



Electricity and Gas Complaints Commissioner Scheme

Establishment of Utilities Complaints Services Limited

Consultation paper for second round

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3. Consultation so far

The first round of consultation resulted in 23 submissions. The submissions in full are available on the current consultation page of our website. Also available is a paper that sets out the Working Group's recommendations to the Board, following review of the submissions, and the Board's response.

The Board has approved a second round of consultation to enable further feedback on the proposed changes. A timeline of the remaining steps in the consultation process, including a series of consultation meetings to be held in Wellington, Christchurch, and Auckland on 13 and 14 June, is available on the current consultation page of the website.

This paper explains the documents and provides information about the financial aspects and drivers for change.

4. Thanks

The Board takes the opportunity to thank the submitters for their submissions in the first round of consultation. The Board also expresses its thanks to the Working Group, for the invaluable work in reviewing the submissions, meeting and making the various recommendations to the Board.

5. Terminology used in this document

The Board's proposed changes include changes to terms that may be familiar to many. An example of this is the change from '*Members*' to '*Providers*'; from '*Binding Decisions*' to '*Determinations*' and from '*Scheme document*' to "*Scheme Rules*" and '*General Rules*'. For the purposes of this document, the new terms are used.

The Board considers these changes are necessary to align the rules with the new incorporated structure and as a result of moving toward service provision for Providers in the utilities sector and away from a concept of 'ownership'.

To remain accessible to stakeholders the Board is mindful to keep such changes to a minimum, so terms such as '*Commissioner*', '*deadlock*', '*accepting complaints for consideration*', and '*recommendation*', remain.

6. The Working Group

The Board's Working Group reviewed the submissions and made recommendations. The Working Group comprised stakeholders, consumer representatives, and Providers, with a representative from MBIE as observer.

The following people attended the Board's Working Group meeting:

- Christine Grice (Executive Director, Law Society)
- Jason Woolley (Regulatory Affairs Manager, Meridian)

- Jeremy Stevenson-Wright (Regulatory Affairs Manager, Genesis)
- Ian McChesney (Consumer Rep, Board alternate)
- Nathan Strong (General Manager, Business Assurance, Unison)
- Vince Smart (Senior Advisor, Strategy and Programme, EECA)
- Josie Boyd (General Counsel, Northpower)
- Sarah Barnes (Regulatory Manager, Mainpower)
- Alec Mladenovic (Policy Adviser, Competition and Consumer Policy, MBIE - as observer)
- Nanette Moreau (EGCC Commissioner)
- James Blake-Palmer (EGCC Team Manager - Projects)
- Elliot Riley (EGCC Research Analyst)
- Sue Brown (Partner, DLA Piper, Board's legal advisor)

7. Working Group recommendations & Board's response

In this part of the paper, we set out the Working Group's recommendations and the Board's response. This part gives further information about the drivers for change; information about the structure and costs, and explains material differences between the documents produced for the first round of consultation and those for round two.

8. Consultation - second round

Many submitters wanted more time to consider the proposed changes, along with further information about the changes being made available. The Working Group recommended the Board have a second round with updated documents and explanatory information. The Board agreed.

The Board remains confident its approach is fundamentally the right one and has taken the opportunity from the first round of consultation to improve the documents and explain in more detail its thinking.

The Board welcomes the opportunity to get further feedback from stakeholders, consumers, and Providers, and has arranged for the Board Chair, Commissioner and other EGCC staff to hold consultation meetings in Wellington, Christchurch, and Auckland.

You can attend the consultation meetings:

Date	Time	City	Venue
13 June	9am-11am	Wellington	St Andrews on The Terrace - Conference room 3 30 The Terrace, Wellington
13 June	2pm-4pm	Christchurch	Te Hapua - Halswell Centre - Piharau room 341 Halswell Road, Christchurch
14 June	9am-11am	Auckland	Mt Albert Community & Leisure Centre - Taylor room 773 New N Rd, Mount Albert, Auckland

The Board considered repeating the first round process of seeking written submissions. The Board, on balance, decided consultation meetings provided a more targeted avenue to raise any further issues, without imposing additional work for submitters, many of whom indicated this is a particularly busy time.

Issues raised at consultation meetings will be captured and referred to the Board for consideration before final decisions are made about how best to proceed.

Issues raised by submitters and the Working Group

In this part we address key issues raised by submitters and give further information about the Board's approach

9. Governance - why the proposed model is preferred over other options

Submitters in the first round of consultation sought further information about the drivers for the proposed changes; and why the proposed model is preferred. The Board accepted this recommendation and further information is set out below.

At present, the Electricity & Gas Complaints Commissioner Scheme (EGCC Scheme) operates as an unincorporated joint venture established by contract between Scheme Members. The Scheme has no corporate existence, even though it has operated practically for many purposes (including for tax purposes) as if it had.

The current Scheme document is complex - having developed by negotiation and accretion over a period of years - and contains a miscellany of provisions covering both the constitution of the joint venture itself and the rules for resolution of complaints.

This structure is undesirable:

- It creates complex and sometimes perverse practical outcomes - for example, the Commissioner personally entered into the lease for the premises from which the EGCC operates and (without perpetual succession) the lease then needed to be transferred to the acting Commissioner following the Commissioner's departure.
- In 2009 when a group of Providers wanted to challenge through the court process, the Commissioner's interpretation of the Consumer Guarantees Act they sued the Commissioner in her personal capacity, rather than as the Commissioner, because of the way the Scheme was structured
- The complex rules for complaint resolution are difficult to construe and often require legal advice to aid interpretation

Together these factors can result in a confrontational approach to complaint resolution that is at odds with the intended purpose of the EGCC Scheme to (in summary) provide an independent, quick and cost-effective way of resolving disputes between consumers and electricity and gas industry participants.

As required by the Electricity Industry Act 2010 (EI Act), an *Independent Review of the Electricity and Gas Complaints Commissioner Scheme 2011*, was conducted by Baljurda Comprehensive Consulting Ltd. The report:

- Recommended a not-for-profit company limited by guarantee be established to provide a more commonly used structure and accountability, and familiar corporate rules, and
- Suggested the concept of a complaint handling scheme for utilities to deal with convergence in the utility industries with a view to ensuring consumers had complaints deal with efficiently and effectively

After consultation that followed the Baljurda report in 2012, the Board decided not to recommend these changes at that time. The Board felt the timing was too soon after the Scheme became the approved Scheme.

At the 2015 Strategy Day, the Board revisited the establishment of a not-for-profit company structure and the possibility of broadening the scope of the services to cover resolutions of disputes in related sectors.

At the same time, the Board is looking to address the strategic issues facing the organisation as the energy sector becomes increasingly agile and innovative. The Board believes the proposed changes will provide the opportunity to spread the costs of operating the scheme across a wider group of wider utilities market participants.

The Board recognises there are many changes and innovations occurring in the utility sector in New Zealand and internationally. Convergence in the utility industries can lead to confusion for parties trying to resolve complaints.

Electricity distributors are expanding into other utility services, including solar, Ultrafast Broadband and water services. Retailers are broadening their offerings including 'one big bill' with electricity, gas, telephone and broadband. These utilities face some common issues, such as multiple connectivity, single invoices, and land access issues. This suggests extension of the scope for complaints handling offers efficiency gains and ease of access for consumers and providers of utility services. This can be accomplished by expanding the scope of the scheme.

Schemes in other jurisdictions have a more responsive mandate to consider complaints. In Australia, schemes cover all aspects of energy and many include water. In the UK, the Ombudsman service includes energy, communications (including mobile and landline phones, broadband, WiFi), and property complaints.

The proposed changes address these issues and opportunities in structural terms by:

- amending the EGCC Scheme to become the 'Energy Complaints Scheme' (EC Scheme).
- establishing a new entity to be responsible for providing dispute resolution services through the EC Scheme.
- setting up the new entity and the infrastructure for the EC Scheme so that the new entity can also provide dispute resolution services to businesses that provide goods and services in the 'utilities sector'.

A number of structural options were considered for establishing the new entity. The principal alternatives were a limited company, an incorporated society, and a trust.

The company was the preferred option because it is a well understood, simple, quickly formed and easily maintained legal structure that can be adapted to operation by a professional Board.

Neither of the other alternatives considered provide the same level of clarity and certainty.

The Incorporated Society model is essentially unchanged since it was introduced in 1908 and in the Board's view is better adapted to a 'club' style of operation. This is at odds with the level of professionalism sought for operation in a commercial context and the degree of 'independence' needed to satisfy legislative and complaints industry benchmarks.

The Trust model also lacks clarity and certainty and in the Board's view is better adapted to a charitable model in which benefits are bestowed on beneficiaries with little or no commercial connection with the entity. The possibility of the EC Scheme becoming a registered charity has been considered and appears unlikely - particularly the given the existence of the scheme within a commercial industry context.

In the interests of reducing costs where possible the Board has decided to defer implementation of the new professional Board until a new Scheme is implemented. The Constitution and General Rules have been amended to reflect this.

The existing composition of the Board and Member (only) Committee will also continue, pending introduction of any additional new Schemes.

10. Governance - Provider representation

The Working Group recommended the current Board composition continue when UCSL is incorporated and the Board consider whether a change from that model is appropriate.

As noted above, the Board agreed the current representative Board composition should continue until another Scheme is implemented into the new structure. The Board considers the savings outweigh the potential difficulties in establishing a professional Board in a short timeframe when another Scheme is implemented.

The Board does not believe that indefinitely continuing the current representative Board will work, and still deliver the benefits the re-structuring allows. For example, there is the practical difficulty of having a large number of Board members when decision-making and maintaining even representation of industry and consumers, in the event of further viable schemes being added.

The Board acknowledges there are examples in other schemes of Boards with both representative and professional directors, such as the Gas Industry Company model. On balance the Board believes UCSL in its proposed form is more appropriate. This form takes into account the unique nature of the EGCC scheme and its foundation, yet still allows for logical extension of scope in the utilities sector.

11. Governance - Ministerial approval of proposed changes

The Working Group recommended the existing mechanism of referring proposed Scheme changes to the relevant Minister for approval continue in the new structure.

The Board acknowledges the requirements of the Electricity Industry Act, that the rules of the approved scheme are not to change without Ministerial approval.

The revised documents the Board has approved reflect a pragmatic approach and require Ministerial approval of changes to the General and Scheme rules. This includes changes to the Constitution that are more than minor amendments. Minor amendments are defined as “*a drafting error or issue which does not substantively vary the meaning*”.

The Board will refer all current proposed changes to the Minister of Commerce and Consumer Affairs, as required.

12. Advisory Committee

The Board accepts the Working Group’s recommendation the proposed Advisory Committee will be a standing committee of the Board, with representation from members and consumers. This was always the Board’s intention but was not set out clearly enough in the documents made available for the first round of consultation.

The Advisory Committee’s role is to provide the Board with advice and recommendations, and a forum for discussion, on matters relating to the Board’s operation of that Scheme.

Further clarity is given in the Governance Charter (11-13); and the Constitution (8.18). This includes that the Board will seek nominations from Providers (12) and the Commissioner will chair Advisory Committee meetings.

13. Shareholding

The Working Group believed the proposed shareholding arrangements of a single share held by the Board Chair vested too much power in the Chair.

The Board disagreed, noting the Chair holds the share on trust for members. With the duty this places on the Chair, the Board is satisfied this is appropriate and provides sufficient safeguard for Providers and the Scheme generally.

14. Proposed levy structure - transition costs and who bears them

The Working Group recommended more information needed to be provided about the costs of the proposed changes and who will bear them. The Board accepted the need to provide appropriate meaningful information where possible.

The Board accepts the Working Group’s recommendations any levy mechanism needs to be equitable and proportionate in principle. The documents have been

amended to reflect this more clearly. The Board is also considering whether the levy mechanism is fit for purpose enabling new Schemes into the revised structure.

Until there is greater clarity about what the opportunities are and how they will work, it is difficult to determine what would work best as a funding mechanism for other Schemes. However the Board is clear that in operating any new schemes, these need to be self-funded and avoid cross subsidization.

Some submitters suggested any setup costs should be paid back. In response, the Board believes its mandate includes monitoring the space in which the scheme operates and assessing the options available to it to ensure it remains fit for purpose. There are costs inherent in this which the Board believes are appropriately spread across the existing membership in accordance with the existing levy mechanism set out in Part D of the current Scheme document and in the new Scheme Rules.

Some submitters wanted the existing levy mechanism to continue beyond the incorporation of UCSL and after new schemes are established. Conversely, another submitter felt the existing levy mechanism, in place since 2011 already leads to suboptimal outcomes and should be immediately reviewed.

Some submitters wanted detailed information about costs, both in setting up UCSL and ongoing costs in running UCSL, the EC Scheme and other potential schemes in the utilities sector. This is difficult to achieve at this stage, for a variety of reasons, including:

- Many of the proposed changes are to simplify the Scheme rules to make them more accessible to stakeholders, so would have been incurred if the scheme were to remain as its current structure
- Elements of the work the Board's solicitors have done is in response to issues raised outside of the proposed Scheme changes (for example, addressing issues of jurisdiction raised by Providers; responding to feedback from MBIE and others about the Scheme's alignment with the governing legislation)
- The costs of establishing a new Scheme under UCSL are largely unknown, with relevant factors including the number of Providers; the workflow it may bring to UCSL and impact on staffing and resources; the basis for the Scheme (legislated for or entered into under private contract)

The Board acknowledges no funding system will ever be perfect, but considers the current system is the best in the scheme's history and meets current needs.

However, the current system is unlikely to work across all schemes that UCSL may operate, for reasons similar to those bulleted above - because of the potentially different nature of the schemes, how they may have come about (for example through legislation or by agreement); how many Providers there may be in the particular sector and whether Providers need to be treated differently.

The Board also acknowledges the need to provide a level of certainty to Providers about how funding will work and has endorsed the Working Group's recommendations to set out the proposed levy structure in the Scheme rules. The revised EC Scheme rules now reflect this, by incorporating as a matter of record, Part D from the current Scheme document.

The existing levy mechanism will remain through the incorporation of UCSL and transition to the new structure. This will be reviewed as part of the Board's process when considering the viability of a new Scheme, at which time more relevant

information will be available to guide thinking about an appropriate mechanism that accords with the principles set out in the documents.

The Board will seek guidance from similar Schemes in New Zealand, Australia, and the UK, where options such as initial service fees, periodic invoicing based on customer share and complaint numbers and apportioning based on principles of user-pays and proportionality are variously used.

The Board will follow any applicable legislation, together with the Constitution and Scheme Rules in place at the time when considering amendments to the rules.

15. Financial limit

An important component of the EGCC Scheme is the financial amount complainants can claim if they want the Commissioner to consider their complaint (referred to as the financial limit). This is currently \$50,000, with up to \$100,000 if the Provider agrees.

Rules about the financial limit have potential to impact on the Scheme's compliance with the requirements as the approved Scheme. The Board acknowledges the impact they may also have on members' potential liability under the Scheme.

The Board proposed an increase to the Scheme's financial limit for complaints to \$200,000. This was to align it with other industry-based dispute resolution Schemes and with the Electricity Industry Act's requirement that the purpose of the approved Scheme is to ensure that *any person* who has a complaint about a member has access to a Scheme for resolving the complaint.

In response to proposed changes in 2012 the Minister of Consumer Affairs, the Hon Simon Bridges proposed an increase to the Scheme's financial limit to \$100,000. There was a change of Minister during the 2012 consultation and the incoming Minister, the Hon Chris Tremain, proposed an increase to the current limit \$50,000, which the Board accepted and the Minister approved.

The majority of submitters preferred to retain the current financial limit, and the Working Group endorsed that view. The Board has decided to leave the Scheme's financial limit at \$50,000 for now, noting the financial limit is something that can be addressed at the independent review of the Scheme to take place later this year.

16. Land Complaint exclusions

The Board's proposed changes include the removal of the definition of 'Line Function Services' (currently in Part A) and the Land Complaint exclusions (currently in B.9.8-9.10).

Some submitters wanted further information as to the drivers for these changes, believing the clauses are necessary and should remain; and may open some scheme members up to unmeritorious complaints. The Working Group was not unanimous in its agreement, believing this should be taken up as a separate consultation between MBIE, the EGCC and relevant stakeholders.

The driver for removing these was the Board's concern these provisions may impact on the Scheme's approval, given, as noted above, the scheme rules provide for or set out that *any person* who has a complaint about a member has access to a Scheme for resolving the complaint.

Further, the land complaint exclusions are likely confusing for complainants and may impinge on the founding principle of accessibility, set out in the benchmarks upon which the Scheme is based and now also set out in the Electricity Industry Act.

The Board considers the discretionary and other mechanisms set out in the existing Part B of the Scheme document (and now in clauses 16-19 of the General Rules) sufficiently address concerns raised. However the Board is carefully considering the issue, believing the issue is for MBIE to address, or at least provide clear guidance on.

To achieve this, the Board has requested a meeting with the Minister of Energy, the Hon Simon Bridges, and the Minister of Commerce and Consumer Affairs, the Hon. Paul Goldsmith. The meeting request is with officials for response.

In the meantime the Board has left the Land Complaint exclusions and Line Function Services definition out of the proposed rules. The Board will take feedback from stakeholders in the second round of consultation and incorporate that into discussions with the Ministers.

The Board, at the meeting with Ministers, will be seeking direction before making a final decision whether the exclusions should be in or out.

17. Quality assurance

The Working Group was concerned to avoid compromising quality of EGCC work in the course of the proposed changes. The Board echoes the Working Group's concerns, noting the Scheme's reputation as a provider of best practise alternative dispute resolution is a key value of the Scheme and the office of the EGCC. The Board is committed to this continuing through the transition to UCSL.

Understanding new jurisdictions and accurately forecasting workload is important to adequately resourcing staff in anticipation of new complaints. Research and prediction work will help the office avoid unforeseen workload that is unable to be dealt in a timely manner because of understaffing.

The EGCC is a learning organisation and regularly seeks formal and informal feedback on its performance from stakeholders. Feedback is obtained through yearly surveys and informally through discussions with staff.

Timeliness of case handling is always a priority and will continue to be regardless of the final makeup of the Scheme Rules. While the EGCC is currently meeting its performance measures to close files the EGCC acknowledges timeliness is still one of the contributing factors to its low member satisfaction of 54%.

The EGCC is currently considering other appropriate performance measures and processes to:

- improve stakeholder experience of the complaints process; and

- monitor and incentivise timely file closure

The EGCC previously welcomed new jurisdictions (gas in 2005, land in 2006 and LPG in Cylinders in 2014) without a perceptible effect on service quality.

In preparation for the new jurisdictions the EGCC met beforehand with the relevant stakeholders in those jurisdictions and provided appropriate information and education for staff to deal with new complaints. UCSL will use a similar approach in future, as necessary.

18. Name of company

Some submitters offered thoughts on possible names; the Working Group was unable to make any recommendations on this except 'resolution' was preferred over 'complaint'.

The general feeling of the Board is people would use online search terms to find services and are more likely to use the word 'complaint', rather than 'resolution'.

The Board believes the placeholder name, Utilities Complaints Services Limited (UCSL) is workable for now and may refer the issue of name and branding to the independent review later this year. In the meantime the placeholder names of UCSL and ECS have been used in the amended documents for the second round.

19. Test cases

The current Scheme document (B.46-49) contains a test case provision where, at any time before the Commissioner has made a binding decision, the Provider can give notice the complaint should be pursued in court proceedings. The trigger for using the procedure is the complaint involves an issue with important consequences for the Provider or a novel point of law.

This mechanism has not been used in the Scheme's history and the need to retain it was unclear. On occasions where a Provider has indicated the complaint involves an issue with important consequences the option was still not taken. In the light of this the Board proposed its removal.

The Working Group echoed the suggestions of some submitters, recommending the test case procedure should be retained. The concerns raised were around the uncertainty about potential new Schemes and the issues that complaints in those Schemes could give rise to that may justify using the procedure.

The Board remains unconvinced of the viability of the procedure but accepted retaining the test case procedure for now and referring the issue to the independent review this year. The test case procedures from the current Scheme document (adapted for consistency) have been added back into the General Rules.

Information about the documents - changes from first consultation round

This part explains the key changes made to the documents following the first round of consultation. The changes have been tracked in the version on the current

consultation page. This paper does not cover all tracked changes, as some are self-explanatory.

It is anticipated a reading of both this paper and a thorough reading of the documents will give enough guidance to stakeholders, as to the changes between the first round of documents and this round.

20. Governance Charter

Please note, the Governance Charter is not tracked as this is a new document, created in response to submissions. Bracketed references are to the clause number in the Charter.

Some submitters wanted more information, in addition to what is set out in the Constitution, about how the UCSL Board will operate. This information is set out in a Governance Charter (Charter). As explained in its purpose statement the Charter *“aims to provide clarity and certainty to the businesses that are existing and potential providers under the Schemes, about the way in which the Schemes will be operated.”*

The Charter sets out the existing EGCC Board will hold office until their term ends normally or a new scheme is established (5); and establishes the capability and mix the Board considers is necessary to undertake its role for UCSL, acknowledging its not for profit status.

The Board duties (8) align with those in the existing Scheme document. The Board considers this approach best practice to enhance quality in provider complaint handling, ensure transparency of its actions, and incorporates the need to ensure the ECS Scheme operates in accordance with the requirements for ongoing approval.

The Advisory Committee’s role (11, 16, 18) is confirmed in the Charter, along with its composition (12). The Commissioner or a Deputy Commissioner will chair Advisory Committee meetings.

21. Constitution

The Constitution sets out the purpose and objectives of UCSL and how the ‘umbrella’ entity of UCSL will operate. In response to submissions this sets out more clearly (2.3-2.7) the operating principles for UCSL and the schemes it operates or may operate. This includes specific reference to the requirement of proportionality and fairness in the setting of fees and other payments (2.7).

Submissions received in the first round of consultation confirmed members’ wanted to reduce costs where possible. In the light of this the Board has decided that the transition from the current representative Board to a professional Board will occur only once an additional new Scheme is established. Clause 7.7 sets out how this will work.

In response to submissions and the Working Group’s recommendation, the Board has included a requirement that amendments, other than Minor Amendments must be consulted on and referred to the relevant minister before they are implemented.

22. General Rules

The General Rules set out the principles and objectives of UCSL (1-3), the Commissioner's role (3-4) and what types of complaints UCSL can consider.

The General Rules set out how complaints will be resolved in all schemes UCSL operates. This is based on the current Scheme document. Because of this, it includes concepts familiar to most members and users of the EGCC Scheme, including the definition of 'complaint', the concept of 'deadlock' and what triggers it, the types of complaints UCSL can and cannot investigate and those where the Commissioner is able to exercise discretion.

The bases to refuse to deal or stop dealing with a complaint are brought over from the current Scheme document. An example of a change here is to clarify that if a complainant is made aware of the Scheme by the Provider in accordance with the rules, but chooses to take their complaint to a court or tribunal, UCSL will not be able to consider their complaint. While this has not been a problem in the past, this change will avoid potential 'double dipping' by complainants. The discretionary basis to refuse to deal or stop dealing with a complaint, because the Commissioner believes there is a more appropriate forum, remains.

Regarding privacy and information about complaints, the Board initially proposed a deeming provision that meant a complainant, by complaining to UCSL, was deemed to have agreed to provide all information and authorise the relevant provider to release any information UCSL asked for. In the light of submissions on this, the Board has agreed the rule (26) should reflect the office practice and UCSL staff will obtain this acknowledgement from complainants or their authorised representatives, direct.

Regarding test cases, as noted above, the Board proposed removing these, as they have not been used to date, despite what the Board considered were opportunities for Providers to do so.

The Board accepts the Working Group's recommendation the test case procedure may be more relevant where UCSL may operate more than one scheme. To ensure parity across schemes this has been included in the General Rules (42-44).

Regarding costs, the principles that apply are set out in clauses 45-47. As requested by the Working Group this clarifies the principles of costs being equitable and proportionate, covering the costs of each scheme and a contribution to UCSL's overall costs.

In response to submitter concerns about increasing liability for existing members of the EGCC scheme, the Board has approved a change to the General Rules to clarify the indemnity does not apply to the extent UCSL holds and is paid under an insurance policy or where there is wilful default by UCSL.

23. Definition of Complaint

The definition of Complaint has been amended to align it with the ISO 10002 standard and clarify UCSL will not investigate a complaint unless the Provider has had an opportunity to try and resolve it with the complainant.

The Board expects this change will not result in either a change of staff practice or an increase in the breadth of complaints UCSL may consider under any particular scheme.

24. Provider agreement

This document (appendix to the General Rules) replaces the adoption deed existing EGCC members will be familiar with. The purpose of the document is to confirm members' status as a Provider under the appropriate Scheme and the date the new Provider joined.

The format allows the agreement to be printed and signed, completed online, or completed and returned electronically. The Board considered this gives better accessibility and functionality for Providers, taking into account the size and complexity of their organisation.

25. Scheme Rules - Energy Complaints Scheme (ECS)

The ECS Scheme Rules set out the rules that apply to the Energy Complaints Scheme (previously the Electricity and Gas Complaints Commissioner Scheme).

The Scheme Rules set out more specific provisions applying to a particular scheme. For example, in the case of the ECS Scheme Rules, these incorporate Indemnity Disputes and the \$50k Financial Limit, both specific to the current EGCC Scheme.

The Working Group recommended the Board provide more information about how levies and costs will be handled during the transition to UCSL. The Board acknowledged this and the Scheme Rules now include the provisions of the current Scheme Document part D in full.

The effect of this is to confirm the current funding arrangements continue to apply and all costs associated with the proposed changes will be borne by EGCC members. The Board acknowledges the views of some submitters that there should be some form of payback arrangement for the costs the Board has incurred in setting up UCSL.

On balance the Board does not believe a payback mechanism is justified. When the current scheme was established in 2001 a seed fund exceeding \$370,500 was given by On Energy Limited. There was no repayment mechanism for this. The costs incurred to date on the proposed changes are a fraction of that cost (estimated at less than \$60,000). Further, the costs incurred to date would largely have been incurred anyway, given:

- A proportion of the costs have been incurred seeking advice in response to member challenges to the Scheme's jurisdiction
- A proportion of the costs were incurred in response to concerns raised by the relevant Minister's officials about the scheme's accessibility and the effect of that on the requirements as the approved scheme

- A proportion of the costs in relation to making the scheme more accessible by simplifying and making the documents plain English would have been incurred anyway

26. Next steps

The remaining steps in the consultation process are set out in the timeline on the current consultation page of the website.

Following the consultation meetings the Board will consider the feedback and decide whether further changes to the documents are necessary. This will include outcomes from the meeting with Ministers.

The Board may re-convene the working group of stakeholder representatives to review submissions received and make recommendations to the Board.

Once the Board approves the final versions of the amended documents, the Board will notify the Minister of the proposed changes in accordance with E.65 and E.66 of the current Scheme document. The Commissioner's office will make the approved documents available on its website.



Hon Heather Roy
Independent Chair
Electricity and Gas Complaints Commissioner Scheme

23 May 2016