

OF 2019 – G1 – Guidelines Customer Complaints Appeals Procedure



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A. Introduction

1. The Utility Regulation and Competition Office ('OfReg' or 'the Office') is the independent regulator for electricity, information and communications technology, water, wastewater and fuels sectors in the Cayman Islands. The Office also regulates the use of electromagnetic spectrum and manages the .ky Internet domain.
2. Under section 6 of the Utility Regulation and Competition Law (2019 Revision) (as amended) ('the URC Law'), the Office has principal functions in relation to the markets and sectors for which it is responsible. One of these principal functions is to resolve disputes between sectoral providers, and between sectoral providers and sectoral participants.
3. According to the URC Law, a sectoral participant is "a person who provides, uses or seeks to use utility services in a sectoral utility, but does not include the Office", a sectoral provider is "a person, whether or not an authorisation holder, who provides goods or services in a sectoral utility", and a sectoral utility is "a utility market or sector for which the Office has specific responsibility under any sectoral legislation." For the purpose of these Guidelines, a sectoral participant means a customer of a sectoral provider. In performing its functions and exercising its powers under the URC Law, the Office may provide advisory guidance to sectoral participants.
4. OfReg notes that **section 59** of the URC Law states:
 - (1) *The Office shall receive and determine appeals from customers of the sectoral providers in respect of disputes between the customer and the sectoral provider and, in this regard, the parties will be bound by the decision and remedies (if any) determined by the Office.*
 - (2) *The Office will establish and publish the procedures for the handling of such appeals.*

B. Customer Complaints Appeals Procedure Guidelines Objectives

5. This document sets out the Customer Complaints Appeals Procedure Guidelines (*‘the Guidelines’*) and principles to be followed by members of the public and the Office in relation to the submission of complaints regarding sectoral providers as well as the Office’s approach to addressing those complaints.
6. While the Office will generally adhere to these Customer Complaints Appeals Procedure Guidelines, it recognises the need for the procedure to be sufficiently flexible and dynamic to address the exigencies of the relevant regulated sectors.
7. Where the Office has received two or more complaints of a similar nature involving one or more of the same parties and the Office considers that, for reasons of efficiency and consistency, it should deal with such complaints as if they were a single complaint it will do so.
8. A circumstance in which the Office may depart from the Guidelines is, without limitation, where the Office considers that the complaint raises a matter of public significance which should be addressed through a public consultation.

C. Complaint Appeals Process - Submission

9. The Office will require that a customer first give the sectoral provider the opportunity to address the issue prior to submitting a decision request to review a sectoral provider’s response to a complaint (an “appeal submission”) to the Office. Should a customer present an appeal submission to the Office before addressing the subject of the complaint with the sectoral provider, the Office will ask the customer to refer the complaint to the sectoral provider first. Upon presenting an appeal submission in relation to a complaint (previously referred to the relevant sectoral provider), the Office will require that the customer demonstrates that they made a good faith effort¹ to resolve their complaint. The customer will have up to a

¹ The Office considers “good faith effort” in the context of these Guidelines to mean what a reasonable person would determine is a diligent and honest effort to engage with the sectoral provider in order to resolve the complaint.

period of six (6) months to appeal after the sectoral provider's conclusive response to the complaint.

10. A customer appealing to the Office should provide the following minimum information as part of its appeal submission to the Office:
 - (a) Full name along with a phone number and email or postal address (include physical address if it would assist in understanding the complaint);
 - (b) Account number with the sectoral provider relating to the complaint and evidence that the customer is the primary account holder or the authorised agent of the primary account holder;
 - (c) Brief description of the complaint and confirmation that customer received the complaints policy/procedure of the sectoral provider;
 - (d) Identity of the sectoral provider by (official/legal) name;
 - (e) The date, time and name of any program, individual, advertisement, technical, or customer services related issue that prompted the complaint;
 - (f) The response, if any, given by the sectoral provider when the complaint was first raised with them, along with any (relevant) subsequent communication(s) that may have occurred in relation to the complaint, including dates and times where possible;
 - (g) Product(s) or service for which the complaint relates;
 - (h) Property, plant or equipment implicated or affected as a consequence of the issue;
 - (i) The ground of appeal;
 - (j) Confirmation that a litigation process has not commenced and/or there are no ongoing court proceedings taking place between the two relevant parties in relation to the complaint in question; and
 - (k) Any independent, third-party entity or expertise consulted as part of the effort to resolve the matter.

11. Customers, when appealing to the Office, must include one or more of the following grounds for appeal -
 - (a) The sectoral provider erred in applying policy/procedure;
 - (b) The sectoral provider erred in applying the relevant law(s)/regulations(s);
 - (c) The sectoral provider was unfair/biased.

D. Methods of Submission

12. When a customer submits an appeal submission to the Office, any of the following methods may be used:
 - (a) Website Form (<http://www.ofreg.ky/complaints>);
 - (b) Email to complaints@ofreg.ky; or
 - (c) Hand deliver a completed Complaint Form.
13. Where a form is to be hand-delivered, customers should use the Complaint Form available at: <http://www.ofreg.ky/complaints>. Alternatively, customers can call the Office at (+1-345) 946-4282 and request that the form be emailed to them.
14. Customers may also collect Complaint Forms from the Office during its normal business hours 8:30 a.m. to 5:00 p.m. Monday through Friday (excluding public holidays) located at the Office's business location in George Town, Grand Cayman:
3rd Floor, Monaco Towers II
11 Dr. Roys Drive, George Town
Grand Cayman

E. Complaint Review

15. The Office will not review a complaint if:
 - (a) the Office determines that aspects of the complaint should be dealt with by another authority due to the nature of the complaint, e.g.

complaints made in relation to sectors for which the Office is not responsible under the URC Law; and

(b) the Office is, or becomes, aware that the subject matter of the complaint is also the subject of current court litigation as between the parties.

16. The Office will, as the norm, review each appeal submission and will send a written response to the customer within five (5) business days of the submission of a complaint to acknowledge receipt, and ten (10) business days for the completion of the initial review.
17. The Office will review each complaint to verify that adequate and accurate information have been provided before dissemination and/or investigate the necessary aspects of the issue.
18. In cases where all the required information has not been provided or if the Office requires further clarification, the Office will generally request that the customer provide any missing or additional information in writing accordingly. Once all required information has been provided, the Office will progress the review of the complaint via the process outlined below.

F. Inform the Sectoral Provider

19. The Office will, as part of its effort to remedy/resolve the issue, generally afford the sectoral provider involved a final opportunity to address the concerns before the Office reaches any conclusions. As such, a copy of the appeal submission will be provided to the sectoral provider.
20. A sectoral provider will be given five (5) calendar days to respond directly to the Office, with a summary of the case to date and all information used by the sectoral provider in its internal complaints and decision-making process.
21. Customers will be copied on all relevant email correspondence relating to the issue, where they have provided an email address.

G. Sectoral Provider Response

22. OfReg staff will review the appeal submission and the response, considering the sectoral provider's policies and regulations, to determine if follow-up action is necessary.
23. If the complaint has been resolved to the satisfaction of the customer before or after the Office's decision is issued, OfReg staff will close the case (that is, will deem the case in relation to the appeal submission closed/resolved, and this decision shall be final).

H. OfReg Decision

24. The Office may request additional information from either or both parties, where necessary.
25. The Office will then review all of the information provided by both parties and write its decision within fifteen (15) business days of the date the information (including the additional information where applicable) is received². If the additional information obtained is different than what was originally provided to the sectoral provider at the time of the initial decision, the Office will halt the appeal process and refer the matter to the sectoral provider as a new complaint to consider with the new information available.
26. The decision will be sent to both parties and subsequently published (redacted where appropriate) on the Office's website. The decision may include one or more remedies, if appropriate. The remedy or remedies, if any, will depend upon the specific circumstances of the appeal submission and may include:
 - a. an apology or an explanation;
 - b. provision of a product or service;
 - c. some other practical action, such as connection or disconnection of a service or cessation of collections activity;
 - d. a correction to one or more bills;
 - e. no action, appeal denied;
 - f. review and amend the sectoral provider's complaints handling process
 - g. notation on Licensee's file, which would be taken into account when the licence is considered for renewal; or

² A customer can a request that the Office issue a decision in a shorter time period if the decision is urgent due to health and safety reasons or similar reasons.

- h. such other remedy as the Office may determine is reasonable and appropriate in the circumstances, and in compliance with the relevant laws and regulations.

- 27. As set out in section 59(1) of the URC Law “...*the parties will be bound by the decision and remedies (if any) determined by the Office.*”

I. Anonymous Complaints and Comments

- 28. The Office does not pursue anonymous complaints. The Office holds the position that sectoral providers have the right to know the allegations against them and the identity of the customer.
- 29. The Office will, however, accept comments filed anonymously by customers of sectoral providers regarding the services received from those sectoral providers. The Office will not treat such comments as ‘complaints’ but will review them to assess, for example, whether there appear to be systemic or common matters into which the Office should investigate further.

J. .ky Domain Name Disputes

Please note that .ky Domain Name Disputes follows a separate, internationally-recognised Dispute Resolution Process (***DRP***) which can be found here <http://www.ofreg.ky/ict/dispute-resolution-policy>.