

INVESTIGATED COMPLAINT PROGRESSION PROCEDURE
Last updated: February 2010

BACKGROUND

The Energy and Water Ombudsman (Victoria) (EWOV) complies with the National *Benchmarks for Industry-Based Customer Dispute Resolution Schemes 1997*.¹ In doing so, EWOV has developed case handling policies and procedures to ensure that its service is effective and efficient. This includes ensuring that complaints are dealt with by the appropriate process.

In progressing cases, EWOV handles complaints independently and within the framework of what is fair and reasonable, what constitutes good industry practice and what lies within current law. Appendix 1 elaborates further on EWOV's independence and outlines EWOV's fair and reasonable framework.

This document outlines:

- ⌚ the timeframes and levels involved for investigating complaints (see Appendix 2 for a summary)
- ⌚ where a complaint progresses to Final Stage, the timeframe for investigating the complaint and the basis on which EWOV decides whether the matter will proceed to a Binding Decision
- ⌚ the referral of Final Stage complaints to Complex Case Managers (CCM).

This document is to be read in conjunction with EWOV's Upgrade Policy, No Further Investigation Policy, Binding Decision Procedure, No Contact No Collection Activity Policy and Enquiry, Complaint and Communication Process Procedure.

COMPLAINTS FOR INVESTIGATION – STAGES AND TIMEFRAMES

Stage 1 Complaints

Complaints for investigation are received at Stage 1. If a complaint is identified by either the scheme participant or EWOV as being straight forward and able to be resolved through immediate discussions and negotiations by EWOV with the scheme participant and the customer, the Conciliator should refer to EWOV's Stage One Process.

Stage 2 and 3 Complaints

For a Stage 2 complaint, the scheme participant is provided with an initial period of 14 days to respond to the issues raised by the customer and make suggestions to resolve the matter. If the matter remains unresolved following the communication of this response

¹ <http://www.consumersonline.gov.au/downloads/selfreg/benchmarks/BMARK1.rtf>

to the customer, the scheme participant has the opportunity to provide further responses during the course of EWOV's investigation.

All responses provided by a scheme participant in an EWOV investigation are assessed in the context of EWOV's Upgrade Policy. A complaint will be upgraded to the next complaint level by the relevant Conciliation Team Manager (CTM) or Conciliator if a response meets one of the grounds for an upgrade under the Upgrade Policy.

Where a complaint is upgraded to Stage 3, the scheme participant is provided with a further seven day period to respond. As above, the scheme participant has the opportunity to provide further responses if the matter remains unresolved following the communication of this response to the customer. The Upgrade Policy however continues to apply and a complaint will be upgraded to Final Stage by the CTM if a response meets one of the grounds for an upgrade under the Upgrade Policy.

Final Stage Complaints

EWOV's initial email to scheme participants for Final Stage complaints asks them to respond within seven days, either by:

- ⌚ providing a full response to the issues raised and confirming that they wish to continue negotiating with the customer, or
- ⌚ confirming that they wish to have the matter proceed directly to a Binding Decision.

If the scheme participant elects to proceed straight to a Binding Decision, EWOV will complete any outstanding investigations and refer the matter to the Ombudsman.

If the scheme participant provides a full response and wishes to continue negotiating, EWOV will continue with its investigation.

EWOV will seek to finalise a complaint at Final Stage within 90 days – either by negotiating an outcome, closing the complaint on a No Further Investigation basis, or referring the matter to the Ombudsman for a Binding Decision to be made.

WHEN DOES EWOV PROCEED TO A BINDING DECISION?

A CTM reviews all Final Stage complaints with the Conciliator at the time the case is upgraded. The complaint is then reviewed again by the CTM each 14-21 days, in line with the Conciliators work review schedule.

In reviewing Final Stage complaints, EWOV focuses on two things:

- ⌚ **Conciliated outcome**
EWOV always seeks to achieve conciliated outcomes, and will not refer a matter for a Binding Decision if there is a realistic possibility of reaching a negotiated outcome within a reasonable timeframe.
- ⌚ **Are the parties genuinely willing to negotiate?**

At Final Stage, EWOV will be continually assessing the willingness of both parties to continue negotiating. If the parties remain apart in their positions and either one or both parties appear unwilling to negotiate further, EWOV will refer the matter to the Ombudsman for a Binding Decision to be made.

Referral to a Complex Case Manager (CCM)

Where it appears likely that a Final Stage complaint may proceed to a Binding Decision, the Manager Operations (MO) on the recommendation from the CTM, will reallocate the complaint to a CCM. The initial Conciliator may continue to be involved in the complaint if the circumstances require this.

In assessing the likelihood of a Final Stage complaint proceeding to a Binding Decision, the CTM at the point of upgrade and during each work review with the Conciliator will consider the realistic possibility of the parties reaching a negotiated outcome, the disparity between the parties' positions and the willingness of the parties to continue negotiating.

Binding Decisions

If a conciliated outcome cannot be achieved at Final Stage, and EWOV does not believe the scheme participant's resolution proposal has met the merits of the complaint, the matter will be referred to the Ombudsman for a Binding Decision to be made. A Binding Decision is a determination by the Ombudsman which, if accepted by the customer, is binding on the scheme participant. Binding Decisions are publicly published in case study form, with the names of both parties de-identified.

Once a matter is referred to the Ombudsman, the Binding Decision will be finalised within 60 days. The procedure for drafting, reviewing and finalising a Binding Decision is contained in EWOV's [Binding Decision Procedure](#)

Appendix 1 – Independence and Fair and Reasonable Considerations

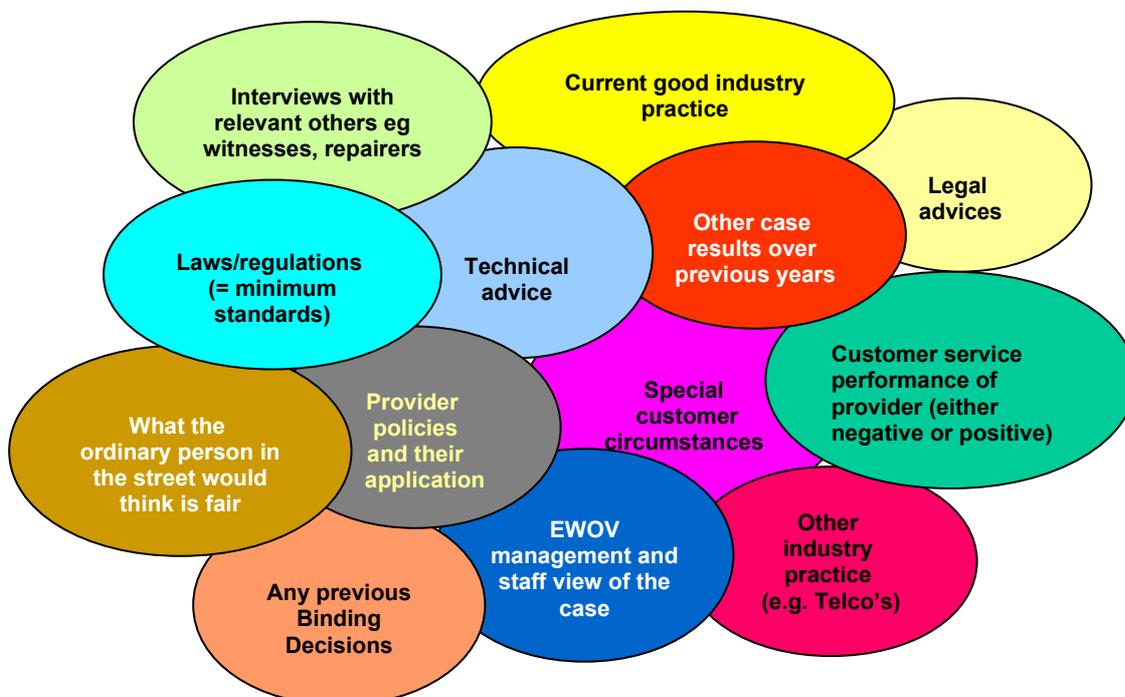
Independence

Independence is a key part of EWOV’s investigation and negotiation processes. In practice, independence means:

- ⌚ following the principles of ‘natural justice’ or procedural fairness
- ⌚ allowing each party a fair opportunity to explain their perspective
- ⌚ allowing each party equal opportunity to provide any further information that may be relevant to EWOV’s investigation
- ⌚ not pre-judging a customer (eg. on the basis of the customer’s language skills or past case history)
- ⌚ avoiding personal conflicts of interest (eg. not investigating a case involving family or friends; or if the staff member has a personal financial interest in either party to the case)
- ⌚ avoiding deliberate withholding of information provided to EWOV so that one party can obtain a better outcome.

Fair and Reasonable Considerations

EWOV also handles complaints within the framework of what is fair and reasonable. The following diagram outlines the considerations EWOV takes into account when assessing what is fair and reasonable.



Appendix 2 – Timeframes

