



Model DMS under the NER

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1 User notes

A dispute management system ('DMS') has the purpose of ensuring issues are identified early and resolved as efficiently and inexpensively as possible. There are two separate but related aspects required for a DMS:

1. Explaining the process to other participants
2. Having internal processes to ensure that the system is operational within your organisation.

This is an example of a DMS based on the [Guidance notes for a dispute management system under the NER](#). Each organisation is different and it should be used as a guide only.

2 Scope of the DMS

[Name of participant organisation] has developed a dispute management system to [insert what it covers and why e.g. to resolve conflicts in the National Electricity Market within the time periods prescribed by the NER].

[Where this is used more broadly e.g. other disputes in contracts or for customer complaints etc it is a good place to explain this and the rationale for this.]

3 The DMS contact

Our DMS contact person is *[name, position, email address, phone mobile]*.

[You may want to set out some credentials and details of the person's authority e.g. "Jo Smart is the marketing director and is a direct report to the CEO with a high level of authority for resolving disputes. She also has experience in commercially resolving disputes and has completed the NEM conflict management course and is trained in mediation techniques"]

If you have an issue that needs to be resolved you have the option of dealing with your regular commercial contact or contacting our DMS contact at any time by calling or sending a [Stage 1 - DMS referral notice](#).

If you do have an issue that needs assistance to resolve, and you are contacting our DMS contact it is useful if you can consider and let our DMS contact know whether:

- you have discussed this issue with the commercial contact;
- you need any relevant information to assist in resolving the dispute;
- you think other participants are effected;
- there is any barrier to resolution.

4 Response to a [Stage 1 - DMS referral notice](#)

4.1 Request for information

You can also use the DMS to gain access to information which is relevant to your issue by completing the request for information in section 7 (page 5) of the [Stage 1 - DMS referral notice](#). See also user note 2.2 in [Guidance notes for a dispute management system under the NER](#).

Within [x] days¹ of receipt of a [Stage 1 - DMS referral notice](#) including a request for information the DMS contact will let you know when the information is to be provided and discuss any issues that may arise in providing that information.

4.2 General

The contact will also make arrangement with you for a meeting to try and discuss the issue and a process for resolution within 5 business days of receipt of a notice.

Please be prepared to discuss with our DMS contact who you think should be at the meeting:

- from our commercial team,
- from your team,
- from any other parties involved.

¹ insert time frame [24 hours- 2days], keeping in mind that you need to meet within 5 business days and you will need time to get some information interview your commercial people to gain your organisation's perspective.

5 Preparing for the DMS meeting

Often matters which need to be escalated to a DMS can become heated and adversarial. It is the role of the DMS contact in such situations to ensure the meeting is constructive.

We have designed a number of steps to assist in achieving this aim.

5.1 Exchange of issues papers

Before the meeting the DMS contact will arrange for the attendees at the meeting to exchange a short issues paper by email setting out:

- items to be included in an agenda,
- the issues in dispute,
- a background of discussions to that time,
- any suggestions for going forward.

This is without prejudice – it is prepared for the purpose of resolving the issues in dispute.

5.2 Facilitation of meeting

Our DMS contact may chair the meeting or recommend that the meeting is facilitated or chaired by *[the Adviser or a person selected by him/her]* where:

- the relationship is likely or has become strained,
- there are a number of parties involved,
- the issues are unclear or complex.

Decisions need to be made on where facilitators are selected from (e.g. having recommended a facilitator it is our practice to pay for the facilitator unless otherwise agreed by the parties at the meeting; or we will only select a facilitator where it is agreed and the fees are shared equally by the parties).²

6 Options available at the DMS meeting

Being able to agree on a process for resolution of the issue without escalation may avoid and reduce costs, delay and publicity associated with court proceedings and other determinative processes such as Stage 2 (referral to the Adviser). At the DMS meeting parties should discuss what process should follow to resolve the dispute. There are 3 broad options.

² These are strategic questions for the organisation.

6.1 [Mediation](#)

Where the role of the neutral mediator is to set up a process which enhances effective and efficient communication. This can assist the parties to resolve the disputes themselves.

[The parties will agree on a mediator and in the absence of agreement within 5 days either party may ask the Adviser to nominate a mediator and provide an appropriate agreement.]

6.2 Non-binding neutral expert evaluation

Where the role of the neutral expert is to take submissions from each party and inform them of what is likely to occur if the matter were to be decided by an appropriate forum (the DRP, a court or other body). This can assist parties in assessing their commercial risk and commercially resolving the matter. The parties can agree on an expert and a form of agreement, or rely on the Adviser to assist with this task.

6.3 Binding expert decision

Where the parties agree to be bound by the opinion of the expert on terms suitable to them. The form of an agreement, how the process is to be run and the any grounds of appeal need to be discussed and agreed.

The processes can be arranged by the DMS contact or by the Adviser by consent of the parties.

7 [Stage 2 - Adviser referral notice](#)

There may be some issues that cannot be resolved by the DMS.

[Cover the referral process here. How much needs to be covered depends on the breadth of your DMS; whether non NER issues are going to be fed through. If they are, you will need to say where they go.]

For disputes covered by clause 8.2 of the NER any party to a dispute can make a referral to the Adviser by completing a [Stage 2 - Adviser referral notice](#). Once a form has been sent the Adviser can contact *[position or name]* with any queries or suggestions they have. For other disputes the parties will need to consider their legal and other remedies.

8 Time periods under chapter 8 of the NER

[Deal with time periods of all the legislation that feeds in to the DMS]

Chapter 8 sets out stringent time periods for the disputes covered by that chapter. While the DMS process will consider the time periods you should ensure that you check them. If you have queries about that, then this is an issue and you should discuss it with the Adviser.

9 DMS contact details

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10 User friendly summary of contact details

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11 Document control details

Please direct comments and questions to the Adviser, Shirli Kirschner, by email:
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History of Amendments:

- Designed October 2005
- Reviewed and amended October 2013