

**SEEKING CONSENT TO A BINDING DECISION OVER \$20K
PROCEDURE FOR EWOV STAFF
June 2013**

BACKGROUND

Under paragraph 6.1 of EWOV's Charter, the Ombudsman has the power to make a Binding Decision up to a value of \$20,000. Where both parties consent, this financial limit may be increased up to \$50,000.

While there is a monetary limit to EWOV's Binding Decision powers, conciliated outcomes have no monetary limit. EWOV can investigate and seek to conciliate complaints relating to any disputed amount. The jurisdictional limit of \$20,000 (or \$50,000 with the consent of both parties) applies only to Binding Decisions. Where the amount claimed exceeds the Ombudsman's Binding Decision financial limit, the customer may choose to either proceed with an EWOV investigation or pursue the matter in another forum. If the customer proceeds with an EWOV investigation and the matter cannot be conciliated, any Binding Decision made by the Ombudsman will be limited to either \$20,000 or \$50,000.

It is important that EWOV seeks the provider's consent to increasing the Binding Decision jurisdictional limit, as soon as becoming aware that the customer is seeking an amount in excess of \$20,000. This includes where a customer is:

- disputing an amount in excess of \$20,000
- claiming an amount in excess of \$20,000 or
- seeking to have the provider undertake works or any actions that are likely to exceed \$20,000 in value.

Promptly seeking consent ensures that:

- the provider is aware of the scope of the complaint and
- the customer has the opportunity to take the matter to another forum, if the provider does not consent to an increase in the jurisdictional limit.

PROCEDURE

When EWOV receives a complaint where the customer is claiming or disputing an amount in excess of \$20,000, EWOV will take the following steps:

- When discussing the complaint with the customer initially, the Conciliator will advise the customer about:
 - EWOV's Binding Decision jurisdictional limit of \$20,000; and

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- The need to seek consent from the provider to an amount between \$20,000 and \$50,000

This will ensure that the customer is fully informed of their options.

- In sending the acknowledgement letter to the provider, the Conciliator will request that the provider confirm whether it accepts an increase to EWOV's Binding Decision jurisdictional limit. EWOV's Acknowledgement Letter template has a paragraph that raises the question of increasing EWOV's jurisdictional limit of \$20,000 to \$50,000.. EWOV allows fourteen days for the provider to respond to this jurisdictional question, however requests that they respond earlier if possible.
- In sending the complaint confirmation letter to the customer, EWOV will advise the customer of EWOV's Binding Decision jurisdictional limit. EWOV will confirm that it has asked the provider whether it consents to increasing that limit. There is a "Customer Complaint Confirmation Letter – over \$20K" in Resolve for this purpose.
- When EWOV receives the provider's response to the question of jurisdictional limit, the Conciliator will write to the customer advising of this. There is a "Response to customer – over \$20K" letter in Resolve for this purpose.

Sometimes, the amount of the claim may not be apparent at the outset of a complaint, and EWOV may become aware during the investigation that the customer is claiming or disputing more than \$20,000.

- EWOV will verbally advise the customer of the Binding Decision jurisdictional limit, and confirm that they will be advised in writing of the provider's decision regarding the limit.
- In these cases, there is a separate "\$20K Letter to Provider – notification during investigation". EWOV allows seven days for the provider to respond to this jurisdictional question when it is raised during an investigation.
- When EWOV receives the provider's response to the question of jurisdictional limit, the Conciliator will send the "Over \$20K – provider decision to customer" letter.