.

..it may be helpful for potential users of the Scheme if the website were to include a single, clear, plain English description of how the Scheme operates, as well as some simple explanations of the DR processes that the Scheme provides. The explanatory page should be designed for use by stakeholders as well as users of the Scheme. The document could emphasise that the Scheme's aim is to help disputants/complainants finalise their matter in ways that each side can accept, and to do so as promptly and informally as is possible. The document could include an explanation of the sequence of processes available...



Triage

Triage is the first step for any participant using a pathway, and essential for understanding how the pathways are chosen.

A 1 page information sheet was created to ensure transparency in this process and to provide to anyone considering using the service. This can be viewed at:





<https://drive.google.com/file/d/1Atn1jGm3i7mFMs8JdLsMhEHkdulyt3DM/view>. This was used on a matter that formed part of a pilot in New Zealand with positive feedback.

Privacy

Data Privacy is another key concern for users of this service. We worked with APRA AMCOS and stakeholders to create a user-friendly privacy policy for the website which can be viewed at: <https://resolutionpathways.com.au/wp-content/uploads/2020/04/Resolution-Pathways-Privacy-Policy.pdf>

Website

Based on feedback changes have been drafted for the web site reflecting a user focussed approach and they are ready for when there is an ability to meet with the stakeholder and governance groups for sign off.

The website has also been updated with information about the Resolution Pathways team, roles and responsibilities and a current list of the Governance Committee members and stakeholders is available on the website at <https://resolutionpathways.com.au/governance-stakeholders/>.

3.7 Key Achievement: consider format of the corporate entity:

There are discussions and planning for the succession of Resolve Advisors as the Resolution Facilitator.

The Governance Committee has requested that the Resolution Facilitator provide an outline of the options available for the Resolution Pathways system. This has been prepared and is available for discussion as part of the succession discussions.

3.8 Key Achievement- Succession Planning

Independence will be more easily achieved with a chair for the governance committee. The committee is also working on ensuring an organised succession to ensure longevity. Many of the members on the committees were founding representatives.

Succession -Governance

Jake Mason succeeded Guy Gross, a founding member, as the music creator representative on the Governance Committee with annual royalties greater than \$3,000 per year.



Succession - Stakeholder Group

Succession was also continued for the larger stakeholder group.

Lynne Small, the General Manager of PPCA and ARIA joined the Stakeholder Group during the reporting period.

There was a recruitment of new writer members with annual royalties above \$3,000. These members including Kylie Auldish, Jake Mason, Hugo Race and Dallas Frasca who each joined the Stakeholder Group at the commencement of the reporting period, and saw the retirement of a founding member John Prior from the Stakeholder Group.

The Stakeholder Group met only once at the end of 2020 due to COVID.

3.9 Key Achievement: Operations



The adoption of the recommendations of the independent report and the ability to have the scheme and the governance operate is the key measures of the effectiveness of the Resolution Facilitator.

Notwithstanding the difficulties of COVID the continued operation of the scheme is a testimony to the team and the volunteers that support it.

3.10 Key Achievement: Continuous learning

An important goal is a feedback and learning system. APRA AMCOS have continued to support the scheme and also extend its cover to the member to member disputes which are beyond the operation of the 2020 authorisation.

4. Feedback on the Scheme (C6.21(iv))

During the reporting period we reviewed and updated the survey that we send to participants of the Scheme, incorporating feedback from the Governance Committee as to the questions asked.

We received one completed survey in the reporting period being **Attachment A** to this report. Please note that this survey is from a member to member matter. We have nonetheless included it as an example of user experience of the Scheme.

5. Complaints received (C6.21(v))



With the appointment of the Independent Chair, complaints about the Resolution Facilitator and the Scheme can now be referred to the Independent Chair moving forward.

There were no complaints in the reporting period.



6. Summary overview of Resolution Facilitator achievements

Goal	Performance indicator	Owner	Measure
Delivery of the service on budget	Resolutions Working governance structure Budget Web-site		The scheme exists and is operational and there is a vibrant stakeholder group
Accountability to support independence	Establishment of a robust governance process that separates the RF role	Resolution Facilitator	Separating roles so that the RF is accountable Adopt and influence recommendations
	Divestiture of power to a wider team		Successfully recruit a chair
Ensure Succession	Succession Plan		Provide options for structure
Successful resolutions	Variety and success of resolutions		Breadth of pathways used
			Integration of technology
Recognition and feedback of trends and improvements for APRA AMCOS	Changes to systems		Change in internal process for M2M Set up of APRA + Resolution Pathways Interface Committee. NZ pilot

John Lennon: *“Life is what happens when you’re making other plans.”*

2020 was a difficult year for the world and especially for the industry. We appreciate the contribution of our committees and the extended panels and teams in allowing us to continue over this period.

Shirli Kirschner - Resolution Facilitator

