



Electricity and Gas Complaints Commission's Response to Independent Review

The Electricity Complaints Commission was an independent complaints resolution scheme that was established in August 2001 for customers of electricity suppliers throughout New Zealand. Gas jurisdiction was added from 1 April 2005 and the Commission became the Electricity and Gas Complaints Commission.

The purpose of the Commission is to provide independent implementation and administration of the scheme to ensure the scheme is free to consumers, accessible, fair, effective, accountable and independent.

The scheme's rules provide for the scheme to undergo an independent review of its performance and effectiveness three years after its adoption.

PS...Services was commissioned in September 2004 to conduct the review and a final report was presented in March 2005.

The scope of the review was for a qualitative assessment of the scheme's performance and consideration was given to the Australian Benchmarks for Industry-Based Customer Dispute Resolution Schemes as a basis for measuring "best practice", council member and complainant satisfaction, the scope of the scheme and effectiveness of the Commissioner's Terms of Reference.

The review included surveying members and complainants as well as considering the processes established by the Commissioner for the handling of complaints.

The Commission considers the report provides a relatively comprehensive overview of the issues facing the scheme and is a valuable contribution towards informing both industry and consumer representative groups of the challenges but also the opportunities the scheme presents.

The Commission is pleased that the report has found that the scheme is making good progress towards achieving the benchmark standards, and most users of the scheme have confidence in it. The report found that where the scheme did not meet the international benchmarks, this was mainly due to the relative newness of the scheme and noted a number of initiatives and developments have been completed over the past year.

The report sets out a number of suggestions for change to the scheme which has provided a useful focus for discussion and planning. The Commission is happy to accept most of the recommendations as improvements and on a number of recommendations, the Commissioner has already taken decisive action.

There are some areas where the Commission does not agree wholly or in part with the reviewer's recommendation. This is mainly due to the complexity of the issues which the reviewer had to come to grips with within a limited time frame - a number of the solutions required comprehensive hands on understanding of the complaints

resolution industry. The Commission also observed the difficulty in drawing conclusions from a small survey sample.

The Commission's responses to each of the recommendations are set out in the attached table of responses. The package of recommendations that have been accepted by the Commission represent further improvement to the scheme.

Commission’s Response to the Report Recommendations

The recommendations have been separated into six categories:

- Implemented – where the recommendation has already been implemented.
- Agreed – where the recommendation has been agreed to, but not yet implemented.
- Agreed in part – where the intent of the recommendation is agreed to, but not the whole recommendation.
- Agreed in principle – where the recommendation is considered a good idea, but further funding or additional work is required.
- Not agreed.
- No view formed– where further work / consultation is required.

The Commission’s response to each recommendation is:

<p>1. The Code of Practice be amended to require members of the Scheme to publicise the availability of the Scheme to consumers on bills (at least once per year) and on disconnection notices, emphasising consumers should first raise concerns or complaints with their electricity company, and then, if the company fails to respond to or address their concerns satisfactorily, the Scheme is available for consumers to take their complaint to for independent investigation.</p>	<p>Agreed in part.</p> <p>The Commission supports the practice of member companies publicising the availability of the scheme by inserting a promotional brochure along with the bill once a year. This is preferable to the information being put on the bill because it is less likely to create brand confusion between the company and the scheme.</p> <p>The Commission supports information about the scheme being inserted along with the company’s initial disconnection warning letter.</p> <p>The Commission has instructed the Commissioner to explore cost effective ways of achieving this outcome before consideration is given to the way it will be dealt with.</p>
<p>2. The procedures for taking test cases be further developed and included in the Terms of Reference, providing for:</p> <ul style="list-style-type: none"> • The consumer to have the legal representative of their choice • The Commissioner to be final arbiter of what are reasonable costs, if these are in dispute • If the Commissioner does not concur with a member’s statement of the reasons for a test case pursuing the complaint in court proceedings, and the 	<p>Agreed in part.</p> <p>The Commission agree the procedures for taking test cases need to be further developed.</p> <p>The Commission does not agree with it becoming involved in the Commissioner’s decision making processes.</p> <p>The distinct division between the Commission’s and the Commissioner’s responsibilities are a vital part of the scheme.</p> <p>The Commission believes that it is important to not compromise the independence of the Commissioner’s</p>

<p>matter cannot be resolved between the member and the Commissioner, it shall be referred to the Commission (or a sub-committee of the chairperson, an industry and a consumer representative) for a final decision on the basis that it is satisfied the reasons meet the criteria in the Terms of Reference (clause B4.1)</p>	<p>office by becoming involved in matters governed by the Terms of Reference as suggested by the recommendation.</p> <p>The Commission will engage a legal expert to conduct an independent review of the procedures.</p>
<p>3. In the interests of improving the level of compliance with the Scheme, and to better meet the benchmark standards for accountability, clause B3.17 of the Terms of Reference be amended to allow the Commissioner to publish the names of members who do not meet their obligations under the Scheme, in accordance with the performance benchmark standard.</p>	<p>Not agreed.</p> <p>The Commission is concerned that a surveillance function is inconsistent with the dispute resolution purpose of the scheme.</p> <p>The Commission consider it more appropriate for the Commissioner to communicate directly with member companies concerning their general compliance with the scheme as provided for under B5.1(i)(i) of the Rules.</p>
<p>4. Clause A5.2 of the Rules of the Commission be amended to permit the publication of details in accordance with clause B3.16 of the Terms of Reference.</p>	<p>The Commission agree there is a conflict in the drafting of the two clauses which needs to be resolved.</p> <p>The Commission will consult in accordance with A6.3 of the Rules before putting a recommendation to the Board.</p>
<p>5. For the avoidance of doubt, the Terms of Reference be amended to state that the Commissioner may consider a complaint if she is satisfied the complaint has been raised with the company (as opposed to having been referred to the in-house complaints handling service), and that the complainant can ask the Commissioner to look into their complaint again if the complaint is at deadlock, i.e. has not been resolved satisfactorily and the company has taken longer than 20 working days to deal with it (or 40 days if the complainant has been notified and given reasons for the longer period of time).</p>	<p>Not agreed.</p> <p>The Commission does not consider it necessary to amend the Terms of Reference for “the avoidance of doubt”. The current practice is clear and is working well.</p>
<p>6. For the avoidance of doubt or dispute, the Rules be amended to allow the Commission to appoint the Commissioner on such terms as it</p>	<p>Agreed.</p> <p>The Commission agrees an amendment is required to ensure the Rules reflect</p>

sees fit (which may be a contract of service or a contract for services).	current employment law.
7. The timeframes for members to consider and vote on proposed changes to the Scheme, the Deed or the Dispute Resolution Protocol be aligned and shortened to be more in line with the time allowed to consider changes to the Deed and Protocol (say 15 working days), and that 20 working days' notice before changes to Deed or Protocol take effect (in line with changes to the Scheme).	Agreed in part. The Commission will recommend to the Board that it undertake a review of the scheme amendment provisions.
8. A simple majority vote for changes to the Scheme be permitted in the Scheme Amendment Committee, with either the independent Chairperson being allowed the deciding vote, or the matter being referred to an independent arbitrator.	The Commission agrees in principle that the process for making changes to the scheme should be reviewed. The Commission will recommend to the Board that it undertake a review of the amendment scheme provisions. The Commission does not agree with the specific recommendation made by the reviewer for a simple majority vote as the process for changing the scheme was a carefully negotiated process between industry and consumers.
9. The Commission do more to promote the Scheme to disadvantaged and special needs groups through existing support services and networks, including Work and Income NZ's migrant call centre, Department of Internal Affairs translation line, ethnic councils and migrant support groups, Family Budgeting, Work and Income, Housing NZ and other similar services that reach these consumers.	Agreed in principle. These issues will be covered in the Commissioner's annual Communications Plan.
10. A coordinated effort by the Commission and members be undertaken to promote the availability of the Scheme, in conjunction with the changes to include the gas industry within the Scheme.	Agreed. These issues will be covered in the Commissioner's annual Communications Plan.
11. Members' obligations to determine the complaint managing company under the Dispute Resolution Protocol in a timely fashion, and the	Agreed in part. Current practice is for copies of the complaint to be sent to both the retailer

<p>mechanisms in it for resolving disputes/difficulties between members at a later date be clarified and reinforced, so these do not impact on dealing with the consumer's complaint.</p>	<p>and lines companies following receipt of the complaint within the office.</p> <p>The Commission agree that it is appropriate for the Commissioner, upon request by the companies, to facilitate the decision-making process of who is the appropriate complaint managing company.</p>
<p>12. The Commission require a summary statement of the reasons for the company's position (which may be confirmation of the company's written response to the complainant) when requesting the disclosure of information relating to a complaint. The wording used should also aim to encourage companies to review the information in relation to the complaint prior to sending it through to the Commission.</p>	<p>Implemented.</p>
<p>13. A policy defining which cases get published as case notes in the Case Digest be developed and published. Those cases that should be published should include all cases in which the Commissioner has made a determination, and all cases in which a notice of an intention to recommend has been accepted by the parties as a settlement. Other cases may be included for interest, illustrative and educative purposes at the Commissioner's discretion.</p>	<p>Agreed.</p> <p>Most of the work has already been done on this.</p>
<p>14. The Commissioner publishes complaint statistics by name of company, ensuring that the statistics are accurate, meaningful and comparable, and that they are released with appropriate explanatory notes.</p>	<p>No view formed.</p> <p>The Commission considers this issue to be a work in progress that requires appropriate discussion and consultation with scheme members and consumer representatives.</p>
<p>15. The Commissioner develops a set of conditions under which names will be published, and that these include the names of members who have repeated breaches of the Code of Practice and Disputes Resolution Protocol, and who have had patterns of similar complaints brought to their attention by the Commissioner as possible systemic</p>	<p>Not agreed.</p> <p>The Commission is concerned that a surveillance function is inconsistent with the dispute resolution purpose of the scheme.</p> <p>The Commission consider it more appropriate for the Commissioner to communicate directly with member companies concerning their general</p>

issues.	compliance with the scheme as provided for under B5.1(i)(i) of the Rules.
16. On the basis that the relevant changes to the Terms of Reference will be implemented, the Commissioner give notice to members that she intends to publish the names of members who have not met their obligations as Scheme members in the 2006/07 Annual Report.	<p>Not agreed.</p> <p>The Commission is concerned that a surveillance function is inconsistent with the dispute resolution purpose of the scheme.</p> <p>The Commission consider it more appropriate for the Commissioner to communicate directly with member companies concerning their general compliance with the scheme as provided for under B5.1(i)(i) of the Rules.</p>
17. The Office's previous practice of following up a complaint that has been referred back to a company to check whether the complaint has been resolved satisfactorily be reinstated. A standard letter can be sent to the complainant (copied to company) 20 working days after the matter has been referred back to the company, emphasising to the complainant that they may approach the Commission again if their complaint has not been satisfactorily resolved or they consider the company's decision or offer to be unacceptable.	<p>Agreed in part.</p> <p>A full-scale implementation is not supported due to resource constraints however the Commission supports the Commission using this practice from time to time to ensure members are informing consumers about the scheme.</p>
18. The time between a consumer first contacting their company with a concern or issue, and that contact being recognised as a complaint be monitored by the Commissioner for compliance with the Dispute Resolution Protocol and Code of Practice, with a view to raising persistent "offending" as systemic issues with the companies concerned, recognising inordinate delays in awards that may be made, or naming companies if other strategies do not work.	<p>Not agreed.</p> <p>The Commission is not aware of this being an issue and considers current practice to be sufficient.</p>
19. The 20 days process for a company to have resolved a complaint be deemed to have started at the point where there is clear evidence that the complainant has raised their concern with their company as a complaint.	Implemented.

<p>20. The closure of long-term files be identified as a priority for the Office, and consideration given to dedicating a resource to focus on this, while the rest of the Office concentrates on managing ongoing and incoming work.</p>	<p>Implemented.</p>
<p>21. The Commissioner move to develop internal performance standards and monitor the timeliness of internal processes, and continue to look for ways to improve and shorten timeframes, including reallocating resources and/or responsibilities, improving time and case management practices, performance management, and encouraging members to be more thorough in their own complaint investigation procedures.</p>	<p>Agreed. The Commission notes the recommendation.</p>
<p>22. Ways in which information can be made more relevant to lines companies be explored and developed.</p>	<p>Agreed. The lines company complaints were originally embedded within total complaints. They have since been separated out providing for greater meaning.</p>
<p>23. The Internal Review Policy be amended to clearly include scope for member companies to make complaints on the designated grounds.</p>	<p>Agreed. This has always been the Commissioner's intention.</p>
<p>24. The proposed Internal Review Policy provide for reviews of the Commissioner's decision-making processes to be referred to the Chairperson of the Commission for investigation (either herself or through the appointment of an independent investigator/panel), consideration and response, if the complainant's concerns cannot be addressed and resolved initially by the Commissioner. The complainant should be advised they have the option of referring the matter to the Chairperson if they are not satisfied with the Commissioner's initial response.</p>	<p>Not agreed. The Commission does not agree with it becoming involved in reviewing the Commissioner's decision making processes. The Commission's governance role is concerned with the standard of performance of the Commissioner, which is an associated but separate matter. The Commission believes the current Internal Review Policy provides a sufficient review process for an industry complaints resolution scheme.</p>

<p>25. The Commissioner monitor and report to the Commission and Board on the level of compliance with the Dispute Resolution Protocol, with regard to the requirements for internal complaint handling services. Persistent breaches of Protocol requirements should be identified as systemic issues with the companies concerned, and if breaches continue, the names of companies who do not meet their obligations should be published, as discussed under the Accountability benchmark standard.</p>	<p>Agreed in part.</p> <p>The Commission supports the Commissioner reporting to it on the level of compliance with the Protocol and any systemic issues.</p> <p>The Commission supports the Commissioner in providing feedback to the members concerned about these issues.</p> <p>The Commission does not support the publishing of names as it implies the Commissioner acting in a surveillance role which goes against the purpose of the scheme.</p> <p>The Commission will continue to consider the issue of systemic process failure and how it is to be managed.</p>
<p>26. The Commission periodically survey complainants to, among other things, determine demographic characteristics, as part of its monitoring of access to the Scheme.</p>	<p>Agreed in principle.</p> <p>These issues will be dealt with in the Commissioner's annual Communications Plan.</p>
<p>27. A checklist of information to convey to complainants be developed for Resolution Officers, similar to the checklist providing guidelines for conciliators.</p>	<p>Implemented.</p>
<p>28. Standard questions and responses be developed for use by Resolution Officers to assist in probing the bases for initial complaints, particularly if complaints relate to affordability and disconnection issues that appear to have no underlying causes to make them fall within the jurisdiction of the Commission. Responses should include referrals to an appropriate advisory service or agency, as required.</p>	<p>Implemented.</p>
<p>29. The Commission develop and consult over a general definition or guidelines about what will constitute "good" industry practice (eg technically feasible, efficient, high quality, low error rates, etc), in order to gain industry buy-in to the process of establishing of good</p>	<p>Not agreed.</p> <p>The Commission considers the current Determining Good Industry Practice Policy provides sufficient guidelines on this issue.</p>

industry practices.	
30. Statistics on the Commission website be updated and maintained regularly.	Agreed. Statistics on the website will be updated on a quarterly basis.
31. The guidelines for conciliation approach be amended to include providing an estimate of timelines in the initial information phase.	Implemented.
32. Staff ensure that all interested parties to a complaint are kept regularly informed of progress and the status of the investigation and conciliation of the complaint.	Implemented.
33. Where the Scheme Amendment Committee is considering proposed changes to the Scheme, sufficient time is allowed for an appropriate level of dialogue and debate, and that it is resourced with some analytical capability to undertake further investigation of issues where compromise solutions are being proposed and the implications are not clearly understood by the Committee members.	Agreed in part. The Commission will recommend to the Board that it undertake a review of the scheme amendment provisions.