



Electricity and Gas Complaints Commissioner Scheme

Independent review of Scheme – recommended changes to Scheme document

Consultation document – round 2

SUBMISSIONS DUE 5 PM Monday 11 June 2012

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1. Background

The EGCC Board is seeking submissions on its proposals to amend the Scheme to implement recommendations from the Baljurda Report.

Baljurda Comprehensive Consulting Ltd conducted an independent review of the Scheme, and in September 2011, recommended a number of changes to the Scheme. The Board accepted most of the recommendations for the purpose of consulting with stakeholders.

In March and April 2012, the Board consulted with stakeholders on proposed changes to the Scheme. The Board received 19 submissions and thanks submitters for their comments.

The Board referred the submissions to a Working Group and asked the Working Group to recommend which changes should proceed to the second round of consultation.

The Board has reviewed the Working Group's recommendations and instructed DLA Phillips Fox to draft proposed amendments to the Scheme document. The Board is now consulting on the detail of the proposed amendments.

2. Proposed amendments

The revised Scheme document containing the proposed amendments is available on the [current consultation page](#). The \$value jurisdictional limit is left blank in the revised Scheme document – see further comments on this in section 3 below.

Appendix 1 to this document contains The Baljurda recommendations, the Working Group's response and Board decisions.

The previous consultation document is available [here](#) or through www.egcomplaints.co.nz on the *Current Consultation* page.

3. \$value jurisdictional limit

The Board is seeking further comment on the Minister's request to increase the jurisdictional limit.

After considering submissions and the letter from the Hon Chris Tremain (then Minister of Consumer Affairs), the Working Group recommended the Board increase the limit to \$25,000 (and up to \$60,000 with the consent of the member).

The Board has received a further letter from Hon Simon Bridges, now the Minister of Consumer Affairs, asking the Board to increase the limit to \$50,000. A copy of this letter is attached as appendix 2.

The Board is seeking the views of stakeholders on the appropriate jurisdictional limit for the Scheme. It would be helpful if, when commenting on this point, submitters provided reasons for their view. The board will need to make a decision and wants to be as informed as possible before it does that.

One of the principles the Scheme is required (by the Electricity Industry Act 2010¹) to meet is the principle of effectiveness. In the Benchmarks for Industry-Based Customer Dispute Resolution Schemes,² a key practice of effectiveness is that the scope of the scheme is sufficient to deal with the vast majority of customer complaints in the relevant industry and the specified maximum is consistent with the nature, extent and value of customer transactions in the industry. A full copy of the Benchmarks is available [here](#).

4. Timetable and process

The updated timetable and outline process is:

Date (week beginning)	Activity
19 March 2012	Board considers and approves Baljurda's recommended changes to the Scheme document for consultation and approves consultation document (21 March)
26 March	Consultation (3 weeks)
16 April	Consultation closes (19 April)
23 April	Working Group (WG) meets and reviews submissions (one meeting) and recommends to Board (24 April)
30 April	Board (at 1 May meeting) considers WG recommendations – instructs DLA Phillips Fox (DLAPF) to draft amended Scheme document
7 May	DLAPF drafting
21 May	Chair (under delegated authority) or Board (by circular resolution) approves 2 nd consultation document
21 May	Consultation (28 May-11 June)

¹ Clause 5(2) of Schedule 4.

² On the benchmarks, the Ministry of Consumer Affairs says: "They provide the key standards for schemes to meet. The benchmark principles were developed by the Consumer Affairs Division of the Australian Department of Industry, Science and Tourism, in consultation with the New Zealand Ministry of Consumer Affairs. The benchmarks were chosen as an illustration of international best practice in consumer dispute resolution schemes."

11 June	Consultation closes (11 June)
11 June	WG meets, considers submissions recommends to Board
18 June	Board considers changes
25 June	Board (at AGM) approves changes (25 June)
25 June	Board gives notice of changes to Ministry of Consumer Affairs (MCA) and members
13 August	Time for Minister to object expires 45 days after notice.
1 October	Changes Effective

5. Working Group

The Board's Working Group, appointed to assist it review the Scheme document, is:

David Russell – Chair (first meeting)*	Linda Perkins – Meridian Energy
Karen Chaney – Chair (second meeting)	
Paul Goodeve – Powerco	Laurie Boyce – Ministry of Economic Development
Glenn Rainham – Vector	Selena Batt – Genesis Energy

* David was unavailable for the second meeting

6. Closing date and guide for submissions

In making submissions, please use the template in Appendix 3. A word version of the form (with expandable boxes), called the *Preferred Form for Submissions* is available on the [current consultation page of the website](#).

Please send submissions in Microsoft Word format to submissions@egcomplaints.co.nz.

Submitters should indicate any documents attached in support of the submission in a covering letter. Please save this to your computer to fill in.

The Board may make submissions available on the Commissioner's website. If submitters provide any confidential information, please clearly show this in a cover letter.

If you have any **questions** during the consultation process, please contact James Blake-Palmer either by e-mail j.blake-palmer@egcomplaints.co.nz or phone 04 914 4537.

All submissions will be acknowledged. If you do not receive an acknowledgement within two working days, please contact Kirsty Williams 04 914 4524 or k.williams@egcomplaints.co.nz



Richard Janes

Independent Chair

Electricity and Gas Complaints Commissioner Scheme

Appendix 1 Recommendations and Board's response

Purpose

The purpose of this appendix is to provide an overview of the Baljurda recommendations, the Working Group's recommendations and the Board's response.

Thanks

The Board thanks submitters for their submissions on the proposed scheme and consultation paper.

Recommendations	Working Group Comments	Board's response
Ability to refer cases to a higher level – change not needed	Agree – occurs in practice, change not needed	The Board agrees
No change to Scheme's legal basis	Agree – no change to Scheme's legal basis	The Board agrees
The test case procedures – to remain	Agree – test case procedure to remain	The Board agrees
<p>Definition of a complaint - Para 5.1.1, page 33</p> <p>Recommendation: the Scheme use the International Organisation for Standardisation (ISO) definition of '<i>complaint</i>', (amended to include '<i>and services</i>', after '<i>products</i>').</p> <p>This recommendation proposes a change to the Scheme document and adding the definition to the Achievement Standards. The ISO definition is:</p> <p><i>'A complaint is an expression of dissatisfaction made to an organization, related to its products, or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected.'</i></p> <p>Definition from ISO 10002:2004.</p>	<p>Agree – On the basis the change is intended to clarify, not expand the scope of the scheme.</p> <p>The Board ought to consider whether this change requires consequential changes to, for example the definition of '<i>Services</i>', to avoid inconsistency.</p>	The Board agrees

<p>Determinations - Para 7.1 page 39</p> <p>Recommendation: clause B.43 of the Scheme document is amended to require the Commissioner to make anonymised copies of determinations available to the public, with discretion to publish only summary, non-identifying information where anonymising would not prevent the identification of a complainant or a member.</p>	<p>Disagree – In the group’s view, there is little evidence of the benefits this would bring. Any benefits ought to be weighed against 1 - the cost and time this would potentially add to EGCC’s processes; 2 – the principle of confidentiality (benchmarks); and 3 – risks of privacy breach complaints about the scheme.</p> <p>The Group felt the submissions in support of the recommendation may have been different if these potential downsides were highlighted for consultation.</p> <p>Regarding case notes the group felt generally comfortable with the use of these to summarise and anonymise decisions</p>	<p>The Board agrees that no change be made</p>
<p>Reporting Para 7.3 pages 40-41</p> <p>Recommendation: The Scheme document is amended to require publication of member names against complaint statistics in the Annual Report.</p> <p>Recommendation: Amend clause E.16.16 to require the Board and Commissioner to report on material or persistent breaches.</p>	<p>Agree - The group agree in principle to the proposed change to <i>require</i> the publication of Member names against complaints statistics in the annual report.</p> <p>Agreement was based on the understanding this related to complaints that reach deadlock, not all complaints received by members.</p> <p>The group recommends the Board carefully consider how statistics would appear in the annual report, so as to make the data meaningful. Examples could include the average number of complaints per ICP.</p> <p>Agree – to the addition of “<i>material or persistent</i>” to clarify the Board and Commissioner obligations to report Scheme breaches.</p>	<p>The Board agrees in principle to being required to include Member names against statistics in the annual report.</p> <p>The Board considers at this stage, such reporting should only relate to complaints reaching Deadlock.</p> <p>The Board agree to the addition of “<i>material or persistent</i>” to clarify the Board and Commissioner obligations to report Scheme breaches.</p>
<p>Member compliance reporting Para 7.3.1 page 41</p> <p>Recommendation: amend the Scheme document to require the Board to monitor member compliance by audits of member websites and random audits of member</p>	<p>The group supports this recommendation in principle, preferring the basis for audits to be a risk assessment rather than just ‘<i>random</i>’. The group would like the Board to consider whether this should extend beyond publicly available member materials</p>	<p>The Board approves the Commissioner having the ability to review member materials to highlight any misalignment between the materials and the members’ obligations under the Scheme document.</p>

materials for compliance.		
<p>Acknowledgment of complaint Para 8.1.1 page 42</p> <p>Recommendation: Amend clause C.8.1 of the scheme document (members to acknowledge complaints in writing within two working days) to allow flexibility in acknowledging complaints.</p>	<p>Agree – the code should reflect, and be flexible enough to cater for, the fact that some complaints resolve sooner.</p> <p>The group recommends the Board use the recommended wording or similar wording that is workable.</p>	<p>The Board.</p> <p>C.8.1 - The recommended wording:</p> <p><i>'if they are the Scheme Member contracting with the Consumer, and the Complaint is in writing, acknowledge the Complaint in writing as soon as possible but in any event no later than two Working Days after receipt; and if the Complaint is oral and the complainant agrees, acknowledge the Complaint over the phone and record the fact. If the Scheme Member considers the matter can be resolved within five Working Days of receipt of the Complaint, there is no need for the acknowledgement; but if the five Working Days cannot be achieved, the Scheme Member must contact the complainant and inform them of that fact; and'</i></p>
<p>Referral to a higher level Para 8.1.2 page 45</p> <p>Recommendation: The Commissioner be given the power to refer complaints to a higher level, if she considers the complaint could be resolved by so doing.</p>	<p>Disagree with Baljurda/Agree with Board - Change not needed, as this happens in practice already</p>	<p>The Board agrees with the working group.</p> <p>The Board accepts the advice of the Commissioner that there is no barrier in the Scheme document to her referring matters to a higher level. The Commissioner advises this is already a useful means of resolving complaints at an early stage.</p>
<p>Discretion not to investigate Para 8.1.3 pages 43-44</p>	<p>Agree – use the recommended wording</p>	<p>The Board agrees.</p> <p>The preferred wording is</p>

<p>Recommendation: The Commissioner be given a discretionary power not to investigate, or continue to investigate, a complaint where, in all the circumstances, the Commissioner considers there is little likelihood that sufficient evidence will be available to make a decision about the merits of either parties' case.</p>		<p>that set out in the Baljurda report (at page 10):</p> <p><i>'Where a complaint has been made the Commissioner may, in his or her discretion, decide not to investigate the complaint or, if he or she has commenced to investigate the complaint, decide not to investigate further if, in the opinion of the Commissioner, an investigation, or further investigation, of the complaint is not warranted having regard to all the circumstances.'</i></p>
<p>Extensions of time Para 8.2.1 page 45</p> <p>Recommendation: Where a customer has complained directly to the company, without referral from the EGCC, the Member is empowered to negotiate the extension of time directly with the complainant.</p> <p>Recommendation: Where the customer has been referred by the EGCC and an extension of time is negotiated, the member is required to inform the EGCC of this.</p> <p>The Board prefers the previous approach (constitution pre 1 April 2010) where the member could claim a further 20 working days so long as they advised the complainant of this in writing (including the reasons for needing extra time). The Board believes this would give some flexibility to members, but with some certainty of a maximum time for complainants.</p>	<p>Agree – go with Board's preference for using the previous approach (constitution pre 1 April 2010) where the member could claim a further 20 working days so long as they advised the complainant of this in writing (including the reasons for needing extra time).</p> <p>The group agreed this would give some flexibility to members, but with some certainty of a maximum time for complainants.</p>	<p>The Board agrees.</p>

<p>Coverage Para 9.1 page 46</p> <p>Recommendation: The Board consider appropriate amendments to the Scheme document to resolve any inconsistencies or lack of clarity.</p>	<p>The group agreed in principle to changes that would resolve any inconsistencies or lack of clarity. The specific responses to the Board's recommendations are set out in the second part of this document</p>	<p>The Board agrees.</p>
<p>Information management Para 9.1.1 page 46</p> <p>Recommendation: As a matter of good policy and administrative practice, it is recommended that an archive policy and document disposal schedule be developed and implemented.</p>	<p>Agree - The group agreed an archive and disposal policy should be implemented. No change needed to the Scheme document to enable/require this.</p>	<p>The Board agrees – no change to Scheme document needed.</p>
<p>Financial limits Para 9.1.2 pages 46-47 & Minister's recommendation (see section 7 of this document)</p> <p>Recommendation: The amount of \$20,000 be adjusted up to the current date, based on CPI increases, and then be automatically adjusted to the CPI every three years thereafter. This would mean an adjustment to \$23,211.98 based on \$20,000 in 2005 dollars.</p> <p>Alternative recommendation: from the Minister of Consumer Affairs: The jurisdictional limit of the Scheme be \$100,000.</p>	<p>When considering this recommendation the group noted:</p> <p>Should there be an appeal process, given the increase.</p> <p>Would this change promote litigation, given the potential cost to members, who may prefer a more legalistic outcome</p> <p>Retail and lines representatives were unanimous the proposed increase to \$100k was too much.</p> <p>The group was unanimous in its view an annual adjustment based on the CPI was appropriate.</p> <p>Lines and retail members propose an increase to \$25k (and \$60k by agreement).</p> <p>MED prefers the \$100k proposed by MCA. MED wants the Board to consider alternatives, including the option of having a \$100k limit for "<i>Land Complaints</i>", or "<i>non-binding</i>" (finding of fact) decisions for cases between \$25k and 100k.</p>	<p>The Board notes the Working Group's recommendations. However, in the light of the letter from the Minister of Consumer Affairs (see appendix 2) the Board is seeking the views of stakeholders on the appropriate jurisdictional limits for the Scheme.</p>
<p>Professionalism Para 9.2 page 47</p> <p>Recommendation: that members be requested to provide the EGCC with</p>	<p>The group disagreed with the Baljurda recommendation for members to provide information about any changes to its in-house complaints handling process, being of the view that this is unnecessary, as it occurs in</p>	<p>The Board agrees. No change needed.</p>

<p>information on any changes in their in-house complaints handling process, including changes in team membership, and that they also provide information on changes in any terms and conditions relating to their services.</p>	<p>practice already and does not require a Scheme document change.</p>	
<p>Systemic problems Para 9.3 pages 47-48</p> <p>Recommendation: The word “<i>industry</i>” is deleted in reference to systemic problems.</p> <p>Recommendation: The Commissioner is given a discretionary power, after consultation with the Member or Members affected by the systemic issues, to investigate the problem and make recommendations for its solution. The fees for investigation of systemic issues should be on the same basis as other complaints.</p> <p>Recommendation: The wording in clause B.52.12 of the Scheme document (identification of systemic issues from complaints) be amended to give the Commissioner responsibility for identifying systemic issues from either complaints or other sources.</p>	<p>The group noted submitters’ concerns about EGCC investigating systemic issues that may not have arisen from complaints. There were also different views amongst submitters, as to what constitutes ‘<i>systemic</i>’.</p> <p>The group acknowledged the driver for considering systemic issues was the reduction of future complaints and reduction of overall costs.</p> <p>The group generally agreed with the Board’s view that there is no need for a separate levy for considering systemic issues. The group felt the fixed portion of the levy could operate so as to apportion these costs across members.</p> <p>The submitters had mixed views as to how costs should be apportioned, with some preferring the costs of a member-specific systemic issue being borne by the member, with multi-member systemic issues being covered by the fixed portion of the levy.</p>	<p>The Board does not want a separate levy for systemic issues.</p> <p>The Board approves the removal of the word “<i>industry</i>” in reference to systemic problems.</p> <p>On clause B.52.12 - The Board does not approve the Baljurda recommended change to expand the basis for the Commissioner to consider systemic issues beyond those becoming apparent from complaints.</p>
<p>Internal complaints mechanisms Para 9.5 page 50-52</p> <p>Recommendation: The Scheme document is amended so that if the Commissioner becomes concerned about the performance of a Member’s complaint handling processes or performance, the Commissioner may</p>	<p>Agreed - The group agreed to this recommendation on the basis the intention to reduce overall complaints has merit.</p> <p>There was a clear preference that the Commissioner would raise the issues with the member before conducting an audit.</p>	<p>The Board agrees.</p>

<p>undertake an audit of the Member's processes and provide advice to the Member on any remedial action.</p>		
<p>Defaulting Scheme Members Para 9.6.1 page 52</p> <p>Recommendation: The Scheme document is updated to provide information on the processes for dealing with defaulting members.</p>	<p>Agreed - The group agreed the process for dealing with defaulting Scheme members should be set out in the Scheme document.</p> <p>The group considered 'default' should mean material non-compliance</p>	<p>The Board notes: Section 96 of the EI Act sets out the obligation for all members to be members of an approved dispute resolution scheme, unless exempted. This section also makes it an offence to knowingly refuse or fail to become a member.</p>
<p>Independent review Para 9.7 pages 52-53</p> <p>Suggestion: Consideration is given to changing the three year interval for an independent review of the Scheme to a five year interval.</p>	<p>Agreed – Extend the review period to five years - There were differing views in the group about the benefits of a 3, as opposed to 5, year term. The group considered the question of cost and noted the ability for members (either via the member committee or direct to the Board) are able to raise issues as and when they arise.</p>	<p>The Board wants reviews five yearly.</p>
<p>Code of Conduct for Complaint Handling Para 10.4 page 55</p> <p>Recommendation: The Code is reviewed with the aim of rationalising and simplifying the document.</p>	<p>Agreed - The group agreed in principle to amending the code of conduct to provide greater clarity and certainty. The specific proposals to achieve this are set out below.</p>	<p>The Board agrees.</p>
<p>Further changes proposed by the Board – see Appendix 1</p>		
<p>Replace reference to the Achievement Standards with reference to Schedule 4 of the Electricity Industry Act 2011</p> <p>Proposal: To correct reference to the Electricity Industry Act 2010 – amend definition to:</p> <p><i>“The requirements of the Minister for an approved scheme (as defined in</i></p>	<p>Agreed – this change is appropriate</p>	<p>The Board agrees.</p>

<p>clause 3 of Schedule 4 of the Electricity Industry Act 2010)..."</p>		
<p>Land Complaint definition</p> <p>Proposal: To ensure references in the Scheme document to legislation and regulations are as accurate as possible, the Board proposes the definition of <i>Land Complaint</i> is amended by substituting for the existing wording after the colon, the words</p> <p><i>"...a) the applicable gas legislation and regulations; or</i></p> <p><i>(b) the applicable electricity legislation and regulations; or</i></p> <p><i>(c) a Land Agreement."</i></p>	<p>Agreed - The group agreed the current wording of the <i>Land Complaint</i> definition is out of date. The group acknowledged the General Interpretation section on page 11 of the Scheme document makes it clear that references to legislation and regulations includes consolidations, amendments, re-enactments or replacements.</p> <p>In the light of submissions the group discussed whether the proposed wording expands the scope of the Scheme. Given the above, this was considered a worthwhile clarification.</p>	<p>The Board agrees.</p>
<p>B.8.4 – clarify</p> <p>Proposal: To clarify the intent of clause B.8.4, amend the clause to read:</p> <p><i>"The Commissioner may decide not to consider a Complaint if the Commissioner considers that:</i></p> <p><i>B.8.4 the Complainant has failed to provide information to the Commissioner about a Complaint.</i></p>	<p>Agreed - The group agreed this change clarifies the intent of clause B.8.4.</p>	<p>The Board agrees.</p>
<p>Heading above B.9 – add heading</p> <p>Proposal: To help sign-post readers and make the document simpler to use the Board proposes a heading is inserted above clause B.9 stating <i>"Complaints the Commissioner cannot consider"</i>.</p>	<p>Agreed – this change would assist readers</p>	<p>The Board agrees.</p>

<p>E.16.16 – make consistent with B.52.10</p> <p>Proposal: These two clauses are inconsistent. To achieve consistency the board considers E.16.16 should be amended by removing the word “<i>all</i>” where it first appears in that clause and replacing it with the words “<i>material and persistent</i>”.</p>	<p>Agreed - The group this proposed change will make the reporting obligations of the Commissioner and Board consistent.</p> <p>While there was some uncertainty as to what constitutes ‘<i>material</i>’ the group supported the intention that reporting of inconsequential or technical breaches is of limited value when considered against the cost of administration.</p>	<p>The Board agrees.</p>
<p>B.52.14 – remove requirement to report separately on activities relating to Land Complaints</p> <p>Proposal: Remove the requirement for the Commissioner to report separately on the costs of the Commissioner’s activities relating to Land Complaints. This requirement was added at the time the Scheme was amended to include jurisdiction for Land Complaints. After keeping track of costs for some years, the \$cost of separate activities relating to Land Complaints became increasingly difficult to identify. The most tangible cost was the cost of publishing the Land Code – which no longer exists.</p>	<p>Agreed – The group agreed the existing provision may have been appropriate at the time the Scheme added land complaints to the Commissioner’s jurisdiction. With the difficulty in identifying separate costs for land complaints and the land code now out of existence, this could be removed.</p>	<p>The Board agrees.</p>
<p>Rationalise Part C – Code of Conduct for Complaint Handling</p>	<p>Agreed – The group agreed in principle to clarifying changes.</p>	<p>The Board accepts, as noted in the Baljurda report, part C can be further improved.</p>
<p>C.8.5, C.32 – clarify</p> <p>Proposal: Amend C.8.5 so it says: “<i>Scheme Members must in relation to Complaints other than Land</i>”</p>	<p>Agreed – This will provide clarification</p>	<p>The Board agrees.</p>

<p><i>Complaints:</i></p> <p><i>If they are the Scheme Member managing a Complaint, and the Complaint reaches Deadlock, inform the consumer of the Deadlock and that the consumer has two months to ask the Commissioner to consider the Complaint; and”</i></p> <p>Proposal: Amend C.32 so it says:</p> <p><i>“The Lines Company Scheme Member responsible for a Land Complaint must if a Complaint reaches Deadlock, notify the Land Owner or Land Occupier of this and that the Land Owner or Land Occupier has two months to refer the Complaint to the Commissioner”</i></p>		
<p>C.7 – make reference to plain and accessible language general</p> <p>Proposal: C.7.1 The Board considers the intention of clause C.7 (informing consumers) would be better achieved if all information given by Members to consumers is in plain and accessible language.</p> <p>To achieve this, the Board proposes C.7 is amended by inserting the words “<i>in plain and accessible language;</i>” after the words “<i>Scheme Members must</i>” and removing the words “<i>presented in plain and accessible language</i>” from clause C.7.1.</p>	<p>Agreed – The group agreed that members should provide information in plain and accessible language.</p>	<p>The Board agrees.</p>
<p>C.7.7 – nominated contact</p> <p>Proposal: The Board considers the Scheme’s</p>	<p>Disagree – the group considered this change was not necessary</p>	<p>The Board disagreed with the working group and felt there should be the proposed reference to this obligation in the</p>

<p>purpose of resolving complaints would benefit from clearer communication channels between Members and the EGCC. To achieve this the Board proposes clause C.7.7 is amended by substituting the words that appear after the words</p> <p><i>“Complaint handling processes”</i></p> <p>with the words</p> <p><i>“ including a nominated point of contact for complaints and up-to-date contact details”.</i></p>		<p>Scheme document.</p>
<p>C.7.6 – consistency with C.30</p> <p>Proposal: The Board considers there is inconsistency between lines and retail members, as to when they are required to inform complainants about the EGCC.</p> <p>To achieve consistency the Board proposes adding to C.7.6, the words:</p> <p><i>“such acknowledgment to confirm the Scheme Member is a member of the Scheme and provide information on the complainant’s right to complain to the Commissioner”.</i></p> <p>The word <i>“provide”</i> should also be added to clause C.30 so it is clear the obligation to notify about the EGCC is the same for retail and lines members</p>	<p>Agreed – this would make the obligations for lines and retail members consistent</p>	<p>The Board agrees.</p>
<p>C.9 – consistency with definition of complaint</p> <p>Proposal: The current wording of C.9 implies a <i>“contract”</i> is necessary for</p>	<p>The group acknowledged some complaints may be made by a consumer who may not have a contract with the company (for example a complaint about an unauthorised switch or a door</p>	<p>The Board considers this change is not necessary and the Commissioner already has jurisdiction to consider such complaints.</p>

<p>a consumer to be able to complain. Because this is not the case, and to clarify the Commissioner's jurisdiction, the Board proposes inserting a further paragraph at the end of clause C.9 that states:</p> <p><i>"This clause does not operate to prevent the Commissioner from considering a Complaint by a Consumer about a Member with whom they may not have a contract".</i></p> <p>This change would make clause C.9 consistent with the current definition of <i>Complaint</i> in Part A.</p>	<p>knocker).</p> <p>The group would like the Board to consider the intention of clause C.9 and whether the change may open members to complaints by anyone.</p>	
<p>E.11.2 – term for Chair of Board</p> <p>Proposal: Clause E.11.2 sets out the length Board Members are appointed for. The maximum is six years. This does not reflect the possibility that the Board Chair (who is a Board Member, as defined in part A) may be reappointed for a further four-year term.</p> <p>To clarify, the Board proposes clause E.11.2 is amended by adding after the words <i>"No Board Member"</i> the words: <i>", except for the Board Chair,"</i></p>	<p>Agreed – the group supports this change. It recommends the Board provide careful instructions to the drafters so ensure the intention of the clause remains once the inconsistency is removed.</p>	<p>The Board agrees.</p>

Appendix 2 Letter from Minister of Consumer Affairs



Office of Hon Simon Bridges

MP for Tauranga
Minister of Consumer Affairs
Associate Minister for Climate Change Issues
Associate Minister of Transport

24 MAY 2012

22 MAY 2012

Dr Richard Janes
Chair
EGCC Scheme Board
PO Box 5875
Lambton Quay
WELLINGTON 6145

Dear Dr Janes

ELECTRICITY AND GAS COMPLAINTS COMMISSIONER SCHEME JURISDICTION LIMIT

I understand the Board of the EGCC Scheme has recently considered increasing the monetary limit to the jurisdiction of the Electricity and Gas Complaints Commissioner. This occurred following a letter from the previous Minister of Consumer Affairs, Hon Chris Tremain, who had asked the Board to give consideration to increasing the jurisdiction limit to \$100,000.

I am concerned that the alternative, which seems to be to increase the jurisdiction limit only in line with CPI inflation to approximately \$23,000, will not be sufficient to address the concerns I have about access to the Scheme. The alternative to the Scheme, litigation in the District Court, can be extremely expensive for both parties. This expense can make it unviable for consumers to pursue even legitimate complaints.

I believe that the Scheme is a fundamentally sound mechanism, and that the electricity industry is capable of self-regulation in relation to consumer complaints. I am therefore reluctant to look at more prescriptive forms of regulation. However, I am determined to see that consumers are able to see their complaints resolved adequately, and will look at other measures if necessary. For this reason I urge the Board to reconsider increasing the Scheme's jurisdiction. A figure of \$50,000 would still go a good way towards solving the access problems that I am concerned about.

Yours sincerely

Hon Simon Bridges
Minister of Consumer Affairs

Private Bag 18041, Parliament Buildings, Wellington 6160, New Zealand. Telephone 64 4 817 6835 Facsimile 64 4 817 6535



Appendix 3 Preferred Form for Submissions

Submitter:

Clause	Comment