



ENERGY AND WATER
OMBUDSMAN
Victoria **Listen Assist Resolve**



Procedural & Fair Offer Closure Policy

ENERGY AND WATER OMBUDSMAN (VICTORIA)

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OVERVIEW

The Energy and Water Ombudsman (Victoria) (EWOV) is an independent dispute resolution service. The Charter allows EWOV to stop handling a complaint at any time if it is fair and reasonable to do so.

This could include where:

- We think it is reasonable for the customer to pay some or all of the scheme participant’s charges and the customer refuses to pay this amount.
- We have asked the customer to give us documents or information that we think may be relevant to their complaint and the customer has not done so.
- We are unable to contact the customer because they change their contact details and don’t tell us the new details.
- The customer doesn’t stay in contact with us or respond to our attempts to contact them.
- Another person or body can handle the complaint more effectively or conveniently than us. If this happens we can (if the customer agrees) ask the other person or body to handle the complaint and give them the documents and information we have about it. We will then tell the customer and the scheme participant who will handle the complaint.
- The customer makes the complaint for an unacceptable reason, for example only to annoy the scheme participant.

Delegation

The Ombudsman (or Acting Ombudsman) has delegated the responsibility for deciding whether a complaint will be closed as follows for each of the outcomes:

Reason	Resolve outcome	Who can decide this
We think it is reasonable for the customer to pay some or all of the scheme participant’s charges and the customer refuses to pay this amount	Procedural Closure - No Payment	Conciliation Team Manager
We have asked the customer to give us documents or information that we think may be relevant to their complaint and the customer has not done so	Procedural Closure - No Participation	Conciliation Team Manager
We are unable to contact the customer because they change their contact details and don’t tell us the new details	Procedural Closure – No Contact	Conciliation Team Manager

<p>The customer doesn't stay in contact with us or respond to our attempts to contact them</p>	<p>Procedural Closure – No Contact</p>	<p>Conciliation Team Manager</p>
<p>Another person or body can handle the complaint more effectively or conveniently than us. If this happens we can (if the customer agrees) ask the other person or body to handle the complaint and give them the documents and information we have about it. We will then tell the customer and the scheme participant who will handle the complaint</p>	<p>Better dealt with by other body</p>	<p>General Manager Operations</p>
<p>The customer makes the complaint for an unacceptable reason, for example only to annoy the scheme participant</p>	<p>Ombudsman decided the complaint was made for an unacceptable reason</p>	<p>Ombudsman</p>
<p>We think the scheme participant has made a fair offer to resolve the complaint and the customer hasn't accepted it</p>	<p>Fair and reasonable assessment – Fair Offer</p>	<p>General Manager Operations</p>
<p>The customer's behaviour has been unreasonable</p>	<p>Ombudsman decided customer behaviour unreasonable</p>	<p>Ombudsman</p>

PROCEDURAL CLOSURES

Procedural closures relate to the customer’s failure to contact EWOV, participate in EWOV’s handling of the complaint or make payments towards their account with the scheme participant. To ensure that EWOV is procedurally fair, prior to closing a complaint, EWOV will ask the customer to complete one (or a combination) of the following:

- make a reasonable payment towards the outstanding amount with the scheme participant, in line with EWOV’s Payment of Undisputed Amounts Policy
- provide the documents or information that we may think is relevant to the complaint
- contact EWOV when requested.

As the Ombudsman has delegated the procedural closure decisions to the Conciliation Team Managers (TM), a Conciliator must make the procedural closure recommendation to a TM who will determine if it is fair and reasonable to close the complaint.

The specifics of the request to the customer may vary depending on the customer’s circumstances. This is outlined in the tables below:

Standard procedure

Contact the customer	<ul style="list-style-type: none"> • Use the best method of contact – check if the customer specified a preferred method of contact
If no response to phone contact (or if email or letter is the preferred method of contact)	<ul style="list-style-type: none"> • Send an email or letter with the scheme participant’s response
Following a phone conversation with the customer, where the customer needs to provide further information or consider the response	<ul style="list-style-type: none"> • Send an email or letter with the scheme participant’s response
Include the following	<ul style="list-style-type: none"> • Clearly state what action EWOV requires from the customer • Provide five business days to complete the action • Advise the customer that if the required action is not completed within this timeframe, the complaint will be closed
If all the required actions have not been completed	<ul style="list-style-type: none"> • Close the case on a procedural basis

Note: The IC notification email

- The procedure begins when the case is allocated to a Conciliator, not when the IC notification is sent to the customer

Procedure for customers experiencing payment difficulties

- This procedure should be used when a customer is experiencing difficulties paying the arrears on an account
- Refer to the *Payment Difficulties Complaint Handling Policy and Procedure* for more information
- If it is unclear whether this procedure should be used, discuss the case with your TM or TC
- This procedure does not apply to business customers

Contact the customer

- Use the best method of contact – check if the customer specified a preferred method of contact

If no response to phone contact (or if email or letter is the preferred method of contact)

- Send an email or letter with the scheme participant's response

Include the following

- Clearly state what action EWOV requires from the customer
- Provide five business days to complete the action
- Advise the customer that if the required action is not completed within this timeframe, the complaint **may** be closed

If no response to the first email or letter

- Attempt to call the customer by phone

If the attempt to contact the customer by phone is not successful

- Send another email or letter with the scheme participant's response
- Clearly state what action EWOV requires from the customer
- Provide five business days to complete the action
- Advise the customer that if the required action is not completed within this timeframe, the complaint **will** be closed

If all the required actions have not been completed

- Close the case on a procedural basis

Note: The IC notification email

- The procedure begins when the case is allocated to a Conciliator, not when the IC notification is sent to the customer

Note: Irregular customer contact/participation

- If the customer has responded to EWOV or participated irregularly throughout EWOV's handling of the complaint, always provide the customer

with a written response with five business days to complete the required action after each failure to respond/participate

Authority to Act (ATA) required

- All customer types

Once the case has been allocated to a Conciliator, check if the ATA has been received

	OBO	Customer
Contact the OBO	<ul style="list-style-type: none"> • Use the best method of contact – check if the OBO specified a preferred method of contact 	
If no response to phone contact (or if email or letter is the preferred method of contact)	<ul style="list-style-type: none"> • Send an email or letter to the OBO requesting the ATA (verbal or written ATA depending on the customer type) 	
Include the following	<ul style="list-style-type: none"> • Provide five business days to provide the ATA • Advise the OBO that if the ATA is not received within this timeframe, the complaint will be closed 	
If the ATA has not been received	<ul style="list-style-type: none"> • Close the case on a procedural basis • Send an email or letter to the OBO advising that the case has been closed because the ATA has not been received • Do not provide the response from the scheme participant to the OBO 	<ul style="list-style-type: none"> • Also send an email or letter to the customer advising that the case has been closed because the ATA has not been received • Do not provide the response from the scheme participant to the customer
Note: customers experiencing payment difficulties and paid OBOs	<p>The extra steps required for customers experiencing payment difficulties still apply</p> <p>The extra contact with the customer outlined in the ATA Policy and the Legal and Paid Advocate Representation Policy still applies for paid OBOs</p>	

Using discretion to close a case procedurally

- If a Conciliator is unclear about whether a case should be closed on a procedural basis, refer the matter to the TM. Ensure that the discussion is noted in an action and explain why or why not the case was closed.

- If a customer or OBO has requested further time to complete EWOV's request (e.g. due to illness or travel etc), refer the decision to a TM. Ensure that the discussion is noted in an action and explain why or why not the case was closed or an extension was granted.

FAIR AND REASONABLE ASSESSMENT

This relates to EWOV's assessment of whether the scheme participant has made a fair offer. EWOV can close a complaint on the basis that we think the scheme participant has made a fair offer to resolve the complaint and the customer hasn't accepted it.

Background

EWOV complies with the five fundamental principles of the *Benchmarks for Industry-based Customer Disputes*, namely: accessibility, independence, fairness, accountability, efficiency, and effectiveness.

Even though EWOV is not a court or tribunal, the obligation to accord procedural fairness arises due to the nature of decisions made and other express obligations including EWOV's Charter: clauses 1.5, 1.6, 1.7, 2.9, 3, 5.3.

EWOV aims to achieve outcomes which are fair and seen to be fair by observing the principles of procedural fairness, by making decisions on the information before it and by having specific criteria upon which its decisions are based.

A Final Investigation Report, once written by EWOV and sent to the customer, becomes a public document. As such, it is essential that the report:

- demonstrates that EWOV's handling of the complaint has adhered to the principles of procedural fairness
- is professional and demonstrates adherence to EWOV's fair and independent case handling policies, and
- is free of grammatical errors.

Determining when it is appropriate to close a complaint

First assess the complaint using a Strengths and Weaknesses document. This document will ensure that you have considered all aspects of the complaint and enable you to identify any gaps in EWOV's handling of the complaint.

Once the Strengths and Weaknesses document has been completed, discuss your assessment of the complaint with a Team Lead (TL) and your TM, detailing EWOV's assessment to date and why you think:

- the offer made is fair and reasonable and addresses the complaint.

This discussion should incorporate an overview of your investigation to date, including your review of the complaint against the Fair and Reasonable bubbles. The Strengths and Weaknesses assessment and Executive Summary document may assist you in preparing for this discussion.

If your TM agrees with you - discuss your preliminary assessment with the customer.

Discussions with customer about progress of the complaint

Preparation:

In preparing for your discussion with the customer, ensure you are aware of:

- The purpose of the conversation with the customer. What is the desired outcome?
- What are the interests of the customer? What is behind the customer's position/outcome sought?
- Does the proposed resolution address this? How?
- What are the objections/outstanding issues, if any, that the customer does not believe have been addressed? What is EWOV's view on these?
- What are the customer's communication needs?
- Are there any gaps that EWOV's assessment has not addressed?

It may be helpful to practise your conversation with a TL or TM and to have documented your response to the above questions.

Tips for the discussion with the customer:

- it is always useful to begin the discussion by reminding the customer of EWOV's role and what it considers when handling a complaint (what is fair and reasonable between both parties, having regard to the law and good industry practice)
- provide an overview of the complaint including:
 - the complaint presented to EWOV and the resolution initially sought by the customer
 - any documentation provided by the customer in support of their perspective on the complaint
 - the response and supporting documentation received from the scheme participant
 - the relevant case handling policies and procedures (e.g. high bill procedure), and
 - the relevant Fair and Reasonable bubbles that you have used and the outcome of each
- discuss the relative strengths and weaknesses of the complaint with the customer, and
- confirm whether the customer has additional information to provide.

Provide an appropriate timeframe to the customer to respond and complete the following:

- another review of your Strengths and Weaknesses document
- follow up on any gaps highlighted by your Strengths and Weaknesses document with the scheme participant or customer, and
- commence drafting a Preliminary Investigation Report to the customer if you remain of the view that the scheme participant's offer is fair.

Preliminary Investigation Report

Prior to writing a Final Investigation Report, EWOV will provide the customer with one final opportunity to review the scheme participant's offer and provide any additional information that has not been previously made available to EWOV to consider.

The Preliminary Investigation Report letter provides a detailed outline of the complaint and EWOV's assessment and serves as a 'heads up' to the customer that EWOV is looking at closing the complaint on the basis that:

- we think the scheme participant has made a fair offer to resolve the complaint.

The Preliminary Investigation Report is addressed to the customer and should be:

- **detailed** – an in-depth outline of the complaint, as advised by the customer previously, the scheme participant's responses and EWOV's assessment. This letter needs to be more detailed than the Final Investigation Report
- **procedurally fair** – this means that EWOV needs to have discussed/disclosed to the customer anything on which EWOV is going to rely in making a decision in completing the fair and reasonable assessment and Final Investigation Report
- **informative** – the letter should be treated as an overview of the complaint and EWOV's assessment, clearly outlining to the customer the relative strengths and weaknesses of their complaint based on the available information
- **impartial** – EWOV's assessment should be based on the Strengths and Weaknesses document and the Fair and Reasonable framework. Conciliators need to refer to the Fair and Reasonable Bubbles explanation to determine how each aspect of the fair and reasonable framework should be written into the Preliminary Investigation Report and the Final Investigation Report

The Preliminary Investigation Report letter must be approved by your TM prior to being sent.

The customer should be provided with a timeframe of five to ten business days to provide any new or additional information that they want EWOV to consider. The timeframe provided should depend on the complexity of the issue or the needs of the customer.

Response received from customer

Option 1 – no further information presented by the customer

- the complaint merits further review, or
- the offer is fair.

Then advise the customer that a formal fair and reasonable assessment will be conducted and they will receive a letter and a copy of EWOV's Final Investigation Report outlining the outcome of EWOV's fair and reasonable assessment. Provide a timeframe that takes into consideration the time it will take to obtain approval for the report from your TM and GMO.

Option 2 – customer presents additional information:

- review any new or additional information provided by the customer
- assess any new or additional information provided with your TM (and the GMO if appropriate)
- determine whether further review is required in conjunction with your TM (and the GMO if appropriate). This will include an assessment of the strengths and weaknesses of the complaint and a review against the Fair and Reasonable Bubbles, and
- undertake any further review deemed necessary, including seeking clarification on any unclear aspects of the review.

In the event that the new information provided does not alter EWOV's view of the complaint, you will need to prepare the Final Investigation Report for approval by your TM and General Manager Operations (GMO).

Final Investigation Report

The Final Investigation Report provides EWOV's final decision on the complaint where a conciliated outcome has not been achieved. This document provides an explanation for EWOV's decision to close the complaint on the basis that we think the scheme participant has made a fair offer to resolve the complaint and the customer hasn't accepted it.

The Conciliator handling the complaint must provide a Final Investigation Report to their immediate TM within five business days. The Final Investigation Report should be a summary of the Preliminary Investigation Report and needs to outline:

- **the nature of the customer's complaint** – a summary of the information provided by the customer initially and during the course of the complaint, including the resolution sought
- **scheme participant's response** – a summary of the information presented by the scheme participant in response to the customer's complaint, including the resolution(s) offered
- **EWOV's investigation** – a detailed outline of the action taken by EWOV to review the complaint. It is useful to refer to EWOV's Fair and Reasonable Bubbles and the Strengths and Weaknesses document
- **summary/outcome** – the Conciliator's recommendation, and
- **the review process** – Independent Review Panel (IRP) information.

In certain cases, not all of the above is necessary or relevant, and Final Investigation Reports should be amended according to the individual circumstances of a complaint.

Formatting of the documentation may vary (e.g. use of bullet points) according to the amount of information required and the most effective way to clearly communicate this information.

Please refer to the Fair and Reasonable Bubbles explanation document for information on how each bubble should be covered in the Investigation Report.

You may wish to refer to the Final Investigation Reports document for examples of well written Final Investigation Reports.

Final Investigation Report Approval Process

Once your TM approves the Final Investigation Report, it needs to be provided to the GMO for approval. Once the GMO approves it, the Final Investigation Report should be signed by the Conciliator, TM and GMO. The Conciliator then drafts a one-page covering letter advising the customer of the closure outcome. The template covering letter in Resolve must be used. The GMO signs this covering letter.

Advice to customers

Where closure has occurred due to a fair offer being made, customers are provided with five business days from the date of closure of their complaint to accept the offer, and are provided with the direct contact details of EWOV's scheme participant contact.

Advice to scheme participants

Scheme participants should be advised by email that the complaint has been closed on the basis of a fair and reasonable assessment. A copy of the Final Investigation Report should be sent to the scheme participant.

The scheme participant should be advised that the customer has five business days from the date of closure of their complaint to accept the offer, and asked to confirm the appropriate direct contact at their business.

Review of decision

Where a complaint is closed because we think the scheme participant has made a fair offer to resolve the complaint, customers are able to request an Internal Review under EWOV's Internal Complaints Handling Policy. For all other procedural closures, EWOV applies its Same Customer Same Issue policy.

APPENDIX

Investigation Checklist

Have Conciliation Tools been utilised?

- Has relevant information been gathered and critically analysed?
- Clarification meeting
- Site visit
- Conciliation conference
- Strengths and Weaknesses document
- Meeting with Team Lead / Team Manager
- Regulatory advice (ESC, DPI, AER, etc)

Has a Fair and Reasonable Assessment been completed?

- Review laws and codes
- Review scheme participant policy
- Interviews with relevant parties (witnesses, repairer, electrician, etc.)
- Customer service performance (positive/negative)
- Industry practice (minimum 3-4 comparable participants)
- Other industry practice
- Legal advice (formal/informal)
- Independent technical advice (fin co., energy auditor, billing expert, arborist)
- Peer review
- TM's view on complaint
- What the ordinary person on the street thinks
- Other case results over previous years
- Special customer circumstances
- Previous Binding Decisions

Preliminary Investigation Report

Discuss appropriateness of this with your TM

- Review checklist with TM
- Draft the Preliminary Investigation Report
- Discuss draft with TM (if necessary)
- Review draft with TM and send to customer

Final Investigation Report

- Review further information from customer (if any)
- Review further information from scheme participant (if any)
- Review examples on Emerald City
- Draft the Final Investigation Report

Finalisation

- Approval of draft from TM
- Approval of draft from GMO
- Approval of draft from Ombudsman (if necessary)

Case Closure

- Send the Final Investigation Report to customer with closure letter
- Send closure email to scheme participant with the Final Investigations Report
- Update case in Resolve

Miscellaneous

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Document history

Action	Updated By	Date
NFI Policy & Procedure re-named, re-written, re-formatted and the procedural-based closure process updated	HMN	January 2019
Updated Procedural Closure process and re-named Investigation report to Final Investigation Report	MCC	August 2019