



Listen Assist Resolve

30 June 2011

Mr Evan Holley
Small Business and Deregulation Branch
Department of Innovation, Industry, Science and Research
GPO Box 9839
Canberra, ACT 2601

By email: smallbusiness@innovation.gov.au

Re: Resolution of Small Business Disputes

Dear Mr Holley,

Thank you for the opportunity to comment on the Department of Innovation, Industry, Science and Research's *Resolution of Small Business Disputes (Options Paper)*.

As an industry-based external dispute resolution scheme, the Energy and Water Ombudsman (Victoria) (EWOV) provides alternative dispute resolution services to Victorian energy and water consumers by receiving, investigating and facilitating the resolution of complaints. In making this submission, EWOV's comments are based on our experience in dealing with small business customer complaints with their energy and water company.

EWOV case handling

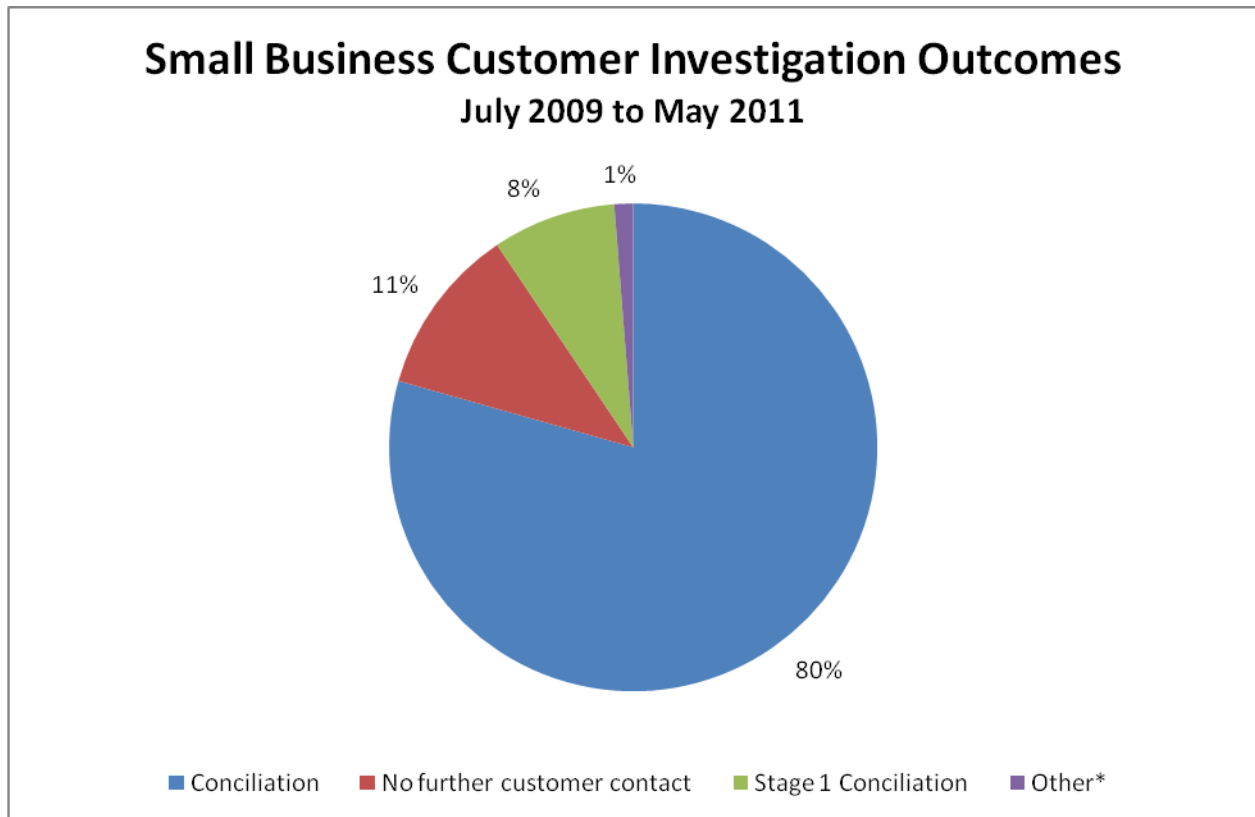
EWOV has received, investigated and facilitated the resolution of complaints for small business customers since we commenced operation in 1996. Five per cent of EWOV cases received during 2009/10 and 2010/11¹ financial years were received from small business customers, most commonly about billing (errors, backbills, high or estimated bills) and metering issues.

Of the small business customers who contacted our office, 21 per cent already knew about EWOV while the remaining 79 per cent became aware of EWOV through:

- a previous case with our office
- a government office (for example Consumer Affairs Victoria)
- a regulator
- a community agency
- their local Member of Parliament.

¹ as at 24 June 2011

Of complaints received, 80 per cent were resolved through conciliation, with both the small business customer and the provider satisfied with the outcome. A further eight per cent required EWOV to investigate, but were able to be quickly resolved to the satisfaction of the customer and provider (Stage 1 Conciliation). However, 11 per cent were closed because the customer had not remained in contact with EWOV. With one per cent of complaints were resolved with a variety of other outcomes.²



What is a Small Businesses

This Options Paper requires a definition of the term small business. EWOV believes that a definition is important so that it is clear which types of businesses will be covered under the options that are being considered and/or are established.

² Investigation outcomes titled 'other outcome' include: the customer withdrawing the investigation, the investigation being out of jurisdiction, no further investigation into the complaint warranted (fair offer made), and the investigation being more appropriately dealt with by another body. It also includes investigations not yet finalised.

Industry-based Energy Ombudsmen

The Options Paper requires greater reference to the various industry-based Ombudsmen schemes, including energy Ombudsmen that operate across Australia. Examples of existing dispute resolution services are further outlined in appendix one of the Options Paper, however, the Energy Ombudsman Queensland (EOQ) is the only energy Ombudsman referenced. This is despite several energy and water Ombudsmen in operation, such as EWOV and the Energy and Water Ombudsman New South Wales (EWON).

Options for Dispute Resolution

EWOV supports attempts to increase the awareness of small businesses to the availability of dispute resolution bodies, and to provide avenues for assistance. The Options Paper sought input on the four following options:

- option one – National Information and Referral Service: to provide a telephone hotline and website to direct small businesses to relevant existing dispute resolution services.
- option two – National Dispute Resolution Service: to provide an information and referral service similar to option one, but with the inclusion of a mediation service.
- option three – National Small Business Tribunal: to investigate, conciliate and review complaints, backed by new Commonwealth legislation.
- option four – Small Business Advocate: to provide independent representation of small business interests and concerns within the Australian Government.

Based on the options provided EWOV believes that:

- option one and two will raise small businesses' awareness of the most appropriate avenue to resolve disputes
- option one may not provide assistance to all small businesses as some may be unable to be referred to existing dispute resolution services
- option three may overlap with other current jurisdictions, including EWOV. If overlapping is unavoidable, then a Memorandum of Understanding (MOU) is required
- option four would work well in conjunction with options one and/or two by supplementing referral and educative functions and raising small business issues with the Australian Government.

The Options Paper advises that any new service should not duplicate or overlap with current dispute resolution services. However, the introduction of any new mediation service or tribunal is likely to overlap with current industry Ombudsmen that already provide a dispute resolution service (when a complaint is within jurisdiction). Currently, EWOV does refer disputes to other dispute resolution bodies, such as the Victorian Civil and Administrative Tribunal (VCAT) or the Small Business Commissioner. However, EWOV sees the value in the creation of a new dispute resolution service for small businesses to assist, enhance and supplement the current dispute resolution services available.

We trust the above comments are helpful. Should you require further information or have any queries, please contact Belinda Crivelli, Senior Research and Communications Officer, on (03) 9672 4460 or at Belinda.Crivelli@ewov.com.au.

Yours sincerely

A handwritten signature in cursive script that reads "Fiona McLeod".

Fiona McLeod
Energy and Water Ombudsman (Victoria)