

# Factsheet: Complaints and External Dispute Resolution (EDR)

This factsheet answers some questions about making a complaint if you are unhappy about or have a dispute with a business or government agency. In particular, it provides information about External Dispute Resolution schemes, government regulators and other complaint bodies.

- What are my options for making a complaint?
- How do I make an internal complaint?
- What are the benefits of making an internal complaint?
- What is External Dispute Resolution (EDR)?
- Do I have to pay to use EDR?
- Why should I lodge my dispute with EDR?
- In what situations can I take a matter to EDR?
- How do I lodge my dispute to EDR?
- What can I expect from the EDR process?
- What do I do if my file is closed or not accepted by EDR?
- What sorts of outcomes should I ask for in my EDR application?
- What are the time limits for lodging a dispute to EDR?
- What happens if a credit provider has already started legal proceedings in court, or obtained judgment against me?
- What happens if I want to resolve a dispute and the business is not a member of EDR?
- Which EDR scheme or complaint body do I lodge my dispute with?
- Who are government regulators, and for what types of complaints should I contact them?
- How do I lodge my concern with a government regulator?

## What are my options for making a complaint?

If you are unhappy with the service that you have received, or believe that a business or government agency has acted improperly or illegally, you may:

- Make an internal complaint; and
- Use External Dispute Resolution (EDR).

If you choose to initially make an internal complaint and are unhappy about how it has turned out, you can still use EDR.

For particular types of disputes, you may need to lodge a complaint with the Commonwealth or State Ombudsman or another complaint body.

It may also be useful to lodge a complaint with a regulator. Regulators typically do not investigate individual complaints but might investigate if they receive enough complaints about misconduct. NSW Fair Trading is somewhat exceptional in that it will act as an informal negotiator.

### **How do I make an internal complaint?**

Government agencies and most businesses will have a complaints page on their website or a phone number which you can call to make a complaint.

You can often find this through the 'Contact Us' or a 'Complaints' or 'Feedback' link at the bottom of their website.

If the business holds an Australian credit license, it must be a member of the Australian Financial Complaints Authority (AFCA) and list its contact details for complaints on the AFCA website [here](#).

### **What are the benefits of making an internal complaint?**

By complaining directly to the business or government agency, your dispute may be resolved more quickly than through EDR.

Financial firms should acknowledge receipt of your complaint within 24 hours.

Most EDR schemes also require you to first make an internal complaint, notifying the business or government agency of the problem and trying to resolve it directly with them.

### **What is External Dispute Resolution (EDR)?**

EDR is an independent service that can help you resolve disputes with government agencies and most businesses.

EDR complaints against government agencies are mainly dealt with through the Commonwealth and State Ombudsman Services.

The following businesses are usually members of EDR schemes (or may be required to be members):

- Gas or electricity providers
- Telephone or internet providers
- Credit providers and brokers
- Insurance providers
- Financial advisers
- Debt collectors.

The EDR scheme will consider the facts provided by you and the business or government agency. The dispute will be determined in accordance with the law, as well as responsible industry standards and practices.

EDR can be particularly useful for those involved in a dispute with their credit providers.

Under the Credit Law, most businesses that engage in credit activities (which includes arranging for or providing credit) must be licensed. It is a condition of the license that the credit provider be a member of an External Dispute Resolution (or EDR) scheme.

### **Do I have to pay to use EDR?**

No - the service is free for consumers.

## Why should I lodge my dispute with EDR?

There are numerous advantages of using EDR:

- It is a free service for consumers, making it a cost-effective alternative to taking your matter to court
- It is an impartial, independent service
- It is much easier to participate in compared to the court process
- It encourages negotiation between you and the credit provider
- If your complaint is about a credit provider, financial adviser, or insurance provider, who is a member of the Australian Financial Complaints Authority (AFCA) EDR scheme, it puts a stop to all enforcement (including court proceedings) while your matter is going through EDR
- If the credit provider you are complaining about is relatively large, you are likely to have your matter transferred to a dispute resolution department within the credit provider. This means that your matter will be brought to the attention of a person who can review your matter afresh and who will usually have more discretion and incentive to resolve the problem
- The investigative powers given to EDR providers are often very wide. They may be able to demand that the business or government agency provide more information. However, it is important to remember that EDR is an independent, impartial service. They will not take sides.

## In what situations can I take a matter to EDR?

If you believe that a business or government agency has acted inappropriately in dealing with your matter, or has breached a relevant law or Code of Conduct, you can make a complaint to the appropriate EDR scheme or other complaint body.

Any breach of conduct can be used as the basis of an application to EDR, ranging from matters that appear relatively minor, such as a business calling you at a later time than is allowed by regulations, to serious breaches, such as the creditor falsely making a document look like a court document to mislead you into paying your debt.

Here are some examples of the types of matters you can take to EDR:

- You have been treated rudely or your questions/concerns have been ignored
- A service provider has failed to provide the service that it promised, or misrepresented the service
- You have been billed excessively
- Your application for a financial hardship variation has been rejected
- A debt collector is unreasonably harassing you
- Your basic household possessions or tools of trade have been taken under a mortgage security
- Your car or other goods have been repossessed without a default notice
- Your creditor gave you a loan they knew you could not repay
- Your creditor has given your partner, ex-partner or a third party details you understood to be confidential

- You are being pursued for a debt or contract you did not choose to enter into
- You are unhappy about information your credit provider has recorded on your credit report.

If you are unsure about whether you should lodge a complaint with EDR, contact your nearest legal aid office or community legal centre for advice.

### **How do I lodge my dispute to EDR?**

You must usually lodge your complaint in writing, either through the online forms available on the relevant website, or by mail or fax. Contact the relevant EDR scheme by telephone or email if you have any questions about lodging a complaint. The complaint process is relatively simple and is designed to be easy to use.

Do not be put off if the EDR representative suggests that your case is not strong. Lodging the complaint will bring your matter to the attention of your service provider or creditor. It may make your creditor more open towards negotiating with you, or the service provider more responsive to your needs.

### **What can I expect from the EDR process?**

1. Acceptance by EDR of the dispute. After you lodge your complaint with EDR, you will be notified whether or not your complaint has been accepted.
2. Negotiation with the business or government agency. If your complaint is accepted, the EDR scheme will provide details about your complaint to the business or government agency, and encourage them to negotiate a solution with you. If the business or government agency has opposing views on your matter, they may provide a detailed response to the issues you raise in your complaint.

You should ensure that you always meet the deadlines set by the EDR scheme for responses. Otherwise your case may be closed. If you cannot make a deadline, call or email to ask for an extension.

- a. Conciliation attempts. If the complaint cannot be resolved, the EDR scheme may conduct conciliation between you and the business or government agency to try to resolve the dispute.
- b. EDR issues a decision.

If the dispute still cannot be resolved by agreement, the EDR scheme will usually issue a decision. You do not have to accept the decision of the EDR scheme, and you can still choose to take the matter to court. However, if the EDR scheme makes a decision, and you accept it, it is binding on the business.

Be aware that the current waiting periods for resolution of a matter through EDR may be very long. Some EDR schemes may be able to investigate the matter and issue a decision in a couple of weeks or months. However, for credit disputes in particular, it can take many months or more than a year for the dispute to be resolved by EDR.

It may be a good idea to continue making payments if possible while the complaint is with EDR, in case the decision is not in your favour. If you win, the EDR scheme may decide that you should be refunded all or part of your payments.

### **What do I do if my file is closed or not accepted by EDR?**

The EDR scheme may refuse to accept your dispute, or close your file, for a number of reasons. The dispute may not be within the rules of the EDR scheme, or your dispute may be considered to have no merit.

Do not give up if this happens – get legal advice. It may be that the EDR scheme has not properly understood your dispute, or will accept your matter if more evidence is provided.

### **What sorts of outcomes should I ask for in my EDR application?**

You should ask for an outcome that you think is fair for you in the circumstances. For example, you could ask the business or government agency to:

- Provide the service in the way that they agreed they would
- Provide compensation for financial loss

- Provide limited compensation for non-financial loss, in some circumstances
- Provide a hardship variation
- Correct a wrongly-listed record from your file with the business or government agency
- Correct information on your credit report
- Apologise
- Confirm that a creditor will stop chasing you for a debt.

### **What are the time limits for lodging a dispute to EDR?**

There may be time limits for lodging an EDR application. For AFCA, the time limit is usually **2 years** from the date when the contract ends, or from the date of the credit provider's response, for loans that the Credit Law applies to. For example, the refusal of a hardship variation application, the repossession of a financed car, or an increase in credit card limit. The time limit for other kinds of complaints is usually **6 years** from the date you became aware that you have suffered a loss.

For the Energy and Water Ombudsman NSW (EWON), the time limit is **12 months**, although this may be extended where EWON considers it is reasonable to accept the complaint after that time.

Time limits can vary according to the nature of the complaint so you should contact the relevant EDR scheme to check, or get legal advice.

If you have been through an internal complaints process with your credit provider, you may have less time to lodge your dispute.

### What happens if a credit provider has already started legal proceedings in court, or obtained judgment against me?

You can complain to EDR after a credit provider has commenced legal proceedings in court against you, but before the court has dealt with the matter.

Complaints to the AFCA EDR scheme will put a stop to all enforcement (including court proceedings) while your matter is going through EDR.

If you are unsure about whether you can still lodge a complaint to EDR, get urgent legal advice.

If judgment has already been entered against you, there are some limited circumstances in which you can still apply to EDR. If you find yourself in this position, get legal advice immediately.

### Which EDR scheme or complaint body do I lodge my dispute with?

If you have a problem with your:	Relevant EDR to contact	Contact details
Gas or electricity provider	Energy and Water Ombudsman NSW (EWON)	<a href="http://www.ewon.com.au/">www.ewon.com.au/</a> 1800 246 545
Telephone or internet provider	Telecommunications Industry Ombudsman (TIO)	<a href="http://www.tio.com.au/">www.tio.com.au/</a> 1800 062 058
Credit provider Insurer Broker or financial adviser Superannuation Debt collector	Australian Financial Complaints Authority (AFCA)	<a href="http://www.afca.org.au">www.afca.org.au</a> 1800 931 678

### What happens if I want to resolve a dispute and the business is not a member of EDR?

If the business is not a member of an EDR provider, you may see if the business is willing to try community mediation. In NSW, the Community Justice Centres (CJC) offer free mediation services that may assist in resolving a dispute.

If you wish to try community mediation, call CJC on 1800 990 777 to talk about whether this would be suitable for your dispute.

For disputes with your credit provider, if they are not a member of EDR, you should get legal advice. There may be other methods of dispute resolution to explore before going to court, for example, negotiating directly with your credit provider.

If you have a problem with your:	Relevant EDR to contact	Contact details
Tolls	Tolling Customer Ombudsman (TCO) Linkt toll road operators only	<a href="https://www.tollingombudsman.com.au/">https://www.tollingombudsman.com.au/</a> 1800 145 009
Health provider	NSW Health Care Complaints Commission (HCCC)	<a href="http://www.hccc.nsw.gov.au/">www.hccc.nsw.gov.au/</a> 1800 043 159
Tax return e.g. you have not received the correct amount, or you believe an accountant who has done your tax return has acted improperly.	If your complaint relates to the conduct of a tax agent, it should be lodged with the Tax Practitioners Board (TPB). If your complaint relates to an action taken by the ATO or the TPB, it should be lodged with the Inspection-General of Taxation (IGT).	Tax Practitioners Board (TPB) <a href="http://www.tpb.gov.au/">www.tpb.gov.au/</a>  Inspector General of Taxation (IGT) <a href="http://www.igt.gov.au/">www.igt.gov.au/</a> 1300 44 88 29
Airline	Before you lodge a complaint, you need to find out whether the airline participates in EDR. The Airline Customer Advocate has a list of members on their website. As at May 2022, this included Qantas, Jetstar, Rex and Virgin.	<a href="http://airlinecustomeradvocate.com.au">airlinecustomeradvocate.com.au</a> 1800 813 129

If you have a problem with your:	Relevant EDR to contact	Contact details
Federal government agencies e.g. Centrelink, Veteran Affairs, Department of Immigration and Citizenship, Australian Federal Police	Commonwealth Ombudsman. The Commonwealth Ombudsman also has oversight over complaints involving private sector organisations. e.g. Private Health Insurance, The Postal Industry, Overseas Students, VET Student Loans.	<a href="http://www.ombudsman.gov.au/">www.ombudsman.gov.au/</a> 1300 362 072
NSW government agencies e.g. Department of Education, Department of Communities and Justice, DCJ Housing, NSW Trustee and Guardian, Revenue NSW, Victims' Services, State Universities, Local Councils	NSW Ombudsman	<a href="http://www.ombo.nsw.gov.au/">www.ombo.nsw.gov.au/</a> 1800 451 524
Workplace Rights	Fair Work Ombudsman (FWO)	<a href="https://www.fairwork.gov.au/">https://www.fairwork.gov.au/</a> 13 13 94
Lawyers and solicitors	Office of the Legal Services Commissioner (OLSC)	<a href="https://www.olsc.nsw.gov.au/">https://www.olsc.nsw.gov.au/</a> 1800 242 958
Privacy being breached	Office of the Australian Information Commissioner (OAIC)  Information and Privacy Commission NSW (IPC)	<a href="http://www.oaic.gov.au/">www.oaic.gov.au/</a> 1300 363 992  <a href="https://www.ipc.nsw.gov.au/">https://www.ipc.nsw.gov.au/</a> 1800 472 679



## Complaints to government regulators

*Who are regulators, and for what types of complaints should I contact them?*

Regulators investigate large-scale problems on particular topics. They will not often resolve individual disputes.

Nevertheless, it may be useful to make a complaint with a regulator, as they have significant powers and resources. They may be able to stop the conduct from happening in the future, even if they do not resolve what has already happened.

NSW Fair Trading is somewhat different in that it will act as an informal negotiator between you and the business involved.

If you are unsure of whether your dispute falls within the conduct listed above, do still contact one of the regulators. Even if they will not directly deal with your problem, they can assist you to find someone who will help.

*How do I lodge my concern with a regulator?*

Similar to EDR, most of the regulators require a complaint to be made in writing. The details of where you can make a complaint are:

Regulator	Types of complaints handled	Contact Details
NSW Fair Trading	<ul style="list-style-type: none"> <li>• General consumer complaints about goods and services for businesses in NSW</li> <li>• Disputes between a home owner and a licensed contractor</li> <li>• Residential tenancy complaints, e.g. tenants, landlords, property managers</li> <li>• Disputes with motor dealers or repairers</li> </ul>	<a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> 13 32 20

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Regulator	Types of complaints handled	Contact Details
Australian Securities and Investments Commission (ASIC)	<ul style="list-style-type: none"> <li>• Business names</li> <li>• Investment scams e.g. promising returns that are too good to be true</li> <li>• Consumer credit and leases, including debt collection</li> <li>• Shares, market misconduct, and insolvency practitioners</li> </ul>	<a href="http://www.asic.gov.au">www.asic.gov.au</a> 1300 300 630
Australian Prudential Regulation Authority (APRA)	<ul style="list-style-type: none"> <li>• Banking</li> <li>• Superannuation</li> <li>• Life or general insurance</li> </ul>	<a href="http://www.apra.gov.au">www.apra.gov.au</a> 1300 55 88 49
Australian Competition and Consumer Commission (ACCC)	<ul style="list-style-type: none"> <li>• Debt collection for non-financial services e.g. phone and utility bills, bills for professional services</li> <li>• Scams e.g. money transfer schemes, phishing, offers of prize money in return for transfers</li> <li>• Prices and consumer guarantees</li> <li>• Product safety</li> <li>• Misleading claims &amp; advertising</li> <li>• Franchises</li> <li>• Other general consumer complaints about goods and services e.g. a refusal to supply products or services, anti-competitive behaviour, franchising or unconscionable conduct, your right to ask for a repair, replacement or refund</li> </ul>	<a href="http://www.accc.gov.au">www.accc.gov.au</a> 1300 302 502

## **Useful resources**

The Australian Securities and Investments Commission (ASIC) has produced a guide called '[How to Complain](#)'. Although it is targeted towards financial products and services, it has many useful tips that apply to the making of all types of complaints.

For legal advice, contact your nearest Legal Aid office or community legal centre.

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*This factsheet is not a substitute for legal advice. If you have a problem, please contact Redfern Legal Centre at [www.rlc.org.au/contact](http://www.rlc.org.au/contact) or phone 02 9698 7277.*