

4.10 Checklist for resolving disputes

☐ How do I try to resolve my dispute?

Figure 10 suggests a path you may wish to follow in the event of a dispute.

Where appropriate, it may be beneficial to attempt to resolve the dispute yourself. The dispute may have arisen out of a lack of understanding, which discussion with the other party may easily be clarified and resolved.

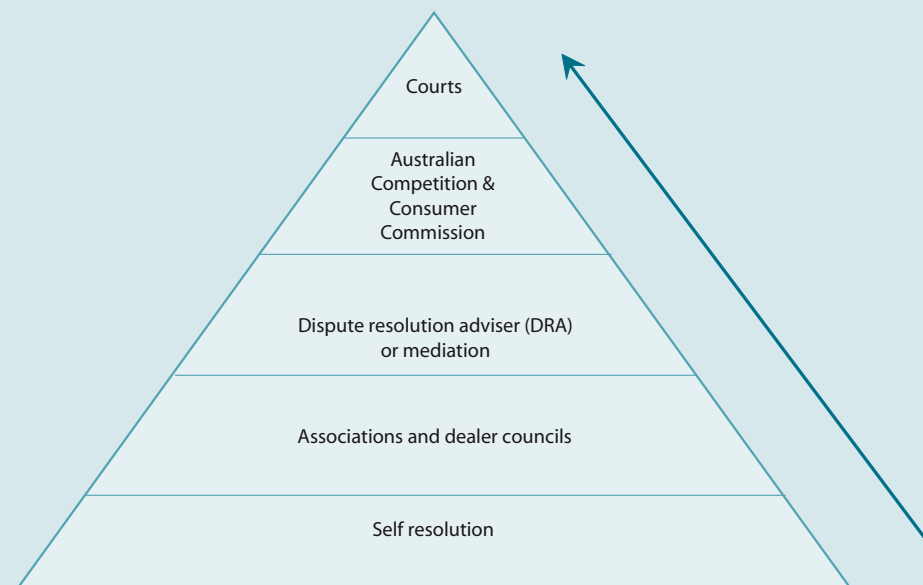
If this does not work, your next step may be to approach your industry association or dealer council for advice on how to best resolve the dispute. These groups are well placed in the industry and may provide you with assistance.

Following this, you may wish to lodge a complaint with the DRA, who will assess your dispute and provide a non-binding determination in a timely and cost-effective way. The DRA's contact details are (02) 9283 9208 or info@oilcodedra.com.au.

The ACCC may be your next port of call after the DRA. The DRA will refer a complaint on to the ACCC if they believe that the ACCC is best suited to assess the dispute. However, this does not prevent you from approaching the ACCC directly.

Court action may be appropriate in some circumstances. You should discuss any possible court action with your legal adviser.

Figure 10 Dispute resolution path



Disputes about failure to supply

- ☐ Do I have a complaint about failure to supply?
- ☐ Have I raised my concerns with the wholesale trader?
- ☐ Have I contacted my industry association or dealer council for advice?
- ☐ If I am still unable to resolve the problem, have I:
 - advised the DRA that a dispute exists?
 - asked the DRA to attempt to resolve it?
- ☐ Have I, within a reasonable time, told the DRA the:
 - nature of the complaint?
 - parties to the dispute?
- ☐ Have I, within a reasonable time, given the DRA evidence to support the complaint?
- ☐ I am still unable to resolve the dispute; have I:
 - contacted the ACCC?
 - obtained legal advice?

Other disputes

- ☐ Have I raised my concerns with the other party (e.g. my supplier) first?
- ☐ Have I used all the appropriate channels (e.g. referred the matter to a complaints/disputes officer at a senior level)?
- ☐ Have I made the following clear to the other party:
 - the nature of my particular problem?
 - my desired outcome?
 - the alternatives I will consider if the matter is unresolved to my satisfaction?
- ☐ What is my next course of action if my complaint is still unresolved? Should I contact:
 - my dealer council
 - the dispute resolution adviser
 - my solicitor
 - my industry association
 - the ACCC?

- ☐ In determining what action to take, have I considered the following:
 - costs (including of the process relative to the amount in dispute)
 - the complexity of the issues in dispute
 - the relationship between the parties, including:
 - whether there is a desire or need for an ongoing relationship
 - the relative bargaining strengths of the parties
 - whether outcomes need to be flexible
 - the attitude of the parties towards negotiation (with each other)
 - whether there is a need for a binding determination, and whether it will need to be enforced externally
 - the extent to which the dispute involves expert or legal issues?
- ☐ If I am going to have the dispute mediated, have I fully prepared for mediation?