

**Legal and Paid Advocate Representation Policy
August 2018**

This document is to be read in conjunction with EWOV's **Authority to Act** Policy.

BACKGROUND

Energy and Water Ombudsman (Victoria) (EWOV) complies with the *Benchmarks for Industry-based Customer Dispute Resolution* and *Key Practices for Industry-based Customer Dispute Resolution* (National Benchmarks). In doing so, EWOV has established informal processes which discourage a legalistic, adversarial approach to complaint resolution.

This policy outlines EWOV's approach to cases where customers or providers wish to be represented by a paid advocate, such as a legal representative or a credit repair agent. It is aimed at ensuring that EWOV's services remain accessible to all customers – this includes being easy for customers to use, non-adversarial in nature, and not presenting any cost barriers.

EWOV discourages the use of legal or other paid representation during complaint investigations, both by customers and providers.

Complaint Investigations – General Processes

Customers:

Customers may choose to have an authorised representative act on their behalf in dealing with EWOV.¹ Where a customer wishes to have a legal or other paid representative (such as a solicitor or credit repair agency) act on their behalf during an investigation, EWOV will contact the customer and advise that:

- EWOV has received a signed Authority to Act (ATA)
- EWOV's services are informal and free to all customers
- customers cannot claim compensation or reimbursement for any costs or expenses of representation
- the use of legal or other paid advocates is generally discouraged, as the Conciliation process is an informal alternative to legal processes.

EWOV will also follow the following process for all paid representatives:

- 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.
- A copy of all written communications with the representative (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.

¹ EWOV Charter, clause 3.4.

Providers:

Each provider has dedicated contacts, which handle EWOV complaints and respond to EWOV requests for information. While providers may choose to seek in-house or external legal advice at their expense where complaints raise legal questions, EWOV does not accept provider responses directly from legal representatives. Where a provider adopts a strictly legalistic approach to an investigation and does not have regard to the broader “fair and reasonable” aspects of the complaint, EWOV will consider whether its **Upgrade Policy** should be applied.

Complaint Investigations – Meetings and Conciliation Conferences

Direct Legal or other Paid Representation at Meetings and Conciliation Conferences

In line with the National Benchmarks, EWOV does not allow customers or providers to be legally represented in meetings and Conciliation Conferences. EWOV also discourages representation by other types of paid advocate.

Where EWOV believes a customer is vulnerable and in need of representation, the Ombudsman may exercise discretion to allow representation by a paid representative. However, an alternate type of advocate will be suggested by EWOV where possible.

If the Ombudsman allowed a customer direct legal or other paid representation at a meeting, consideration would be given to allowing the provider the same opportunity.

If a customer insists on legal or other paid representation at a meeting but the Ombudsman does not consider that the representation is required, the Ombudsman will decide whether to:

- cancel the meeting/conference
- allow the customer to have non-direct legal or other paid representation (see below).

Alternative means of progressing the complaint without convening a meeting or Conciliation Conference would also be explored.

Non Direct Legal or other Paid Representation at Meetings and Conciliation Conferences

The Ombudsman may allow a customer and provider to access advice and assistance indirectly from their legal or other paid representative, during a meeting or Conciliation Conference. Where permitted, this will occur in a separate consultation room outside of the meeting/conference and breaks in the meeting would be taken to enable this to take place.

Although non direct representation is authorised, it is discouraged if no specific legal considerations are evident in the complaint.

Guidelines for Meetings and Conciliation Conferences

Where one or both parties are legally or otherwise represented (either directly or indirectly) by a paid advocate at a meeting or Conciliation Conference, EWOV will set clear rules prior to the meeting or conference. These rules will outline:

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- the role of the legal/other paid adviser/s at the meeting/conference
- the format of the meeting/conference, including when the adviser will be invited to participate and how this participation will occur
- what records may be kept of the meeting
- the confidential and “without prejudice” nature of the meeting.

Document History

Action and Date	Updated By
Updated: September 2004	
Updated: February 2007	
Updated: May 2013 To include reference to credit repair agencies and other paid advocates (not just legal representatives).	RWA and JVE
Updated: July 2014 To include 'EWOV will not accept digital signatures on Authority to Act forms'.	EBG
Updated: March 2018 To include that EWOV's own ATA needs to be obtained and the process for paid representatives.	NAM
Updated: August 2018 Added new Charter reference	HMN and JVE