



# **TDR Disputes Procedure**

**2023**

# Introduction

The TDR Disputes Procedure gives effect to the TDR Terms of Reference (TOR).

This document outlines the process the Scheme Agent and Scheme Members must follow when considering a Customer Complaint. This process aligns to the purpose and principles of the TDR Scheme described in the TOR Cl. 3.1 & 3.2.

Terms that are capitalised but not defined in this TDR Disputes Procedures Process have the meaning given to them in the TOR.

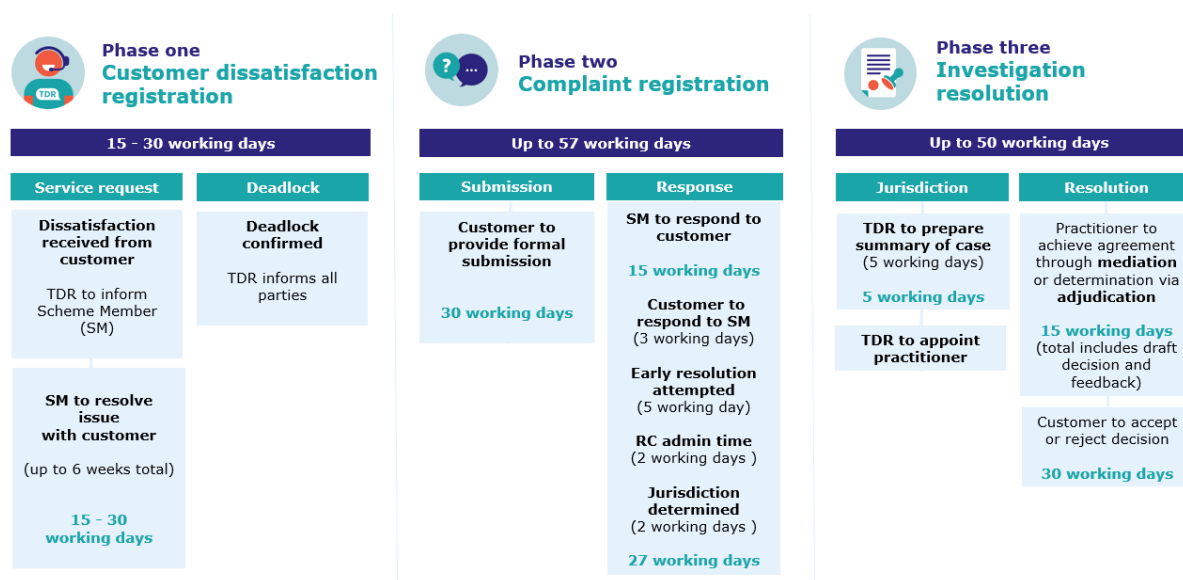
The TDR Scheme must operate in accordance with the following principles:

- a) recognition and protection of Customers’ legal rights;
- b) independent, efficient, fair and accessible handling of Disputes;
- c) transparency of the Disputes handling procedures for Complainants;
- d) prompt and timely resolution of Disputes; and
- e) neutral and non-discriminatory Dispute resolution practices that provide consistent treatment for Complainants.

# Customer Complaint Phases

There are three phases within the TDR process when considering a Complaint from a Customer.

The below flow-diagram provides a high-level overview of the process.



# Phase one: Customer Dissatisfaction Registration – CDR

## Purpose

*Is to ensure a Scheme Member has had the opportunity to resolve the complaint with the Customer directly before a Complaint can be registered.*

1. The Customer must first try to resolve the complaint with its Provider.
2. A Customer cannot register a Complaint with the Scheme Agent unless they have reached Deadlock with their Provider.
3. If the Customer Complaint is attributable to a Scheme Member(s) and relates to a Complaint about the Customer's Telecommunications Services, then it is referred to the appropriate Scheme Member(s).
4. If the Customer Complaint is not attributable to a Scheme Member or does not relate to a Telecommunication Services, then the Scheme Agent will respond as appropriate.
5. The Customer's complaint does not need to use any formal, legal, or technical language.
6. A Scheme Member must provide an appropriate contact point within their business(es) who will liaise with the Scheme Agent.

## Deadlock

7. Deadlock happens immediately if the Complainant is not satisfied with Scheme Member's final response, or within 15 working days if parties have attempted to resolve the Dispute and it remains unresolved, or within 30 working days if the Complainant has not received a final response from the Scheme Member.
8. The Scheme Agent must assess whether Deadlock has been reached. This may involve the Scheme Agent contacting the Scheme Member identified in the Customer's complaint.
9. If Deadlock has not been reached, the Scheme Agent will refer the Customer to their Scheme Member and encourage the Customer to resolve their complaint through the Scheme Member's internal complaints process (under TCF Customer Care Code).
10. When Deadlock has been reached, the Scheme Agent will remind the relevant Scheme Member(s) of its/their Customer Care Code obligations to cease debt recovery action and to desist from disconnecting consumers for services under dispute while the Complaint is investigated by the Scheme Agent and until the Customer accepts or rejects the Final Determination.

## Phase two: Complaint registration and early resolution

### Purpose

*Is to formally register the Complaint, to gather relevant information and to identify possible early resolution opportunities with the Customer and Scheme Member.*

11. If the Scheme Agent is satisfied that Deadlock has been reached, the Scheme Agent will request that the Customer submit their Complaint in writing within 30 working days.
12. If the Customer does not submit their Complaint within 30 Working Days, the Scheme Agent will close the Complaint and notify all parties of this closure.
13. By submitting their Complaint in writing to the Scheme Agent, the Customer authorises the Scheme Agent to exchange details and all other information relevant to the Complaint with the relevant Scheme Member(s)
14. Complaint registration should include:
  - a) details of the events that led to the Complaint, including the steps taken to resolve the Complaint with the Scheme Member;
  - b) what the ideal outcome is for the Customer; and
  - c) a copy of any documentation that supports the Customer's Complaint, including:
    - i. Account statements;
    - ii. Service or product contracts;
    - iii. Correspondence between the parties in relation to the Dispute;
    - iv. Receipts/evidence of payment; and
    - v. File notes of conversations between the Customer and their Scheme Member.
15. The Scheme Agent may provide assistance to the Customer to submit their Complaint and may request additional details from the Customer if the Scheme Agent considers that those details would provide assistance to better define the Complaint or may be necessary at a later stage (such as to check for jurisdiction).
16. If a Customer appoints a lawyer to advise them in relation to the Complaint it will be at their own cost.
17. If the Customer is reasonably unable to submit a written Complaint to the Scheme, the Scheme Agent will:

- a) make a record of the details of the Customer's Complaint that are provided over the telephone; and
  - b) send the written record of the Complaint details to the Customer.
18. The Customer must confirm, by replying to the Scheme Agent, that the written record is an accurate representation of the Complaint that the Customer is seeking the Scheme Agent's assistance to resolve.
19. If the Customer is unable to read, has a language barrier, or has an impairment, the Customer can arrange to have the written record read to them by an independent adult. That adult should certify that this has occurred and that the Customer has acknowledged to them that the written record is an accurate representation of the Complaint that the Customer is seeking the Scheme Agent's assistance to resolve.
20. If the Customer does not confirm the accuracy of the written complaint within 30 Working Days, the Scheme Agent will close the Complaint and notify all Parties of this closure.
21. The Scheme agent can register a Complaint if at any time within 36 months of the Complainant becoming reasonably aware of the issue giving rise to the Complaint.

**Complaint Summary process:**

22. All parties will have equal opportunity to provide views and respond to others' submissions during the Complaint summary process.
23. If a Scheme Member fails to respond within a Prescribed Timeframe, the Scheme Agent will issue that Scheme Member with a written notice advising that, if the Scheme Member does not respond the Dispute will proceed without its input.
24. Within one Working Day of the day of receipt of the Customer's written Complaint, the Scheme Agent will forward the Complaint to the Scheme Member via e-mail and request information to enable assessment of jurisdiction.
25. The Scheme Agent will provide the following information to the Scheme Member:
- a) A copy of the Customer's written Complaint;
  - b) The Customer's details; and
  - c) A TDRS Reference Number.
26. The Scheme Agent shall request that the Scheme Member provide to the Scheme Agent full details of the Complaint history. The Scheme Member

must provide its response within 15 Working Days of receipt of the request for information from the Scheme Agent.

27. The Complaint history must include, where relevant, a request for a response from the Scheme Member that specifically addresses:
  - a) Each of the issues raised by the Customer;
  - b) Details of any proposed resolution of the Complaint;
  - c) Copies of supporting documentation such as:
    - i) Account statements;
    - ii) Service or product contracts;
    - iii) Correspondence between the parties in relation to the Complaint;
    - iv) Receipts/evidence of payment;
    - v) System notes; and
    - vi) File notes of conversations between the Scheme Member and the Customer.
  - d) Whether the Scheme Member considers the Complaint is within jurisdiction and, if not, why; and,
  - e) Any offer made by the Scheme Member to resolve the Dispute.
28. If the Complaint also involves a Third-party Scheme Member, the Scheme Agent will simultaneously forward the Complaint to the Third-party Scheme Member via e-mail.
29. Where both a Scheme Member, who is the Complainant's Provider, and a Third-party Scheme Member is involved (or identified as party to the Complaint), it will be incumbent on the Complainant's Provider to contact the Third-party Scheme Member about the matter within five Working Days with a view to agreeing how both parties will respond to the Scheme Agent.
30. Where only a Third-party Scheme Member is identified to the Scheme Agent and the Complainant's Provider, who is a Scheme Member, is involved (or identified as party to the Complaint), it will be incumbent on the Third-party Scheme Member to inform the Scheme Agent within five Working Days so the Complaint can be forwarded to the nominated contact person at the Scheme Member via e-mail.
31. If the Complaint only involves a Third-party Scheme Member and is from a Consumer who is affected by an action related to a Telecommunications Service undertaken by the Third-party Scheme Member, the Third-party

Scheme Member will follow the process and timeframes that apply to Scheme Members, where practicable.

### **Complaint process with Customer and Scheme Member:**

32. Following receipt of the Scheme Member's written response, the Scheme Agent will forward that response to the Customer within one Working Day.
33. The Customer will have three Working Days to provide feedback on the Scheme Member's written response to the Complaint and any consideration regarding the Scheme Agent's jurisdiction on the matter.
34. The parties will then have a further five Working Days to resolve the Complaint directly, or through the Scheme Agent. During that period, the Scheme Agent may actively assist the parties to reach a mutually agreeable resolution.
35. If the Complaint is not resolved by the parties directly, the Scheme Agent, based on the information provided by the Customer and the Scheme Member, will determine within two Working Days if the Complaint is within jurisdiction. For the avoidance of doubt, the Scheme Agent may request additional information from the Customer and/or the Scheme Member as required to assist the Scheme Agent with its decision.
36. Once the Scheme Agent has verified that the Complaint is within jurisdiction, the Complaint will be determined to be a Dispute and moved to the Investigation and Resolution phase.
37. If the Complaint is not within the jurisdiction of TDRS, the Scheme Agent will advise the parties of why the Scheme Agent cannot assist and close the Complaint.

## **Phase three: Dispute Resolution**

### **Purpose**

*To gather, investigate and consider relevant information relating to the unresolved Complaint, and issue a Final Determination regarding the Dispute.*

### **Investigation and Resolution**

38. When considering a Dispute, the Scheme Agent will do so in accordance with the principles set out in the TOR clause 3.2 and using the purposes and powers described Part B in the TOR.
39. The Scheme Agent will, within five Working Days of verifying that the Complaint has been determined to be a Dispute, prepare the Summary of Dispute which will include:

- a) a brief overview of the Dispute;
  - b) a summary of each party's position in relation to the issues in dispute; and
  - c) a notation that the Scheme Agent will contact the parties within five Working Days to discuss the resolution of the Dispute.
40. It is the responsibility of the Scheme Agent to determine the most appropriate means to resolve the Dispute. The Scheme Agent may attempt to facilitate a mutually satisfactory, negotiated settlement between the Scheme Member and the Customer. This may involve conducting telephone negotiations between the Customer and the Scheme Member or, if it is considered appropriate by the Scheme Agent, arranging a teleconference with the parties to the Dispute. The Scheme Agent may continue to pursue a negotiated settlement for up to 15-Working Days before issuing a Final Determination.
41. If the Customer accepts any offer of resolution provided by the Scheme Member during any negotiated settlement, the Scheme Agent will produce a settlement agreement as confirmation of settlement of all matters for all Parties.
42. Upon receipt of the agreed settlement, the Scheme Agent will close the Dispute and notify all Parties of this closure.
43. If a negotiated settlement cannot be reached, the Scheme Agent shall prepare a Final Determination of the Dispute.

**Final Determination Process:**

44. The Scheme Agent may allow the Customer the opportunity to provide an oral submission to support their written Complaint, provided that the oral submission does not add to, expand or materially alter the substance of the written Complaint. The Scheme Agent may also allow the Scheme Member to provide an oral submission, should this be requested by the Scheme Member.
45. The Scheme Agent's Final Determination will be provided in writing to the Customer and the Scheme Member; either
- a) five Working Days after receipt of all submission from parties; or, if negotiated Settlement was attempted,
  - b) five Working Days after the period during which that negotiated Settlement was attempted (whichever is the later); and,
  - c) where requested by the Scheme Agent, any clarification of those submissions or any other matter of fact or evidence.



46. Prior to issuing a Final Determination, the Scheme Agent will issue a proposed decision and invite the parties to check that the key facts are accurate. The proposed decision must be issued in writing to the parties and include the following minimum information:
  - a) summary of the complaint and relevant background.
  - b) the relevant law, Codes or obligations.
  - c) the proposed decision.
  - d) the reasons for the proposed decision.
  - e) confirmation the parties may provide any concluding submissions.
47. The parties will be afforded no less than three Working Days to ensure the key facts are accurate.
48. A Final Determination is then issued by the Scheme Agent, taking into consideration any submissions regarding the key facts provided by the parties.
49. If the Customer, within 10 Working Days of the date of the Final Determination, advises the Scheme Agent in writing that the Customer accepts the Final Determination, the Final Determination will become binding on the Scheme Member.
50. If the Customer, within 10 Working Days of the date of the Final Determination, advises the Scheme Agent that the Customer rejects the Final Determination, the Dispute will be closed and recorded as unresolved. The Dispute shall not be able to be brought again by the customer.
51. If the Customer does not provide a response to the Scheme Agent with 10 Working Days a follow up letter will be issued to the Customer. The Scheme Agent is not required to issue any further follow-up communication to the Customer.
52. If the Customer does not respond within the 20 Working Days' timeframe, the Scheme Agent will close the Dispute and notify all parties of this closure.
53. During the Final Determination, if the Customer contacts the Scheme Agent and can advise of reasonable grounds for a delay in responding, the Scheme Agent may accept a late response.
54. If the Customer accepts any Final Determination, that Final Determination will be binding on the Scheme Member and the Customer. By accepting the Final Determination, the Customer will be required to acknowledge that this is full and final settlement of this matter.

55. The Scheme Agent will carry out a customer satisfaction survey at the completion of the Investigation and Resolution Process.
56. If the Customer accepts the Final Determination and the Scheme Member fails to comply with the Final Determination, the Scheme Agent will refer the matter to the TDRL Board.

### **Customer Support Person**

57. The Customer shall be permitted to have a support person assist them at any point during the TDR process. The Scheme Agent will communicate this option to the Customer when their Complaint is registered with the Scheme Agent.

### **Prescribed timeframes**

58. The Scheme Agent retains the discretion whether to grant extensions to prescribed timeframes if it considers such extensions are reasonable, under the circumstances.