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Energy and Water Ombudsman (Victoria)

Report

2014 Independent Review

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I. INTRODUCTION

The Energy and Water Ombudsman (Victoria) (EWOV) is a customer dispute resolution scheme that is approved by the Essential Services Commission. It has the power to investigate and resolve disputes between Victorian customers and their electricity and gas companies, and water corporations. It was established in 1996 and has had successive expansions in jurisdiction to its present remit. There are currently 73 scheme participants.

EWOV's Constitution requires the Board to conduct reviews of the Scheme in consultation with interested parties including customer and community representative groups.

EWOV has engaged Cameronralph Navigator to undertake this independent review. Cameronralph Navigator is a Melbourne based consultancy that over the past 13 years has conducted 15 independent reviews of external complaints handling schemes and provided governance and other advice to Australian energy and water ombudsman schemes.

2. OVERVIEW

EWOV is a professionally run external dispute resolution (EDR) scheme - with considerable strengths in some areas - in particular its customer relationship and standards of service. It is open, engaged with stakeholders and able to adapt. Staff appear to be highly engaged with their work and committed to continuous improvement eg. through the Quality Assurance program. The Review found that EWOV meets the Benchmarks.

We see EWOV as very much reflecting its Victorian energy and water environment - an evolved scheme that has responded in a very practical and pragmatic way to the forces around it.

By comparison with some other sector EDR schemes, EWOV has a much more central role in customer service. We would describe EWOV's role as a hybrid between external dispute resolution and a sector-wide customer service mechanism. (We note that this seems to be common to energy and water EDR in other states – though there is some indication that this may be greater in Victoria.)

This is not the result of any single factor, nor is it 'caused' by some choice made by EWOV or Scheme Participants. Rather it is the combination of shifts in the environment over time - including privatisation, competition, the national grid, the style of regulation, government policy, climate change, escalating price increases, population growth and no doubt many other factors.

Amongst other things, this has put EWOV into a role that is not simply dispute resolution of last resort - as EDR is in many sectors - but an integral part of the customer service system across the sector. To illustrate, a comparison of Essential Services Commission (ESC) and EWOV data suggests that EWOV 'touches' perhaps one in four complaints in the energy and water industry. Whilst there are no doubt issues about the accuracy and comparability of this data, it is certainly the case that EWOV has a much wider ambit than (say) a financial services or transport EDR scheme which might 'touch' one in a few hundred of total industry complaints, if that.

As a result, we think that to a greater extent than EDR in other sectors EWOV is being expected to:

1. perform a customer service coordination and information function;
2. act as something of a safety-valve service for Scheme Participant customer service overload/failures; and
3. facilitate customer service-style 'appeasement' settlements between Scheme Participants and customers.

Whether this is the most efficient and effective design for customer service issues in the sector is an interesting issue, but not within the scope of this review. It is our role to note that these factors impact on EWOV and its performance. Even if it wanted to 'undo' this, EWOV could not do this alone. In an evolved system, the various parts have adapted to each other and any change to one element will have consequences for other parts throughout the system.

In our Review, therefore, we have not sought to challenge the role that has developed over time for EWOV, nor to contemplate wholesale re-engineering. Rather we are considering whether there are ways to improve customer understanding and expectation, to do more to ensure that the current internal dispute resolution / EDR design is not creating perverse

incentives, and to identify and suggest continuous improvement-type issues – particularly the implications of EWOV’s current process design for complaints where early information suggests that the Scheme Participant has responded appropriately.

2.1. Key Issues

All of our analysis and recommendations should be read in the context that EWOV is a highly successful EDR scheme and that where there are areas with room for improvement these are typically matters of subtle shifts in balance – we are not suggesting wholesale change. We are also aware that in an evolved scheme, shifts in balance will have some consequential impacts, which will in turn need to be managed.

Our key recommendations follow the following themes:

1. EWOV has a very high proportion of conciliated outcomes for complaints and we think there would be benefit in formalising a somewhat greater proportion of the decision-making – through clearer no-merit findings, a somewhat tighter criteria before escalation to investigation and through clearer investigated findings (EWOV forming a view on matters). As discussed above, this need not be a huge shift – but part of fine-tuning for the ‘right balance’. Our preliminary enquiries suggest that this would make EWOV practices more consistent with other ombudsmen offices.
2. While we understand that the nature of the sector drives the high number of EWOV referrals back to Scheme Participants, we argue that this places a greater obligation on EWOV to be satisfied that customers whose complaints are referred are obtaining fair and timely outcomes. We have suggested ways in which EWOV could work with Scheme Participants to achieve greater confidence that this is the case.
3. EWOV has a unique window into the workings of the energy and water sectors, however we do not see that this is being fully leveraged. We think that there would be some greater value for the sector if EWOV could work (with Scheme Participants) to contribute more to preventing complaints coming to EWOV.
4. Hardship matters are some of the most difficult complaints that EWOV deals with and although we concluded that the scheme does an excellent job in this space, we thought that some further research could assist EWOV to further develop its approach.
5. In general we found that EWOV’s powers and Charter continued to serve the purposes of the organisation well. We did however recommend a method to monitor the impact of the monetary jurisdiction limit so that this limit can be increased where required.

While not strictly part of the Benchmarks, we noted that there are areas of continuing national inconsistency in the way complaints are dealt with in the energy and water sectors. We understand that this reflects Australia’s somewhat stop/start move towards a national regulatory model. That noted, we recommend that EWOV continue to foster closer relations with its inter-State counterparts through forums and secondments with a view to working to promote better consistency for customers and Scheme Participants alike.

2.2. Recommendations

This section provides a list of all Recommendations made throughout the Report. In this section, they are loosely grouped with thematically similar Recommendations. For ease of

reference to the supporting text, they retain the number given to them in the body of the Report – which in some cases will not be in number order.

1. Formalising of decision making with tighter criteria for investigating and clearer no-merit findings

Recommendation 3

EWOV should undertake a preliminary merits review of complaints that do not resolve through EWOV's early resolution processes and in appropriate cases refuse to escalate these to an investigation. This could be because EWOV considers that:

- the customer has not provided information suggestive of fault on the part of the Scheme Participant;
- the substance of the customer's concerns are not compensable – even if some minor inconvenience has been incurred by the customer;
- the Scheme Participant has provided a reasonable response to the complaint; or
- the Scheme Participant has made the customer an offer that seems to EWOV to be reasonable in the circumstances.

Recommendation 4

EWOV should:

- *Revise its No Further Investigation Policy and Procedure and Fair and Reasonable Procedure with a view to introducing a streamlined merits assessment process for less complex complaints that is able to be carried out as part of a Stage 2 investigation; and*
- *Monitor trends in relation to repeat customers with a view to assessing whether EWOV's processes need fine-tuning to detect and address frivolous complaints.*

2. Working with Scheme Participants to achieve broad confidence in outcomes achieved where complainants are referred back to Scheme Participants

Recommendation 1

EWOV should consult with its stakeholders with a view to developing a holistic strategy to enable it to monitor the fairness and responsiveness of IDR outcomes. Ideally this should include:

- **Utilising experienced EWOV staff to undertake periodic telephone surveying of a sample of customers whose complaint concluded at the Unassisted Referral Stage – the aim should be for EWOV to find out whether the customer was satisfied with the outcome and also for EWOV to make its own assessment of the apparent fairness of the outcome;**

and

- Working with Scheme Participants to develop a reporting framework whereby Scheme Participants provide regular (perhaps quarterly) data to EWOV about the number of complaints dealt with by their call centres and the percentages of those complaints by category of outcome eg. explanation only provided, bill error corrected, payment plan entered into, customer service gesture provided etc. (If, however, EWOV is not able to obtain Scheme Participant agreement to a reporting framework that provides sufficient assurance as to IDR outcomes, EWOV should consider introducing a follow up process for Unassisted Referrals so as to provide EWOV with case by case transparency as to outcomes.)

Recommendation 2

To ensure the quality of the Assisted Referral process:

- EWOV should undertake periodic research projects to assess Assisted Referral outcomes for a sample of complaints and through these projects compare the quality of experience and outcome of different Scheme Participant approaches;
- If EWOV has concerns about a Scheme Participant's handling of Assisted Referrals, EWOV should engage with that Scheme Participant to try and address this; and
- If necessary, EWOV should apply differential processes and escalation points (for example for complaints brought by less confident customers) for a Scheme Participant that despite EWOV's support has not managed to overcome the quality concerns (fairness and responsiveness) that have been identified.

3. Working with Scheme Participants to contribute to preventing complaints from arising

Recommendation 10

EWOV should:

- undertake enhanced analysis of its data with a view to identifying practices that lead to complaints;
- work with Scheme Participants to try and address these practices; and
- try to build upon the experiences and learnings of its inter-State counterparts in undertaking this work.

4. Further development of approach to hardship matters

Recommendation 5

EWOV should undertake a study of financial hardship payment plans achieved through EWOV, with a view to increasing its understanding of the factors that promote a sustainable resolution to the financial hardship so that this knowledge can inform and improve EWOV's conciliation of financial hardship complaints.

5. Monitoring impact of monetary jurisdiction

Recommendation 9

EWOV should periodically (say every 5 years) monitor the monetary limit by identifying the number of complaints involving a claim for more than the monetary limit. If the trend is to an increasing percentage of complaints, EWOV should increase the monetary limit to stabilise the situation.

6. Further enhancing EWOV's accountability and responsiveness to its stakeholders

Recommendation 8

In consultation with stakeholders and regulators, EWOV should review its public reporting with a view to providing more detail and analysis and enhancing the value to the sector and the community.

Recommendation 11

EWOV should:

- **enhance its Feedback Form and provide a link on this webpage to its *Internal Complaints Handling Policy***
- **log complaints about its performance, analyse trends and identify improvement opportunities and provide regular reporting to the Board.**

7. Other effectiveness issues

Recommendation 6

EWOV should consult with energy providers with a view to identifying complaint situations in which EWOV should raise a complaint with an energy distributor and so deal directly with the energy distributor (rather than dealing with them through the energy retailer) on the basis that the distributor is the party that is primarily responsible for the issue raised in the complaint.

Recommendation 7

EWOV should seek to further engage its Scheme Participants in enhancing EWOV staff's industry knowledge by conducting sessions for them where they demonstrate and explain their systems to groups of EWOV staff.

3. PROJECT APPROACH

3.1. Review Scope

Our Review scope is specified in Terms of Reference. This specifies that the primary matters for inquiry and report are:

1. The effectiveness of EWOV in meeting its objectives, including whether the scheme is satisfying the National Benchmarks for industry-based dispute resolution schemes (the Benchmarks):
 - Accessibility
 - Independence
 - Fairness
 - Accountability
 - Efficiency
 - Effectiveness
2. The satisfaction of EWOV's Scheme Participants and customers with EWOV; and
3. The effectiveness of EWOV's Charter in providing adequate coverage of current and emerging energy and water issues.

The Attachment sets out particular questions that EWOV has asked us to consider.

This Review does not extend to EWOV's funding structure, case fees or the structure and performance of the EWOV Board. Nor do our Review and this report encompass matters outside EWOV's purview, for example, whether energy exempt resellers should be required to be members of EWOV.

The Review Terms of Reference specifically ask us to build upon previous reviews including the review that we conducted last year to assess the fairness and independence of EWOV's Assisted Referral and Real Time Resolution processes.

3.2. Methodology

Our work program included:

- review of EWOV's website materials;
- review of EWOV's procedural guidance for its staff and interviews of EWOV managers to obtain a detailed understanding of EWOV processes;
- a staff forums attended by about 15 staff;
- review of in excess of 80 cases,
- review of 6 systemic issues investigated by EWOV;
- telephone interviews of around 50 customers who had brought their customer to EWOV;
- consideration of 4 public submissions and 3 confidential submissions;
- interviews of 14 industry stakeholders;

- review of EWOV stakeholder surveys conducted in 2013;
- review of EWOV's data and consideration of this in light of some ESC and data compiled for the Australian and New Zealand Energy and Water Ombudsman Network (ANZEWO); and
- meetings with EWOV Management to clarify issues and discuss our findings.

Because of technology problems with the EWOV telephone system, we were not able as part of this Review to listen to recordings of telephone calls made to EWOV's 1300 number. We did, however, listen to calls as part of last year's review of EWOV's Assisted Referral and Real Time Resolution processes.

3.3. Structure of our Report

Our Report begins with a discussion of the context in which EWOV operates and an overview of EWOV's dispute resolution process. We then analyse EWOV's performance against each of the Benchmarks with particular regard to the questions that EWOV has asked us to consider.

3.4. Terminology and statistics

This Report refers to the Stages of the EWOV dispute resolution process:

- Unassisted Referral
- Assisted Referral
- Real Time Resolution
- Investigation - Stage 1, Stage 2, Stage 3 and Final Stage

3.5. Acknowledgements

Our thanks go to EWOV staff for their assistance and patience and to personnel from energy and water Scheme Participants and to consumer representatives from VCOSS, CALC, CUAC and FCRC who contributed so much to our understanding of the issues and not least to the 50 or so Victorian customers who generously consented to speak with us about their experience at EWOV.

4. CONTEXT

Each ombudsman scheme that we review is unique in some way – reflecting the consumer sector that it covers, the way the particular industry operates and the type of complaint (subject/issue, the monetary value, the consequences, etc.).

EWOV has a number of unique features that derive from its particular context. The key contextual factors include:

1. Victoria experienced earlier privatisation of energy supply. According to the Australian Energy Regulator’s report, *State of the Energy Market 2013*, Victoria is the Australian State that has the most active retailers selling to small customers for both electricity and gas, the highest penetration of smaller private retailers (27% of electricity customers and 18% of gas customers) and the highest switching rate (30% of electricity customers and 27% of gas customers in 2012/13).
2. Victoria, unlike most States, does not regulate retail electricity prices. Again according to the Australian Energy Regulator’s report, *State of the Energy Market 2013*, standard contract prices rose in Victoria by 5% to 12% in 2013 across the State’s five distribution network areas, following increases of 20% to 25% in 2012.
3. Victoria was also an early adopter of smart meters and mandated compulsory installation of these, a controversial policy and one that has generated many complaints.

These factors mean that in Victoria there have been particularly high volumes of complaints made to Scheme Participants - especially energy retailers and also to EWOV – and these volumes have been growing and are forecast by EWOV to continue to grow. By way of comparison, EWOV’s counterpart in New South Wales opened 37,275 new cases in 2012/13.

Figure 1 - Complaints received

	No. of complaints to service providers according to Essential Services Commission data provided to it by those service providers		No of complaints to EWOV as reported by EWOV in its Annual Report	
	2011/12	2012/13	2011/12	2012/13
Electricity	125,170	178,031	45,810	54,903
Gas incl. LPG	28,132	59,902	13,091	17,038
Water	16,235	18,159	2,176	2,328
Total	169,537	256,092	61,176	74,566

Notes:

1. Essential Services Commission data as to the number of electricity and gas complaints only includes complaints to retailers: see *Energy Retailers Comparative Performance Report – Customer Service*, revised January 2014. In comparison, EWOV data also includes complaints to distributors.
2. The EWOV data excludes complaints about dual fuel supply (99 in 1011/12 and 297 in 2012/13). This has been done for the purposes of comparability with the ESC data, which does not separate out dual fuel accounts.

Figure 1 suggests that complaints to EWOV may represent say 1 in 4 of the total complaints received by the energy companies. However, Scheme Participants have indicated that this is not correct and that complaint volume reporting by energy retailers to the Essential Services

Commission may utilise a narrower definition of “complaint” than usually applies. Whilst this may be the case, we think that it is clear that EWOV comprises a very big part of the overall customer complaint eco-system at least for energy complaints. This observation significantly influences our thinking about EWOV’s role and effectiveness – as we will explore later in this report.

Another important contextual issue is that EWOV complaints are about the provision of what are essential services. While there are regulatory and structural differences as a consequence of this, the primary difference in complaint-handling is the impact on customers – which can be devastating.

Moreover, the costs of these services are becoming challenging for an increasingly large demographic – this is evident from the increasing numbers of residential electricity and gas customers accessing financial assistance as per the table below.

Figure 2 - Retailer hardship programs

	2011/12	2012/13
Nos. of electricity and gas customers accessing retailer financial hardship programs	18,879	24,356
% of customers that exited the financial hardship program because they did not comply with program’s requirements	48%	59%

Source: ESC “Energy Retailers Comparative Performance Report – Customer Service, revised January 2014.

5. DISPUTE RESOLUTION PROCESS

We have observed that EWOV is an integral part of the sector's complaint processes. It is involved to some extent in a very high proportion of complaints raised with Scheme Participants – it is not just a mechanism of last resort like many other EDR schemes. This is reflected in its dispute resolution process design, which amongst other things, is geared to substantial volumes.

5.1. Further opportunity for Scheme Participant resolution

As do all EDR schemes, EWOV checks that a customer has previously sought to resolve their complaint with their Scheme Participant and if not, provides contact details for the Scheme Participant so the customer can do this - called an Unassisted Referral.

The next stage, if the customer has already been to their Scheme Participant with their complaint, is for EWOV to refer the complaint to a higher authority at the Scheme Participant - an Assisted Referral. Customers are advised of timeframes within which the Scheme Participant must respond to their complaint and that they can revert to EWOV if not satisfied.

This focus on initially supporting Scheme Participant internal processes is generally welcomed according to stakeholder input we received. Consumer representative support was, however, with the proviso that some reassurance is needed as to the outcomes achieved by customers taking these routes – which we discuss later.

In the EWOV environment – involving delivery of an essential service, with hundreds of thousands of customers, with a highly regulated industry, with complaints typically about less than \$1,000, with Scheme Participants' struggling with high volumes of complaints – we think that it is entirely appropriate to build in plenty of opportunity for Scheme Participants to review complaints themselves.

Like any process design choice, there are risks in this part of EWOV's operation. Scheme Participants could become overly reliant on the last opportunity to resolve the matter - at the expense of giving adequate attention to resolving complaints earlier on. Scheme Participants could also use the stages of 'light touch' involvement by EWOV as a crude filtering mechanism, weeding out substantial numbers of customer complaints through exhaustion or frustration. We discuss this further at paragraph 9.1.

5.2. Emphasis on conciliation

For complaints that fail to resolve through the above two levels of referral to the Scheme Participant, EWOV's next step is to attempt a quick conciliation of the matter with the Scheme Participant in the process called Real Time Resolution (RTR).

This stage involves EWOV initiating a discussion with the Scheme Participant and the customer to see if there is some common ground that will enable a resolution to be reached – with very little examination of documentation. EWOV will advise the Scheme Participant of what the customer is looking for – and may have 'robust discussions' with customers to moderate their expectations to what it is reasonable.

Although most of these matters are done in 'real time' (within a matter of days) by phone, some are handled by email exchange.

If the parties cannot be brought to a resolution in a matter of days, a complaint will be escalated to an investigation.

As the table below illustrates, the vast majority of cases are resolved in these early stages, with comparatively very few complaints progressing to an Investigation.

Figure 3 - Last stage at which fee charged for cases received in 2012/13

Enquiry	Unassisted Referral	Assisted Referral	RTR	Investigations	Total
1,248	8,837	37,690	6,158	8,712	62,645

ANZEWON data shows that, in this emphasis on conciliation, EWOV's approach is not terribly different from other energy and water ombudsmen.

By and large, this emphasis on conciliation is supported by stakeholders, however there are some reservations discussed later in the report.

5.3. Investigations

The investigations process is an iterative process by which EWOV gradually refines its understanding of the issues in dispute. Within this grouping, the Stage 1 investigation is in many ways an extension of the RTR conciliation process. It is also focused on conciliation, however with some limited collection and review of documentary material by EWOV staff. Later stage investigations involve more extensive collecting of information and analysis and can ultimately lead to the preparing of an EWOV view of the matter.

Very few investigated cases result in a formal written analysis being prepared by EWOV. Further no binding decisions have been made by EWOV since 2003 – a matter of some pride amongst Scheme Participants and EWOV.

We discuss later in this report some issues that arise as a result- see paragraph 9.4.

6. STAKEHOLDER ENGAGEMENT

6.1. Stakeholder views

EWOV attracted highly positive stakeholder feedback for their efforts in stakeholder engagement. Engagement is seen as appropriate and professional in standard. The current management team came in for special mention from a number of contributors.

Like any EDR scheme, there are some irritations and room for improvement, however in our experience there is a remarkably positive view of the scheme from a range of stakeholders with different interests.

Inevitably there are differences between the needs of Scheme Participants with large complaint volumes and those with only occasional interaction with EWOV. Those with larger complaint volumes are very keen to engage at a level of process detail and understand how EWOV treats particular types of complaints or particular processes. These Scheme Participants are much less interested in basic information about EWOV ('complaints 101') than other Scheme Participants who find that overview more useful.

A number of interviewed Scheme Participants also expressed interest in more in-depth industry forums with EWOV and commented that some falling off in last couple of years of opportunities to discuss industry issues with EWOV. There were some views that these forums should be sector-specific and more interactive, rather than an EWOV lecture.

While broadly very supportive, the Joint Consumer Submission expressed concern that EWOV engagement has become more ad-hoc and informal and often based on one-way communication through the publication of *Res Online*.

The submission noted a lack of knowledge on part of financial counsellors of EWOV's changed processes – ie. introduction of the Assisted Referral and Real Time Resolution processes and sought dedicated training for financial counsellors that would explain EWOV's dispute resolution process.

The submission also suggested that EWOV establish a mechanism(s) to enable ongoing feedback from consumer representatives and an opportunity to put views about whether case handling processes and outcomes are fair. The submission noted with regret the discontinuance in 2011 of EWOV's Case Handling Advisory Committee, which comprised consumer representatives and industry representatives and suggested that something similar could be usefully re-established.

6.2. Findings

Consistent with general stakeholder feedback, we found EWOV's approach to stakeholder engagement to be professional and thorough and the subject of considerable organisational effort. We also note that EWOV put some effort into engaging with the community directly – as is appropriate for a broad-based, essential services EDR scheme.

We note that EDR schemes have to tread something of a fine line with their formal engagement with key stakeholders such as Scheme Participants, government, industry bodies and consumer representatives. There is a tendency for structured forums to lose their utility over time and to need refreshing in format and focus. It is also true that stakeholder groups will have subtly different expectations – which can be quite difficult to meet while keeping

costs and effort to a reasonable minimum. There is always the issue of maintaining an appropriate distance and independence – especially where the Ombudsman approach to decisions and fairness is concerned. So, we do not think that it is an easy task for EWOV to balance competing pressures in this space.

That said, we think that there is merit in EWOV responding to some of the suggestions for improvement made by stakeholders – as part of its ongoing engagement planning. We understand that priorities shift and this is something that only EWOV can balance – and we do not make a specific recommendation – other than to refer the suggestions.

EWOV's 2014/15 Business Plan shows this engagement effort continuing into the coming year. We thought that the key initiatives currently suggested for next year were consistent with stakeholder suggestions for improvement and would provide for a substantive gain in this area.

7. ACCESSIBILITY

The scheme makes itself readily available to customers by promoting knowledge of its existence, being easy to use and having no cost barriers.

7.1. EWOV's promotion

7.1.1. Stakeholder views

Stakeholder feedback from Scheme Participants, customers, consumer representatives and regulators acknowledged that EWOV has, over a number of years, established a high profile and high levels of awareness in the community and were supportive of this effort.

Understandably, there were some concerns from Scheme Participants that this high profile might be encouraging customers to go to EWOV before giving their service provider a chance to resolve the issue. We also received feedback that a small number of customers were becoming 'repeat customers' for EWOV and were coming to EWOV and/or their service provider seeking customer service gestures or other benefits – based on past experience.

From the consumer representative side, there was some praise for EWOV's independent awareness raising activity (not just through Scheme Participants). The Joint Consumer Submission also commended EWOV's efforts to reach the disadvantaged including "Bring your Bills Day" and activities reaching out to Aboriginal and islander communities. Their submission did ask for more focus on targeted awareness raising to the vulnerable and disadvantaged and encouraged EWOV to employ staff with experience of and coming from disadvantaged communities.

7.1.2. Findings

In our view, EWOV rates very highly against the Accessibility benchmark and in comparison with other EDR schemes we have seen. The essential services nature of the energy and water services covered by EWOV gives it a very broad customer base to deal with. EWOV has a history of pro-activity in its outreach program that has included presenting to not-for-profit organisations, government organisations and community groups – both in Melbourne and in Regional Victoria.

Records show that EWOV is being accessed by customers from wide range of demographics and our customer interviews were consistent with EWOV research showing that customers have a high awareness of EWOV and are able to contact it easily.

At the point of contact, EWOV has an enviable ability to answer calls promptly and to redirect customers to other points of advice or to their Scheme Participant as appropriate. We saw evidence of practical measures by EWOV to assist customers at the point of contact - eg. call-backs to mobiles.

We did see some evidence of early contact by customers with EWOV for the purposes of seeking out independent advice on what "the Scheme Participant is supposed to do" or "what are my rights?", prior to tackling the issue. Whilst we found a very high degree of acceptance by customers that it was their responsibility to take the matter to their Scheme Participant in

the first instance, many also clearly expected to be able to seek independent advice from the Ombudsman.

We acknowledge that first contact with EWOV does cause the Scheme Participant to incur a small fee, which is a cost that might be avoidable in some cases. We also understand that some customers can be selective in their hearing of advice received and may on occasions quote EWOV in an opportunistic way.

It is also true, however, that on that initial contact, some customers are provided with information by EWOV which makes it clear to them that they do not have grounds for a complaint and others are receiving information which does help to manage their expectations. We think that in many cases, this information would only be received well by the customer from a body seen as independent and is therefore a net value-add from the EWOV contact. Customers also receive practical advice about who to contact and what information they will need and so forth.

Looking to the future, we saw evidence of continuing Management attention to awareness and customer education initiatives with signs of more targeted activity and efforts to encourage customers to make initial contact with their service provider and efforts to help manage customer expectations and improve awareness of customer obligations as well as rights.

We think that the EWOV Board should be satisfied that there is a net positive contribution to the sector through early contacts with EWOV. The number and nature of these is something that should be carefully monitored over time.

7.2. Informing dissatisfied customers about EWOV

7.2.1. Stakeholder views

While Scheme Participants accepted that it was their regulated responsibility to advise customers about the right to go to EWOV, there was some concern from the Joint Consumer Submission that this was not always happening. The Submission went on to recommend that EWOV put greater effort into ensuring that Scheme Participants do adequately inform their customers about EWOV.

7.2.2. Findings

We saw an appropriate focus from EWOV on ensuring that Scheme Participants are advising customers of their rights to go to EWOV – although we note that in a phone-based EDR scheme it is harder to track and monitor than in a scheme that relies more heavily on exchange of documents.

Our case file review, while not statistically comprehensive, did not reveal any significant evidence of customers not being informed.

We also note that this is a regulatory requirement, albeit one that EWOV has a fundamental interest in. EWOV does need to be careful that it is not seen to be adopting a quasi-regulatory role in this space.

7.3. EWOV explanatory material for customer

7.3.1. Stakeholder views

Scheme Participants expressed some concern that EWOV materials do not have sufficient focus on the customer’s obligations (as well as rights). For example, they would like information regarding wrongful disconnection payments to remind customers of their own responsibility to pay bills on time and, if experiencing payment difficulty, to contact their service provider first.

The Joint Consumer Submission provided strong endorsement of the usefulness of EWOV materials for customers, noting the multi-layered approach and in particular the recognition by EWOV through education and promotion activity, that community service organisations and community facilities provide an important point of reference for customers. The Joint Consumer Submission appreciated EWOV’s efforts to consult with consumer advocates and community service organisations when developing promotion and education materials.

7.3.2. Findings

We found EWOV customer materials to be of an excellent standard and appropriately reflective of the wide range of sophistication of the customer base involved. We noted that EWOV has its key materials translated in to a range of languages, with “Helping you with Energy and Water” available in 29 languages.

We have not made specific recommendations, but agree with Scheme Participants that EWOV should of course be ensuring that customer obligations are referenced as well as their rights – and with consumer advocates that continuing effort is required to ensure that the most vulnerable and disadvantaged of customers are kept in mind in awareness materials. We were satisfied that EWOV management were cognisant of these issues and were applying them in their forward planning.

7.4. Ease of EWOV process

7.4.1. Lodging complaint

EWOV complaints can be made by telephone, by email and by completing a website form. To our observation, the processes have a minimum of formality and would not represent an obstacle to the majority of customers.

Figure 4 - Method of contacting EWOV

Method	Percentage of total contacts	
	2011/12	2012/13
Telephone – 1800 no.	86%	80%
Email/ website	13%	19%
Other – written or in person	1%	1%

As we have observed earlier, EWOV’s average response time for telephone calls is excellent. It is substantially shorter than the average Scheme Participant call answering timeframes – supported by the ESC retailer data and by customer interviews.

Figure 5 - Calls made to EWOV

	Vic
Number of phone calls (non-admin) received	23,351
% of phone calls answered within 20 seconds	89.27%
No. of incoming phone calls abandoned by customers	84
% of incoming phone calls abandoned by customers	0.36%

The Joint Consumer Submission did caution that there was some reporting from case workers that a few customers had difficulty understanding EWOV's correspondence and processes and that this should be subject to continuing effort by EWOV to improve.

We think this is a problem that will be ever-present for EWOV, given the broad demographic that EWOV serves. This will tend to be greater in an environment of multiple service providers, of increasingly complex service and price offerings, of deliberate government reform policy and of energy and water price increases outpacing incomes. To some extent, we see that there is a minimum irreducible complexity to external dispute resolution, which a scheme may not be able to improve on.

EWOV is, however, currently undertaking a review of its customer communications with a view to enhancing clarity. We see this as further evidence that EWOV's efforts in this space are genuine and appropriate.

7.5. Assistance for vulnerable customers

7.5.1. Stakeholder views

The Joint Consumer Submission raised problems experienced by vulnerable and disadvantaged customers and encouraged EWOV to identify where customers require extra assistance and provide appropriate assistance.

7.5.2. Findings

We found EWOV's approach to vulnerable and disadvantaged customers to be strong. EWOV has a documented *Vulnerable and Disadvantaged Customer Policy and Procedure*. This sets out the circumstances and characteristics that EWOV should consider as being indicative of a customer being vulnerable or disadvantaged. Intake Officers are required to use an EWOV checklist resource (displayed on their desks) to identify where customers present as vulnerable or disadvantaged. EWOV's policy is that the Assisted Referral process is bypassed for these customers.

Other EWOV measures to assist vulnerable and disadvantaged customers include:

- Use of translator and interpreter services and national relay service; and
- An in-house financial assessor is available to discuss the sensitive nature of financial hardship with customers in a confidential manner for the purpose of complaint progression.

To maintain the focus on recognizing and assisting vulnerable and disadvantaged customers, EWOV's induction and refresher training address this issue. In addition, following our review

last year of EWOV's early resolution processes, EWOV has expanded its Quality Assurance Framework to specifically test whether there has been appropriate identification of vulnerable/disadvantaged customers at the Assisted Referral stage. We think that this package of initiatives should ensure that this important issue continues to be front-of-mind for EWOV staff.

7.6. Customer withdrawal

7.6.1. Stakeholder views

The Joint Consumer Submission reported that around half of consumer representatives who were surveyed reported instances where their clients had dropped out of an EWOV complaint process because the client lost faith in EWOV's ability to handle their disputes.

7.6.2. Findings

We have found there is a need for some care in analysing customer withdrawals. At its worst a withdrawal can be despair at the difficulty of obtaining redress for genuine Scheme Participant failures, but at its best, it can be a result of appropriate advice from EWOV helping to manage the customer's expectations. The issue of customer withdrawal also needs to be separately considered at the early resolution stages of EWOV's complaints resolution process and at the investigation stages.

Given the ease of EWOV's early resolution processes - the Assisted Referral and Real Time Resolution processes - we think that these do not pose a high risk of customer despair leading to withdrawal. We discuss at paragraph 9.2 of our report our review of a sample of complaints resolved at these stages and our view that these processes are supportive of fair outcomes. But we make recommendations about the importance of EWOV taking steps to address its current limited visibility of Assisted Referral outcomes.

Figure 6 (see below) sets out the level of customer withdrawals for investigated complaints. Here, EWOV distinguishes between customers who fail to stay in contact with EWOV (including complaints closed for non-participation in the conciliation process such as because of failure to pay an undisputed amount) and customers who explicitly tell EWOV that they are discontinuing their complaint.

This data needs to be understood in the context of investigation outcomes generally - and we include data at paragraph 9.4 of our report that shows that in 2012/13 only a handful of complaints were closed on the basis that the Scheme Participant's position was vindicated and that overwhelmingly investigations were closed with a conciliated outcome that included financial redress for the customer.

In these circumstances, we think that it is quite possible that many of the withdrawn complaints would have resulted in Scheme Participant vindication if the investigation had run full course. In other words, we think that the current rates of withdrawal suggest that EWOV conciliators are performing the important role of guiding customers as to the likely outcome of a full investigation so that customers can decide whether they want to devote further time and energy to pursuing the complaint.

Figure 6 - Investigated Complaints 2012/13

	Stage 1		Stage 2		Stage 3		Final Stage		Total
	No.	%	No.	%	No.	%	No.	%	
No further contact by customer with EWOV (includes complaints closed for non-participation in the conciliations process)	417	12.5%	731	18%	110	13%	48	9.5%	1306
Customer informs EWOV that it is not continuing with the complaint	15	0.5%	29	1%	5	1%	2	0.5%	51
Total investigated complaints	3298		4067		844		504		8713

Finally our telephoning of a sample of customers did not produce evidence that customers are giving up on meritorious complaints where they withdraw from the EWOV process. But clearly this is an issue that EWOV should continue to monitor both through its Quality Assurance processes (closed case reviews) and its customer satisfaction surveys.

8. INDEPENDENCE

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

8.1. Governance arrangements

EWOV's Board includes a balance of customer and industry representatives. The Ombudsman is appointed by the Board for a fixed term. The Board oversees EWOV's operation including the budget process and EWOV's systemic issues work. Scheme participants are not involved in the appointment of EWOV staff.

In all these respects, EWOV's governance arrangements are sound and meet Benchmark expectations.

8.2. Impartiality of processes

The Independence Benchmark requires EWOV's case handling processes to be unbiased and impartial. Stakeholder perception is also very important: EWOV needs to operate in a way that instils confidence in stakeholders as to EWOV's independence.

8.2.1. Customer views

EWOV's Customer Satisfaction Survey results confirm that customers to EWOV generally consider that their complaint was handled by EWOV in an independent way (81% of surveyed customers in both the September 2013 and the December 2013 quarter). Our telephone interviewing of EWOV customers was consistent with this. Given that complaint outcomes can affect customer perceptions of independence, we think that a rating of 80% satisfaction with independence is very good and EWOV need not aspire to better this in future surveying.

8.2.2. Scheme Participant views

Several of the Scheme Participants who participated in our Review recognised that EWOV strives to operate in an impartial way. There were, however, Scheme Participants who felt that EWOV does not successfully convey to customers that EWOV's role is to be independent. There were also a number of Scheme Participants who felt that EWOV leans more to being a consumer advocate than being completely neutral. Whilst a little of this was seen as appropriate, particularly where vulnerable customers were concerned, a number of Scheme Participants felt that this was occurring to a greater extent than they would like.

8.2.3. Findings

The importance of EWOV maintaining an impartial position was frequently mentioned by EWOV Team Managers at interviewed. Consistent with this, we observed in calls that we listened to last year, and in case file correspondence that we viewed this year and last year, a strong focus within EWOV on the use of neutral language in their communications with the parties. EWOV staff are required to faithfully represent to the Scheme Participant the resolution desired by the customer, without "glossing" this with EWOV's view - although the

limits of the phone medium and customer knowledge mean that perfect replication is neither possible nor desirable.

Reinforcing these expectations of staff, EWOV's Quality Assurance process tests a sample of each case manager's cases to determine whether independence has been demonstrated through the call, case actions and correspondence with the parties.

We were satisfied that these measures mean that customers are receiving cautious, impartial advice. While, as discussed earlier in our report, that does not mean that all customers will accept what EWOV says, we think that overall, EWOV is most likely to be contributing to reasonable expectations.

Yet despite these efforts, the majority of Scheme Participants who engaged with the Review clearly have concerns about EWOV's impartiality. We think that there are two reasons for this.

- (i) Because EWOV's process is largely oral and Scheme Participants do not see the information EWOV has provided to customers, the EWOV process provides a lesser degree of transparency than ombudsmen schemes in other sectors that utilise a more documentary process.
- (ii) As discussed earlier in our Report, EWOV's role in facilitating customer service and its drive for efficiency in the face of high volumes of complaints means that complaints are repeatedly put back to Scheme Participants by EWOV on a customer service basis – ie. going to a higher level in the Scheme Participant through the Assisted Referral process and then again through the Real Time Resolution process and even the Stage 1 investigation process. In going back to the Scheme Participant, EWOV's emphasis is on trying to satisfy the customer and achieve a settlement of the complaint. Where the Scheme Participant considers that it has fairly addressed the complaint, the Scheme Participant experiences this emphasis on satisfying the customer as an over-emphasis by EWOV on the customer's perspective.

It seems to us that Scheme Participant concerns about EWOV's impartiality cannot be dismissed as simply matters of perception. They include substantive issues. We are not suggesting radical change by EWOV in response – and in particular we are not advocating that EWOV move to a more documentary process. But we do think that some fine-tuning of EWOV's approach to fairness and accountability is required – so we discuss these issues under those parts of our Report (see Sections 9 and 10).

8.3. Resourcing

The Independence Benchmark requires EWOV to have sufficient funding to manage its caseload and other relevant functions.

8.3.1. Stakeholder views

This was not something that was the subject of much stakeholder comment. However a couple of Scheme Participants expressed some concern about the EWOV backlog that developed in the first half of 2013 and questioned whether inadequate staffing levels were the cause of this.

8.3.2. Findings

We are satisfied that EWOV's resourcing is adequate at the present to manage its caseload. At the time of our Review, EWOV did not have a backlog of cases. Although EWOV's high volume of cases creates an imperative to be efficient, EWOV did not exhibit signs of being under undue stress. Our limited enquiries suggested that EWOV resourcing is within the range of its counterparts in other States (although we caution here that comprehensive comparable data is not available).

We discuss at paragraph 11.4 that EWOV, like other EDR schemes, is susceptible to surges in complaint volumes and what that means for EWOV resourcing.

That said, we note that the appropriate level of an EDR scheme's discretionary (perhaps better named as investment in the future) work – awareness building, projects, data analysis etc. – and the extent of resourcing to permit this is always a matter of judgment for the scheme's Board.

9. FAIRNESS

The 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.

9.1. Opportunity for internal dispute resolution

As discussed earlier in our Report, EWOV's process begins by checking with a customer to see if they have tried to resolve their complaint with the Scheme Participant. If not, the customer is asked to do this. The fee charged to a Scheme Participant for this is about \$50.

If, however, the customer has already raised their complaint with the Scheme Participant, the complaint will generally be referred by EWOV to a higher level at the Scheme Participant via EWOV's Assisted Referral process so as to give the Scheme Participant's complaints specialist staff an opportunity to try and resolve the complaint. In this case, a fee of about \$100 is charged.

9.1.1. Stakeholder views

Scheme Participants clearly value these opportunities to try and resolve the complaint quickly and at little cost so far as EWOV fees are concerned.

The Joint Consumer Submission, however, expresses concern about the impact of the EWOV process design and fee scales on Scheme Participants' internal dispute resolution processes. The Submission cautions that the result might be that industry will only take complaints seriously when they present as an Assisted Referral and notes that the high volume of complaints to EWOV is a worrying trend. The Submission encourages EWOV to make a comparative analysis of utility companies' internal dispute resolution (IDR) processes including assessing if customers were satisfied with the outcomes achieved and making recommendations about best practice IDR.

9.1.2. Findings

From our interviews with Scheme Participants, it would seem that although their customer service staff are the referral point for Assisted Referral complaints, these staff are often not the escalation point for complaints made to the Scheme Participant's call centre. In these cases, the escalation is to various layers of supervision/management within the call centre (sometimes an outsourced function). The risk is of course, that the customer service staff are not having as much influence on the responsiveness and fairness of front-end call centre processes as might be hoped (a weak feedback loop).

To test this, we analysed EWOV Customer Satisfaction Survey results and used our own interviewing of previous customers to try and assess the level of satisfaction and quality of Scheme Participants' internal dispute resolution processes.

As is apparent from Figure 7 below, EWOV's December 2013 Customer Satisfaction Survey suggests a very similar level of satisfaction with the complaint outcome from customers whose complaint resolved at the Unassisted Referral stage and those whose complaint resolved at the Assisted Referral Stage.

Figure 7 - Customer Satisfaction – Unassisted Referrals and Assisted Referrals

As at time of survey:	Unassisted Referrals		Assisted Referrals	
	Number of respondents	Percentage of respondents	Number of respondents	Percentage of respondents
Complaint resolved and customer satisfied with outcome	34	53%	777	56%
Complaint resolved but customer not satisfied with outcome	11	17%	247	18%
Complaint still in progress with Scheme Participant	19	30%	369	26%
Total	64	100%	1,369	100%

On the other hand, our telephone interviewing of customers suggested slightly less satisfaction with Unassisted Referral outcomes than with Assisted Referral outcomes. We also found a lower rate of financial redress at the Unassisted Referral Stage than at the Assisted Referral Stage. However we caution against too much being made of this. Our sample size was small – about 20 customers of each type. Our Unassisted Referrals included customers who in fact used information provided by EWOV to decide (and we think properly so) not to revert to their Scheme Participant. Further we think that a customer service gesture is more likely to be called for at the Assisted Referral Stage than at the Unassisted Referral Stage - by way of recognition of the extra time and customer effort that has been needed to achieve resolution.

That said, we think that it is important that EWOV regularly conducts reviews to monitor the fairness of Unassisted Referral outcomes (not just satisfaction levels with outcomes). These reviews should include comparison of the performance of different Scheme Participants to identify those whose IDR processes are less mature. For those Scheme Participants, it may be appropriate for EWOV to be more willing to escalate complaints to the Assisted Referral Stage without the customer first being expected to undergo an Unassisted Referral, so as to ensure the fairness of the process.

We also think that there are grounds for some reporting by Scheme Participants to EWOV about volumes of complaints at the IDR Stage and about outcomes so as to provide some assurance to EWOV and through it to consumer representatives as to the quality of IDR processes. We have recommended this to an EDR scheme in another sector that is proposing to introduce an assisted referral process for the first time. In our view, some transparency by Scheme Participants about IDR is a necessary trade-off for the advantages for Scheme Participants of the additional opportunity to resolve complaints afforded by the Assisted Referral process - and the low EWOV fee that goes with this. If EWOV is not able to agree an evaluative framework with Scheme Participants that provides sufficient assurance, it may be necessary for EWOV to look at other alternatives, for example, undertaking follow up enquiries with each customer whose contact with EWOV is classified as an Unassisted Referral – and increasing the charge for Unassisted Referrals to cover the extra work for EWOV as a result.

Recommendation 1

EWOV should consult with its stakeholders with a view to developing a holistic strategy to enable it to monitor the fairness and responsiveness of IDR outcomes. Ideally this should include:

- **Utilising experienced EWOV staff to undertake periodic telephone surveying of a sample of customers whose complaint concluded at the Unassisted Referral Stage – the aim should be for EWOV to find out whether the customer was satisfied with the outcome and also for EWOV to make its own assessment of the apparent fairness of the outcome; and**
- **Working with Scheme Participants to develop a reporting framework whereby Scheme Participants provide regular (perhaps quarterly) data to EWOV about the number of complaints dealt with by their call centres and the percentages of those complaints by category of outcome eg. explanation only provided, bill error corrected, payment plan entered into, customer service gesture provided etc. (If, however, EWOV is not able to obtain Scheme Participant agreement to a reporting framework that provides sufficient assurance as to IDR outcomes, EWOV should consider introducing a follow up process for Unassisted Referrals so as to provide EWOV with case by case transparency as to outcomes.)**

9.2. Early resolution processes

As discussed earlier in our Report, EWOV places considerable emphasis on trying to achieve an early resolution of complaints.

9.2.1. Scheme Participant views

Our consultations demonstrated that Scheme Participants are very supportive of EWOV's early resolution processes. For the most part, they believe that EWOV adds value by clearly and accurately setting out in the Scheme Participant referral email what the issue is and what the customer is seeking.

Scheme Participants also see EWOV as playing a largely constructive role where it becomes actively involved in the conciliation process as between the Scheme Participant and the customer. There was recognition by some Scheme Participants that sometimes complaints 'slip through the cracks' and fail to resolve at the Assisted Referral stage and that EWOV's Real Time Resolution process can identify these complaints and facilitate a resolution. Also some Scheme Participants mentioned that customers are probably having their expectations 'reality checked' by EWOV during the RTR process and that this can facilitate resolution.

9.2.2. Consumer views

The Joint Consumer Submission also welcomes the speedy resolution that EWOV's early resolution processes often afford. The Submission cautions, however, about the risk that early resolution may not produce fair outcomes especially for vulnerable customers, for example, customers with disabilities, language or literacy issues. The Submission asks whether EWOV makes any judgment on the fairness of any resolutions proposed by Scheme Participant early

on in the process. The Submission also recommends that EWOV regularly review the fairness of outcomes achieved through early resolution processes.

9.2.3. Findings

To test the fairness of EWOV's Assisted Referral and Real Time Resolution processes, last year and again this year we telephoned customers who had experienced EWOV's early resolution processes. Both exercises gave us some confidence that the recent outcomes for customers are within a range typical of early resolution EDR methods.

Our interviews revealed outcomes at both stages that included: acceptance by the customer of refusal of the complaint, more thorough explanation by the Scheme Participant, apologies and financial outcomes. Customers generally believed that EWOV's intervention had made a positive difference and that their service provider had been more responsive as a result of that intervention. A number of customers valued information that had been provided by EWOV orally or via a factsheet. Since our review last year, EWOV has developed the capability to add specific factsheets to outgoing emails to customers. This assists customers to overcome the information asymmetry, enhancing the fairness of the Assisted Referral process.

Both exercises also satisfied us that EWOV is successfully communicating to customers their option to revert to EWOV if an Assisted Referral fails to resolve their complaint to their satisfaction.

Notwithstanding these positive findings, we think that it is important for EWOV to take steps to enhance its visibility of Assisted Referral outcomes so it has an informed basis for continuing confidence in those outcomes – and so it can take counter balancing steps if weaknesses are identified.

Last year we recommended that EWOV should periodically telephone a sample of customers whose complaint had been the subject of an Assisted Referral and who did not subsequently revert to EWOV – with the aim of finding out how the Scheme Participant responded to their complaint. These periodic surveying projects should specifically compare Scheme Participants to identify any that are failing to provide an acceptable minimum standard of fairness and responsiveness. Where this is the case, EWOV should work with the Scheme Participant to achieve satisfactory standards of service. But if need be, EWOV should, we think, apply differential processes and escalation points (including, for example, for less confident customers) as a counter balance to any weaknesses that remain.

In response to our recommendation, EWOV has developed a framework for periodic research projects and has undertaken its first research project. This has been done with the cooperation of the Scheme Participant concerned. Preparatory work is in train for reviews of other Scheme Participants' Assisted Referral outcomes. The research methodology is still being refined but early indications are that useful learnings are emerging that should enhance the quality of dispute resolution and assist in ensuring that sustainable outcomes are reached.

Recommendation 2

To ensure the quality of the Assisted Referral process:

- **EWOV should undertake periodic research projects to assess Assisted Referral outcomes for a sample of complaints and through these projects compare the quality of experience and outcome of different Scheme Participant approaches;**

- If EWOV has concerns about a Scheme Participant's handling of Assisted Referrals, EWOV should engage with that Scheme Participant to try and address this; and
- If necessary, EWOV should apply differential processes and escalation points (for example for complaints brought by less confident customers) for a Scheme Participant that despite EWOV's support has not managed to overcome the quality concerns (fairness and responsiveness) that have been identified.

9.3. Progression to Investigation

9.3.1. Scheme Participant views

Several Scheme Participants expressed concern that EWOV does not sufficiently recognise where the Scheme Participant is not at fault or where it has provided an appropriate remedial offer to address any fault. They said that instead, EWOV would automatically escalate an unresolved complaint to an investigation. Because a Stage 2 investigation fee is a further almost \$1,000, this means that a Scheme Participant will usually make a commercial decision to offer the customer a substantive customer service gesture, even where the Scheme Participant considers that in fairness, this is not warranted.

9.3.2. Findings

EWOV's Charter gives the Ombudsman a discretion to decline to investigate or further investigate a complaint if the Ombudsman considers that an investigation is not warranted. This may be because the customer has failed to participate or show good faith – typically to make undisputed payments or to provide requested information. Alternatively, it may be a merits based decision – but in this case EWOV's No Further Investigation Policy and Procedure dictates that a thorough investigation must first have been undertaken. The result is that a complaint that fails to resolve through EWOV's early resolution processes will automatically progress to an investigation except in comparatively narrow circumstances.

Our preliminary enquiries suggest that in some other States the energy and water ombudsman's office will not progress a matter to an investigation if the ombudsman's office considers that the Scheme Participant's response to the complaint is reasonable, for example, because the Scheme Participant has offered a customer service gesture that is appropriate in the circumstances. One office estimated that it would refuse to commence an investigation in as many as 40% of the complaints that fail to close through their early resolution processes.

We think that it is necessary to be cautious about closing a matter without an investigation. But that said, our file review identified complaints where EWOV staff notes recorded that they had advised the customer that the Scheme Participant's remedial offer was more than fair and yet, because the customer refused to accept this advice, the complaint was escalated to an investigation. These are a small minority of cases (in our expectation, based on what we have seen in other sector ombudsmen schemes, considerably less than 40% of the complaints that fail to resolve through early resolution). However we do think that in these cases, in the interests of efficiency and fairness to the Scheme Participant, the matter should not progress to an investigation.

We also observe that while the effect may be small, each time a customer extracts a bill concession or customer service payment, this is paid for by higher charges to other customers. There is a clear public interest in minimising this, where it appears to be undeserved.

We expect that a change of this nature will require some substantive reorienting of the way EWOV looks at these complaints. At a minimum, new delegations, a new Best Practice Procedure and staff training will be required. Initially we think there would also be merit in having a daily review process for all complaints that fail to settle at the Real Time Resolution stage. This could be undertaken via informal meetings, for example, the RTR Conciliator could meet with an Investigations Conciliator and a team leader or more senior person (because there are in excess of 8,000 complaints that currently progress to an investigation there will need to be several team leaders who assist with this review process) and each complaint could be quickly reviewed.

Where EWOV decides not to investigate the complaint because the Scheme Participant's response is judged to be reasonable, the customer should be sent an email providing a succinct explanation as to the reasons for this and indicating that the customer can request an internal review. In time, as EWOV staff develop confidence with this process, we would expect that RTR Conciliators could be entrusted with this decision (of course with internal consultation as appropriate) – with the continuing safeguard that the customer is able to request an internal review of this decision.

Recommendation 3

EWOV should undertake a preliminary merits review of complaints that do not resolve through EWOV's early resolution processes and in appropriate cases refuse to escalate these to an investigation. This could be because EWOV considers that:

- the customer has not provided information suggestive of fault on the part of the Scheme Participant;
- the substance of the customer's concerns are not compensable – even if some minor inconvenience has been incurred by the customer;
- the Scheme Participant has provided a reasonable response to the complaint; or
- the Scheme Participant has made the customer an offer that seems to EWOV to be reasonable in the circumstances.

9.4. Investigation process

9.4.1. Stakeholder views

Almost universally, all Scheme Participants who participated in our Review expressed concern about EWOV prolonging investigations when 'there was nothing further to investigate' instead of moving promptly to conclude and form a view about the complaint. There were reports of activity that was not necessary - information requests that did not advance the issues at stake, meter tests when there was nothing to suggest fault in the meter – whilst the complaint was escalated to a Stage 3 investigation or even a Final Stage investigation, thereby incurring considerable further fees.

The Scheme Participant consensus was that this occurs because EWOV is extremely reluctant to close an investigation where the customer is not satisfied with the Scheme Participant's proposed resolution. Whilst some interviewed Scheme Participants had experience of EWOV's 'fair and reasonable assessment process' as a way of concluding a complaint, there were concerns that this process was overly cumbersome and not being appropriately used.

9.4.2. Customer views

EWOV's Customer Satisfaction Survey has found that customer satisfaction with EWOV's investigation processes is less high than with its early resolution processes – but nevertheless still very positive. A December 2013 Survey of Customers whose complaint had been investigated by EWOV reported a 'Good or Excellent' experience in 65% of cases.

Figure 8 - Customer satisfaction with investigation

	% of Surveyed Customers
Good or Excellent Experience	65%
% Advocates of EWOV (9 or 10 on a 10 point scale)	73%
% Detractors of EWOV (0 to 6 on a 10 point scale)	19%

9.4.3. EWOV processes

EWOV's investigations process aims to enable EWOV to establish the factual situation so that if needed it can make a 'fair and reasonable' assessment.

EWOV has a Best Practice Procedure that explains the 14 components that EWOV takes into account when assessing what is fair and reasonable. These are:

1. Interviews with relevant others eg witnesses, repairers.
2. Current good industry practice: This should be assessed by asking at least 3 comparable Scheme Participants to respond to a de-identified summary of the complaint issues and to provide advice as to what actions they would have taken and their suggestions about how they would resolve the issues. A summary of this advice is then provided to the complaint party negatively impacted by the advice.
3. A formal peer review generally attended by 8 to 12 staff.
4. Law/ regulations.
5. Technical advice: sometimes independent expert advice will be obtained.
6. Other case results over previous years.
7. Legal advices.
8. Views of the ordinary person in the street: This may be EWOV staff who are not part of the investigations team, family members or in fact the conciliator using the mindset of an 'ordinary person'.
9. Scheme Participant policies and their application.

10. Special customer circumstances, for example, low or no income, medical conditions, disabilities, hardship, old age etc.
11. Customer service performance of the Scheme Participant (either negative or positive).
12. Any previous Binding Decisions.
13. Manager's view of the complaint: A detailed review may be conducted with the conciliator's manager to obtain a different perspective.
14. Other industry practice, for example, telecommunications industry practice.

A fair and reasonable assessment may lead EWOV to believe that the complaint is not established or that the Scheme Participant's proposed resolution is sufficient. If so, EWOV will write to the customer summarising what EWOV has found out and providing the customer with an opportunity to provide further information. If, following that process, EWOV's view is unchanged, it will issue a written investigation report to the customer and advise that it has closed the complaint on the basis that the complaint does not warrant further investigation. This report is not provided to the Scheme Participant.

On the other hand, if EWOV concludes that the Scheme Participant should provide further redress, EWOV may use its fair and reasonable assessment as a step towards the Binding Decision process. EWOV has not, however, experienced the need to make a Binding Decision against a Scheme Participant since 2003. Rather Scheme Participants have acceded to EWOV's view without that coercion.

EWOV data establishes that EWOV only rarely makes a formal assessment of an investigated complaint. Rather the usual course is that one of the parties to the complaint will bring the investigation to a halt: either the Scheme Participant will increase compensation to a level that is satisfactory to the customer or the customer (possibly in response to indications provided by the EWOV conciliator) will moderate his or her expectations and accept a proposed resolution or discontinue the complaint.

Figure 9 below shows that 84% of all investigated complaints in 2012/13 resulted in a conciliated outcome and only 9 complaints resulted in a formal assessment by EWOV that no further investigation was warranted, including because the Scheme Participant had made a fair offer.

Complaints that are conciliated mid-investigation overwhelmingly result in financial redress being provided to the customer as the following table shows.

Figure 9 - Investigated Complaint Outcomes

	Stage 1		Stage 2		Stage 3		Final Stage		Total
	No.	%	No.	%	No.	%	No.	%	
Conciliated outcome	2864	87%	3300	81%	725	86%	453	90%	7342
EWOV finds case OOJ (under consideration by a Court /Tribunal) (Charter 4.2d)	1	-	4	-	0	-	0	-	5
NFI (Fair Offer) (Charter 6.3(c))	0	-	0	-	2	-	1	-	3
NFI (Investigation not warranted) (Charter 6.3(b))	1	-	3	-	2	-	0	-	6
NFI (No further contact from customer including non-participation in the conciliation process such as failure to pay an undisputed amount) (Charter 6.3(c))	417	12.5%	731	18%	110	13%	48	9.5%	1306
NFI (Withdrawn by customer) (Charter 6.3(c))	15	0.5%	29	1%	5	1%	2	0.5%	51
Total	3298		4067		844		504		8713

Whilst EWOV's data is not definitive, a reasonable working assumption is that typically financial redress will include a customer service gesture of at least \$100 but less than \$1,000.

Figure 10 Investigated Complaint Outcomes

	No Financial Redress	Total Closures	% No Financial Redress
Dual Fuel Case	2	24	8.3%
Electricity Case	361	5469	6.6%
Gas Case (including LPG)	101	1709	5.9%
Water Case	32	143	22.4%
Grand Total	496	7345	6.8%

9.4.4. Findings

EWOV's *Fair and Reasonable Procedure* is very comprehensive in its approach to ensuring that the rules of natural justice and procedural fairness are met and decisions are made with regard to the law, codes and good industry practice. Our concern is not with this, but rather that EWOV processes have evolved in a way that is somewhat inflexible and not sufficiently tailored to accommodate different types of complaints.

In particular, we think that there is scope for EWOV to introduce a streamlined merits assessment process for less complex complaints, so that this can occur at an earlier stage than typically applies at the moment. If EWOV were able to do this, Scheme Participants would be less compelled by pragmatic fee considerations to settle complaints on the customer's terms – and more able to use EWOV as an independent arbiter of fairness.

As we see it, the problem at the moment is that there is an assumption that a Fair and Reasonable assessment requires a full 14-component process for every complaint. This was borne out by our review of case files and interviews of EWOV conciliators.

To address this and to enable a merits assessment to occur as part of a Stage 2 investigation for many complaints, we think that EWOV should amend its *No Further Investigation Policy and Procedure* and *Fair and Reasonable Procedure* to introduce the concept of a streamlined merits assessment process for less complex complaints. We would suggest that a complaint is suitable for a streamlined process if it raises issues that EWOV has commonly considered before, if witness statements are not necessary in order to establish the facts and if highly technical issues are not involved and so expert advice is not required.

For these less complex complaints, we think that the assessment process should be able to be confined to consideration of the information provided by the customer and relevant documents and explanations provided by the Scheme Participant, taking into account the law and good industry practice as understood by EWOV based upon its experience in dealing with similar previous complaints. It should not be necessary to approach Scheme Participants with de-identified facts in order to obtain their response to the situation. (Whilst we think that a Scheme Participant consultation process is very useful if a complaint raises an issue that is new to EWOV or that involves highly technical issues, we think that, for example, this process is not necessary where the issue is poor customer service and the extent of the customer service gesture that is appropriate in the circumstances. In our view, EWOV's extensive experience permits it to form a view about what is fair in these circumstances.)

To ensure quality and fairness to the parties, the conciliator should discuss the merits assessment with their manager. The written analysis provided to the affected party should be succinct and able to be produced in an efficient and timely manner. A copy should be provided to the other party to the complaint. As for closure of complaints without an investigation, the customer should have an entitlement to request an internal review of the decision.

In revising investigation processes to bring forward and simplify the merits assessment process at least for the less complex complaints, the aim should be to re-orient the investigation process so as to become more of an arbitration process, rather than (as we believe is the case at the moment) a conciliation process that is informed by the clarification of the facts. We think that there would be a number of advantages:

1. It would lead to outcomes that are more objectively fair (and less a reflection of the relative bargaining skills and 'staying powers' of the parties to the dispute).
2. It would address some of the independence concerns of Scheme Participants that we mention earlier in our Report.
3. It would mean that over time a body of assessments would be developed which would promote consistency within EWOV and inform Scheme Participants' expectations. Some of these could be published on a de-identified basis so as to give greater transparency to other stakeholders as to EWOV's approach and expectations.

4. Finally we think that an investigation process that incorporates more arbitration would address Scheme Participant concerns that EWOV's current approach may be encouraging customers to believe that they will always be able to obtain financial redress if they complain to EWOV, regardless of the rights or wrongs of their complaint – and so may be operating as a spur to customers to make a complaint. (To test whether this is the case, we sought to obtain information from EWOV as to the number of complaints per customer per year. We were not able to obtain annual comparative information as to this and so could not determine whether there is a growing number of 'repeat customers'. This is, however, something that EWOV should seek to monitor going forward.)

Recommendation 4

EWOV should:

- **Revise its *No Further Investigation Policy and Procedure and Fair and Reasonable Procedure* with a view to introducing a streamlined merits assessment process for less complex complaints that is able to be carried out as part of a Stage 2 investigation; and**
- **Monitor trends in relation to repeat customers with a view to assessing whether EWOV's processes need fine-tuning to detect and address frivolous complaints.**

9.5. Disconnections

9.5.1. Stakeholder views

Generally Scheme Participants did not raise with us any concerns about EWOV's approach where the customer's service has been disconnected or restricted, but one Scheme Participant took issue with EWOV's practice of requiring immediate reconnection. The Scheme Participant argued that this does not assist where the Scheme Participant is dealing with a refusal to pay for the service.

On the other hand, the Joint Consumer Submission expressed concern that not all restrictions or disconnections are investigated – rather the customer may be referred back to their service provider. The submission recommends that all disconnections and restrictions are investigated because of the seriousness of the issue.

9.5.2. Findings

EWOV's *Reconnection/ Derestriction Policy* requires all Scheme Participants as a general rule to reconnect or de-restrict a customer where the customer has lodged a complaint with EWOV and the customer has done everything to enable safe reconnection/ de-restriction (the exception is if there are health or safety issues or illegal usage). Reconnection or de-restriction must occur on the day that the Scheme Participant is notified of the EWOV complaint, unless exceptional circumstances make this too onerous. The cost of reconnection or de-restriction must not be passed on to the customer.

Whilst this is the general approach, EWOV's policy recognises that there may be circumstances in which a different approach is appropriate. To ensure appropriate flexibility,

without undermining the integrity of EWOV's usual policy position, the Ombudsman becomes involved where a Scheme Participant puts arguments as to why the usual approach should not apply.

We think that EWOV's *Reconnection/ Derestriction Policy* is sound. Ideally, where there is a dispute between a customer and a Scheme Participant, the customer will be aware of the EWOV avenue and will have brought their complaint to EWOV before disconnection or supply restriction occurs. If so, the costs of disconnection and reconnection will not be incurred. But if disconnection goes ahead before the complaint is lodged, so as to not undermine EWOV's process, it is important that the Scheme Participant recommences supply of what is after all an essential service. At the same time, we think that it is important that flexibility exists to recognise and address exceptional circumstances. Where Scheme Participants assert that a different approach should be followed, the Ombudsman's involvement ensures that appropriate seniority is brought to bear and a consistent approach is taken by EWOV. In fact, as we understand, Scheme Participants only rarely argue that this is the case.

The service having been reconnected, EWOV next seeks to resolve the substantive complaint via its early resolution processes. It will also refer to the Scheme Participant the question of whether a wrongful disconnection payment is applicable on the basis that *Energy Retail Code* requirements were not met (Fact Sheet 8 provides information for residential and small business customers about this). An investigation into these matters will be commenced if the early resolution processes are unsuccessful: see *Same Customer Same Issue Policy*. Ultimately EWOV has the ability to refer wrongful disconnections to the Essential Services Commission so that it can determine whether the Scheme Participant should make a wrongful disconnection payment to the customer.

In our case review, it was overwhelmingly the case that these procedures had been correctly followed. This is assisted by the existence of an EWOV case management system automated control to detect and ensure that review occurs of each disconnection to determine whether a wrongful disconnection payment needs to be made.

9.6. Hardship

9.6.1. Stakeholder views

A number of energy providers expressed concern about EWOV's handling of financial hardship complaints: that these can continue for a long time, that this is problematic for the Scheme Participant given that it is unable to speak directly to the customer whilst the complaint is with EWOV, that EWOV does not sufficiently enforce its requirement that a customer must participate in the process including by making any undisputed payments and that EWOV will allow a customer who has previously agreed a payment plan to re-open their complaint.

The Joint Consumer Submission did not raise any issues in relation to EWOV's handling financial hardship complaints.

9.6.2. EWOV policies and procedures

EWOV's *Financial Hardship Complaint Handling Policy and Procedure* states that EWOV aims to conduct timely investigations of hardship complaints, to facilitate sustainable outcomes and to achieve consistency in its approach to these complaints. Resolution may be achieved by the customer being accepted into the Scheme Participant's financial hardship program. A more complex complaint, for example where there is a history of broken payment plans or multiple

contacts to EWOV, may require more involvement from EWOV to achieve a sustainable solution, including a financial assessment of the customer's capacity to pay. EWOV may also undertake an energy audit to educate the customer about how to reduce future bills. Last financial year, EWOV undertook 168 energy audits (an increase from the previous year when 110 audits were undertaken).

EWOV's *Same Customer Same Issue Policy* sets out the circumstances in which EWOV will re-open a complaint that has already been to EWOV. This recognises that where a customer's circumstances have changed "so as to impact upon their ability to meet previously agreed payment levels", this is a new matter that EWOV needs to take on. But where there is recontact by a customer due to a failure to make a regular affordable payment and the customer's circumstances remain unchanged from the previous complaint, EWOV will usually require the customer to make an affordable payment before taking on the complaint. EWOV will then arrange for a financial assessment, an energy audit and attendance at the site by EWOV and the Scheme Participant where this is appropriate to expedite complaint resolution.

EWOV is expecting above normal growth in hardship related complaints. In response to this, it is planning in the next financial year to establish a specialised team to manage affordability and hardship related complaints. It already ensures specialised training for conciliators who handle hardship complaints and, for complex hardship investigations, a minimum of three to six months' experience in the role.

9.6.3. Findings

We think that EWOV's policy framework is sound. We recognise the frustrations experienced by a Scheme Participant where a payment plan is agreed with a customer, a further default occurs and the matter again becomes the subject of an EWOV complaint – but customer circumstances do change and a new instance of financial hardship must be recognised and treated as such.

In our review of previous cases, we saw many instances where payment plans were agreed. Frequently there were billing delays that prolonged cases. But once the total indebtedness was agreed, the quantum of the regular payment was usually quickly agreed. Certainly it would appear that EWOV is being continuously mindful of the desirability of achieving a timely resolution to a hardship complaint.

At this stage, it is less clear whether the resolutions that are being achieved through EWOV are sustainable and how often it is that the customer is failing to meet their payment plan and instead is making further recourse to EWOV. Clearly it is in the interests of both Scheme Participants and customers for EWOV conciliated payment plans to be set at a realistic level so that the customer is able to reliably meet their obligations and over time reduce their indebtedness. We think that some research would be helpful in the interests of better informing EWOV's facilitation of negotiations between the parties.

Recommendation 5

EWOV should undertake a study of financial hardship payment plans achieved through EWOV, with a view to increasing its understanding of the factors that promote a sustainable resolution to the financial hardship so that this knowledge can inform and improve EWOV's conciliation of financial hardship complaints.

9.7. Complaints involving energy distributors

9.7.1. Stakeholder views

Several retail energy providers raised with us their concern that, where a customer complains to EWOV about a retailer and, in fact, it is the energy distributor who caused the problem, EWOV tends not to refer the complaint to the distributor but rather expects the retail provider to ‘manage’ the distributor and bring about a solution for the customer. Retail providers point out that distributors are Scheme Participants and so EWOV could deal directly with the distributor rather than through the retailer. Also, retailers argue that the relationship between retailers and distributors is not established on fully commercial terms because each distributor has a monopoly role for their geographic area and, as a result it can be difficult for retailers to direct the distributor to resolve the complaint.

9.7.2. Findings

We understand that, because energy distributors are largely invisible to customers, the energy retailer is often blamed by customers for something that is primarily the province of the distributor. Where the distributor is slow to resolve the complaint and the retailer incurs escalating EWOV fees, this is naturally frustrating for the retailer.

To address this, we think that in the interests of fairness to Scheme Participants EWOV should work with energy providers to try and identify complaint situations where EWOV should raise a complaint with the distributor and so deal directly with the distributor (not just through the retailer) on the basis that it is clear that the distributor is the primary responsible party. We have discussed this with EWOV and understand that this is already on EWOV’s agenda.

That said, our view is that EWOV’s primary concern should be to achieve resolution for the customer – rather than to arbitrate between distributors and retailers where it is unclear as to who is responsible for the problem and which company should bear the cost of any compensation payable to the customer. So we think that there will always be some complaints where retailers and distributors negotiate ‘off-line’ from EWOV as to which of them should bear the costs in respect of a resolved complaint.

Recommendation 6

EWOV should consult with energy providers with a view to identifying complaint situations in which EWOV should raise a complaint with an energy distributor and so deal directly with the energy distributor (rather than dealing with them through the energy retailer) on the basis that the distributor is the party that is primarily responsible for the issue raised in the complaint.

9.8. Staff skills and training

9.8.1. Stakeholder views

Scheme Participants were conscious that energy and water complaints often involve highly technical issues. They all welcomed the fact that EWOV is now prepared to recruit staff from industry – something that was previously avoided for fear of bias. A couple of water

companies also commented favourably about the benefits that EWOV's in-house water specialist brings.

Whilst some Scheme Participants were very complimentary about EWOV expertise and skills, other Scheme Participants considered that EWOV continues to lack industry knowledge. There were offers to assist with EWOV staff training, including an offer by an energy distributor to revive the former practice of taking EWOV staff by bus to see system assets and explain these.

9.8.2. Findings

We were impressed by the focus given by EWOV to training of its staff and believe that this lays a solid foundation for fair EDR outcomes.

EWOV has an integrated 3 month 'onboarding' process for new staff that includes induction training and regular testing. Refresher training is reported by staff to be very good. EWOV has recently developed 'Toolbox Talks' that use interactive techniques to build staff skills. Increasingly EWOV's new Competency Framework is being used to prioritise and drive training and learning opportunities – see paragraph 11.4.

In our view, the challenge for EWOV – as is usually the case for EDR schemes – is how to build the necessary industry knowledge. We strongly support EWOV's current willingness to recruit from industry. We would also encourage EWOV to discuss with Scheme Participants whether they can assist with building EWOV staff knowledge, for example, by conducting sessions where they demonstrate and explain their systems to EWOV staff.

Recommendation 7

EWOV should seek to further engage its Scheme Participants in enhancing EWOV staff's industry knowledge by conducting sessions for them where they demonstrate and explain their systems to groups of EWOV staff.

9.9. Quality assurance processes

9.9.1. EWOV processes

EWOV's Quality Assurance Framework requires the review each month of three complaints handled by each staff member. For EWOV staff involved at the early resolution stages, the review includes listening to telephone calls as well as reviewing the records in EWOV's case management system. For investigations conciliators, the review is just of the documentary record.

Checklists are used to structure the reviews. Quality issues (for example, whether there was correct usage of scripting, effective questioning and independence demonstrated) and compliance issues (for example, whether relevant policies and procedures were adhered to) are addressed. A scored report is issued for each reviewed complaint, for discussion with the staff member by their Manager.

There is a team of 4 Quality Assurance staff. Their reviews take between 40 minutes and 2 hours per complaint, depending upon the extent of EWOV activity and complexity of the issues.

9.9.2. Findings

We think that EWOV has a mature Quality Assurance Framework that is helping to embed EWOV desired culture and policies and procedures and thereby supports fair processes and outcomes. Our review of a sample of Quality Assurance reports suggested that issues are being detected and explained sufficiently and appropriately. The indications are that staff respond in a non-defensive way to the suggestions of the Quality Assurance team.

10. ACCOUNTABILITY

The scheme publicly accounts for its operations by publishing its determinations and information about complaints and highlighting any systemic industry problems.

10.1. EWOV complaint data

10.1.1. Stakeholder views

Issues raised by Scheme Participants with the reviewers were around concerns of high counts for complaints – seen as the result of some double counting. In some instances, this is seen as occurring through issues such as dual fuel disputes having two complaints created (one for the electricity and one for the gas account) or a single complaint affecting multiple sites generating multiple complaints within the EWOV system. In other cases, the Scheme Participants were concerned that EWOV would open a new complaint where a previous customer returned – the Scheme Participant believing it was effectively a continuation of the same matter.

Finally, one Scheme Participant could not reconcile EWOV numbers with their internal numbers and thought it may just be an accuracy problem.

Although there was some concern about the billing consequences of double counting, most Scheme Participants accepted that this was not a major issue. Their key concern was the reputational risk to them.

10.1.2. Findings

Our case review confirmed that EWOV does in fact count ‘high’ compared with Scheme Participants – for a few distinct reasons.

First, we found the occasional actual accidental duplication in data eg. a web complaint being followed up by a phone call by the customer and 2 complaints being recorded. This was pretty rare and we think unavoidable in a real-time telephone service environment. We were satisfied that proper procedures were in place to mitigate against including data washing at least quarterly – and that EWOV was prepared to respond where an accidental duplication has occurred and the Scheme Participant requests correction.

We also observed the practices that Scheme Participants raised where multiple complaints are recorded by EWOV – as a deliberate operational choice. In these cases, we think EWOV has sound operational reasons to create multiple complaints – mostly because there is a prospect that the course of the matters may diverge. We understand the Scheme Participant concern not to overstate the actual incidence of complaints, however we think this simply reflects the natural difference between EWOV’s operational priorities and those of the affected Scheme Participant.

For the most part any such overstatement applies to Scheme Participants pretty evenly and is pretty small in impact. We understand that a retailer with a different mix of customers (separation of gas and electricity accounts or more commercial multi-property accounts) might attract a greater impact of any such overstatement, but on the numbers we have seen, do not think that there is any great mischief in this. This is an inevitable consequence of public reporting – ie. it invariably obscures some of the detail. We think it is better for accountability

that EWOV is as transparent as it can be – and where necessary qualifies with explanatory notes – rather than compromising operations or accountability in order to present a picture that is fairer to the Scheme Participant.

10.2. Reporting to industry

10.2.1. Stakeholder views

We received feedback from Scheme Participants that EWOV's reporting to industry is getting better with EWOV prepared to listen and act on requests re: reporting. There were of course a number of specific requests from individual Scheme Participants for further improvements.

Some would like their particular structure reflected better with both consolidated and subsidiary statistics broken down. A number asked for EWOV to identify the names of the Scheme Participants with which they are compared in regular industry reporting.

A common theme was for more contextual information to be provided along with the raw data and for reports to be more focused on the needs of the industry recipients.

10.2.2. Findings

We are acutely aware that an EDR scheme often has a unique window into customer complaint issues that cannot be provided by anyone else in a sector – and therefore has a unique opportunity and, we think, obligation to leverage that window in its industry reporting (as well as its more general public reporting).

We are conscious however that EWOV operates with limited resources and of course, not all industry players want the same options in their reporting. We were satisfied that EWOV is aware of the value that it can contribute, is prepared to tailor its reporting to meet Scheme Participant requirements and that it is making a bona fide effort to progressively meet many of industry's requests. We were satisfied that this is healthy and meets the benchmark standards.

We have suggested below that in time, EWOV could usefully revisit the resources and expertise that it has available for reporting (both to industry and the public). It may be that the Board could see some useful value-add from some greater resourcing in the future.

10.3. Public reporting

10.3.1. Stakeholder views

In addition to reporting back to industry participants, EWOV provides quarterly public reports on current issues and publishes an annual report to the public.

Feedback from both industry and customers was generally very positive – in particular noting EWOV's ability to report on current customer issues within the sector.

As with industry reporting and as we would expect to see, there were a number of suggestions made about ways to improve the utility of EWOV's reporting. Both industry and consumer representatives expressed a desire to see more information that would assist to reduce the causes of complaint – although as you might expect, there was something of a different focus to this desire. Common to both sides however was the request for more

contextual and more granular information about the causes of complaints – with a view to identifying areas where changed practices may reduce number of complaints.

Also common was a request for more granular reporting from EWOV on its own performance, including response times, outcomes (especially unsuccessful complaints), and comparisons of EWOV service to particular Scheme Participants.

The Joint Consumer Submission also sought greater disclosure (naming) of those firms that contribute the most to spikes in complaint numbers in areas such as billing, disconnections, marketing, etc.

10.3.2. Findings

EWOV reporting including its quarterly updates and its Annual Report are presented in a highly accessible, user-friendly style – as appropriate to an essential service EDR scheme. The Annual Report provides information about EWOV demographics, complaint issues, stages at which complaints resolved, systemic issues approach and cases. It provides information about the total quantum of billing adjustments/ CSGs/ waived fees etc. – but does not include information about the number of complaints where the Scheme Participant's position was supported.

The Annual Report provides some EWOV performance information and specifies the average days to close investigations – but does not provide granularity about the timeframes of investigations that exceed the average.

Similarly, the EWOV Annual Report shows the 5 year trend in complaint numbers for each Scheme Participant – but no other breakdown information is provided.

We are inclined to think that enhancement of these areas of public reporting would strengthen EWOV's standing, in particular because of the non-discretionary, essential service nature of the services in question. We recognise that more detailed reporting about Scheme Participants' complaints records would probably require amendment of EWOV's Charter. (An argument could be put that this might be a role better filled by a regulator, however from our observation this seems to be a fit with the role that EWOV has evolved to fill in the sector.)

We are aware that EWOV is already putting in place some important steps to enable it to enhance its public reporting. In particular, EWOV recently developed a Resolution Outcomes Guide to enhance the quality of data collection re: outcomes and to pave the way for better public reporting of outcomes in the future.

We do caution however, that with more reporting comes more responsibility. The more data that is published, the more likely that the data is capable of misinterpretation, that it will require greater explanation and qualification and the greater the obligation to ensure that the additional data is sound and is clearly explained. This all takes more effort and more expertise and more liaison with industry, regulators and customers to ensure that reporting is not misleading.

This should not be taken lightly and we suggest that in time, EWOV may wish to think about adding both expertise and resourcing to support a greater reporting role.

Recommendation 8

In consultation with stakeholders and regulators, EWOV should review its public reporting with a view to providing more detail and analysis and enhancing the value to the sector and the community.

II. EFFICIENCY

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

II.1. EWOV dispute resolution timeframes

II.1.1. Stakeholder views

Stakeholders generally say that EWOV complaint resolution times are prompt and the processes are efficient.

Scheme Participants in particular were satisfied with the 'EWOV 2.0' changes to process that provided them with a more meaningful opportunity to resolve complaints themselves. A number of Scheme Participants noted the reduction in average time taken by EWOV for investigated complaints (from 53 days to 43 days in past year). The Joint Consumer Submission also indicated that - "A large majority (of survey respondents) reported that they did not experience any problems with timeliness." Importantly, our interviews with individual customers frequently elicited unprompted surprise and praise for EWOV's timeliness. Many commented that they were impressed that EWOV's responsiveness and timeliness seemed much better than that of their service provider. Others, under the misapprehension that EWOV is a government agency, expressed amazement at the promptness of response.

But inevitably, there were some concerns expressed around timeliness. The Joint Consumer Submission went on to point out that some 30% of their respondents had experienced clients dropping out of the EWOV complaint process because it was taking too long. In particular, some customer respondents reported wrongful disconnection complaints taking too long to resolve – an area where the submission sought improvement.

A number of Scheme Participants commented on the EWOV backlog that arose in early 2013 and the difficulties they experienced as a result. This included a sense that they were under pressure from EWOV to quickly close cases by agreeing to commercial resolutions rather than waiting for an investigation to unfold.

Even now that EWOV has brought the backlog under control, some Scheme Participants pointed out that some investigations can take much longer than the average, in particular if a customer simply refuses to accept an outcome. In these cases, Scheme Participants felt that EWOV should do more to bring the matter to an end, rather than allow the customer to prolong the process unreasonably (also discussed under benchmarks Fairness and Independence).

II.1.2. Findings

In general, we found that timeliness is a relative strength for EWOV. Telephone basis for early stages and the application of modern call-centre techniques and a practical, no-nonsense approach generally provide exemplary turnaround. This timeliness is respected by Scheme Participants and much appreciated by customers and we think has been achieved without sacrificing fairness, as discussed earlier in our report.

In our review last year of Assisted Referral complaints, we found that some Scheme Participants had been prompt in acknowledging an Assisted Referral but very slow in providing a substantive response to the customer. Whilst we acknowledged the need to make some allowances where complaint volumes surge, we recommended that EWOV discuss Assisted Referral timeframes with Scheme Participants to clarify expectations. We understand that EWOV has continued to work with Scheme Participants and note that problems were not detected in this year’s sample of Assisted Referrals (although we acknowledge that sample size is small and our review undertaken just at one point in time).

The only timeliness issues raised with us were in relation to longer-running investigation matters. We saw considerable management effort on timeliness and note the excellent reduction in average case time from 52 to 43 days over the last reporting year. We also observe that if our recommendations in regard to closing off some cases more decisively are adopted, we would expect this to further improve the average case time.

Figure 11 - Cases closed by time

	2011/12	2012/13	2013/2014 YTD
< 28 days	88.65%	92.05%	88.04%
< 60 days	94.20%	96.72%	93.45%
< 90 days	97.05%	98.63%	96.55%
>90 days	2.95%	1.37%	3.45%
TOTAL	100%	100%	100%

The evidence available to our Review indicated that EWOV’s timeframes are similar to other energy and water ombudsmen schemes. We also note that complex matters can take quite some time to resolve – in any jurisdiction. We understand that this can be a source of frustration for Scheme Participants and customers alike, however both sides need to recognise that it is quite a different challenge for an independent body to form a view on a complex matter than it may appear to a protagonist.

11.2. Efficiency for parties of EWOV service

Efficiency has multiple dimensions, including the effort that is required of users of the EWOV service.

11.2.1. Stakeholder views

A general issue raised by regular users (Scheme Participants and consumer advocates) of the EWOV service relates to follow-up communication. A common observation was that it is difficult to reach particular EWOV staff when following up on current complaint matters – both by phone and email (telephone and email ‘tag’). Some reported that this difficulty (waiting for responses) frequently resulted in lost days and in some cases, unfair escalation of a matter to a higher level.

There was some resentment expressed by Scheme Participants over this – who felt that they were being held to a higher performance standard than EWOV is prepared to hold itself to. Some even suggested a regime of penalties should apply to EWOV where performance standards are not kept.

There was some observation that there was a lack of formal backup in place for when staff went on leave or were unexpectedly absent, with matters left on hold rather than being picked up by another staff member and Scheme Participants not advised. There were suggestions that routine progress reporting from EWOV would help avoid unnecessary follow-up contacts.

In something of a contra complaint, other Scheme Participants were unhappy that there was a lack of continuity with matters frequently changing hands between staff (partly because of the number of part-time EWOV employees) and some repetition/duplication resulting.

Finally some specific process issues were raised that we have passed on to Management – in particular the comment by a couple of Scheme Participants that, where a customer elects to be represented by a third party, prompt resolution of the complaint was often hampered by late provision by the customer to EWOV of a customer authority.

11.2.2. Findings

EWOV's Case Handling Manual sets an expectation that conciliators will keep in touch with customers and Scheme Participants at least every 14 days. Our case review showed this in action. We did not see evidence of repeated telephone 'tag' nor instances where complaints sat in abeyance for a period of 2 weeks or more. We were, moreover, satisfied that there is an appropriate level of management attention to ensuring timely responses. It is possible, therefore, that Scheme Participant feedback about communication problems is more a reflection of past EWOV practices – particularly practices early in 2013 when EWOV struggled with a backlog – than of current practices.

That said, it is clear that stakeholders have high expectations as to communication. As EWOV recognises, it can be difficult to balance the need for responsiveness to consumers and new calls – with the need to respond to communication about existing ongoing matters. EWOV's recent initiatives to change telephone rosters to ensure that its early stage conciliators have time to make outbound calls is a commendable initiative to tackle this issue. We were satisfied that EWOV management continue to pay close attention to communication issues.

11.3. Efficiency of internal management

11.3.1. Stakeholder views

Scheme Participants recognise that EWOV has made considerable efficiency improvements over the past couple of years, that they have been able to shift some matters back to Scheme Participants (appropriately) and are closing matters they deal with faster. They observe a sound degree of EWOV management focus on efficiency.

The key suggestions offered for improvement relate to a desire for EWOV to be more decisive in closing down complaints that either have no merit or where the Scheme Participant has made a reasonable response but the customer is 'holding out' for some better outcome. These issues are dealt with under Fairness.

11.3.2. Findings

We found that EWOV has a robust internal focus on efficiency and costs. EWOV 2.0 process changes have generated substantive productivity improvements and ongoing management attention is continuing to bring costs down – albeit not as dramatically.

Figure 12 - EWOV Staffing changes

	2011/12	2012/13
No. of cases	63,998	77,149
No. of complaints handling staff	71.8	70.4
No. of URs and ARs	50,221	63,413
No. of Intake Team staff	28.6	21.6
No. of RTRs	1,990	6,262
No. of RTR staff	-	10.7
No. of Investigations	10,995	10,627
No. of Investigations staff	43.2	38.1

EWOV data shows that total CPI-adjusted cost per case has reduced in each year since the major impact of EWOV 2.0 and is projected (by Management) to further decrease slightly in 2014/15. This result seems consistent with our observation of internal attention to costs.

Similarly, EWOV data shows that the CPI adjusted cost per minute (for charged out time) will decrease slightly in 2014/15. Our review suggests that EWOV is focused on providing Scheme Participants with good value for their funding.

We also noted an appropriately conservative approach to budget management. We saw evidence of appropriate Board oversight of EWOV expenditures, with business plans and budgets for 2014/15 being developed over the time of our Review with Board input.

11.4. Workforce configuration

One of the key challenges for EDR schemes in the pursuit of efficiency is the need to maintain the ability to respond to inevitable ebbs and flows in complaint volumes. This has been a significant problem for other schemes and EWOV has not been immune.

We observed EWOV striving to build flexibility into its workforce, with some early resolution staff having the capacity to move between the Intake and RTR teams as required to respond to unpredicted demand or staff absence. EWOV is also experimenting with having from time to time a Scheme Participant or event specific team, for example to manage the cases arising from customer data migration following Scheme Participant acquisition.

We are also aware of efforts to enable some transfers/secondments of staff between EWOV and the Telecommunications Industry Ombudsman – another high-volume, EDR scheme that faces similar challenges.

EWOV also briefed us on embedding its new staff competency framework into its learning and development initiatives and its personnel practices and remuneration model. We see these as critical building blocks for an organisation that will tend to have a values-driven culture. We have previously observed that the individual motivations and personal values that staff attracted to EDR schemes bring with them, are powerful but are sometimes difficult to focus. We were pleased to see a comprehensive approach to competencies, culture and values present at EWOV.

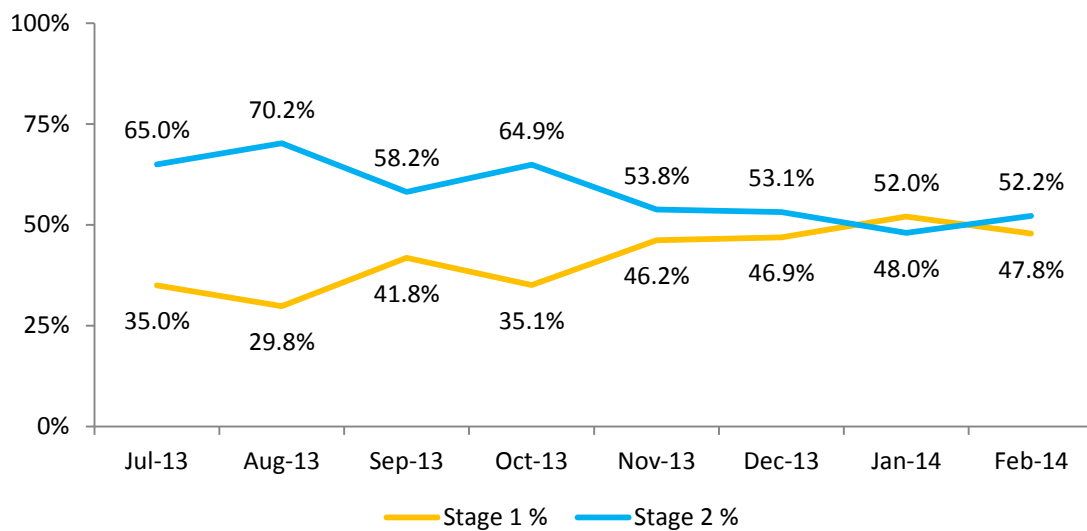
That said, workforce flexibility is a continuing challenge and while these initiatives will go some way to mitigating, we expect that ‘right-sizing’ will need continuing EWOV management attention – and the likelihood is that over time, EWOV will still face the need to upsize and downsize in staff numbers more than would be ideal.

We would encourage the Board to be taking a medium to long-term perspective of these inevitable ebbs and flows. Given that an EDR scheme lives or dies on its reputation for performance, we would, within reason, also encourage the Board to be more willing to live with a little overstaffing than to live with the alternative, which is allowing performance to suffer.

11.5. Monitoring and responsiveness

We noted evidence that EWOV closely monitors the efficiency of its processes and responds to trends identified. In one example, EWOV has taken steps to reverse a trend identified in late 2013 whereby an increasing percentage of complaints were bypassing a Stage 1 investigation and being handled at Stage 2 Investigation.

Figure 13 - Stage 1 and Stage 2 Investigation Ratios



EWOV management show a willingness to use and where necessary, revisit KPIs to drive a changed focus. To illustrate, the following KPIs (see Figure 14) are proposed in the 2014/15 Business Plan.

Figure 14 - Proposed 2014/15 KPI's

Goal	Key Performance Indicator
To provide accessible and efficient service to customers contacting EWOV the 1800 number	80% of calls answered within 30 seconds
To negotiate sustainable resolution of failed Assisted Referrals through the RTR process	85% of RTR resolutions are not reopened
To provide timely and sustainable resolution of straightforward cases	>90% Stage I Investigations are closed within 28 days 85% of cases closed through Stage I Investigations are not reopened
To be both effective and efficient in handing all Investigations	All Investigations (Stage 2+) closed within an average of 60 days > 98% of cases are closed within 180 days 97% of Investigations remain are not reopened

11.6. Application of technology

EWOV arms itself with the technology that we would ordinarily expect to see in a high volume EDR environment – built principally around Resolve case management database software.

At the time that we were conducting the Review, there were some problems with the telephony support system, limiting our ability to listen to recorded calls. Prior to these problems emerging, EWOV had already engaged a consultant to provide expert advice about possible replacement telephony solutions. This is a critical technology platform for a heavily phone-based EDR service and an important choice for the scheme.

We also noted that EWOV is looking to update its technology infrastructure including looking at mobile solutions for Resolve users, continuing to explore the application of Cloud services, virtual desktops and stronger data analysis tools.

While EWOV's funding arrangements were out of our scope, we noted that EWOV, like many EDR schemes, budgets for investment in technology on an annual basis. EWOV is not a capital intensive business and the likely technology investments have not been enormous, and with a supportive Board this has generally been a satisfactory arrangement.

We generally prefer to see EDR schemes starting to plan for capital expenditure over a 3-5 year cycle. We think this helps with a longer term planning focus for the organisation and its Board and it helps to avoid lumpy (albeit short term) cost increases that may run the risk of not being approved because of intersection with other cash-flow demands (eg. premises move, staff redundancies) or environment issues (complaints surges, industry cost pressures).

12. EFFECTIVENESS

The scheme is effective by having appropriate and comprehensive terms of reference and periodic independent reviews of its performance.

12.1. Jurisdictional Coverage

EWOV's Charter gives it broad jurisdiction to consider complaints about Scheme Participants' energy or water services and billing disputes. A complaint may be made by an individual, company, business or affected third party. Some exclusions apply: particularly Scheme Participants' other commercial activities, events outside Scheme Participants' reasonable control, the setting of prices or tariffs, Government policies and complaints under consideration or that have been considered by any court or tribunal.

12.1.1. Stakeholder views

Scheme Participants believe that EWOV has a sufficiently broad remit under its Charter and that the current exclusions under the Charter remain appropriate. One Scheme Participant put forward the view that some jurisdiction test should be implemented to exclude large businesses.

From the customer side a concern was raised that the market was changing, in particular with the growth in electricity re-selling in high-density residential developments. The Joint Consumer Submission recommended that EWOV should move to keep up with these changes by expanding its jurisdiction to cover currently exempt re-sellers and their customers. This is, however, a matter outside the scope of our review.

12.1.2. Findings

In general we found that EWOV's coverage is effective.

While we understand that there could be potential for large sophisticated businesses to 'game' the system by accessing EWOV, in other schemes, we have found that it is quite difficult to frame a large business exclusion that doesn't create more mischief than it achieves. This is typically a problem where there are businesses that may exceed arbitrary 'size' limits but are nonetheless unsophisticated and do not have the resources to do battle with giant utilities in a court of law.

Rather than introducing a new exclusion, we think that EWOV's power to rule a matter out of jurisdiction on basis of more appropriate forum is sufficient to ensure that matters that should not be dealt with by EWOV can be ruled out.

12.2. Monetary limit

12.2.1. Stakeholder views

Where they commented at all, Scheme Participants generally expressed satisfaction with the current jurisdictional monetary limit of \$20,000 however one Scheme Participant indicated

that it was not enough. It was not specifically raised by the Joint Consumer Submission, nor in any of the specific complaints that we reviewed.

12.2.2. Findings

There are a small number of matters that reach investigation that involve an amount exceeding \$20,000. EWOV is able to conciliate these matters but cannot make a Binding Decision unless the Scheme Participant's consent is first obtained (an issue that is more of theoretical than actual significance, given that in practice Scheme Participants will defer to EWOV's view without EWOV having to make a Binding Decision). As a percentage, the number is tiny, but as Figure 15 below shows it occurs enough to be a noticeable activity and looks to be trending upwards quite rapidly.

Figure 15 - Matters exceeding monetary cap

	2012/13	2013/14
Flagged that disputed amount more than \$20,000	88 (0.1% of all cases)	128 (0.2% of all cases to end Feb 2014)

We do not automatically adhere to the argument that such monetary limits should move with the CPI – unless some solid analysis has been done of the appropriateness of the limit at the time of it being cast. Further, we think any increase to these limits should be subject to some continuing analysis.

On the evidence available, it would appear that the original limit was more than adequate for the first 14 or 15 years but numbers of complaints exceeding the limit have been increasing in the last two years. We are conscious that the community is now in a period of structural change where energy and water costs are outpacing and will continue to outpace inflation by some margin.

We think that in this environment there is a case for EWOV ensuring that the monetary limit does not become something that Scheme Participants point to when refusing to reach a resolution with customers. Nor a bone of contention with customers or totemic symbol of the broader system becoming out of reach of the 'ordinary' customer.

In considering what might be an appropriate increase, if CPI was applied to a limit first struck in 1996, the limit would now be something of the order of \$32,000. As discussed, we do not think that there is a compelling argument for this particular number, however rather than simply arbitrarily pick a figure, we suggest that EWOV examine the matters that exceed the limit and identify a threshold number that would keep the numbers of matters above the limit to .1% or less of complaints received (more or less the 2012/13 proportion). To avoid continuous fiddling at the margins, we suggest that this figure be reviewed (say) every 5 years.

Recommendation 9

EWOV should periodically (say every 5 years) monitor the monetary limit by identifying the number of complaints involving a claim for more than the monetary limit. If the trend is to an increasing percentage of complaints, EWOV should increase the monetary limit to stabilise the situation.

12.3. Disputes outside Terms of Reference

12.3.1. Stakeholder views

A number of Scheme Participants expressed concerns with us about EWOV taking on matters that were outside the scope given to them by the Charter – in particular pricing and policy issues. The concern was that EWOV will be too inclined to interpret an issue as a customer service issue eg. a customer complaint about water prices will be interpreted by EWOV as a failure by the Scheme Participant to respond adequately to the customer’s query.

12.3.2. Findings

We found that very few matters are being excluded from jurisdiction by EWOV. While there are powers and procedures for excluding complaints, we found that there is a tendency to be reluctant to exclude a complaint on its face – without conducting some level of investigation to establish to EWOV’s satisfaction that there is no merit to the complaint.

While this is an understandably cautious philosophy, the practical result is that to avoid escalated fees, Scheme Participants will tend to settle matters before they reach an EWOV investigation stage with a Customer Service Gesture - as a pragmatic commercial decision. Once again, these issues cross over with the issues raised under Fairness and Independence.

We do think that the balance may not be entirely fair in this case. Figure 16 below shows the numbers of EWOV complaints that were excluded for being outside of jurisdiction in 2012/13. These are very small numbers by comparison with EDR in other sectors that we have reviewed. While it is difficult to make a sound argument for what would be a more ‘correct’ proportion, intuitively we think that the numbers shown as excluded below are very low.

We do not think this is a deliberate policy by EWOV to ‘keep matters in’, rather that it is the effect of the intersection of EWOV’s emphasis on conciliation and its preparedness, if the customer so wishes, to investigate any complaint that fails to resolve in EWOV’s early resolution stages.

Given the essential services context, we think that it is entirely appropriate for EWOV at the Assisted Referral stage to be very cautious about excluding complaints and, for example, to refer on a pricing complaint that has a customer service or other such dimension to it. But, as discussed earlier in our report, we think that there is scope for EWOV to be more selective about whether it will commence an investigation and matters that are substantively out of jurisdiction are likely to fall into this category.

Figure 16 - Cases outside jurisdiction

	Number of cases closed in 2012/13	Percentage of cases closed in 2012/13
Within jurisdiction	62,645	95.16%
Yes - 3.2(d) out of time	14	0.02%
Yes - 4.2(a) setting of prices or tariffs	340	0.52%
Yes - 4.2(b) commercial activities outside scope	138	0.21%
Yes - 4.2(c) content of government policies	436	0.66%
Yes - 4.2(d) under consideration court/tribunal	25	0.04%

Yes - 4.2(e) required by legislation	40	0.06%
Yes - 4.2(f) contribution to capital works	11	0.02%
Yes - 4.2(g) beyond reasonable control	19	0.03%
Yes - 4.2(h) action taken under direction	1	0.00%
Yes - not about scheme participant	732	1.11%
Yes - Private Installers	497	0.75%
Yes - Property / customer outside Victoria	936	1.42%
Total	65,834	

12.4. Systemic issues

12.4.1. Scheme Participant views

Whilst some Scheme Participants were content with EWOV's approach to systemic issues, there were Scheme Participants that considered that EWOV did not add much value particularly where the Scheme Participant itself has identified the issue. One Scheme Participant thought that EWOV could undertake more robust analysis of its data and better support Scheme Participants to minimise future complaints.

12.4.2. Consumer views

The Joint Consumer Submission noted that energy systemic issues are referred by EWOV to the Essential Services Commission for investigation, whereas water systemic issues are investigated by EWOV and then referred to the Department of Environment and Primary Industries. The Submission recommends that EWOV investigate all systemic matters, seek redress for customers and report all energy matters to the Essential Services Commission and water matters to the Department.

The Submission also advocates enhanced public reporting and in particular public identification of the Scheme Participant responsible for a systemic issue. It is said that this would deter poor industry practice, with the result that performance would improve and complaints reduce. Lastly the Submission urges EWOV to produce guidelines on industry best practice as a way of improving performance and reducing complaints.

Lastly the Submission urges EWOV to produce guidelines on industry best practice as a way of improving performance and reducing complaints.

12.4.3. Findings

Our review satisfied us that EWOV staff are actively looking out for possible systemic issues and referring these to EWOV's Systemic Issues Specialist. If the Specialist agrees that the matter may be systemic, the Scheme Participant is informed and asked for information about the number of people impacted.

From our review of a sample of systemic issues and discussions with EWOV staff, it would seem that EWOV typically does not undertake a detailed investigation of either energy or water systemic issues. Rather it sees its role as primarily one of monitoring the efforts being made by the Scheme Participant to remedy the matter and for the most part we think that this is appropriate. Where, however, EWOV thinks that the Scheme Participant may not be doing

all that it should to analyse a systemic issue, identify the root causes and address these and to identify those affected and provide adequate rectification, a full investigation would, however, be important. Of course, it would always be open to the overseeing government body to undertake further investigation.

By way of broadening EWOV's contribution, we think that it would be worthwhile for EWOV to explore the possibility of enhancing its analysis of its data – including to explore differences as between Scheme Participants - to try and identify practices that lead to complaints. The aim would be to work with Scheme Participants individually and collectively to see if changes can be made that will minimise complaints. This may include additional guidance from EWOV for Scheme Participants along the lines of EWOV's recently developed Position Statement 1 *Meter access and estimated billing – best endeavours* and Policy Statement 2 *Credit collection and default listing* (these are at the moment only available to Scheme Participants but we would encourage EWOV to make these generally available on its website). Other possible outcomes might be further educative materials for customers or new industry practices.

Of course, the extent to which EWOV is able to be effective in minimising complaints in this way will depend in part upon the goodwill of industry. It would, however, be consistent with EWOV's Business Plan for 2014/15 to invest in efforts of the kind we are suggesting. Another ombudsman's office has recently embarked on this journey. We would encourage EWOV to discuss this initiative with its inter-State counterpart and learn from its experience.

Recommendation 10

EWOV should:

- undertake enhanced analysis of its data with a view to identifying practices that lead to complaints;
- work with Scheme Participants to try and address these practices; and
- try to build upon the experiences and learnings of its inter-State counterparts in undertaking this work.

12.5. Complaints about EWOV

12.5.1. Stakeholder views

Almost universally, interviewed Scheme Participants told us that they felt able to raise with EWOV management any concerns they had either in relation to specific complaints or more generally about EWOV's approach. Whilst most felt that EWOV was responsive to their concerns, one Scheme Participant commented that it was difficult to get EWOV to change its position and a couple of other Scheme Participants commented that EWOV would fix the specific issue but not its general approach.

The Joint Consumer Submission, on the other hand, focused on the difficulty of finding EWOV's complaint handling policy on EWOV's website. The Submission noted that there is a 60 day window after the closure of a complaint during which the customer is entitled to an internal review of EWOV's closure decision. "This information is important for customers who wish to make a complaint about an EWOV process, and needs to be more prominent."

12.5.2. Findings

We agree that EWOV's website should display more clearly how it deals with complaints about EWOV. To achieve this, the website Feedback Form needs to be enhanced and should include a link to EWOV's *Internal Complaints Handling Policy*.

Appropriately the *Internal Complaints Handling Policy* sets out how EWOV will deal with complaints about:

1. EWOV's case handling and progression (whether by the Scheme Participant or the customer); and
2. an EWOV merits-based closure of a complaint – in both of the last 2 financial years there were 3 internal reviews conducted but given the small number of merits based closures – see paragraph 9.4.3 - this number does not surprise.

EWOV's policy does not, however, require the logging of complaints about EWOV. This is best practice that other EDR schemes are finding enables trend analysis and reporting that promotes continuous improvement. We are aware that EWOV plans next financial year to more systematically capture and track feedback about EWOV's case handling to ensure EWOV is effectively managing the balance between the efficiency, fairness and independence of its processes. We would also suggest that logging of complaints about EWOV's performance will provide a mechanism to ensure that, as well as fixing a specific problem raised in a complaint, there will be better recognition of situations where EWOV needs to make a process change or other more general response to the complaint.

Recommendation 11

EWOV should:

- enhance its Feedback Form and provide a link on this webpage to its *Internal Complaints Handling Policy*
- log complaints about its performance, analyse trends and identify improvement opportunities and provide regular reporting to the Board.

12.6. Scheme Participant compliance with EWOV's processes

12.6.1. Stakeholder views

Whilst Scheme Participants understood and accepted that EWOV can upgrade complaints where they fail to respond sufficiently or on time, there were some concerns that EWOV's upgrade practices can be unduly rigid and do not sufficiently take into account whether the Scheme Participant is participating in the resolution process. There were also observations about inconsistency in practices as between conciliators.

12.6.2. Findings

Our review of case files and interviews with Scheme Participants satisfied us that EWOV has articulated its processes clearly to Scheme Participants so, for example, there is clarity as to when they must respond either to a customer (in the case of an Assisted Referral) or to EWOV (for a later stage complaint).

We found that EWOV is monitoring and addressing Scheme Participant non-compliance with EWOV processes. We discuss at paragraph 11.1 the work that EWOV is doing to promote a timely substantive response to the customer at the Assisted Referral Stage. Our case file review provided many examples of EWOV promptly identifying a failure by a Scheme Participant to respond on time to EWOV. EWOV's Case Handling Manual specifies that EWOV can upgrade a complaint if the Scheme Participant's response is late or if EWOV considers that the response does not progress the complaint: we saw examples of upgrading on these bases in our case file review.

It was also clear from our case file review and interviews that Scheme Participants are very conscious that fees quickly escalate if they do not respond to EWOV requests in a timely way. We understand Scheme Participants' perspective about upgrading of complaints and inconsistent practices and that this is an area where they sometimes make contact with EWOV Managers to protest an upgrade decision. We were, however, satisfied that as a general rule EWOV responds flexibly and appropriately in these situations: we saw in our file review instances where an upgrade decision was reversed.

Our conclusion is that the upgrade policy is an important tool for EWOV to achieve compliance with its processes and that for the most part EWOV is utilising this in a sensible way.

ATTACHMENT: EWOV ADDITIONAL QUESTIONS

Without in anyway limiting the scope of the review and the full consideration of the National Benchmarks, EWOV requests the following questions be considered:

1. Accessibility
 - a. Do EWOV's materials explain EWOV's processes and jurisdiction in an accessible manner?
 - b. Is EWOV effectively targeting vulnerable and disadvantaged customer groups (and their representatives) in its awareness and promotion efforts?
 - c. Are EWOV's staff trained adequately to explain EWOV's processes and handle the complaints EWOV receives?
 - d. Is EWOV's process simple to understand and easy to use?
 - e. Is EWOV doing enough to ensure scheme participants are advising customers that they can come to EWOV if their complaint is not resolved? Is there a clear link between scheme participant internal dispute resolution procedures and EWOV as an external dispute resolution mechanism?
2. Independence
 - a. Do EWOV's case handling and decision making processes support EWOV's reputation as an unbiased and impartial dispute resolution scheme?
 - b. Do stakeholders view EWOV's case handling and decision making processes as independent and impartial?
3. Fairness
 - a. Do EWOV's policies, processes and outcomes adhere to the rules of natural justice and procedural fairness?
 - b. Does EWOV make its decisions on what is fair and reasonable having regard to relevant law and codes and good industry practice as they apply in the specific circumstances of a complaint?
 - c. Does EWOV provide sufficient guidance and training to staff to support fair case handling and outcomes?
 - d. Does EWOV's Quality Assurance Framework support fair processes and outcomes?
4. Accountability
 - a. Does EWOV's public reporting ensure public confidence in EWOV and its performance?
 - b. Do EWOV's public reports provide information that enables industry improvement?

- c. Would EWOV's public reporting be enhanced if EWOV was able to breakdown complaint trends further and identify scheme participants? Should EWOV's Charter be amended to enable this to occur?
- d. Does EWOV's reporting of systemic issues contribute public confidence in EWOV and the industry?

5. Efficiency

- a. Does EWOV's process deliver efficient complaint resolution to customers and scheme participants without adversely affecting the quality of the outcome or process?
- b. Does EWOV provide scheme participants with good value for their funding?

6. Effectiveness

- a. Does EWOV's Charter provide sufficient jurisdictional coverage to enable EWOV to deal with complaints about current and emerging energy and water issues?
- b. Should EWOV's binding decision monetary limit be increased to be reflective of the increased amounts in dispute and general increases in the price of energy and water since EWOV was established in 1996?
- c. Does EWOV's current systemic issues process adequately ensure confidence in EWOV and its role?
- d. Does EWOV's Internal Complaint Handling Procedure provide sufficient avenue for complaints about EWOV to be addressed?
- e. Are EWOV's mechanisms to encourage scheme participant compliance with EWOV's processes sufficient to promote customer confidence in EWOV and its role?