



## Terms of Reference for review of the Electricity and Gas Complaints Commissioner Scheme

This document sets out the terms of reference for an independent review of the Electricity and Gas Complaints Commissioner Scheme (the Scheme).

### 1. Background

The Scheme is the approved Scheme for electricity and gas complaints under the Electricity Industry Act 2010<sup>1</sup> and the Gas Act 1992. The Scheme was approved effective 1 April 2010.

Part A of the Scheme document (effective from 1 April 2011) sets out the purpose and founding principles of the Scheme:

*“The purpose of the Scheme is to provide a complaints resolution scheme for the electricity and gas sectors to investigate and facilitate the satisfaction, settlement or withdrawal of complaints.”*

*“The founding principles of the Scheme are that it must be:*

- *accessible*
- *independent*
- *fair*
- *accountable*
- *efficient*
- *effective*
- *free to Complainants*
- *known in the community*<sup>2</sup>

The Scheme document was revised in 2010-11 to, amongst other things, simplify the document, remove redundant codes of practice, change the governance structure and processes for changing the document, change the levy system, tidy some definitions and make some other changes to jurisdiction.

The Scheme operated under several versions of the constitution in 2010-11 – see <http://www.egcomplaints.co.nz/constitution.php>.

---

<sup>1</sup> See Part 4 and Schedule 4

<sup>2</sup> These principles reference the Australian Benchmarks for Industry-Based Consumer Dispute Resolution Schemes.

The Scheme was previously reviewed in 2003 by PS ... Services. The Scheme was then the Electricity Complaints Commissioner Scheme, the limits on jurisdiction was \$10,000, and membership of the Scheme was voluntary.

**2. Requirements for the review**

The requirements for an independent review of the Scheme are set out in clause E.58 of the Scheme document. E.58 says the Board of the Electricity and Gas Complaints Commission:

*E.58.1 must obtain an independent review of the performance and effectiveness of the Scheme ... within one year of approval of the Scheme; and*

*E58.3 must ensure that the review will assess:*

- (a) whether the Scheme is meeting its purpose; and*
- (b) whether the Scheme is continuing to meet the Achievement Standards;<sup>3</sup> and*
- (c) whether the performance standards set by the Board are adequate; and*
- (d) the quality and results of the annual internal reviews; and*
- (e) whether the Code sets out appropriate requirements for Scheme Members' in-house complaints processes*

The Board is required to make the results of the review available on the Scheme website (E.59).

**3. Timeline**

The timeline for the review is:

<b>Date</b>	<b>Milestone</b>
21 April 2011	Call for proposals
13 May	Closing date for proposals
1 June	Reviewer engaged
June – September	Review begins
1 July 1 August 1 September	Progress reports due
21 October (note Board meeting 1 November)	Draft report due
2 December (note Board meeting 12 December)	Final report due

<sup>3</sup> The Achievement Standards are those under which the Scheme was approved by the Electricity Commission and Minister of Energy.

**4. Budget**

The budget for the review is \$40,000 (excl GST) including disbursements.

**5. Outcome**

The outcome of the review is a report to the Board with recommendations on how the Scheme should evolve or improve its operations. This may include recommendations for changes to the Scheme document.

**6. Processes**

The review will fulfil the requirements of clause E.58.3 of the Scheme document.

In conducting the review, the reviewer should have regard to:

- The Australian Benchmarks for Industry-Based Consumer Dispute Resolution Schemes
- The Achievement Standards under which the Scheme was approved
- The minimum requirements for the Scheme as set out in clause 13 of Schedule 4 of the Electricity Industry Act 2010 and principles set out in clause (5(4) of the same Schedule

The Board expects the reviewer to consider the more specific questions set out in the appendix to this document.

The Board expects the review to include (but not be limited to) the following aspects:

- a. A review of:
  - i. The Commissioner's processes and procedures
  - ii. Information and communication materials
  - iii. The role of the Board and how it carries out its functions
- b. Consultation with:
  - i. The Board
  - ii. The Commissioner and her staff
  - iii. Members of the Scheme
  - iv. Community groups
  - v. Ministry of Consumer Affairs
  - vi. Minister of Consumer Affairs
  - vii. Electricity Authority and Gas Industry Co
- c. Consideration of systems, processes and structures used by other equivalent industry based ombudsman schemes

In reaching conclusions, the Board expects the reviewer to:

- Critically analyse issues raised by those consulted during the review process

- Test assertions made by those consulted by seeking reasoning and supporting evidence
- Provide a balanced analysis of the key issues identified during the review
- Make recommendations that enhance the achievement of the Australian Benchmarks and are consistent with the legislative requirements for the Scheme
- Supply a record of issues raised that were not covered by the criteria set out in these terms of reference.

The review will take into account the requirements of the various versions of the constitution under which the Scheme operated in 2010-11 and the Scheme document effective from 1 April 2011. Any recommendations for changes should be to the Scheme document effective from 1 April 2011.

## **7. Supporting documents**

Supporting this document are:

- The Achievement Standards (including analysis of how EGCC Scheme complies) – attached
- Schedule 4 of the Electricity Industry Act 2010, available at <http://www.legislation.govt.nz/act/public/2010/0116/latest/DLM2634233.html>
- The Australian Benchmarks for Industry-Based Consumer Dispute Resolution Schemes, available at [http://baseswiki.org/w/images/en/a/ae/Oz\\_benchmarks\\_for\\_industry\\_customer\\_dispute\\_resolution\\_bodies.pdf](http://baseswiki.org/w/images/en/a/ae/Oz_benchmarks_for_industry_customer_dispute_resolution_bodies.pdf)

## Appendix – specific questions to be addressed

- a. The appropriateness of the Achievement Standards – are any of the Achievement Standards impeding the evolution of the Scheme, or should any be amended to enhance the achievement of the Benchmarks
- b. The Code of Conduct for Complaint Handling – are there any parts of the previous consumer codes (electricity and gas) that should be added to the Code of Conduct for Complaint Handling?
- c. Governance of the Scheme:
  - is the current legal structure appropriate or should it become an incorporated body of some form?
  - is the current governance structure and the manner in which the Board carries out its functions appropriate and effective?
- d. Stakeholder management – do the current terms of reference provide the appropriate framework for managing relationships with stakeholders?
- e. Commissioner's jurisdiction:
  - are the exclusions from jurisdiction still appropriate?
  - is \$20,000 still the appropriate limit, given the increased jurisdiction of the Disputes Tribunal (\$15,000 or \$20,000 with agreement of the parties – when the Scheme limit was set at \$20,000, the Disputes Tribunal limit was \$7,500 or \$12,000 with the agreement of the parties)?

## Report against Achievement Standards – revised EGCC Scheme document (effective date 1 April 2011)

### 1. Purpose and Scope

No.	Title	Achievement Standard	EGCC Scheme 1 April 2011
1.1	Purpose		
1.1.1	Purpose	The scheme rules will set out the purpose of the scheme, which should include investigating, and facilitating the satisfaction, settlement, or withdrawal of complaints about members. The scheme should be founded on the principles of accessibility, independence, fairness, accountability, efficiency, effectiveness, and community awareness	Part A Preliminary statements
1.1.2	Binding rules	The scheme rules will be binding on members.	Part A Preliminary statements and Adoption Deed
1.1.3	Whether to investigate	The scheme rules will require the Decision-Maker to consider each query it receives from a complainant and to determine whether the query amounts to a complaint.	B.6.1
1.2	Scope and exclusion		
1.2.1	Coverage	The scheme will cover all of New Zealand and apply to all members and complainants in New Zealand.	Covers all areas, so long as company is a member of the scheme. This includes complainants living outside NZ.
1.2.2	Scope	The scheme rules will be clear on the scope of the scheme, including providing that all complaints against members by complainants, that are not otherwise excluded, will fall within the scope of the scheme. The scheme will not consider complaints outside the scope of the scheme or otherwise excluded.	B.6, B.7, B.9 to B.16 Definitions

No.	Title	Achievement Standard	EGCC Scheme 1 April 2011
1.2.3	Members	<p>The Electricity and Gas Acts require electricity and gas retailers and distributors to participate in a scheme if one or more is approved. Therefore, the scheme rules will provide that the following persons can participate in the scheme:</p> <ul style="list-style-type: none"> <li>• electricity retailers and electricity distributors (including Transpower) as defined in the Electricity Act 1992; and</li> <li>• gas retailers and gas distributors as defined in the Gas Act 1992</li> </ul> <p>The scheme should initially exclude application to gas retailers and gas distributors to the extent that they are supplying reticulated liquid petroleum gas. However, the scheme will have the ability to add that capacity on notice in writing from the Minister of Energy.</p>	<p>Part A &amp; clarified in definitions</p> <p>The Scheme now Includes reticulated LPG following notice from Associate Minister of Energy and Resources</p>
1.2.4	Complainant	<p>The scheme rules will provide that persons entitled to make a complaint under the scheme will be:</p> <ul style="list-style-type: none"> <li>• for electricity, any person (including potential consumers and owners and occupiers of land);</li> <li>• for gas: <ul style="list-style-type: none"> <li>○ small consumers (as defined in the Gas Act) including potential small consumers; and</li> <li>○ owners and occupiers of land into, through, or against which pipelines have been laid down or placed.</li> </ul> </li> </ul>	<p>B.1</p> <p>Definitions</p>
1.2.5	Exclusions	<p>The scheme rules will provide that the scheme does not apply where:</p> <ul style="list-style-type: none"> <li>• a complainant has a grievance about the price that members choose to set for their goods or services;</li> <li>• a Decision-maker determines that a more appropriate forum exists for consideration of that grievance;</li> <li>• a Decision-Maker considers that the grievance is frivolous or vexatious;</li> </ul>	<p>Price – B.9.1</p> <p>More appropriate forum B.9.5</p> <p>Frivolous or vexatious – B.9.6</p>

No.	Title	Achievement Standard	EGCC Scheme 1 April 2011
		<ul style="list-style-type: none"> <li>• the grievance is subject to legal action and/or is being pursued in one or more alternative forums; and</li> <li>• the grievance has already been successfully resolved in an alternative forum or by agreement of the parties.</li> </ul> <p>This is not intended to be an exhaustive list of the exclusions that a scheme may have.</p>	Pursued or resolved in other forums – B.9.7, B.46 to B.51
1.2.6	Members require to advise	The scheme rules will require members to advise complainants of the scheme regardless of whether the member considers the complaint to be vexatious or frivolous.	C.7.6
1.3	Code of practice for conduct in complaint handling		
1.3.1	Conduct	The scheme rules will include a code of practice that governs the conduct of members in handling complaints.	Part C



No.	Title	Achievement Standard	EGCC Scheme 1 April 2011
1.3.2	Code coverage	<p>The code of practice will include requirements for members to:</p> <ul style="list-style-type: none"> <li>• treat any expressions of dissatisfaction or concern about a service or provided by the member as a complaint</li> <li>• treat complainants with respect;</li> <li>• interact with their complainants and any other person involved in the complaints process (including the Electricity Commission and Gas Industry Co) in an open and professional manner;</li> <li>• respond to all queries and complaints as soon as reasonably practicable, but in any case where there is a deadline, before the deadline specified;</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>• be sensitive to any health, disability or language issues relating to complainants.</li> </ul>	C.2
1.3.3	Code enforcement	The code of practice will be enforceable as part of the scheme rules.	Deed of adoption

## 2. Members

No.	Title	Achievement Standard	EGCC
2.1	Timeframes		
2.1.1	Timeframe for resolution	<p>The scheme rules will provide that resolution of a complaint by the in-house complaints resolution system will be completed within 20 working days from receiving the original complaint.</p> <p>However, the scheme rules should allow members to seek an exemption from this requirement from the Decision-Maker. The scheme rules will provide that the Decision-Maker should grant an exemption where the Decision-Maker considers that the matter is likely to be complicated and where either party would be disadvantaged by staying within the time limit.</p>	B.6, B.7
2.2	In-House complaints resolution systems		
2.2.1	In-house complaints system	The scheme rules will require each member to have an effective in-house complaints resolution system for handling complaints in the first instance. The scheme rules will require members to allocate the in-house complaints resolution system adequate resources for efficient handling of queries and complaints.	C.5 to C.7
2.2.2	Simple processes	The scheme rules will require members to have in-house complaints processes that are simple for complainants to understand and easy to use.	C.5
2.2.3	Promotion of in-house systems	The scheme rules will require members to include information on any invoice to their consumers advising that the member runs an in-house complaints resolution service at no extra charge and set out the relevant contact information.	C.3
2.2.4	Information about the scheme	The scheme rules will require all members to provide complainants, who have a complaint that may fall within the jurisdiction of the scheme, information about the existence and nature of, and the contact	C.7

No.	Title	Achievement Standard	EGCC
		information for, the scheme. This information will be presented in plain and accessible language	
2.2.5	Staff training	<p>The scheme rules will require that members' employees who frequently deal with the public are trained in recognising complaints and actively referring them to the in-house complaints resolution system and to the scheme where required.</p> <p>Staff involved in the in-house complaints resolution system must have adequate training to ensure the efficient resolution of the majority of complaints received by the in-house scheme.</p>	C.7
2.3	Promoting the independent complaints resolution scheme for residual complaints		
2.3.1	Invoices	<p>The scheme rules will require members who invoice electricity and gas consumers to include on consumer invoices information about the existence and nature of, and the contact information for, the scheme.</p> <p>Transpower should be excluded from this requirement.</p>	C.3
2.3.2	Websites	The scheme rules will require each member to include on its primary website information about the existence and nature of, and the contact information for, the scheme.	C.3
2.3.3	Advising complainants when in-house process fail	The scheme rules will also require that members advise a complainant in writing about the existence and nature of, and the contact information for, the scheme if a member fails to deal with a complaint within the time limit set out in the scheme rules, or the complainant is dissatisfied with the outcome of the in-house process.	C.7
2.3.4	Advising landowners of the scheme	The scheme rules will require that electricity distributors (including Transpower) include information about the existence and nature of, and the contact information for, the scheme in/on any material published specifically for landowners.	C.4

No.	Title	Achievement Standard	EGCC
2.4	Members to provide information to Decision-Maker		
2.4.1	Timely information	Where the scheme rules require members to provide information, the scheme rules should require members to provide that information as soon as possible in any case within a certain timeframe.	B.23
2.4.2	Third-parties and individuals	Where the scheme rules provide that information will be provided by the member to the complainant, the scheme rules will provide the Decision-Maker discretion to allow members to delete personal and/or confidential information, including information which identifies a third-party, providing the information to the complainant.	B.25
2.5	Binding determinations		
2.5.1	Binding	The scheme rules will require that a determination of the Decision-Maker is binding on the member if the complainant accepts the determination. A complainant should not be bound by a determination unless he or she accepts the determination.	B.33, B.35, B.42

### 3. Procedures

No.	Title	Achievement Standard	EGCC
3.1	Informal proceedings		
3.1.1	Encouraging settlements	The scheme rules will encourage settlements over determinations and the Decision-Maker should have discretion, to use appropriate techniques, including conciliation, mediation and negotiation, in attempting to settle complaints.	B.17, B.31
3.1.2	Encouraging an informal approach	The scheme rules will encourage an informal dispute resolution approach to resolving complaints and will discourage legalistic and adversarial approaches.  The scheme design should not prevent legal personnel reviewing or advising on complaint files.	B.17.3, B.17.7
3.2	Process for complaints		
3.2.1	Complainant's right to be heard	The scheme rules will provide for a complainant's right to be heard orally or in writing at the discretion of the complainant.	B.17.4
3.2.2	Right to address information	The scheme rules will provide each party an opportunity to address information provided by the other party.	B.17.5
3.3	Reasons for determination		
3.3.1	Both informed	The scheme rules require that all parties are provided the reasons for the determination in writing.	B.33, B.42
3.3.2	Reasons provided	The scheme rules will provide that if the Decision-Maker considers that a complaint is outside the scope of the scheme or otherwise excluded then the Decision-Maker will advise complainants in writing of the reasons why their query or complaint is outside the jurisdiction of the scheme or otherwise excluded.	B.10

No.	Title	Achievement Standard	EGCC
3.4	Information about complaints		
3.4.1	Sufficient information	The scheme rules will require that all parties involved in a complaint will be informed of the issues and be given sufficient information to understand the position of the other party or parties.	B.17.5
3.4.2	Complainant information	The scheme rules will require the Decision-Maker to encourage complainants to provide information about a complaint. The Decision-Maker will not be able to compel complainants to provide information. However, the Decision-Maker should be required to inform the complainant that failure to provide information may be grounds for discontinuing the investigations.	B.26
3.5	Referring complaints and problems to other forums		
3.5.1	Referring complaints	The scheme rules will provide the Decision-Maker discretion to refer complaints to other forums where to do so is, in the opinion of the Decision-Maker, more appropriate or in the consumers' best interests.	B.9.5
3.5.2	Systemic problems	The scheme rules will require that there are mechanisms and procedures for referring systemic industry problems that become apparent from complaints to members and to the Electricity Commission and Gas Industry Co.	B.52.12 [Reference now to Minister rather than Electricity Commission and Gas Industry Co]
3.6	Tacking complaints		
3.6.1	Systems	The scheme rules will require the scheme to keep detailed records of all complaints, their progress, and outcomes.	B.52.11, B.52.18
3.6.2	Time limits	The scheme rules will require the scheme to have a mechanism to monitor whether the time limits for handling complaints are complied with.	B.52.17

No.	Title	Achievement Standard	EGCC
3.6.3	In-house system and scheme Receipts	The scheme rules will require members and the scheme to provide complainants with confirmation of receipt of a complaint within five working days of receiving a complaint that is not otherwise excluded. The receipt will include information relevant to the complaint, such as information on the process for resolving complaints.	B.21, C.7, C.8, C.30, C.31
3.6.4	IN-house system and scheme updates	The scheme rules will require members and the scheme to keep complainants informed of the progress of a complaint.	C.7.3
3.7	Confidentiality		
3.7.1	Sensitive information	Where the scheme rules require a member to provide information to a complainant, the scheme rules will provide the Decision-Maker discretion to allow members to delete confidential or personal information before providing the information to the complainant.	B.25
3.8	Advice on in-house complaints schemes		
3.8.1	Scheme to provide advice	The scheme rules will require the Decision-Maker to have the capacity to provide advice to scheme members about how they may improve the operation of their in-house complaints schemes.	B.52.16(d)

## 4. Accessibility

No.	Titles	Achievement Standard	EGCC
4.1	Awareness and promotion		
4.1.1	Publicly available material	<p>The scheme will establish and maintain a website that describes the scheme in plain and accessible language and provides information relevant to the scheme, including explaining:</p> <ul style="list-style-type: none"> <li>• the nature of the scheme;</li> <li>• how to access the scheme;</li> <li>• what might be considered a 'complaint', and that it is ok to use the scheme to establish if your concern is a complaint;</li> <li>• the process for resolving complaints; and</li> <li>• the restrictions on the scheme's scope and powers.</li> </ul> <p>In addition, the scheme will have simple a step-by-step guideline available in its website covering the above matters.</p> <p>The scheme will send a copy of any of the material on the website to a complainant on request at no charge.</p>	<p><a href="http://www.egcomplaints.co.nz">www.egcomplaints.co.nz</a></p> <ul style="list-style-type: none"> <li>• the nature of the scheme; see about us/complaints scheme</li> <li>• how to access the scheme; see making complaints/make a complaint</li> <li>• what might be considered a 'complaint', and that it is ok to use the scheme to establish if your concern is a complaint;</li> <li>• the process for resolving complaints; and see making complaints/complaints process</li> <li>• the restrictions on the scheme's scope and powers. See about us and FAQ</li> </ul> <p>See making complaints/complaints process for the step-by-step guideline</p> <p>The EGCC sends copies of any of the material on the website to a complainant on request at no charge.</p>
4.1.2	Special needs complainants	<p>The scheme rules will require that the scheme promotes its existence in such a way as to be sensitive to complainants with special needs.</p> <p>The scheme will do this by liaising with organisations working with, or consisting of, people who may not be able to find out about the</p>	<p>B.18, B.19 B.52.4</p> <p>Activities since 1 April 2010 include:</p> <ul style="list-style-type: none"> <li>• Having basic information about the</li> </ul>



No.	Titles	Achievement Standard	EGCC
		scheme through standard means. The scheme will assist those organisations with distributing information about the scheme to these organisations' clients and/or members.	<p>scheme translated into 8 languages other than English, available on the website and distributed in hard copy on request and at community events.</p> <ul style="list-style-type: none"> <li>• Establishing relationships with nationwide organisations and using their channels to special needs communities (e.g. migrant services with CAB, Pacifica services within Family Budgeting Services)</li> <li>• Approaching special needs organisations directly (e.g. Association of Blind Citizens, Refugee Services Ltd, Auckland Disability Law)</li> <li>• Creating or being available for opportunities to speak to special interest groups (e.g. consumer rights day in South Auckland and Porirua)</li> </ul>
4.2	Access and ease of use		
4.2.1	Available	The scheme rules will be in plain and accessible language and made available on the scheme's website.	The constitution is available on the website: <a href="http://www.egcomplaints.co.nz/constitution.php">http://www.egcomplaints.co.nz/constitution.php</a>
4.2.2	Easy access	The scheme will provide a free phone number and a freepost service.	Phone 0800 22 33 40 Fax 0800 22 33 47 Freepost 192682
4.2.3	Assisted access	The scheme rules will require the scheme to arrange services to assist complainants to access the scheme (such as appropriate	B.18

No.	Titles	Achievement Standard	EGCC
		services to meet the needs of complainants with disabilities and from non-English speaking backgrounds) at no cost to the complainant.	
4.2.4	Assisted complaints	If a complainant is unable to put a complaint in writing, the scheme will record the complaint in writing, send it to the complainant for confirmation, and then forward the complaint to the relevant member/s.	B.19
4.2.5	Free access	The scheme rules will specify that the scheme is available to complainants at no charge. This should be made clear in all promotional material published by the scheme.	B.1.1, B.18 See also information on website and brochure <a href="http://www.egcomplaints.co.nz">www.egcomplaints.co.nz</a> <a href="http://www.egcomplaints.co.nz/brochures.php">http://www.egcomplaints.co.nz/brochures.php</a>
4.2.6	Advice to in-house complaints systems	The scheme should have capacity to provide advice to members about improving the operation of their in-house complaints schemes.	B.52.16(d) The Commissioner's office offers advice on complaint handling to members of the Scheme through: <ul style="list-style-type: none"> <li>• Tailored programmes for individual members</li> <li>• Sessions on complaint handling at Member Forums (in 2011, sessions included writing in Plain English to resolve complaints, and conciliation conferences)</li> <li>• A one hour session on handling difficult customers, offered to members on request</li> </ul>

4.3	Contact personnel		
4.3.1	Contact personnel training	<p>The scheme will ensure that its personnel who are involved in the complaints process will be adequately trained to carry out their role in the complaints process.</p> <p>This training will include an understanding of the energy industry to a level to enable staff to understand most complaints.</p> <p>The scheme will provide for regular staff training to the extent necessary to maintain the necessary level of understanding of the energy industry and that person's role in the complaints process.</p>	<p>All conciliators are trained in mediation through LEADR, and conciliators are seeking accreditation as mediators through either LEADR or AMINZ. One conciliator is accredited with LEADR and another is an Associate member of AMINZ. The LEADR training is supported by regular in-house programmes on mediation and conciliation processes.</p> <p>Members of the Commissioner's panel of experts provide regular sessions on technical issues. Expert advice on files is shared with all staff. Members are encouraged to brief the Commissioner's staff on new products or services.</p> <p>Activities this year have included:</p> <ul style="list-style-type: none"> <li>• 4 conciliators attended LEADR training, and 2 have attended a refresher course</li> <li>• Briefing from a member on a new product</li> <li>• Steve Woods (electricity meter expert) on meter issues</li> <li>• In-house session on the LEADR mediation model</li> <li>• Electricity Commission - understanding guidelines for medically dependant and vulnerable consumers</li> <li>• Federation of Family Budgeting</li> </ul>

			<p>Services</p> <ul style="list-style-type: none"> <li>• In-house session on Independence</li> <li>• Energy Management Association on their role and services</li> <li>• In-house session on conciliation skills</li> <li>• Official Assignee's office - Insolvency options and processes</li> </ul>
4.3.2	Contact personnel duties	<p>The scheme will require its contact personnel to explain to complainants in simple terms:</p> <ul style="list-style-type: none"> <li>• the nature of the scheme;</li> <li>• how the scheme works;</li> <li>• any relevant restrictions in its powers; and</li> <li>• the time limits applicable to the relevant processes in the scheme.</li> </ul> <p>The scheme's contact personnel will be provided with a check-list to be completed for each enquiry to ensure that complainants and potential complainants are given all necessary information.</p>	B.17.1
4.3.3	Non-adversarial approach	<p>The scheme will ensure that its contact personnel adopt a non-adversarial approach with complainants.</p>	<p>B.17.3</p> <p>See also comments on training and skills in 4.3.1 above</p>

## 5. Decision making

No.	Title	Achievement Standards	EGCC
5.1	Decision-Maker		
5.1.1	Determinations	The scheme rules will require the scheme to have a Decision-Maker who is responsible for determining complaints. The Decision-Maker may have the ability to delegate the power to determine disputes but will remain responsible overall for decision-making	B.1, B.2
5.1.2	Residual role	<p>The scheme rules will establish the scheme as having a backup or reserve role to members' in-house complaints resolution systems. The scheme rules will prevent the Decision-Maker from considering a complaint within 20 working-days from the member receiving the complaint. This is intended to provide members the opportunity to attempt to resolve the complaint in the first instance. However, the scheme rules should provide discretion for the Decision-Maker to hear exceptional cases even if this timeframe has not yet expired where the Decision-Maker considers that:</p> <ul style="list-style-type: none"> <li>the member has made clear that they intend not to do anything about the complaint; or</li> <li>the complainant would suffer unreasonable harm from waiting; or</li> <li>where it would otherwise be unjust.</li> </ul>	B.6, B.7
5.1.3	Scope of determinations	<p>The scheme rules will require that the Decision-Maker will have the power to either:</p> <ul style="list-style-type: none"> <li>send a complaint back to the member's in-house scheme for settlement; or</li> <li>make a determination in favour of a member; or</li> <li>make a determination in favour of a complainant.</li> </ul> <p>The scheme rules will provide that if the Decision-Maker makes a</p>	<p>B.31.1 – referring back to a member</p> <p>B.32 – make determination in favour of a member or a complainant</p> <p>B.32 – recommendation process</p>

No.	Title	Achievement Standards	EGCC
		<p>determination, the Decision-Maker must include one or more of the following in the determination:</p> <ul style="list-style-type: none"> <li>• no award or action:</li> <li>• require a member to pay compensation to a complainant up to the total maximum of \$20,000:</li> <li>• require a member to reimburse a complainant's actual and reasonable expenses:</li> <li>• require a member to take certain reasonable actions to make redress to a complainant.</li> </ul>	<p>B.34 to B.44 – binding decision process</p> <p>B.37 – limit of amount of binding decision</p> <p>B.45 – reimbursement of expenses</p> <p>B.36 – requiring member to take action to make redress for a complaint</p>
5.1.4	Not accountable to members	The scheme rules will require that the Decision-Maker is not accountable to members for determinations.	E.23
5.1.5	Fair and reasonable	The scheme rules will require that the Decision-Maker makes determinations based on what is fair and reasonable, having regard to all relevant information, including good industry practice, relevant industry codes of practice, model contracts, and the law.	B.3
5.1.6	Consistency in decision-making	The scheme rules should require the Decision-Maker to seek to achieve consistency of determinations. However, the precedent value of determinations will be limited to interpretation of the scheme rules and not material external to the scheme.	B.4
5.2	Written determinations		
5.2.1	Detailed reports	The scheme rules will require the scheme to provide reasonably detailed non-confidential written reports of determinations (including reasons for the decision and determination) to the parties involved in the dispute.	B.33
5.2.2	Summary reports	The scheme will include on its website summaries of all determinations for the purpose of:	<p>B.52.15</p> <p><a href="http://www.egcomplaints.co.nz/case-">http://www.egcomplaints.co.nz/case-</a></p>

No.	Title	Achievement Standards	EGCC
		<ul style="list-style-type: none"> <li>educating members and consumers; and</li> <li>demonstrating consistency and fairness in decision-making.</li> </ul>	<a href="#">notes.php</a>
5.2.3	No names in summaries	The scheme rules will require that website summaries of determinations do not name complainants, members, or other persons.	B.52.15
5.3	Awards		
5.3.1	No penalties	The scheme rules will prevent the Decision-Maker from awarding monetary penalties.	B.41
5.3.2	No punitive	The scheme rules will prevent the Decision-Maker from making awards for punitive damages.	B.41
5.3.3	Maximum compensation	The scheme rules will provide that the Decision-Maker [has] the ability to award compensation to complainants of up to a maximum of \$20,000.	B.3.7, B.11
5.3.4	Limited expenses	The scheme rules will provide that the Decision-Maker [has] the ability to require a member to reimburse a complainant's actual and reasonable expenses.	B.45
5.3.5	Reasonable actions	The scheme rules will provide that the Decision-Maker [has] the ability to require a member to take certain reasonable actions to make redress to a complainant.	B.36

## 6. Member Compliance

No.	Title	Achievement Standard	EGCC
6.1	Scheme rules to provide for compliance		
6.1.1	Compliance	The scheme rules will provide a mechanism to monitor member compliance with the scheme.	E.16.17
6.2	Monitoring member compliance		
6.2.1	Scheme to monitor members	The scheme rules will provide that the Overseeing Entity will monitor member compliance with the scheme rules.	E.16.17
6.2.2	Member breaches of scheme rules	The scheme rules will require the Decision-Maker to report a breach of the scheme rules by any member to the Overseeing Entity who will publish details of the breach, the name the member/s involved, and the award made (if any), in the scheme's Annual Report. However, the scheme rules will provide the Overseeing Entity discretion to not publish the details of insignificant or technical breaches if to do so would, in the Overseeing Entity's opinion, unfairly disadvantage or harm the member without just cause.	B.52.10, B.52.14, E.16.16
6.2.3	Report to EC/GIC on breaches of scheme rules	The scheme rules will require the Overseeing entity to report annually on all breaches of the scheme rules by all members to the Electricity Commission and Gas Industry Co.	E.16.16 [Reference is now to Minister rather than Electricity Commission and Gas Industry Co]



## 7. Governance

No.	Title	Achievement Standard	EGCC
7.1	Overseeing Entity		
7.1.1	Oversight role	The scheme rules will require that an Overseeing Entity is responsible for overseeing the effectiveness and independence of the scheme.	E.2
7.1.2	Composition	The Overseeing Entity will have a balance of consumer interests, energy industry interests, and, where relevant, other key stakeholder interests, and will have a chair who is independent of any of those interests.	E.3
7.1.3	Functions	<p>The scheme rules will require that the functions of the Overseeing Entity include:</p> <ul style="list-style-type: none"> <li>• ensuring that the scheme meets its purpose;</li> <li>• appointing and dismissing the Decision-Maker;</li> <li>• approving the annual budget;</li> <li>• investigating complaints about the operation of the scheme;</li> <li>• reviewing the operation and performance of the scheme;</li> <li>• taking actions to improve the performance of the scheme where reports suggest that is necessary;</li> <li>• receiving information about, and taking appropriate action in relation to, systemic industry problems referred by the scheme; and</li> <li>• ensuring that the scheme continues to meet the basis for its approval.</li> </ul>	E.16
7.1.4	Consumer representatives	The scheme rules will require that the representatives of consumer interests are:	E.4

No.	Title	Achievement Standard	EGCC
		<ul style="list-style-type: none"> <li>capable of reflecting the viewpoints and concerns of consumers; and</li> <li>persons in whom consumers and consumer organisations can have confidence.</li> </ul>	
7.1.5	Industry members	<p>The scheme rules will require that the representatives of industry interests are:</p> <ul style="list-style-type: none"> <li>capable of understanding the viewpoints and concerns of consumers; and</li> <li>persons in whom consumers and consumer organisations can have confidence.</li> </ul>	E.4
7.1.6	Election of Overseeing Entity representatives	<p>The scheme rules will require that:</p> <ul style="list-style-type: none"> <li>industry representatives are elected by members;</li> <li>consumer representatives are nominated by the Ministry of Consumer Affairs; and</li> <li>the Independent Chair is elected by the Overseeing Entity following consultation with the Electricity Commission and the Gas Industry Co.</li> </ul>	E.3 [Reference now to Minister rather than Electricity Commission and Gas Industry Co]
7.2	Amending the scheme rules		
7.2.1	Process	<p>The scheme rules will provide a process governing how changes are made to the scheme rules that allows the scheme to develop in response to changes to the environment and to improve its performance in meeting its purpose in a timely manner.</p> <p>This process will achieve an appropriate balance between the interests of those who may wish to make complaints and the members involved in governing and funding the scheme.</p>	E.62 – E.66

No.	Title	Achievement Standard	EGCC
7.2.2	Approval	<p>The scheme rules will provide that any changes to the scheme will require the approval of the Electricity Commission and the Minister of Energy.</p> <p>[Note that this Achievement Standard was changed during the RFA process to:</p> <p><i>The scheme rules will provide that any changes to the scheme rules will be notified to the Electricity Commission and Gas Industry Co and will not take effect until 20 business days following that notification.</i></p> <p><i>Should the Electricity Commission or the Gas Industry Co determine that the rule changes would have a material impact on the nature of the scheme or a substantial impact upon member's obligations they will notify the scheme within 20 business days and the rule changes will require the approval of the Electricity Commission and the Gas Industry Co</i></p>	E.65, E.66
7.2.3	Consultation	The scheme rules will provide that any changes to the scheme rules will be undertaken in consultation with relevant stakeholders, including members and the Overseeing Entity, Gas Industry Co and the Electricity Commission.	E.63 [Reference is now to Minister rather than Electricity Commission and Gas Industry Co]
7.2.4	GPS objectives and outcomes	The scheme rules will provide that any changes to the scheme rules will be consistent with the objectives and outcomes of the Government Policy Statement for Electricity Governance and Gas Governance.	E.63
7.3	Appointing staff to the scheme		
7.3.1	Decision-Maker	The scheme rules will require that the Decision-Maker is appointed by the Overseeing Entity. The Overseeing Entity must be satisfied that that Decision-Maker is independent from members or any other interest that would give rise to an actual or perceived conflict of interest.	E.26, E.28

No.	Title	Achievement Standard	EGCC
7.3.2	Other staff	The scheme rules will provide that the Decision-Maker is responsible for hiring the schemes employees. The Decision-Maker must be satisfied that the employees are independent of members.	B.55
7.4	Handling complaints about the scheme		
7.4.1	Referred to Overseeing Entity	The scheme rules will require the Decision-Maker to pass on any complaints that the scheme receives about the operation of the scheme (other than complaints about a decision of the Decision-Maker) to the Overseeing Entity for appropriate action.	B.52.13
7.4.2	Timely response	The scheme rules will require the Decision-Maker to respond to any recommendations of the Overseeing Entity in response to complaints about the operation of the scheme in a timely and appropriate manner.	B.52.9

## 8. Funding

No.	Title	Achievement Standard	EGCC
8.1	Funding Arrangements		
8.1.1	Funded by members	The scheme rules will require that the scheme is funded by the members.	Part D, D.3
8.1.2	Transparency	The arrangements for funding the scheme (including recurring fees and any one off charges) will be set out in the scheme rules.	Part D, D.8 – D.12
8.1.3	<p>Fees set out in scheme rules</p> <p>[ Note that this Achievement Standard was changed during the RFA process to:</p> <p><i>Mechanism for establishing fees and charges set out in scheme rules]</i></p>	<p>The scheme rules will include the amount of each fee. The scheme rules will require a change to the amount of any fee to involve the rule change process.</p> <p>[Note that this Achievement Standard was changed during the RFA process to:</p> <p><i>The scheme rules will include a description of the mechanism for establishing the amount of each fee and charge.</i></p> <p><i>Any changes to this mechanism will be treated as a rule change and subject to the same consultation and approval requirements as other rule changes.]</i></p>	Part D
8.1.4	Funding mechanism	<p>The scheme rules will require the Overseeing Entity to ensure that the scheme:</p> <ul style="list-style-type: none"> <li>• has a user pay component to provide an incentive for in-house schemes to be bolstered; and</li> <li>• ensures incentives are correctly aligned to encourage efficient resolution by all parties</li> </ul>	D.2
8.1.5	Notice	The scheme rules will require members to be given at least 25 working days notice of a change to any fee.	D.3, D.7.2, D.11.1(d), E.62 – E.66

No.	Title	Achievement Standard	EGCC
8.1.6	Challenge	The scheme will have a procedure for members to challenge the amount of an invoice for any fee charged by the scheme to the member.	D.16
8.2	Setting the budget		
8.2.1	Overseeing Entity	The scheme rules will require the Overseeing Entity to approve the annual budget and funding arrangements.	E.16.19, D.3
8.2.2	Sufficiency and Efficiency	The scheme will be funded sufficiently to allow its caseload to be managed efficiently and to meet the other requirements of the scheme rules. However, the scheme will also be funded at a level consistent with providing a cost-effective outcome.	E.16.19

## 9. Performance Monitoring

No.	Title	Achievement Standard	EGCC
9.1	Performance standards		
9.1.1	Standards to be set	The scheme rules will set out the standards against which the performance of the scheme will be measured. These standards will be sufficient to allow external parties to readily determine if the scheme is providing an effective complaints resolution service.	E.16.2
9.2	Annual review of scheme		
9.2.1	Annual in-house review	The scheme rules will require the Overseeing Entity to annually review the scheme's performance, including against: <ul style="list-style-type: none"> <li>the achievement standards set out in this document;</li> <li>the performance standards set out in the scheme rules; and</li> <li>any particular issues raised by the Gas Industry Co and the Electricity Commission.</li> </ul>	E.16.10 E.57 [Reference is now to Minister rather than Electricity Commission and Gas Industry Co]
9.2.2	Annual stakeholder feedback	The scheme rules will provide that the annual review will include seeking feedback from stakeholders and stakeholder perceptions about the performance of the scheme.	E.57
9.2.3	Reporting on the annual in-house review	The scheme rules will require the results of the annual review to be reported in the scheme's annual report.	E.57
9.3	Independent review		
9.3.1	Independent review	The scheme rules will provide that within one year of approval, and subsequently at no more than three yearly intervals, the scheme will	E.58.1

No.	Title	Achievement Standard	EGCC
		<p>organise an independent review of the scheme to assess:</p> <ul style="list-style-type: none"> <li>• whether the scheme is meeting its purpose;</li> <li>• whether the scheme is continuing to meet the achievement standards set out in this document and whether they are appropriate;</li> <li>• whether the performance standards set by the Overseeing Entity are adequate;</li> <li>• the quality and results of the annual in-house reviews; and</li> <li>• whether the code of practice provides appropriate assurance to stakeholders about the conduct of members.</li> </ul>	
9.3.2	Terms of reference	The scheme rules will require the Overseeing Entity to consult with the Electricity Commission and Gas industry Co over the terms or reference for an independent review.	E.58.2 [Reference is now to Minister rather than Electricity Commission and Gas Industry Co]
9.3.3	Independent review published	The scheme rules will require the results of the independent review to be made available on the scheme's website	E.59
9.3.4	Special review	The scheme rules will provide the ability for the Electricity Commission and Gas Industry Co to require a special review of any or all aspects of the scheme at any time. The scheme rules will state that the Electricity Commission and gas Industry Co will appoint the independent reviewer.	E.60 [Reference is now to Minister rather than Electricity Commission and Gas Industry Co]
9.4	Reporting		
9.4.1	Regular reports	The scheme rules will require that the scheme reports regularly to the Overseeing Entity on the performance of the scheme against the standards.	B.52.8



No.	Title	Achievement Standard	EGCC
9.4.2	Annual Report	<p>The scheme rules will require the Overseeing Entity to making available on the scheme’s website a detailed and informative annual report (the annual report). The annual report must be required to contain all relevant information about the performance of the scheme, including:</p> <ul style="list-style-type: none"> <li>• information about how the scheme works;</li> <li>• the number of queries the scheme receives;</li> <li>• the number and types of complaints it receives and the outcomes;</li> <li>• the time taken to resolve each complaint;</li> <li>• any systemic problems arising from complaints;</li> <li>• examples of representative case studies;</li> <li>• information about how the scheme ensures that it meets its purpose;</li> <li>• a list of members, together with any changes to the list during the year;</li> <li>• a list of member breaches of the scheme rules (as set out in achievement standard 6.2.3)</li> <li>• information about new developments or key areas in which policy or education initiatives are required;</li> <li>• a report on compliance with the approval criteria set out in this document;</li> <li>• a report against the performance standards;</li> <li>• the findings of in-house reviews;</li> <li>• the findings of the independent review (if relevant for that year); and</li> <li>• a financial report containing sufficient information to allow</li> </ul>	B.52.14, E.16.21

No.	Title	Achievement Standard	EGCC
		members and other stakeholders to understand how the scheme funding is being utilised.	
9.4.3	Scheme breaches	The scheme rules will require the Overseeing Entity to include in the annual report a list of any members who breached the scheme rules that year along with what the breach was and the severity of the breach. However, the scheme rules should provide the Overseeing Entity discretion, at the recommendation of the Decision-Maker, to withhold a member's name.	E.16.21(c)
9.4.4	Reporting to stakeholders	The scheme rules will require that the annual report is distributed to relevant stakeholders (the distribution may be through an internet link or by sending electronic copies) and is made widely available via the scheme's website.	E.16.21
9.4.5	Non-performance	The scheme rules will require the Decision-Maker to prepare a brief report to the Overseeing Entity each quarter as to whether the scheme has failed to achieve the performance standards. The report will include the reasons for failure and provide recommendations if similar failures are likely to occur again.	B.52.1

## 10. Exit

No.	Title	Achievement Standard	EGCC
10.1	Winding up the scheme		
10.1.1	Notice requirement	The scheme rules will require that, if the scheme is to be wound up, at least 12 months' notice will be provided to the Electricity and Gas Industry Co.	F.26 [Reference is now to Minister rather than Electricity Commission and Gas Industry Co]
10.1.2	Continuity	The scheme rules will require that, if the scheme is to be wound up, the scheme will cooperate with the Electricity Commission and Gas Industry Co in the transition to a new set of arrangements for complaints resolution.	F.27 [As above re reference to Minister]

It is not a requirement for the scheme rules, but any scheme seeking authorisation should note that, should the Electricity Commission and Minister of Energy decide to revoke approval of a scheme, at least 12 months' notice will be provided. This requirement will be included in any terms of the authorisation.