



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



Authority to Act Policy and Procedure

July 2014



This document is to be read in conjunction with EWOV's [Privacy Policy](#).

Overview

This policy has been developed to ensure that EWOV complies with the Commonwealth *Privacy Act 1988*. The information below specifies when an Authority to Act (ATA) is required, by whom and how the information is to be recorded.

Enquiries, Unassisted Referrals and Assisted Referrals

If a third party contacts EWOV on behalf of (OBO) a customer, and an Enquiry, Unassisted Referral or Assisted Referral is registered, an ATA is not required. This is because EWOV is collecting, rather than disclosing, personal information.

EWOV should advise the OBO:

- to inform the customer that EWOV has collected the information.
- that the Scheme Participant (SP) may require the customer's consent prior to providing information to them.

Investigated Complaints (Including Real Time Resolution)

Where EWOV is investigating a complaint, authority is needed from the customer (person or business) before EWOV will disclose any information relating to the investigation to the OBO.

The exception is where providing general information or education (not including specific customer details) will resolve the issue.

Types of ATA

The type of ATA required will depend upon the individual circumstances.

a. *Personal Accounts*

If the OBO is related to the customer (family member), or is in a personal relationship with the customer (such as a neighbour or friend), a verbal ATA can be obtained from the customer. This should be recorded in Resolve.

- When recording this in Resolve, it is preferable to record the names of both parties, as well as their relationship to each other. For example, 'Sally Jones provided verbal ATA for her partner Jeremy Smith'.
- If the customer is from a non English speaking background, a verbal ATA can be obtained through an interpreter.

In all other cases, a written ATA is required. A copy of the completed ATA must be stored in Resolve (in the customer profile ATA tab) as well as a relevant action being completed in the case to show that an ATA has been obtained.

- Many financial counsellors have their own pro-forma ATAs. So as not to be too onerous, these can generally be accepted. If the scope of the authority is too limited (for example, it is confined to credit issues only), EWOV's ATA should be completed. Where there is doubt the ATA should be reviewed by a Manager.
- If the customer is from a non-English speaking background, an ATA form can be sent in the relevant language. EWOV has pre-translated forms available in a number of languages.

b. Deceased Estate Accounts

If the person contacting EWOV is a third party affected by the dispute (for example, they want to arrange meter access in order to establish an account in their own name), no ATA is needed as they are lodging a complaint in their own right.

If the person contacting EWOV does not personally hold an interest in the dispute, and wishes to act on behalf of the deceased estate account, the following documentation should be obtained and stored on the case:

- A copy of the Probate Parchment (with a copy of the Will attached); **or**
- If the account-holder died without a Will, a copy of the Letters of Administration; **or**
- If neither the Probate Parchment nor Letters of Administration are available, a copy of the Will and the Death Certificate.

If the OBO is named as an Executor or Administrator on these documents, then nothing further is required. However, if the OBO is not named as an Executor or Administrator, a written ATA must be completed by the Executor or Administrator, authorising the OBO.

If the Probate Parchment, Letters of Administration, Will and Death Certificate are all unavailable, then advice should be sought from EWOV's Legal Advisor.

c. Business Accounts

Where EWOV is investigating a business account, a written ATA must be obtained. The ATA must be signed by someone with authority to make decisions for the business, for example:

- A Director or the Company Secretary; or
- The Principal/Owner (if the business is a sole trader); or
- A Partner (in the case of a partnership); or
- A Trustee; or
- A Senior Manager (CEO, CFO, Finance Manager, General Counsel) in the company.

The Company Secretary is a senior position, whose tasks include taking minutes of directors meetings and completing Australian Securities & Investment Commission (ASIC) forms. This should not be confused with an administrative or other secretarial position.

d. Trust Accounts

Where EWOV investigates a complaint in the name of a trust, the Trustee must be confirmed. A Trustee can be an individual or a company.

For high risk cases, a copy of the Trust Deed to confirm the identity of the Trustee must be obtained. Any Deeds of Variation of the Trust Deed must also be obtained.

The Resolve 'Customer' field needs to be updated, once the Trustee is identified. For example:

- If John Smith is the Trustee for Smith Family Trust, which is trading as A-Z Learning, Resolve should reflect 'John Smith as Trustee for Smith Family Trust trading as A-Z Learning'.
- If ABC Pty Ltd is the Trustee for ABC Trust, which is trading as A-Z Learning, Resolve should reflect 'ABC Pty Ltd as Trustee for ABC Trust trading as A-Z Learning'.

A Business ATA must be completed.

- Where the Trustee is an individual—for example, John Smith as Trustee for Smith Family Trust trading as A-Z Learning—John Smith will need to complete a Business ATA, nominating someone (possibly himself) to act on behalf of the trust.
- Where the Trustee is a company—for example, ABC Pty Ltd as Trustee for ABC Trust trading as A-Z Learning, someone with authority to make decisions for ABC Pty Ltd (such as a senior manager) will need to complete a Business ATA nominating someone to act on behalf of ABC Pty Ltd.

If the appropriate Deeds are unavailable for a high risk case, then advice should be sought from EWOV's Legal Advisor.

e. Owners Corporations

Where EWOV investigates a complaint in the name of an Owners Corporation, a written Business ATA must be obtained. The ATA must be signed by someone with authority to make decisions for the Owners Corporation:

- the Chairperson; or
- the Secretary.

In the case of a corporate Manager bringing a complaint to EWOV (or a natural person employed by a company appointed by the Owners Corporation to act on its behalf) the OBO will need to provide a Business ATA, signed by someone with authority to make decisions for the corporate Manager and:

- an ATA signed by someone with authority to make decisions for the Owners Corporation (for example the Chairperson or Secretary of the Owners Corporation); or
- a Contract of appointment; or
- a copy of meeting minutes, detailing the appointment of the Manager.

Other Considerations

The particular circumstances of a complaint may require a different approach to obtaining an ATA, as detailed below.

i. Duration of Authority

A customer can elect to have a written ATA remain valid for either:

- A specific case; or
- Permanently.

Where a written ATA (in EWOV's pro-forma) has been obtained, there is a box at the bottom that must be ticked if it is preferred for the ATA to only be valid for a particular case. If this box has not been ticked, the ATA is automatically valid permanently. Where an ATA is obtained verbally, it will only be valid for that particular issue and cannot be permanent.

ii. *Revoking authority*

The customer can revoke an ATA at any time. This request does not need to be in any particular form, so a verbal revocation is sufficient. Also, EWOV may become aware of circumstances in which it is assumed the ATA is no longer valid, and in these instances, a new ATA should be obtained. For example, if EWOV becomes aware that husband and wife are now separated, it can be assumed that any ATA based on this relationship is no longer valid.

iii. *Multiple authorities*

Each time a written ATA is obtained it will supersede any previous written authority with EWOV. If a customer requests more than one person act on their behalf, this needs to be noted either on the written ATA or in the action containing the verbal ATA notes.

iv. *OBO is being paid by the customer*

If the OBO is being paid by the customer (such as a solicitor or credit repair agency) the following steps should be taken:

- EWOV's written ATA should be completed (the third party's own pro-forma ATA is insufficient) and signed by the customer. EWOV will not accept digital signatures on the ATA form.
- The customer should be contacted, and advised that EWOV has received a signed ATA and that EWOV is a free service and that compensation cannot be claimed for any costs of representation.
- A copy of all written communications with the OBO (including email) should be provided to the customer.

If there are any concerns that the customer may be financially disadvantaged by having contact with EWOV, then advice should be sought from a manager.

v. *Copying correspondence to a third party*

Where a customer chooses to cc correspondence to a third party, this does not constitute authority on its own (without a completed ATA form).

vi. *Third Party seeking information only*

Where a third party, such as a Member of Parliament, is seeking information about a complaint, but is not seeking to act on behalf of the customer, verbal ATA is sufficient.

vii. *Urgent cases*

If the matter is urgent, such as a disconnection, and verbal ATA is not possible (such as if the customer is ill), EWOV may act on the advice of a third party if there does not appear to be any potential conflict with the customer's interests. This must be followed up by a verbal or written ATA, as per the above requirements.

viii. Power of Attorney

A current standing or enduring financial power of attorney is sufficient authority in most instances, without the need for any further ATA.

- If the customer is deceased, a power of attorney is insufficient, and the above rules regarding *Deceased Estate Accounts* must be followed.
- If the customer is incapable, a standard power or attorney is insufficient and advice should be sought from EWOV's Legal Advisor.

ix. Joint account holders

Where one account holder makes a complaint, but the other does not, EWOV will ask the account holder who has made the complaint to advise the other account holder that the complaint has been made.

x. OBO who works for an organisation

Where an OBO works for an organisation and the organisation is listed on an ATA, EWOV can communicate with any person from the organisation (it is not limited to the person listed provided that the organisation is also named).

Document history

Action and Date	Updated By
Updated: January 2013	JVE
Updated: March 2014	EBG
July 2014: Updated 'OBO is being paid by the customer' to include that EWOV will not accept digital signatures on the ATA form.	EBG