



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



# Internal Complaint Handling Policy

ENERGY AND WATER OMBUDSMAN (VICTORIA)

January 2019

*\*Note: this is an EWOV Board policy and cannot be changed without Board approval*



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## Overview

From time to time, the Energy and Water Ombudsman (Victoria) (EWOV) receives complaints about how we have undertaken our dispute resolution role. We have procedures in place to handle complaints from customers and scheme participants about us.

We can receive the following types of complaints:

### ***Complaints about case management***

This is where a customer or scheme participant requests that EWOV management review the handling of a case. The customer or scheme participant may be concerned about the progress of the case, or they may have a query about the application of an EWOV policy or procedure.

### ***Complaints about cases closed after a fair and reasonable assessment***

This is where a customer is unhappy with EWOV's decision to close their case on the basis that a fair offer has been made by the scheme participant, and the customer believes that EWOV's decision has been impacted by:

- bias
- error/omission in the investigation
- the unavailability of new information that has since become available.

### ***Complaints about the operation of the scheme***

This is where a scheme participant or member of the public wishes to complain about a broad aspect of the scheme's operation. This does not include concerns about the handling, investigation or finalisation of a specific complaint.

### ***Complaints about EWOV's jurisdiction to handle a complaint***

This is where EWOV has received a complaint for investigation, and the scheme participant disputes EWOV's jurisdiction to handle the particular complaint.

## Complaints about case management

Occasionally, customers or scheme participants aren't happy with the way that a case has been handled by EWOV. They may be concerned about the progress of the matter, or they have a query how we've applied an EWOV policy or procedure to the case. EWOV has an escalation process for dealing with these complaints.

First, speak to the EWOV staff member you've been dealing with and explain why you're not happy. If you're not satisfied with the staff member's response, you can ask for your concerns to be escalated to the Team Manager. If you're not happy with the Team Manager's response, it may be escalated to the General Manager Operations (GMO).

If a customer or scheme participant's concern remains unresolved at this point, it may be escalated to the Ombudsman for review.

Once it has been escalated to a Team Manager, you'll hear from us within five business days and we'll contact you using your preferred contact method (e.g. phone, letter, email). When reviewing your concerns, we might find that training or counselling of the staff member/s will help improve our service. We might also change our processes. The Ombudsman may also bring it to the attention of the Board.

## Complaints about cases closed after a fair and reasonable assessment

EWOV may decide to close a case on the basis that a fair offer has been made by the scheme participant. A customer whose complaint was closed after an assessment by EWOV has found that there is a fair and reasonable offer, can ask us to do an internal review of our investigation into their complaint if they can explain how one of the three grounds for an internal review applies.

### *The grounds for internal review*

The three grounds for internal review are:

1. bias; and/or
2. error or omission during investigation; and/or
3. the provision of new information by the customer.

In addition to establishing one of the grounds, it must also be shown that the bias, error or new information is not insignificant/minor; that is, it is likely that it affected the decision to close the complaint.

### *The scope of the grounds for review include:*

- Bias – includes a decision made during EWOV's investigation that a fair-minded and informed member of the public would think showed a lack of impartiality.
- Errors or omission – includes a mistake in the investigation, or something done incorrectly, because of a lack of knowledge or oversight.
- New information - includes only information that was not previously available to you and which is directly relevant to the complaint and likely to have changed the outcome.

## ***If you've requested an internal review***

You must write to us (by email, letter or fax), within 20 business days of the closure of your complaint. You will need to explain which of the three grounds you are requesting a review. Include details of the bias, error/omission or new information and explain how it affected the decision to close your complaint. If you're not able to write to us, we may be able to accept your request by telephone or in person.

We'll consider your request and write to you within three business days of receiving your request to let you know whether or not we will review your complaint.

## ***Outcomes of the internal review***

### **Grounds not raised**

If your written request does not clearly explain at least one of the grounds for an internal review and how it affected the closure of your complaint i.e. no bias was evident; or information provided was not new or it was not relevant; or there was no error or omission in EWOV's investigation.

- We will not review your complaint.
- Instead, we'll escalate your concerns to be reviewed by our management team.
- We'll write to you to explain our decision not to review your complaint.

## ***If we decide to review your complaint***

We'll appoint an Internal Review Panel of skilled and experienced staff to review your complaint. The Internal Review Panel will include staff who have not been involved in the investigation, and at least one senior staff member at EWOV. The Internal Review Panel will:

- Review EWOV's investigation into your complaint.
- Decide if the concerns you raised would have changed the outcome.
- Write a report to explain its decision.

### **The outcome of the investigation is not affected**

If the Internal Review Panel decides that the concerns you raised would not have changed the outcome of the complaint, we will not re-open your complaint and your complaint will remain closed.

### **Grounds upheld**

If the Internal Review Panel decides that the concerns you raised may have changed the outcome of your complaint, we may re-open your complaint and continue investigating your concerns.

Whether we re-open your complaint or not, we'll write to you to explain the Internal Review Panel's decision, within 20 business days from the day we received your request.

When reviewing your concerns, we might also change our processes or find that training or counselling of the staff member/s will help improve our service.

## Complaints about the operation of the scheme

If a scheme participant or member of the public isn't happy about the operation of the scheme, you'll need to write to us. The Ombudsman will consider the complaint, and respond to the complaint in writing (email or letter) within 20 business days.

If the scheme participant or member of the public is unhappy with the Ombudsman's reply, the Ombudsman will let the EWOV Directors and Board Chairman know of your concerns. The Chairman will decide if further action is needed.

If the complaint is about the physical or mental ability of the Ombudsman to perform his/her role or serious misconduct, the matter will go directly to the Board Chairman for review.

The Board does not review specific complaint investigations or outcomes.

## Complaints about EWOV's jurisdiction to handle a complaint

If a scheme participant disputes EWOV's jurisdiction to handle a particular complaint, you should follow EWOV's escalation process.

If the scheme participant is not happy with the response from the GMO, you may formally challenge jurisdiction. To formally challenge EWOV's jurisdiction, you must write to the Ombudsman explaining why. This should explain why you believe the complaint is not in jurisdiction, and should include your own legal opinion on the issue.

The Ombudsman may seek a legal opinion when considering the request. He/she will then respond to you about whether the case remains in or out of jurisdiction. The complaint will continue to be investigated while this review is occurring.

If the Ombudsman finds that the case is within jurisdiction and you still dispute jurisdiction, the Ombudsman will notify the Board of your concerns.

The Supreme Court of Victoria has confirmed that the Ombudsman alone decides jurisdiction and the decisions are not subject to review.<sup>1</sup>

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<sup>1</sup> *CitiPower Pty Ltd v Electricity Industry Ombudsman (Vic) Ltd [1999] VSC 275.*