

**As an External Dispute Resolution (EDR) scheme, the ACAT must meet the Department of Industry, Science and Technology (DIST) benchmarks**

The Department of Industry, Science and Technology (DIST) benchmarks are:

1. Accessibility - That the EDR scheme makes itself readily available to customers by promoting knowledge of its existence, being easy to use and having no cost barriers.
2. Independence - The decision-making process and administration of the EDR scheme are independent from EDR scheme users.
3. Fairness - The EDR scheme produces decisions which are fair and seen to be fair by observing the principles of procedural fairness, by making decisions on the information before it and by having specific criteria upon which its decisions are based.
4. Accountability - The EDR scheme publicly accounts for its operations by publishing its decisions and information about complaints and highlighting any systemic industry problems.
5. Efficiency - The EDR scheme operates efficiently by keeping track of complaints, ensuring complaints are dealt with by appropriate process or forum and regularly reviewing its performance.
6. Effectiveness - The EDR scheme ensure it is effective by having appropriate and comprehensive terms of reference and periodic independent review of its performance.

The following information provides the details about how the ACAT meets the DIST benchmarks.

**Accessibility - That the EDR scheme makes itself readily available to customers by promoting knowledge of its existence, being easy to use and having no cost barriers.**

There is Information on the ACAT website at [ACAT - About Us \(act.gov.au\)](http://act.gov.au) regarding the functions that the ACAT performs, and a statement that reflects the statutory requirements that ACAT procedures are simple, quick, inexpensive and as informal as is consistent with achieving justice.

There is information about the types of energy and water/sewerage complaints that can be lodged in the ACAT on the website here: [ACAT - Complaints \(act.gov.au\)](http://act.gov.au).

Complainants can submit complaints directly to the ACAT Energy and Water team through an online application form found here: [ACAT - Complaints - Energy and Water \(act.gov.au\)](https://act.gov.au/act/energy-and-water)

Utility providers operating in the ACT refer complainants to the ACAT when a complaint is unable to be resolved the utility's own internal dispute resolution processes.

There is no fee for lodging an Energy and Water complaint in the ACAT.

Conferences, hearings and other listings of energy and water complaints in the ACAT are conducted informally, either in person or remotely (by telephone or videoconference facilities).

The ACAT Energy and Water team further promotes the ACAT's accessibility by participating in activities arranged by community organisations, designed to raise awareness of consumer rights.

**Independence - The decision-making process and administration of the EDR scheme are independent from EDR scheme members.**

In some jurisdictions in Australia, the utility that utilises the EDR scheme becomes a member of the scheme. The ACAT is an independent Statutory Authority. Accordingly, in the ACT, the ACAT as the EDR scheme is completely independent from the utilities.

The individuals who conduct listings and decide ACAT matters are ACAT Members. ACAT Members are appointed by the ACT Government Executive or the ACT Attorney-General. The qualifications for membership and the appointment process are set out in the Section 92 of the [ACT Civil and Administrative Tribunal Act 2008 \(ACAT Act\)](#).

Additionally, under the ACAT Act, ACAT Members must disclose to all parties any material interest they have in a matter. An ACAT Member must not participate in dealing with a matter unless each party is made aware of the disclosed interest and consents to the ACAT Member participating in the conduct of the matter (ACAT Act section 50).

**Fairness - The EDR scheme produces decisions which are fair and seen to be fair by observing the principles of procedural fairness, by making decisions on the information before it and by having specific criteria upon which its decisions are based.**

The objects of the ACAT Act include to ensure that decisions of the tribunal are fair. Also, in exercising its functions under the Act, the ACAT must seek to ensure that its procedures are implemented in a way that facilitates the resolution of the issues between the parties so that the cost to the parties and the tribunal is proportionate to the importance and complexity of the subject matter of the proceeding; and to observe natural justice and procedural fairness.

Resolutions and decisions on Energy and Water complaints are arrived at through a variety of means. Wherever possible the preferred approach is for the parties to reach an agreed resolution facilitated by ACAT registry officer level communication with, and between, the complainant and the affected utility. If a consent outcome is not achieved, then complainants are offered the opportunity to participate in ACAT processes. These processes include conferences or hearings conducted by ACAT Members. Conferences are conducted in private; participation is limited to parties to the proceedings and the information discussed or revealed at a conference is confidential. Hearings are recorded and are open to members of the public.

The ACAT Act and authorising laws set out what decisions the ACAT has power to make, factors to be considered, and the types of orders that the ACAT might make.

In conducting a hearing, the ACAT need not comply with the rules of evidence applying in the ACT and may inform itself in any way it considers appropriate in the circumstances. Conferences and hearings are conducted using information provided by both the complainant and utility and in accordance with legislative and general legal principles.

**Accountability - The EDR scheme publicly accounts for its operations by publishing its decisions and information about complaints and highlighting any systemic industry problems.**

The ACAT has responsibility under the *Utilities Act 2000* (Utilities Act) to report systemic industry issues to each Minister responsible for administering the Utilities Act and the Independent Competition and Regulatory Commission (ICRC). This is in addition to the requirement under Section 105A of the ACAT Act to advise the Attorney General about systemic problems.

Currently the Attorney General of the ACT is the responsible Minister for both the Utilities Act and the ACAT Act. To satisfy the requirements of both Acts, the ACAT President formally advises the Attorney General, the responsible Minister (if not the Attorney General) and the ICRC in writing when systemic issues are identified.

The ACAT publishes in its Annual Review a range of information on registry functions. Detailed information on complaints received by the ACAT Energy and Water team are publicly available in the ACAT Annual Review, copies can be found here: [Publications and policies - ACAT \(act.gov.au\)](#)

The ACAT's written decisions on Energy and Water complaints that are referred to a hearing, are published on the website here: [ACAT - Decision \(act.gov.au\)](#)

The Utilities Act can be found here: [Utilities Act 2000](#)

**Efficiency - The EDR scheme operates efficiently by keeping track of complaints, ensuring complaints are dealt with by appropriate process or forum and regularly reviewing its performance.**

To achieve compliance with the ACAT Act, applications to the ACAT are required to be resolved as quickly as is consistent with achieving justice. The experience of the ACAT Energy and Water team is that the most effective complaints process, where the best outcomes are achieved for complainants, is ACAT registry officer level resolution. However, where it becomes apparent that this is not possible, conferences, hearings or other listings are held to promote and facilitate resolution or, ultimately, to determine outcomes. These outcomes will include binding determinations on complainants and respondent Utilities.

The ACAT Energy and Water team uses bespoke databases and other reporting tools to accurately track the progress of complaints. Weekly meetings with a Case Managing Senior Member are used as a mechanism to assess the specific issues arising in current complaints. The case management process provides an opportunity for the team to meet and discuss options for resolution and any considerations that might arise from contraventions of the Energy and Water regulatory frameworks. This is also the forum where complaint cases are escalated to Tribunal processes of conferences or hearings if it is assessed that action by an ACAT registry officer is not likely to result in resolution.

The ACAT publish a detailed breakdown of data relating to complaints in the Annual Review. This includes the number of cases opened and closed in the Financial Year, as well as information on the types of complaints received. Copies of the Annual Review are available here: [Publications and Policies - ACAT \(act.gov.au\)](#)

**Effectiveness - The EDR scheme is effective by having appropriate and comprehensive terms of reference and periodic independent review of its performance.**

The ACAT is established under, and is guided and bound by, the ACAT Act. Section 6 of the Act provides for a wide range of matters arising under legislation to be resolved by the ACAT. This includes complaints made under Part 12 of the Utilities Act.

As a tribunal, the ACAT is not subject to formal independent review. However, the operations of the ACAT are held to account at annual report hearings held by the ACT Legislative Assembly. The ACAT also participates in ACT Estimate Committee processes, where the ACAT is bound by parliamentary process to provide responses to any questions about its performance.

Decisions by ACAT Members are public (except where suppression or non-publication orders are made – see section 39 of the ACAT Act). Also, a party may, on a question of fact or law, appeal within the Tribunal a decision by an ACAT Member (ACAT Act section 79). Further, a party may, with leave of the Supreme Court, appeal to the ACT Supreme Court against an Appeal Tribunal decision on a question of fact or law (ACAT Act section 86). These procedures allow public scrutiny and provide independent review mechanisms which support the transparency, quality, reliability and correctness of the ACAT's dispute resolution process of energy and water complaints.