



# ASIC sues ACBF/Youpla directors and officers

## Introduction

This easy explainer summary has been created to assist consumers, consumer advocates, and other community services providers to understand the action that ASIC is taking against the directors and officers of some of the companies that make up ACBF/Youpla. The ACBF/Youpla companies that are relevant to this action are: Aboriginal Community Benefit Fund No 2 Pty Ltd, ACBF Funeral Plans Pty Ltd, and Community Funeral Plans Pty Ltd (called the ACBF/Youpla Companies in this document.)

If you'd like to discuss the information further, you can contact ASIC's [Indigenous Outreach Program](#) on [iop@asic.gov.au](mailto:iop@asic.gov.au), or 1300 365 957.

## What is ASIC doing?

People who are in charge of running a company are responsible for making sure that the company follows all the laws that apply to the business. There are also laws about how those people are supposed to behave and look after the companies that they run.

ASIC has been investigating the actions of the directors and other controllers of the ACBF/Youpla Companies to see if they match up with what they need to do under those laws. As part of this work, ASIC is taking some of the people who were running ACBF/Youpla to court.

As part of our case, ASIC is saying that between 4 September 2017 and 30 November 2018, the people in charge of running the ACBF/Youpla Companies signed off on payments from the ACBF/Youpla Companies to another company, and that those payments were not in the best interests of the ACBF/Youpla Companies, or its members. The company that received the payments from the ACBF/Youpla Companies is called Crown Insurance Services Limited (called 'Crown' in this document), and it was used by the ACBF/Youpla Companies to pay for the funerals.

The five people ASIC are taking to court, called the 'Defendants', are Ronald Pattenden, Jonathan Law, Michael Wilson, Bryn Jones, and Geoffrey Clayton. The Defendants were in charge of the ACBF/Youpla Companies at relevant times. The Defendants worked in roles that made the decisions about how the ACBF/Youpla Companies ran, such as being company directors and other very senior positions.

Two of the Defendants, Ronald Pattenden and Jonathan Law also held very senior roles at Crown.

ASIC's court case is saying that the Defendants did not follow the laws about how people in charge of running businesses should act. That is, they should be thinking about the business and the

businesses' members interests. Specifically, we are saying that they breached their duties under sections 180, 181, and 182 of the *Corporations Act 2001*.

## What could happen to the Defendants because of this court case?

It is very early so we don't yet know exactly how the court case will go. The laws that we are saying the Defendants broke are called 'civil provisions', which makes this court case a 'civil' case, rather than a 'criminal' or other kind of case. This means that the Defendants won't be sent to jail.

ASIC is asking the court to do several things as part of this case, including:

- Make declarations of contraventions of the Corporations Act – this is the court deciding and making a formal finding that the people in charge of the ACBF/Youpla companies broke the laws
- Make pecuniary penalty orders – this is the court deciding the Defendants should pay a fine for breaking the laws
- Orders disqualifying the Defendants from managing corporations – this is a decision that means the Defendants are not allowed to run other companies
- Award ASIC costs – this means the Defendants have to pay ASIC back the money that we spent in taking them to court.

This court case is against the Defendants and not any of the ACBF/Youpla Companies. The Defendants can't access any of the money the ACBF/Youpla Companies have to pay for a lawyer to defend them in court, or for any fines that might be ordered by the court. (The ACBF/Youpla Companies and other related companies went into liquidation in March 2022, and the liquidators control their bank accounts.)

## Will ASIC's court case get money back for ACBF/Youpla policy holders?

No.

ASIC is asking the court to make a pecuniary penalty order, which is a fine to be paid for breaking the law. The money paid for that fine goes to the Commonwealth Government.

ASIC isn't able to ask the court to make an order which results in the money paid for breaking the law to be paid back to ACBF/Youpla policy holders, or to be used for any other purpose.

## If ASIC's action isn't going to get money going back for ACBF/Youpla policy holders, why is ASIC bothering?

ASIC is taking this action because it wants to make sure ACBF/Youpla policy holders get justice for the Defendants' actions. ASIC is bringing this case and asking the court to make a decision that what the Defendants did was wrong.



ASIC also wants the court to disqualify the Defendants from running other companies, so they cannot do the same thing again.

ASIC is taking this court action because we think it is important that people in charge of running companies focus on looking after the business and the interests of the company, and the obligations it owes to others – in this case, members of the ACBF/Youpla funeral funds. We are sending a message that company directors must put the interests of the company before their own gain.

## Is this related to the other court case ASIC has against ACBF/Youpla?

ASIC has another court case against some of the ACBF/Youpla group of companies that started in October 2020, and is still going. The companies involved in that court case are ACBF Funeral Plans Pty Ltd and Youpla Group Pty Ltd (called 'ACBF/Youpla' in this document).

That case is about the policies that the ACBF/Youpla sold, and how they sold them. ASIC is saying that ACBF/Youpla pretended that they were Aboriginal owned and operated (they weren't), and that the Aboriginal Community Funeral Plan had Aboriginal community approval.

Even though the ACBF/Youpla Companies have gone into liquidation, ASIC is still taking this court action because we think it is important to make an example of people who try to take advantage of First Nations consumers. You can read more about that case on ASIC's website by [clicking on this link](#). ASIC also has [a web page dedicated to the ACBF/Youpla companies](#) that you can visit for updates.

## What does this mean for people who signed up to ACBF/Youpla?

This court case doesn't affect anyone who bought ACBF/Youpla policies or were members of their funeral funds. It won't mean refunds or any other direct outcome for people who have been affected.

The liquidation of the ACBF/Youpla companies is happening now, and *some* people *might* get some of their money back. The liquidators will be in touch with all registered members on whether there is any money available for refunds when they have finished their investigations. If you bought an ACBF/Youpla policy, you can register with the liquidators, SV Partners, to be contacted at:

Phone: 07 3310 2005

Email: [youpla@svp.com.au](mailto:youpla@svp.com.au)

You can get further information on the liquidation and what steps to take next on Mob Strong Debt Help's [ACBF/Youpla factsheet](#), or access formal liquidation updates at SV Partners' [Youpla Group web portal](#).

## What help is there for people who bought ACBF/Youpla policies?

There is a temporary program called the Youpla Funeral Benefits Program that is available now to help cover the costs of funerals for some affected people. The details of the program are:



- It is available for people who pass away who held an ACBF/Youpla product on or after 1 April 2020. People who didn't have an active policy or membership with ACBF/Youpla since 1 April 2020 are not covered.
- The program will pay the amount that the person's ACBF/Youpla policy was for. For example, if someone had an ACBF/Youpla policy with \$8,000 funeral coverage, that is how much the program will pay if the application is successful.
- Even if the funeral was already paid for (for example, if the family didn't know about this program and already paid), and the person who passed meets these criteria, the program will still pay out the amount the person was covered for in their ACBF/Youpla policy.
- This will not be the end of the support for people who bought ACBF/Youpla products. The Government has committed to a longer-term package of help.

If you need help to make an application, or you would like to talk to someone about it, you can contact The Treasury, who is running this program:

Phone: 1800 296 989 9:00 am to 5:00 pm Sydney time, Monday to Friday

Email: [youpla@treasury.gov.au](mailto:youpla@treasury.gov.au)

Website: <https://treasury.gov.au/youpla>

You can access further information and assistance from Mob Strong Debt Help, including their [ACBF/Youpla factsheet](#).

ASIC's Moneysmart website has further information on [ways to prepare for your own or a loved one's funeral](#).

## Where can I find more information about the court case?

You can find more information about this court case in a few places:

- ASIC sent out a media release that you can read here – [ASIC launches proceedings against five Youpla Group directors](#)
- You can read documents about the court case here – [Concise Statement](#), [Originating Process](#)

ASIC also has [a web page dedicated to the ACBF/Youpla companies](#) that you can visit for updates.

## Where can I get more information and help?

There are a range of resources you can access for further information:

- [Mob Strong Debt Help's ACBF/Youpla factsheet](#) for specific information on next steps to consider
- ASIC's Moneysmart webpage on [ways to prepare for your own or a loved one's funeral](#) for information on your options
- ASIC's [Youpla Group \(formerly Aboriginal Community Benefit Fund\) Key Matter page](#) to keep up to date with ASIC's actions against ACBF/Youpla

If you would like to speak to someone to get help with your own or a loved ones' ACBF/Youpla policy, you can contact [Mob Strong Debt Help](#) at 1800 808 488 (freecall). ASIC is aware that Mob



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Strong may be receiving many calls at the moment. If your call is not answered straight away, please be patient and wait for a call back.

You can also contact ASIC's [Indigenous Outreach Program](#) by phone on 1300 365 or email at [iop@asic.gov.au](mailto:iop@asic.gov.au) for further information, to lodge a complaint, or assistance to find a local financial counselling or legal services organisation.

If this news causes you emotional distress, or makes you worry and you need someone to talk to, you can call [13 YARN](#) on 13 92 76. 13 YARN is a national crisis support line for mob who are feeling overwhelmed or having difficulty coping.