



Telecommunications  
Industry  
Ombudsman

# TIO Appeal Process

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## Appeal Process

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The Appeal Process allows the TIO to review their original decision in limited circumstances, including:

Where the TIO has exercised discretion to stop handling a complaint (as permitted in the Terms of Reference 2.44 and 2.45).

### 1.1 Grounds for Appeal

The TIO will only reconsider a case if:

1. **Exceptional Circumstance** have been established.
2. **New evidence** has come to light that was not available during the initial investigation and the TIO deems it is more than likely to impact the decision.
3. A **significant error** was made in the decision-making process (e.g., misinterpretation of facts or procedural flaws). Identifiable mistakes in the handling of the complaint that has impacted the decision.
4. Actual **Bias or conflict of interest** is identified in the handling of the complaint.
5. **Failure to consider** or an oversight of key information that was provided that warrants further investigation.
6. There is information to show possible **jurisdictional error**.

### 1.2. How to Request an Appeal

- Parties need to submit a written request within 10 business days.
- The request must clearly outline:
  - the category for appeal, in line with the information in [Section 1.1](#)
  - supporting evidence and/or reasoning

### 1.3. Who Conducts the Appeal Reviews?

Requests for appeal will be considered by a designated TIO staff member. In practice this may mean the appeal will be considered and communicated by someone other than the person handling the complaint.

### 1.4. Possible Outcomes

- **Decision upheld:** If no errors or new evidence are found or provided, the original decision stands.
- **Decision modified:** If mistakes are identified, corrections are made.

- **Case reopened:** If new evidence is provided or an error is found that warrants further investigation, the case will be reopened and returned to the original case manager and further investigation will occur.

## 1.5. Limitations

The Appeal Process is not an appeal of the substantive Decision. It does not allow parties to simply disagree with the outcome and request a new Decision. Only complaints that establish grounds will be progressed through this process.

## Guide to establishing bias or conflict of interest

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An ombudsman would typically expect a consumer or provider to provide clear, specific evidence when alleging bias or a conflict of interest in how their complaint was handled. The burden of proof is on the consumer or provider, meaning that they must show how and why they believe the ombudsman, or their staff acted unfairly.

Below are key ways a consumer or provider could establish such concerns:

### Evidence of Prejudgment or Partiality

Unfair or non-independent language: If it can be established that an ombudsman's staff used language in communications that would suggest that their impartiality was impaired. It is important to note that a difference of opinion or outcome that does not align with a consumer or providers expectations does not, on its own, indicate bias.

Inconsistent treatment: If it can be established that similar complaints are handled differently without a reasonable explanation.

Ombudsman staff had prior involvement: If it can be established that the staff reviewing the complaint was involved in the issue being complained about prior to being employed by the TIO.

### Conflicts of Interest

Personal or professional connections: If it can be established that the staff provider has personal, financial, or professional ties to the organisation being complained about.

Past employment history: If it can be established that the staff provider previously worked for the company being investigated and has not disclosed it or has not observed the TIO's predefined waiting period.

External pressures: If it can be demonstrated that evidence suggests the ombudsman's decision was influenced by external parties, such as industry bodies or government entities, rather than independent assessment.

### Procedural Irregularities Suggesting Bias

Ignoring key evidence: If it can be demonstrated that relevant evidence was excluded without justification.

Refusing to engage properly: If it can be established that the ombudsman's staff refused to consider important arguments or dismissed concerns prematurely and without good reason.

Lack of transparency: If it can be established that decision-making reasoning is vague, inconsistent, or lacks explanation compared to other similar cases.

### **How to Raise a Bias Concern**

The TIO expect the party to:

1. Clearly state their concern and specify the staff member or decision they believe was biased.
2. Provide specific supporting evidence, such as communications, timelines, or patterns of unfairness.
3. Request an Appeal.