



cameron. ralph. khoury

**Independent Review  
of Energy and Water Ombudsman  
Queensland (EWOQ)**

**September 2020**

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# 1. Introduction

1. EWOQ is a government body established under Act of Parliament to receive, investigate and facilitate the resolution of energy and water disputes. It provides Queensland small customers with free, accessible, informal dispute resolution. In the 2018-19 financial year, EWOQ closed 8,559 complaints.
2. In February, EWOQ appointed Cameron Ralph Khoury (CRK), a consultancy with particular expertise in external dispute resolution, to conduct a review of the scheme. We have been asked to review:
  - a. EWOQ's progress towards meeting the Benchmarks for Industry-based Customer Dispute Resolution – Accessibility, Independence, Fairness, Accountability, Efficiency and Effectiveness
  - b. Whether the scope of EWOQ is appropriate
  - c. Participating organisations and complainant satisfaction with EWOQ
  - d. Assessing whether the dispute resolution processes used by EWOQ are just and reasonable
  - e. The degree of equitable access to EWOQ
  - f. The effectiveness of the statute or other document establishing EWOQ, its jurisdiction, functions, rules and procedures.
3. Our review process has included:
  - Publication of an Issues Paper – whilst this did not elicit any submissions it operated as a background paper for meetings with stakeholders
  - Review of EWOQ documents and data
  - One-on-one or small group meetings with 25 of EWOQ's stakeholders (scheme participants, consumer representative bodies and government bodies)
  - Review of 54 closed dispute files and interviews of 12 past complainants.

4. Our review was conducted during COVID-19 restrictions. This meant that we could not meet in person with EWOQ staff and observe them at work. Rather we obtained process walk throughs using video technology. EWOQ staff also mediated our access to the case management system to enable us to undertake our case file review remotely. Similarly our interviewing of external stakeholders was undertaken using video technology. Whilst a fully remote review was not entirely optimal, we are content that this process did not unduly compromise our review.
5. In undertaking our analysis, we have taken into account our experience with ombudsman schemes in other jurisdictions. We have conducted reviews of some 20 ombudsman schemes located in Australia, New Zealand, Canada and United States of America, spanning financial services, telecommunications, energy and water services, legal services, public transport services and internet services.
6. In particular, we have sought to benchmark EWOQ against other energy and water ombudsman schemes – and we include some comparisons in this report. Comparison is a somewhat difficult exercise. It is evident that the schemes in different jurisdictions are categorising and counting their workload in different ways. For example, for 2018/19, EWOQ reported that it had 994 general enquiries or 11.6% of its customer cases. EWON, with around three times the volume of work, reported that it had only 138 general enquiries or 0.5% of its cases – an improbable difference. Given these differences, any comparisons need to be viewed as indicative rather than precise.

## Acknowledgments

7. The Reviewers would like to acknowledge the openness and great assistance provided by EWOQ staff and members of the EWOQ Advisory Council and the assistance and contribution to this report from stakeholder organisations – all of whom generously offered their time to assist in our understanding. Their willingness to assist is particularly appreciated given the difficult circumstances of the pandemic.

## Structure of report and terminology

8. This report is structured as follows:
  - Key themes from our review are summarised in Chapter 2
  - The context in which EWOQ operates is briefly described in Chapter 3
  - Chapters 4 to 11 address the issues we have been asked to review
  - A listing of all the Recommendations is at Chapter 12.

9. Reference in this report to the EWOQ scheme participants is to the energy and water services providers whose small customers have a legislative right to refer their disputes to EWOQ.
10. References in this report to the Department is to the Queensland Government Department of Natural Resources, Mines and Energy. References to EWON are to the Energy and Water Ombudsman (NSW) Limited and to EWOV are to the Energy and Water Ombudsman Victoria.

## 2. Executive Summary

11. Our Review found that EWOQ is meeting the six principles that its Terms of Reference require. EWOQ operates with independence, fairly and impartially. It provides an accessible service that is accountable and transparent. EWOQ is, in our view, an effective ombudsman scheme.
12. We found a scheme that is in transition, with a very full agenda. It is subject to a Queensland government review of its legislation, about to include embedded networks into its jurisdiction, in the midst of a major upgrade of its Information Technology, adapting to COVID-19 operating restrictions, preparing for the consumer complaints fallout of pandemic-related hardship and on top of all of that, assisting our firm with an Independent Review.
13. We hope that our review has sufficiently taken into account the tough environment EWOQ finds itself in, while at the same time providing some useful guidance for future priorities.
14. A full list of our recommendations are set out in Chapter 12 of this report. Generally they fall into the following key themes for improvement:

- a. Extending and clarifying jurisdiction and powers

We think that the Department's review of energy legislation provides a significant opportunity to extend and clarify EWOQ's jurisdiction and powers and to catch Queensland up in this respect with other Australian jurisdictions. This should include encompassing within EWOQ's jurisdiction all water small customers (not just those in South East Queensland) and giving EWOQ clear powers to investigate and take action in relation to systemic issues.

- b. Quality and fairness of processes

Whilst we are content that EWOQ complaint handling processes are generally sound and that outcomes are overwhelmingly fair, we identified some opportunities to enhance complaint handling processes, in particular, for highly technical complaints. Our recommendations include a couple of changes to enhance the quality of communication processes with complainants.

- c. Measurement, analysis and reporting

We think that there are many opportunities for EWOQ to advance its measurement and analysis – of its own activities including its awareness raising efforts and of the complaints it handles. This would permit more detailed and insightful reporting, thereby enhancing transparency for stakeholders.

d. Strengthening approach to systemic issues

If, as proposed by the Department and as we think is vital, EWOQ's mandate in relation to systemic issues is extended, EWOQ will need to develop a more in-depth approach to systemic issues, with additional resourcing being applied.

e. Cost-efficiency

We think that EWOQ should identify cost-efficiency as a priority for the next 3 years. Building upon efficiency capability-building initiatives currently underway, EWOQ should challenge itself with cost-efficiency targets and progressively reform practices to achieve these.

f. Governance

Whilst EWOQ's governance is undoubtedly strong, we are concerned that the Advisory Council composition does not currently meet EWOQ Act requirements – and we think that this is an issue that EWOQ should continue to raise with the Department and the Minister.

### 3. Context

15. EWOQ provides an external dispute resolution service for 41 energy retailers, 7 energy distributors (2 of which are also retailers) and 5 water distributor-retailers (scheme participants). Whilst all Queensland energy companies are scheme participants, only South-East Queensland water distributor-retailers are scheme participants.
16. At this stage, embedded networks are not EWOQ scheme participants, but this may change in the near future. The Department is currently considering this issue as part of its review of energy legislation. The issue of new energy technology product and service providers has also been raised.
17. EWOQ is only able to consider complaints brought against scheme participants by small customers. This term is defined differently for energy and water but includes residential customers and small businesses.
18. There has been considerable volatility over the last 5 years in the volume of complaints received by EWOQ. As the following table shows, case volumes so far this financial year suggest a 9% decline on last year's volumes. EWOQ is, however, expecting that the financial consequences of the Australian COVID-19 response will see an increase in complaints next financial year.

**Figure 1** Complaints received by EWOQ (source: 2018/19 Annual Report as updated by EWOQ)

Period	Number of cases received
FY 2014/15	11,133
FY 2015/16	8,749
FY 2016/17	7,913
FY 2017/18	10,328
<b>FY 2018/19</b>	<b>8,584</b>
<b>10 months to 30 April 2020</b>	<b>6,497</b>

19. In 2018/19, 84% of closed cases were about electricity, 8% of closed cases were about gas and 5% of closed cases were about water (other 3% general enquiries not specific to electricity, gas or water). The top 3 issues were billing, credit issues and service provision (new and existing connections).
20. EWOQ currently employs 43 staff, taking into account part-timers this equates to around 39 full-time equivalent staff. It has a Brisbane main office and regional offices in Rockhampton and Cairns.



## Pandemic working arrangements

21. Since mid-March, all EWOQ staff have been working from home. This has necessarily led to some changes in how the scheme operates:
  - a. Where a telephone call needs to be transferred from one EWOQ staff member to another, this cannot occur by way of 'warm transfer'. Instead the caller has to be rung back.
  - b. Calls are automatically directed through to staff mobile numbers. This means that they are not currently being recorded.
  - c. Some staff, particularly those regionally located, have low internet speeds but the information provided to us is that they are managing nevertheless to access and update EWOQ's case management system as they resolve complaints.
22. Despite evident challenges, our inquiries suggest that the scheme is continuing to operate successfully during this time.

## 4. Effectiveness of legislative framing and scope

23. The Energy and Water Ombudsman Act 2006 (EWOQ Act) establishes EWOQ and sets out its functions and powers.
24. It defines EWOQ's jurisdiction, setting out categories of referrals that EWOQ is not allowed to accept and some instances in which EWOQ has a discretion as to whether or not to investigate<sup>1</sup>.
25. The EWOQ Act also specifies EWOQ processes including ways a dispute may be referred to EWOQ and EWOQ investigation processes.
26. As previously mentioned, the Department is currently reviewing energy legislation including the EWOQ Act. An Options paper published on 25 October 2019 described the degree of prescription in the EWOQ Act as "unnecessarily restrictive". The paper identified as a key reform issue "to ensure that the scope of the Ombudsman's jurisdiction is adaptive to changing patterns of energy service provision and consumption, including those based on new technologies". It recommended that the Ombudsman is given increased flexibility "to adjust scope of complaints and cost recovery arrangements, and stronger powers to review systemic issues". Consultation in response to this paper closed in January. The next stage of the review is the release of a decision paper setting out the Government's policy position for changing energy legislation.
27. We agree that the EWOQ Act is currently too restrictive. In its submission to the Department dated 31 January 2020, EWOQ detailed a significant number of concerns in relation to particular provisions of the EWOQ Act. We have reviewed and support these concerns. In this Chapter, we have added our observations to a few of those concerns and raised some additional issues not mentioned in EWOQ's submission.

### Water jurisdiction

28. The EWOQ Act gives EWOQ responsibility for deciding complaints about water customers under the South East Queensland Customer Water and Wastewater Code – but not other Queensland-located water small customers. This means that large numbers of Queensland customers do not have access to EWOQ to resolve their water disputes. This seems inequitable. We support EWOQ's view that its jurisdiction should be expanded in this respect.

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<sup>1</sup> EWOQ Act s20 confers a discretion on EWOQ in relation to out-of-time complaints and s22 confers a discretion to decide not to investigate.

## Recommendation 1

EWOQ's jurisdiction should be expanded to encompass complaints referred by all water small customers in Queensland (not just South East Queensland small customers).

### Embedded networks

29. EWOQ's jurisdiction to receive complaints from customers of embedded networks (agreed by the Council Of Australian Governments (COAG) Ministers some three years ago) has lagged behind other jurisdictions, chiefly because of the need to revise EWOQ's legislation. This is an often-cited example of the inflexibility of a statutory scheme in a highly dynamic industry sector.
30. One advantage of this lag is that EWOQ and the relevant Queensland authorities can learn from the experience in other states – in particular Victoria, which was first to implement. EWOQ has told us that this is occurring and that lessons from EWON and EWON are informing EWOQ's planning and preparation of the legislative changes with the Department.

### New technologies

31. As set out in the Department's Options Paper, the energy sector has undergone rapid recent change. New energy products include energy storage systems, digital metering and smart appliances. New services include power purchase agreements, solar leases and remote control and management of home energy.
32. A research paper prepared by Sydney Law School researchers for the Australian and New Zealand Energy & Water Network (ANZEWON) dated 15 October 2019 notes the significant transformation in the energy sector. The paper recommends expanding the jurisdictional coverage of energy and water ombudsman schemes to "any service relating to the sale or supply of energy, or that may otherwise interrupt the supply of energy or impact upon the sale or supply of it". The paper argues that this is necessary to mitigate the risk of inconsistent consumer protection. It also recognises that a specialised energy and water ombudsman scheme can resolve energy-related disputes more quickly and at lower cost than through a tribunal or court.
33. We concur that expansion of EWOQ's jurisdiction to cover new energy technologies is critical to 'future-proof' the scheme.

## Recommendation 2

EWOQ's jurisdiction should be expanded to encompass new energy technology complaints as recommended in the ANZEWON commissioned research paper of October 2019.

### Exclusions from jurisdiction

34. The EWOQ Act includes some 23 provisions that set out exclusions to EWOQ's jurisdiction. A comparison with the constituent documents of energy and water ombudsman schemes in other States suggests that EWOQ's jurisdiction is narrower in some respects.
35. In particular, we query section 12(1)(b) which excludes EWOQ from considering the fairness or reasonableness of the terms of a contract. To be able to consider the fairness or reasonableness of terms (other than of course pricing terms) would be consistent with a broader systemic jurisdiction, as we recommend in paragraph 51. We also query section 12(1)(c) which prevents EWOQ from considering a dispute between the customer and the energy company about eligibility for State government energy concessions or rebates, (although of course a dispute about a government decision about eligibility is properly outside EWOQ's jurisdiction). These jurisdictional exemptions do not appear to have an equivalent in, for example, New South Wales or Victoria.
36. The jurisdictional exclusion for disputes about energy customer capital contributions to the cost of capital works (section 12(1)(f)) is also broader than that in New South Wales. As we understand, EWON will, for example, consider a dispute about the cost of capital works where the amount charged to the customer is higher than the amount originally quoted to the customer.
37. As part of the reframing of EWOQ's jurisdiction, we think that there should be a comprehensive re-assessment of EWOQ's current jurisdictional exclusions and comparison with those applicable in other States. Exclusions should be removed unless there is a strong imperative for them.
38. Ideally this process would be informed by an analysis of data as to the numbers of complaints excluded under each head of jurisdictional exclusion. Unfortunately EWOQ's current data capture practices does not permit this. EWOQ records the number of referrals to other agencies and classifies these but does not match these to its various categories of jurisdictional exclusions. So we are unable to quantify the extent to which particular exclusions are proving to be restrictive. EWOQ is in the process of upgrading its case management and we think that the opportunity should

be taken to enhance EWOQ data capture as to jurisdictional exclusions to permit this analysis (see Recommendation 20).

### Recommendation 3

EWOQ's jurisdictional exclusions should be compared with those in other States with a view to removing EWOQ jurisdictional exclusions, unless there is a strong imperative for them to be retained.

## Monetary limit

39. Consistent with other energy and water ombudsman schemes in Australia, the EWOQ Act enables the Ombudsman to make a final order binding the scheme participant to pay compensation of up to \$20,000 (or \$50,000 by agreement of the parties). This monetary limit sets expectations for conciliated complaints.
40. Stakeholders with whom we consulted considered that the current monetary limit is adequate. Support for this position is provided by EWOQ information that complaint monetary compensation rarely exceeds \$10,000.

Figure 2 Complaints closed by EWOQ in the 10 months until 30 April 2020 (source: EWOQ)

Compensation	Number of cases received
More than \$20,000	1 (\$21,032)
\$10,000 to \$20,000	4
\$5,000 to \$9,999	12
<b>Total cases where compensation provided</b>	<b>1,363</b> <b>(Total amount \$73,101. Average amount \$536. Median amount \$237)</b>

41. As was the case when we undertook the independent review of EWOV, we did not find a compelling case for an increase in EWOQ's monetary jurisdiction at this time.

## Advising complainants about EWOQ

42. The EWOQ Act does not currently oblige scheme participants to tell complainants about EWOQ at the time of responding to their complaint.
43. In the case of an energy complaint, section 82(5) of the National Energy Retail Law deals with the issue. It requires a retailer or distributor to inform a small customer

complainant that they can take their complaint to EWOQ if they are not satisfied with the company's response to the customer's complaint. In addition, EWOQ's contact details must be provided.

44. In the case of a South East Queensland water complaint, the obligation is less clear. The South East Queensland Customer Water and Wastewater Code obliges the water service provider to publish their complaints and disputes policy on their website and to include information about how to refer a complaint to EWOQ if the customer is dissatisfied with the decision in relation to their complaint. However, there is not an express obligation to provide this information to a small customer complainant at the time that the water services provider responds to their complaint.
45. We are particularly concerned about this because EWOQ's surveying of past complainants suggests that customers may not be finding out about EWOQ from their retailer. In response to surveying in 2019, only 6.3% of complainants reported obtaining this information from their retailer. In surveying in January 2020, the percentage was 8.6%.
46. In our view, it would be preferable if the EWOQ Act imposed the obligation to provide information about EWOQ at the time a scheme participant responds to a complaint. This would highlight the obligation and provide a consistent setting for all EWOQ scheme participants. We recommend that EWOQ discuss this with the Department.

#### Recommendation 4

The EWOQ Act should be amended to oblige scheme participants to tell customers about EWOQ at the time of responding to their complaints.

### Feedback from EWOQ to scheme participants

47. A couple of scheme participants commented that they would value EWOQ passing on to them feedback from their customers, in particular, feedback received by EWOQ when checking with customers whether they consider their complaint was resolved through the Refer to Higher Level process (see paragraph 108). If sufficiently specific, this information could help scheme participants to improve their dispute resolution processes.
48. We are aware that EWOQ feels constrained by the EWOQ Act from providing information that could be identified by the scheme participant as relating to a specific customer. If so, the EWOQ Act should be amended to better facilitate feedback of this type.

## Recommendation 5

The EWOQ Act should be amended to expressly permit EWOQ to provide customer feedback to a scheme participant where this is consistent with EWOQ's functions and purposes including promoting better complaint management.

## Systemic issues

49. The EWOQ Act specifies that EWOQ's functions include "to identify systemic issues arising out of complaints anyone makes to the ombudsman". EWOQ's investigation powers in Part 4 of the Act do not, however, encompass the investigation of systemic issues. This is in contrast with the constituent documents applicable to EWON.
50. The Department's Options paper published on 25 October 2019 noted this issue for public consultation. In response, EWOQ submitted that legislative amendments should be made to provide it with discretionary powers to investigate systemic issues and enforce remediation.
51. We agree that the EWOQ Act should confer the power to investigate a systemic issue and the adequacy of the scheme participant's remediation of the issue. As a fairness to other scheme participants, we think that there is merit in the scheme being able to levy a charge to defray the costs of the investigation. Again we recommend that EWOQ discuss this with the Department.
52. We think that EWOQ's power to report systemic issues should also be less constrained. Currently EWOQ is unable to include confidential or personal information in a report to a regulator. Accordingly, when EWOQ reports systemic issues, it specifies the name of the scheme participant but provides only brief information about the issue and omits identifying details of the complainant. More specific information could facilitate more vigorous action by regulators by removing the need to serve a notice on EWOQ for identifying details.

## Recommendation 6

- a) The EWOQ Act should be amended to give EWOQ clear powers to investigate scheme participant systemic issues and determine the adequacy of the scheme participant's response to a systemic issue. EWOQ should be able to levy a charge to defray the costs of these investigations.
- b) EWOQ should be exempt from normal privacy or confidentiality restraints when reporting systemic issues to regulators.

## 5. Accessibility including equitable access

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

Benchmark 1

### Awareness building

53. EWOQ has a statutory obligation to promote the operation of the EWOQ Act – a considerable challenge in a state the size of Queensland. We found that EWOQ is active in carrying out this function. It works co-operatively with consumer representative groups and other regulators on awareness building, including as a member of the Far North Queensland Economic Taskforce. When travelling throughout Queensland in her other role as the Land Access Ombudsman, EWOQ's Ombudsman takes the opportunity to raise awareness of EWOQ's role.
54. EWOQ's Community Outreach Plan includes participation in expos both in Brisbane and in regional centres. Last year's events included participation in Anti-Poverty Week, NAIDOC Family Fun Day events and Dickson Seniors Expos. Naturally the program this calendar year has been interrupted.
55. Going forward, we think that the experience of the pandemic – and financial constraints caused by the pandemic – will likely shift much of EWOQ's community engagement from face-to-face to the online environment. This will likely necessitate more effort from EWOQ to achieve the current level of engagement and awareness building. This will need to be factored into EWOQ's plans and resourcing.
56. We were pleased to find general support from scheme participants for EWOQ's awareness building activity. Ombudsman schemes face, however, an ongoing risk of pressure to curtail this effort. This could become the case for EWOQ particularly because it is seen (discussed under Efficiency benchmark) as a comparatively costly scheme. We recommend that EWOQ develop (through its own surveying and data capture) and seek out measures from other sources (for example Energy Consumers Australia's regular survey) to help with assessing the impact of this type of participation.

### Recommendation 7

EWOQ should continue its efforts to develop ways of measuring the impact of its consumer awareness-raising and outreach activity, both through its own surveying and complaints data capture and from external sources.



57. EWOQ also has a social media presence on Facebook, LinkedIn and Twitter. EWOQ monitors the impact of this presence (number of followers, number of reactions to EWOQ posts etc). Like other ombudsman schemes, this could be described as being a secondary awareness-raising channel, however we regard the effort as highly positive and an area of activity growing in importance.

## Website information

58. EWOQ's website provides information for complainants. This includes information about how to submit a complaint, EWOQ's jurisdiction, the complaints process and the types of complaints that EWOQ can handle. The website includes electricity, gas and water-specific information for consumers and small business. There are also brochures such as "Problems with your electricity. Let's have a yarn."
59. The website presents information in nearly 100 languages however at the moment it does not have the video or audio information now expected in modern consumer-facing websites. EWOQ sees its on-line presence as critical and actively monitors traffic to its website.
60. EWOQ is currently revising its website to make it more comprehensive and more consumer-friendly. The new website was launched on 29 June 2020, with plans for improved consumer information to be added to it over time including more video and audio capability.

## Timeframe for making a complaint to EWOQ

61. A complaint must be made to EWOQ within 12 months of the relevant event, or when the customer found out about the event. EWOQ has a discretion to accept an out of time complaint "if the ombudsman considers the referrer had good reason for not referring the dispute within the 12 months [timeframe]".
62. If a complaint is bordering on 12 months, a team leader will decide whether or not EWOQ will handle the complaint. If the complainant wishes to dispute a decision to rule out the complaint, the complainant can appeal, in which case a regional manager decides whether the complainant had "good reason" for not making the complaint earlier<sup>2</sup>.
63. Although EWOQ's timeframe jurisdiction aligns with that of other energy and water ombudsman schemes, we are concerned that 12 months may be too short a period. This is particularly the case given that the 12 month timeframe commences at the time

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<sup>2</sup> EWOQ Act s20

of the event (or discovery of the event) rather than the time the scheme participant makes a final response to the complainant. In one case that we reviewed, the 12 month rule prevented EWOQ's jurisdiction in circumstances where it seemed that the complainant was arguably entitled to assume that his complaint had been accepted (that the scheme participant was not pursuing the debt the subject of the complaint) and the complainant's surprise seemed justifiable when the debt re-emerged via debt collector contact.

64. Unfortunately EWOQ's case management system does not currently permit the extraction of data as to number of complaints outside timeframe, by how much and how often this discretion is exercised. To permit future assessment of whether the 12 month timeframe is an undue accessibility constraint, this information should be collected and reported on – and we understand EWOQ plans to do this after it has completed a planned full review of the data capture in the case management system.

### Recommendation 8

EWOQ should enhance its case categorisation system so that it can monitor the extent to which the 12 month timeframe to refer a complaint to EWOQ is operating as a restriction on access. Data collected should include:

- a) the number of complaints ruled outside of jurisdiction on the basis of the 12 month rule;
- b) the number of complaints where the complainant requests EWOQ to handle a complaint that is more than 12 months old; and
- c) the number of instances in which such a request is granted.

This information should be reported in EWOQ's Annual Reports.

## Avenues for making a complaint to EWOQ

65. Section 21 of the Energy and Water Ombudsman Act 2006 permits a matter to be referred to EWOQ orally or in writing. If, however, EWOQ approves a form for use by complainants, section 22 of the Act enables EWOQ to refuse to pursue an oral complaint, until the approved form has been completed.
66. EWOQ has approved an online form for use by complainants, however it does not require telephone complainants to complete the form<sup>3</sup>. Rather, EWOQ accepts complaints by phone call to its 1800 number (approx. 67% of all complaints), via

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<sup>3</sup> EWOQ may, however, require an abusive or threatening customer to only deal with EWOQ in writing, including put their complaint in writing.

EWOQ's online form (approx. 25%), by email (approx. 7%) and, less commonly today, by letter, fax or in person (approx. 1%). EWOQ uses the National Relay Service for a hearing impaired complainant. It uses the Translating and Interpreting Service for non-English speaking complainants. The complainant may authorise someone else to make the referral for them. This is all good practice and as it should be.

67. We found all avenues for making a complaint are easy to use. This conclusion is supported by EWOQ surveying of prior complainants, with around 80% of those surveyed reporting that they were very satisfied with the ease of finding their way to submit a complaint.

## Equitable access

68. EWOQ publishes a Charter of Service on its website. This specifies that EWOQ aims to provide its services to all Queenslanders including people from non-English speaking backgrounds and those with a disability.
69. A particular focus is Aboriginal and Torres Strait Islander Queensland Communities. EWOQ has recently released a second-level Reconciliation Action Plan (the only Australian energy and water ombudsman scheme to have advanced to this stage). EWOQ is also part of the Australian and New Zealand Ombudsman Association Indigenous Engagement Interest Group which meets quarterly and focuses on improving complaint handling practices and procedures for indigenous consumers.
70. EWOQ's staffing includes an Investigation Conciliation and Outreach Officer, Aboriginal and Torres Strait Islander Queensland Communities (position recently vacated and recruitment process in train). This Officer is both involved in both outreach and complaints handling.
71. EWOQ has in the last financial year increased its collation of data to enhance its understanding of the extent to which indigenous Australians are accessing EWOQ. It provides reporting to the Advisory Council including about the percentage of its cases represented by this demographic, the key issues raised in these complaints, the stage of the EWOQ process at which complaints are resolved and outcomes. The format of that reporting is currently being enhanced to include issues, challenges and significant events and we would support improvement of the ability to compare complaints by indigenous Australian with complaints by non-indigenous Australians to more clearly highlight issues that may arise.
72. EWOQ does not currently have the capability to separately analyse complaints by other demographics with the exception of customer location. In particular, EWOQ does not collect data as to customers whose first language is other than English or their age group.

73. EWOQ's surveying suggests, however, that customers who identify as having special needs generally feel that EWOQ accommodates those needs. Last year and again in January 2020, at least 70% of those surveyed by EWOQ said that their EWOQ officer was considerate of their additional needs, such as financial constraints, health issues or need for assistance in presenting their case.
74. EWOQ recently recruited a business analyst. This new role enhances EWOQ's capability to analyse demographic information so that future awareness building efforts are more targeted to the demographic groups that are currently under-utilising the EWOQ – a positive step.

### Recommendation 9

The EWOQ's next stage of awareness building should focus on the demographic groups that currently under-utilise the EWOQ. To measure the success of its efforts, the EWOQ should undertake targeted awareness testing and monitor complainant demographic trends.

## 6. Independence

The decision-making process and administration of the office are independent from participating organisations.

Benchmark 2

### Organisational structure

75. EWOQ has an Ombudsman appointed by the Governor in Council. Jane Pires is the Ombudsman. She was appointed in December 2016 for 3 years and was re-appointed in December 2019 for a further 3 years. The EWOQ Act specifies that the Ombudsman is not subject to direction by anyone about the way they carry out their functions.
76. The Ombudsman appoints the staff. The Ombudsman and staff are officers of the public service and so bound by the Queensland Public Service Code of Conduct. This includes requirements as to the management of conflicts of interest. This organisational structure ensures EWOQ's independence and impartiality.
77. The EWOQ Act provides for an Advisory Council comprised of a chairperson and at least 6 other members appointed by the Minister, half drawn from industry and half representing consumer groups. The Advisory Council's functions include to provide advice to the Ombudsman about policy and procedural issues and the preparation of EWOQ's budget and to provide advice to the Minister about the funding of EWOQ.
78. Anna Moynihan has been the chairperson of the Advisory Council for the last 4 years. There are currently 5 industry representatives and 3 consumer representatives. We understand that a nomination for a small business representative was submitted to the Department in December 2019 but the nominee's appointment has not yet been confirmed. There is also a consumer representative vacancy, with a proxy arrangement in place pending a nomination being made by the responsible consumer advocate service. To ensure public confidence that the customer voice is being clearly heard, we think that it would be highly desirable for these vacant positions to be quickly filled.

#### Recommendation 10

EWOQ's Advisory Council and Ombudsman should take what steps they can to expedite filling the 2 vacant customer representative positions on the Advisory Council, in order to achieve the balance specified in the EWOQ Act.

79. The Advisory Council normally meets every 3 months. It is provided by EWOQ management with quality, detailed reporting about the EWOQ's performance. We met with the Advisory Council and were impressed by their evident knowledge and commitment.
80. A Handbook specifies how the Advisory Council operates. This was updated in June 2020, with the previous update in March 2011. It would be good practice for this to be regularly reviewed, perhaps every 3 years, to refresh it and encourage discussion about how the Council operates and any improvements that could be made.
81. We think this is doubly important if the Advisory Council remains as currently configured following the Government's decision-making after the legislative review. In our experience and borne out in our interviews with stakeholders, an advisory body is often seen as somehow weaker than a governing Board. A perception that in part at least, can be countered by maintaining its guiding documents.

### Recommendation 11

EWOQ and the Advisory Council should regularly review and update the Advisory Council Handbook.

## Funding

82. The EWOQ Act requires the Ombudsman to prepare a budget for the next financial year. This must be done in consultation with the Advisory Council. It is the Minister's role to approve the budget.
83. The budget is developed in light of expected fees from scheme participants. As specified in the EWOQ Act, scheme participants are charged a participation fee (for being a scheme participant) and user-pays fees (based on a forecast of the number of complaints about the scheme participant and the stage in EWOQ's process of likely resolution). Typically around 3% of revenue is collected from annual participation fees and 97% of revenue is collected from user-pays fees. Supplementary fees may also be charged but this is rarely done, last occurring in 2008/09. EWOQ was, however, given permission by the Minister in 2018/ 19 to collect additional special funding of over \$2m from scheme participants to fund projects including significant IT upgrades and an on-line secure portal for scheme participants.
84. User-pays fees are levied on a half-yearly basis in advance. If, in fact, a scheme participant's case volumes is less than forecast, EWOQ adjusts the next invoice down accordingly. (As the Departmental review noted, because the system favours over-estimation by EWOQ of user-pays fees rather than under-estimation, it is quite rare that EWOQ increases the next invoice for underpayment the previous half year.)

85. Our terms of reference do not include a review of fees. We are, however, asked to review the scheme's progress in meeting the Industry-based Customer Dispute Resolution Benchmarks and this requires us to consider whether the scheme has sufficient funding to fulfil all its functions.
86. We think that EWOQ's funding is generally sufficient. In fact, we think that there may be room for structural and process efficiencies that could potentially reduce the business-as-usual funding: see Chapter 9. However, we think that the current budget process has made it difficult for EWOQ to plan projects that involve large investments such as IT infrastructure projects (something acknowledged in the Department's Options Paper 2). This has held EWOQ back in our view and we strongly support the Department's proposal in its Options paper published on 25 October 2019, that EWOQ is given more flexibility around cost recovery arrangements.

## 7. Fairness

The procedures and decision-making of the office are fair and seen to be fair.

Benchmark 3

87. EWOQ's case handling process begins with an Intake Officer assessment. Intake Officers record in EWOQ's case management system basic details about each case (typically raised via a phone call, email or online form). They resolve enquiries and refer complaints that are outside EWOQ's jurisdiction to other agencies where applicable.
88. For complaints that appear within EWOQ's jurisdiction, the Intake Officer considers if the complainant has given the scheme participant sufficient opportunity to resolve the complaint and, if not, the Intake Officer refers the complainant back to the scheme participant (called Refer back). If the complainant has given the scheme participant sufficient opportunity to resolve the matter, the Intake Officer transfers the complaint on to an Investigations and Conciliation Officer (ICO). For a phone complaint, this transfer may occur as a 'warm transfer' during the initial call.
89. The ICO records more detailed information about the complaint. If the complaint is within jurisdiction and ready to be progressed by EWOQ, the ICO will generally discuss with the complainant whether the complaint should be referred to a more senior employee at the scheme participant (Refer to Higher Level) or alternatively whether EWOQ should immediately commence its investigation. The ICO will advise the complainant as to which option the ICO considers is most likely to resolve the complaint promptly, but the choice is that of the complainant.
90. A complaint may be settled by agreement between the complainant and the scheme participant at any of these stages. If a complaint does not settle when referred, it may return to EWOQ. If so, EWOQ records the complaint as a new complaint – rather than re-opening the old complaint.
91. EWOQ can at any stage decide to discontinue the investigation, for example, on the basis that the scheme participant's response to the complaint was fair and reasonable.
92. If a complaint is not otherwise resolved, the Ombudsman has the power to make a final order in favour of the complainant. In making a final order, the Ombudsman must consider relevant legislation or industry code and the contract between the parties.
93. If the complainant accepts an Ombudsman final order within 21 days, the final order is binding on the scheme participant. The most recent final order by the Ombudsman was in the financial year ending on 30 June 2015.



94. The next sections of this Chapter analyse these processes in more detail.

## Intake processes

95. The Intake Team resolves some cases in the course of its front-end role. During the 10 month period to 30 April 2020, 23% of EWOQ's cases were closed by the Intake Team.
96. Whilst the Intake Team can close complaints on the basis that they are outside EWOQ's jurisdiction, we were told that they only do this if the jurisdictional issue is clear-cut. When there is doubt as to jurisdiction, the complaint will be escalated to an ICO to inquire more closely into the jurisdictional issues.
97. To assist Intake Officers and promote good customer experience, EWOQ has developed scripting for customer calls and has written procedures for recording case information and escalating cases to ICOs. There is a quality assessment process which has been recently revised, whereby a sample of Intake Officer phone calls are reviewed by the Intake team leader.
98. Our sample case file review did not identify any cases that were inappropriately closed by the Intake Team. We are satisfied that Intake processes are fair.

## ICO assessment

99. The ICO speaks by phone with the complainant and obtains more detailed information to better understand the complaint. They check that the complaint is within EWOQ's jurisdiction and the scheme participant has been given sufficient opportunity to resolve the complaint. If the complaint is about a disconnection, the ICO will contact the scheme participant to arrange immediate reconnection, pending the resolution of the complaint.
100. When working in the office, all complaint-related telephone calls are recorded, with a copy dragged into the case management system. This has meant that notes of telephone calls can be quite minimalist.
101. In the current working from home environment in which phone calls are not recorded, our case file reviews have revealed that telephone note keeping has tended to be minimal. This has made it difficult at times to understand the full progression of the case. We think that it is important that fulsome notes are made in the current environment. EWOQ has told us that this has been addressed with the team and is being reviewed as part of quality assurance. In any event, a new telephony system is beginning on 27 July which will see the resumption of call recording.

## Refer to Higher Level

102. Generally EWOQ does not proceed to investigate a complaint without discussing with the complainant whether they would like the complaint to be referred to a higher level at the scheme participant for consideration. To the extent that the customer has choice as to this, EWOQ's processes are different from other energy and water ombudsman schemes.
103. Interviewed scheme participants appeared generally content that EWOQ is using the Refer to Higher Level process where the complaint issues are relatively simple and so the complaint should be capable of resolution without an EWOQ investigation. Where resolution is agreed with the complainant through this process, this provides the advantage for the scheme participant that they do not incur the higher fees EWOQ charges for an investigation.
104. Some scheme participants would, however, prefer that EWOQ rather than the complainant makes the choice. Some scheme participants told us that they would prefer that no complaints go directly to an investigation, without first going through the Refer to Higher Level process (ie. they would prefer a mandatory Refer to Higher Level process). We even heard that scheme participant staff sometimes suspect that EWOQ staff are encouraging complainants to choose the immediate investigation path – as a form of 'creating more business' – although we saw no sign of this in our observations.
105. From our case file review and interviews of ICOs, we were satisfied that ICOs are currently managing the complainant choice process fairly and well, by providing good advice to the complainant as to which route is likely to achieve faster resolution. Reviewed telephone calls demonstrated sound management of complainants' expectations as to whether or to what extent some redress was likely to be provided by the scheme participant through the Refer to Higher Level process.
106. The current flexible approach carries some advantages. For scheme participants, a complaint that goes through the Refer to Higher Level process unresolved and progresses to an EWOQ investigation anyway will incur higher aggregate EWOQ fees than if the Refer to Higher Level process is bypassed. For both parties, the total resolution time for an investigated complaint will be longer in these cases than if the Refer to Higher Level process is bypassed.
107. For these reasons, while we understand some scheme participants' desire for another chance to resolve the issue, we would like to see retention of the flexibility to enable immediate investigation where this is more appropriate than a Refer to Higher Level process. This maintains alignment with the practices of other energy and water ombudsman schemes.
108. EWOQ processes differ from at least some other energy and water ombudsman schemes in that ICOs make a follow up call to complainants whose complaint has been

referred to a higher level at the scheme participant. The purpose is to find out if the complainant is content that the complaint was resolved (a follow up call is not made where EWOQ has already received confirmation from the complainant that the complaint has been resolved). Frequently the call is a very quick confirmation of resolution. From time to time, the complainant reports that the complaint has not been resolved and this leads to the re-activation of the complaint as an investigation.

109. We view this as good practice by EWOQ. Our interviews of complainants suggest that this follow up is appreciated. Whilst not all scheme participants with whom we spoke were aware of this EWOQ practice, we did not encounter any objections about this practice, although a couple of interviewed scheme participants wondered aloud about the cost to EWOQ of this process. (As noted previously in this report, a couple of scheme participants observed that they would appreciate feedback from EWOQ as to what their customers reported during these follow up calls. Currently the EWOQ Act is viewed as an impediment to EWOQ providing feedback in a way that could allow the scheme participant to identify a comment to a customer (see paragraph 48).)
110. These follow up calls provide evidence-based assurance that the Refer to Higher Level process is working as intended – something that other energy and water ombudsman schemes are often unable to do with any great confidence. EWOQ surveying appears to bear this out, with about 70% of past complainants who have experienced this process saying that they were very satisfied that this process was useful.
111. Statistics also support the utility of this process. During the 10 months to 30 April 2020, only 14% of investigations were flagged in EWOQ’s case management system as having previously been referred by EWOQ to a higher level at the scheme participant and failing to resolve at that level.

## Numbers of investigations

112. We were interested in the percentage of EWOQ cases that are investigated, as compared with other energy and water ombudsman schemes. Although reliable comparison of data from each of the Australian energy and water ombudsmen schemes is problematic, the table below shows that in 2018/2019, EWOQ investigated less cases than EWON but more than EWOV.

**Figure 3** Investigated complaints in 2018/19 (source: Annual Reports)

Ombudsman scheme	Total no. of cases (incl. enquiries and referrals to other orgs)	No. of investigations	Investigations as a raw percentage of closed cases
EWOQ	8,559	1,640	19.2%
EWON	26,543	6,429	24.2%

EWOV	31,180	4,857	17.5%
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113. Updated information provided by EWOQ for this year suggests, however, that there has been an increase in the ratio of investigated cases to around 32% (a trend that was commented on by one scheme participant with whom we spoke). EWOQ has told us that this is because complaints are becoming more complex. We think that it would be beneficial to undertake further work to understand the areas of increased complexity and to test whether the increase in percentage of investigated cases is warranted. Whilst the trend to a higher percentage of investigated cases has been discussed at Advisory Council meetings, we think more in depth analysis is important.

**Figure 4** Complaints closed by EWOQ by level other than Enquiries and referrals (source: EWOQ)

Refer Back	2861	44.0%	1,836	35.3%
Refer to Higher Level	2007	30.1%	1,682	32.4%
Investigation	1640	25.2%	1,679	32.3%

### Recommendation 12

EWOQ should undertake detailed analysis to test whether the increase this financial year in the proportion of investigated complaints is warranted – or whether other responses to the perceived increased complexity are available that would enable the complaints to be resolved more efficiently but without compromise to fairness.

## Investigation processes

114. The Investigation process begins with a notice of investigation setting out the issues and EWOQ's information requests.
115. EWOQ differs a little from some other energy and water ombudsman schemes to the extent that a notice of investigation is always referable to a single complaint; there is no 'batching' of complaints for scheme participants with large volumes of complaints. 'Batching' is a practice that other ombudsman schemes have found to be efficient particularly in times of large volumes – and we heard comment from some scheme participants that they would like to see EWOQ also adopt this approach. We return to this issue in the discussion of efficiency later in our report.

116. As we saw in our case file review, a notice of investigation is typically sent out within a few days of the receipt of the complaint. For some reviewed cases, it seemed to us that the request for documents was more broadly expressed than seemed necessary – and we received some feedback from scheme participants that particularly in the past this was an issue. Framing an information request requires judgment as to what is pertinent. We suggest that this is an issue that could be given enhanced focus in the course of quality assurance reviews for ICOs.

### Recommendation 13

EWOQ quality assurance reviews of investigated complaints should strengthen focus on the framing of information requests. The aim should be to ensure that requests are no broader than needed to resolve the complaint.

117. Typically scheme participants have 10 business days to respond to an EWOQ request for information. ICOs closely monitor this timeframe. The investigation is escalated to a higher level, incurring a higher fee, if the scheme provider's response is inadequate or late. So too escalation occurs on the basis of the minutes of time spent by the ICO. We saw many examples of this in our case review. Whilst scheme participants are concerned about the high fees that they incur for an escalated complaint, in our view, this is consistent with a user pays system. It also encourages scheme participants to give priority to working with EWOQ to resolve complaints.
118. After receiving the scheme provider's information in response to EWOQ requests, the ICO analyses the information and makes follow up requests where necessary.
119. Typically the scheme participant's response and documents are not provided to the complainant. Instead the ICO will usually inform the complainant of pertinent details. Where a complainant wants to receive the scheme participant's documents, this can be requested. However, ICOs do not ask complainants if this is what they want.
120. We appreciate that the current approach promotes timely resolution and that this no doubt works well for many complainants. We are, however, concerned that this may not fully meet the requirements of procedural fairness. A better approach would be to at least let complainants know that they can request the scheme participant's documents if they would like them.

### Recommendation 14

For cases that go to investigation, EWOQ should inform the complainant that on their request EWOQ can send them a copy of the scheme participant's information.

121. Our case file review provided examples of good analysis of information by the ICO and confidence in forming and conveying a view as to whether the scheme participant's response was fair and reasonable or whether the complainant was deserving of a more favourable outcome. This resulted in prompt resolution of most reviewed complaints. Supporting this, the following table demonstrates that the vast majority of investigations close as a Level 1 investigation.

**Figure 5 Investigated complaints in the 10 months to 30 April 2020 (source: EWOQ)**

Level of investigation	No. of investigations closed at this level	Percentage of closed investigations
Level 1	1,204	72%
Level 2	398	23%
Level 3	77	5%

122. For larger scheme participants, we saw effective use by EWOQ of case conferences to deal with investigations that were becoming aged.
123. There was, however, the occasional more technical complaint where it appeared that the ICO was less surefooted in progressing the complaint. In one of these complaints, the complainant was himself from the electricity industry and persisted and eventually the scheme participant conceded their mistake and provided compensation. The complainant told us that the management of his complaint suffered from a lack of electrical engineering knowledge within EWOQ.
124. We also heard from water industry scheme participants that EWOQ's knowledge of the technicalities of water issues was not as solid as it could be, resulting in some misconceptions affecting a small proportion of water complaints.
125. Technical expertise is an issue that is frequently raised in ombudsman scheme reviews. It is a particular challenge for EWOQ, operating in a rapidly changing, highly technical industry, but without the volume of complaints to permit it to have, for example, in-house electrical engineering knowledge. EWOQ told us that it can seek independent electrical engineering advice but has not done this for a number of years.
126. We have seen a variety of approaches taken by other small schemes to access technical expertise. Some use their scheme participants to provide advice on an anonymised basis and, for example, put the same question to several scheme participants to test the information provided. Another option can be a paid retainer arrangement, for example, with a recently retired expert who can be asked to provide advice. For EWOQ, it might be possible to put in place arrangements to access specialists employed by other larger energy and water ombudsman schemes in Australia (we are aware, for example, that EWOV has an electrician on staff and has access to other

technical experts as required, for example, hydro engineers, gas fitters, plumbers). Our recommendation is that EWOQ explore these and other options with a view to enhancing its access to technical expertise.

### Recommendation 15

EWOQ should explore ways to enhance its access to specialist skills to assist its resolution of highly technical complaints.

## Refusal to investigate

127. An ICO may decide not to continue the investigation, for example, where the scheme participant's information demonstrates that it has responded fairly to the complaint. If so, the ICO writes to the complainant to advise this. If the complainant reverts to the ICO and expresses dissatisfaction, the ICO's team leader will consider the case. If the team leader supports the decision, the team leader issues a formal refusal to further investigate (EWOQ Act section 22 letter). From that letter, there is a further review avenue available if the customer provides clear, logical grounds explaining why EWOQ's decision was wrong or inappropriate or unfair. EWOQ publishes on its website a Dispute Referral Internal Review Policy Statement that explains this process.
128. The following table shows the extent to which these avenues were used in 2018/19.

**Figure 6** Investigations closed with section 22 letter in 2018/19 (source: 2018/19 Annual Report p.25)

Outcome	Number
Section 22 letter	10
Number of reviews	6
Number of section 22 letter decisions upheld	6
<b>Total investigations</b>	<b>1,640</b>

129. We are concerned that current practices do not make it clear to complainants that a review avenue is possible. We think that a stronger process would be for the ICO to frame any decision to not investigate as a section 22 letter and to note that a review by an EWOQ manager may be possible (with a link provided to EWOQ's Dispute Referral Internal Review Policy Statement). We appreciate that this would require a change to current delegations.

### Recommendation 16

EWOQ should delegate the power to ICOs to issue a section 22 letter informing a complainant that their complaint will not be further investigated. Where a complaint is closed on the basis that it does not warrant investigation, the ICO's letter should be framed as an exercise of the section 22 power and should inform the complainant about the possibility of an internal review.

## Communication with complainants

130. In the investigated cases that we reviewed, we found good email communications with the parties. We were, however, surprised that there was often little phone contact with the complainant. We think that more contact (calls and text messages) would often have improved the complainant experience. This is particularly the case where the ICO supports the scheme participant's view and decides not to continue the investigation.

### Recommendation 17

For investigated complaints, EWOQ should set an expectation that the ICO will try to call the complainant before sending out any significant piece of communication, in particular, before moving to close the investigation. More use of text messages should also be explored.

## Closure of complaint where complainant fails to respond

131. As with all ombudsman schemes, if a complainant fails to engage with the dispute resolution process, the EWOQ will close the dispute file.
132. We think that ombudsman schemes need, however, to exercise caution in doing this and to be prepared to re-open a complaint if the complainant provides a reasonable explanation for their previous non-response.
133. We reviewed one investigation file where an ICO closed an investigation following the complainant's failure to respond to a previous email by the specified date. In fact, this was because the ICO's previous email message had been filtered into the complainant's 'junk' email inbox and so had not been seen by the complainant. When the complainant identified this and reverted to the ICO, the ICO refused to re-open the investigation. This example illustrates the importance of ICOs making telephone contact, rather than solely relying on email contact. The result in this case was an outcome that we think was unfair.



134. We think that it is important that EWOQ monitors instances of closure of complaints on the basis that the complainant fails to respond to test how often this is occurring and whether steps are necessary to enhance complainant engagement. EWOQ does not, however, separately categorise these complaint closures. Rather these will be recorded in EWOQ's case management system as a Refer Back to the scheme participant. Other energy and water ombudsman schemes separately categorise and report on these closures – and this is what we recommend to EWOQ.

### Recommendation 18

EWOQ should separately categorise complaints that are closed on the basis of the complainant's failure to respond to EWOQ. Reporting as to the number and trend in relation to closures of this type should be included in EWOQ's Annual Report.

## Investigation outcomes and satisfaction levels

135. EWOQ does not include detailed information in its Annual Reports about investigation outcomes (although it does report some information about aggregate monetary outcomes). Its current data collection does not readily permit this style of reporting as the following table demonstrates.

Figure 7 Investigations closed by EWOQ from 1 July 2019 to 30 April 2020 (source: EWOQ)

Outcome	Number
At least 1 redress win for complainant	1,259
At least 1 redress win for scheme participant	204
Withdrawn by the complainant	14
<b>Total investigations</b>	<b>1,679</b>

Notes: A complainant may receive more than 1 redress win. Also a single investigation may yield both a redress win for the complainant and a redress win for the scheme participant. We were not able to identify how many investigations yielded no redress for either party.

136. To enhance accountability, we think that it is important that EWOQ collects data that permits it to provide meaningful information about investigated complaint outcomes. Ideally there would be consistency in the classifications used by energy and water ombudsman schemes in Australia, so as to permit comparison. This is something that EWOQ could pursue through ANZEWON, but we recognise that process differences could make this difficult to achieve. As a starting point, we suggest the following classifications: redress for the complainant, refusal by EWOQ to continue to investigate (some sub-categories here would be useful), withdrawn by the complainant and failure by complainant to respond.

## Recommendation 19

- a) EWOQ should collect data that permits it to provide meaningful information in its Annual Reports about investigated complaints outcomes, for example, the number of complaints where the complainant obtained redress, the number where EWOQ refused to further investigate, the number where the complainant withdrew and the number where the complainant failed to respond.
- b) As a longer term initiative, EWOQ should use the ANZEWON forum to endeavour to develop investigation outcome classifications that are uniformly applied by all energy and water ombudsman schemes in Australia and so permit comparison of schemes.

137. Notwithstanding the limitations of the current data, we were satisfied that EWOQ outcomes are generally fair. Our review of investigated complaints overwhelmingly suggested this. This conclusion is also supported by EWOQ surveying of complainants who have experienced EWOQ's investigation process. In 2019, 73% of those surveyed were very satisfied that their complaint had been thoroughly investigated and 74% were very satisfied that the investigation was independent and unbiased. In the most recent surveying in January 2020, both ratings had risen to 81%. Similarly EWOQ surveying, and other interviewing, of scheme participants raised very few concerns about the fairness of investigation outcomes.
138. As for the Intake process, we expect that EWOQ's quality assessment process (recently revised) will be effective at supporting the maintenance of fair investigation outcomes and good satisfaction levels.
139. To further assist ICOs and promote consistency and fair outcomes, EWOQ has been working to transfer its procedural resources for ICOs into an electronic document and records management system. We strongly support investment in a single source of centrally updatable procedural guidance and precedent templates. Where this is missing in ombudsman schemes, the gradual proliferation of personalised workarounds and the use of out-of-date guidance and references erodes the consistency and quality of work making management and quality assurance progressively more and more difficult.

## 8. Accountability

The office publicly accounts for its operations by publishing its final determinations and information about complaints and reporting any systemic problems to its participating organisations, policy agencies and regulators.

Benchmark 4

### Publication of case studies

140. Because scheme participants willingly participate in conciliation and generally accept EWOQ's view, the Ombudsman has not issued a final order for nearly 5 years and there are no final orders published on EWOQ's website.
141. EWOQ's website does however include a large number of anonymised case studies. These are searchable by subject (electricity, gas and water) and by issue (eg. billing errors, debt and credit rating, disconnection and restriction). EWOQ's Annual Reports also include anonymised case studies. We think that these provide useful transparency and promote accountability.

### Reporting

142. Each year, EWOQ publishes an Annual report on its website. The 2018/19 Annual Report included detailed statistical information about case numbers, issues and outcomes and the time taken to resolve complaints. Prior year information was provided by way of comparison. There was information about systemic issues and the Report described EWOQ's community outreach. Analysis was provided of EWOQ's performance against its strategic plan along with detailed information about scheme participant performance. Other information was also included to meet public sector reporting requirements.
143. Elsewhere in this report, we have made suggestions as to some additional data that we think EWOQ should collect and report in its Annual Report - ie:
  - a. Number of complaints excluded on the basis of the 12 month timeframe and the number of complaints where EWOQ exercises its discretion to allow these complaints to be handled (see Recommendation 8)
  - b. Number of complaints closed on the basis of the complainant's failure to respond to EWOQ, together with trend information (see Recommendation 8)
  - c. Investigation outcomes (see Recommendation 19)

- d. More detail in relation to systemic issues (see Recommendation 23)
  - e. Trends in relation to stakeholder survey results (see Recommendation 24)
144. Reporting to regulators about systemic issues is discussed later in this report: see Paragraph 189.

## 9. Efficiency

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

Benchmark 5

### Professionalism

145. EWOQ has generally well documented, good practice work processes that promote consistency in disputes handling. As noted earlier, it is in the process of transferring its procedural resources for ICOs into an electronic document and records management system.
146. EWOQ's case management system and work practices have the result that complaints are well tracked by ICOs and their team leaders. EWOQ is in the process of developing reports to enable its management to better track organisational and individual performance. We see this as an essential tool to assist EWOQ's focus on efficiency: see paragraph 178.
147. EWOQ has a formal induction program for new staff. Thereafter, the main focus of effort is in on-the-job training. Formal training in working with difficult complainants has been provided to staff. Our observation and stakeholder feedback is that staff are knowledgeable and appropriately skilled: see Chapters 7 and 11. We did receive some stakeholder feedback suggesting that technical knowledge of aspects of the sector could be strengthened – see paragraphs 122 to 126.
148. EWOQ has a recently revised quality assessment program. Both Intake and Investigations team leaders regularly review a defined sample of cases. Findings are documented and feedback provided to their team members. We expect that this will positively contribute to the quality with which cases are being handled.

### EWOQ IT infrastructure

149. It is our observation that EWOQ has under-invested in Information Technology over the past ten years, with this long acknowledged by EWOQ management and reflected in its current series of IT projects.
150. This under-investment has resulted in a case management system (the widely used Resolve software) that needs a number of significant upgrades to reflect changes in the

sector, to access external data (eg. an online feed for NMI data) and to improve productivity, data analysis and reporting. A project to evaluate options recently opted for a move to the latest release of Resolve – a project that is underway.

151. One critical function that is not yet available to EWOQ scheme participants is a secure on-line portal that can be used for communication of key case information, for secure lodgement of documents and for tracking and management of case progress and milestones. This is now widely regarded as an essential service by ombudsman schemes around the world in all sectors. We understand that EWOQ have identified a provider for a secure modern portal, with implementation scheduled for mid-August.
152. While the current EWOQ IT projects are out of scope for this Review, we would make the observation that the addition of contract resources for the IT projects has brought a new array of skills and knowledge to EWOQ and there have been valuable learnings for the organisation.
153. We understand that IT projects have been under considerable pressure to be completed to deadline – and of course have been distracted by adapting and supporting staff through the pandemic isolation. We would be concerned if the quality of the projects was compromised by this time pressure and while we understand that the Minister has now provided EWOQ with approval for some additional time to use project funding, we see this as complicating implementation management and further reason for EWOQ to move to more flexible long-term funding and cost recovery arrangements.

### Recommendation 20

EWOQ should ensure that its upgraded case management system enables it to capture and report more extensive data than at present. This should include:

- a) complaints that have been excluded on the basis that they fall outside of EWOQ's jurisdiction (number per category of exclusion); and
- b) better facilitation of data analytics, for example, to assist in identifying demographic groups that are under-utilising EWOQ and identifying potentially systemic issues.

## Timeliness

154. Interviewed scheme participants and complainants generally praised the timeliness with which EWOQ resolves complaints. Consistent with this, EWOQ's surveying of complainants has found high levels of satisfaction with the time taken by EWOQ to

investigate and resolve complaints (72% in 2019 and 81% in January 2020 of those surveyed said that they were very satisfied with this).

155. We agree that EWOQ performs well in relation to timeliness. The complaints that we reviewed were initiated promptly. Where the complaint was referred to a higher level at the scheme participant, typically this would happen within a day or two of the making of the complaint. Where an investigation notice was issued, this would typically be sent to the scheme participant within a few days. Scheme participant response due dates were monitored and followed up. Once the necessary information was obtained, this was usually analysed promptly. We also found good team leader attention to timeframes, with reviews of aged files generally occurring at 28 days, 45 days, 60 days and 90 days.
156. The result is timeframes that compare favourably with EWOQ's self-defined measures of success and with the performance of other energy and water ombudsman schemes.

**Figure 8** Timeframes to close complaints (source: EWOQ)

Days to close	No. of cases closed in 10 months to 30 April 2020	% of cases closed in 10 months to 30 April 2020
<28 days	5,156	78.4%
28 to 59 days	1,167	17.7%
60 to 89 days	193	2.9%
90 to 119 days	39	0.6%
120 to 149 days	8	0.1%
150 days+	15	0.2%

**Figure 9** Performance against EWOQ measures of success articulated in its Annual Report

EWOQ's measure of success	Target	Result achieved in 10 months to 30 April 2020
Percentage of cases closed within 28 days	80%	78.4%
Percentage of cases closed within 60 days	90%	99%

## Cost-efficiency

157. Part of our Review has been to examine the cost efficiency of EWOQ's dispute resolution. We found that this was an issue of particular concern to the larger energy

retailers who have experience of complaints handling in other States and are able to readily compare costs between schemes. While we were not surprised to hear from a number of scheme participants that EWOQ was more costly than other schemes (for reasons we discuss below), we were, however, dismayed when a few told us their rule of thumb is “EWOQ is about three times the cost of other schemes”.

158. In support of this impression, one large energy retailer provided us with their internal data comparing what their average complaint costs are for Ombudsman case fees in each of Queensland, Victoria and New South Wales, showing significant differences – see below.

**Figure 10** Figures provided by one large retailer comparing the average case fees charged per complaint (Source – retailer supplied)

	Average case fee charged per complaint in 2018/19
EWOQ	\$ 1,191.14
EWON	\$ 488.51
EWOV	\$ 309.20

159. Of course, these figures are for one scheme participant only and should not be taken as universal. The overall figures across all scheme participants indicate a significantly less dramatic difference between the schemes. These figures also do not include the annual levies, which would make the differences less again (we discuss this further at paragraph 179 below). Our concern is not with the status of these example figures, but with the overall perception.

## Departmental Review

160. The Department also examined the issue of cost efficiency, providing an analysis in its Options paper – Part 2 of 25 October 2019.

**Figure 11** Ombudsman expenditure comparison (source: Department’s Options paper – Part 2 p.180)

Ombudsman Office	2017-18 complaints finalised	2017-18 operating expenditure \$'000	2017-18 employee expenditure \$ '000	Average operating expenditure per complaint finalised \$	Average employee expenditure per complaint finalised \$ (proportion of operating expenditure)
NSW	26 205	11 634	8828	444	337 (76%)



SA	9905	3222	2004	325	202 (62%)
Victoria	30 483	8674	6461	285	212 (74%)
Queensland (EWOQ)	10 211	6278	4472	615	438 (71%)

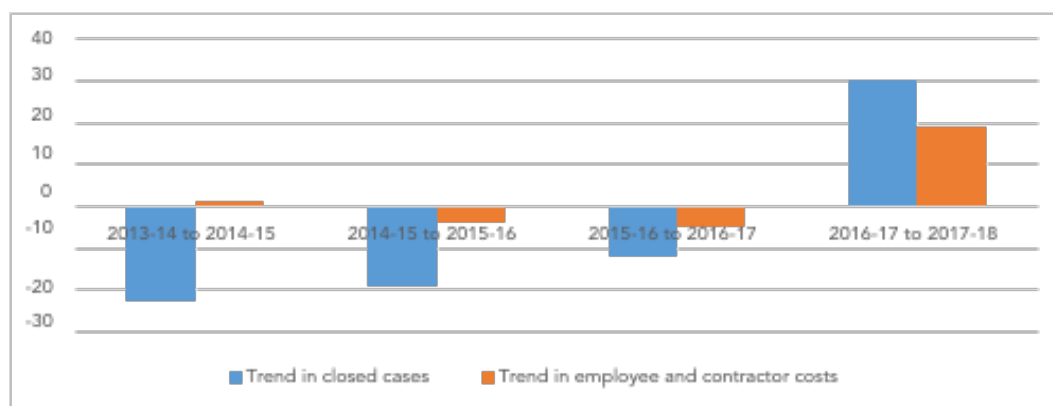
161. The Department's paper estimates that in 2017/ 18 EWOQ incurred higher employee costs of around \$187.00 per complaint, compared with the average costs of the other schemes. This equated to a total amount of \$2.5 million. The paper discusses the reasons for this disparity in cost, making the following points:

- a. The NSW, South Australia and Victorian schemes are resolving complaints in similar timeframes to those achieved in Queensland.
- b. EWOQ, unlike other States, has two Regional Offices that deal with calls and complaints and play a significant role with outreach.
- c. The Department observed that the cost per complaint in the regional areas was higher than for southeast Queensland.

(We note that EWOQ's submission in response to the Department paper argued that the figures did not take into account other work done in the Regional Offices. EWOQ excluded physical regional office presence as a cost factor, explaining that lower rental costs and reduced outreach travel costs create a net saving.)

- d. EWOQ has a public rather than private sector employment structure, however the Department's analysis of EWOQ employment costs as a proportion of operating costs shows a similar ratio to the other schemes.
- e. The Department concedes that the employment structure may be reducing flexibility for EWOQ (for example, the ability to responsively vary staffing to match complaint volumes) and may thereby be increasing costs – as illustrated in the table below.

Figure 12 EWOQ resourcing adjustments (source: Department's Options paper – Part 2 p.182)



### Possible causes

162. Our analysis of cost-efficiency is shaped first by our view of EWOQ's current trajectory as a scheme that is in the midst of a process of building capability, much of which can be expected to improve its cost-efficiency – in particular through current IT projects. So, we cannot criticise EWOQ for failing to recognise the issue, nor for lack of genuine effort to improve in this area.
163. Second, it is exceedingly difficult to make reliable comparisons between schemes because there are myriad differences in processes, in definitions and in measurement approaches, not to mention the differences in the energy and water environments, including demographics, geography and regulation. To make valid comparisons would require simultaneous access to all of the included schemes and a much more narrowly focused review than ours is meant to be.
164. That said, we examined what we could of potential underlying causes, some raised by the Departmental Review, some by stakeholders, some by staff and some from our own observation.

### Scale

165. First, although the most frequent comparators are Victoria and NSW, EWOQ is a significantly smaller scale scheme – with around one third the number of consumer contacts over the past couple of years. Inevitably, this explains some of the differences, with higher ratio of management and administrative staff to case-handling staff, higher ratio of IT costs to staff and all the usual comparative inefficiencies of a smaller size.

## Patch

166. EWOQ services the larger geographical size of Queensland, including with two regional offices. Queensland's population is distributed across the state more than any other part of Australia (ie. less urbanised than other states).
167. Queensland has other unique features including a higher proportion of vulnerable communities such as low income retirees and a comparatively large number of remote indigenous communities. It appears that this results in a higher need for community engagement and outreach, along with outreach being more costly because of the travel distances involved.
168. Queensland also has the highest penetration of household solar systems and embedded networks in the country. Given the current limitations on EWOQ's jurisdiction, this is also likely to reduce the number of consumer issues it can deal with and increase the number of referrals of consumers to other organisations, something that the call statistics seem to support.
169. State price controls apply to provision of energy in regional areas of Queensland (all of the state other than the Southeast corner), virtually eliminating retail competition and the problems that can come with aggressive marketing and new entrant or sub-scale retailers. It was put to us that this has the effect of reducing the proportion of straightforward complaints and so resulting in EWOQ handling a higher proportion of complex matters which raises the average cost of complaints. The increasing complexity of complaints was given some weight in the EWOQ 2018/19 Annual Report and we have separately observed that the proportion of complaints being resolved at Investigation levels has been increasing.

## Public service

170. EWOQ is a statutory scheme staffed by permanent public servants. While this may not result in directly higher employment costs (this would need to be verified at a level of detail), this certainly brings some inflexibility in labour costs affecting EWOQ's ability to adapt to changing workload. While the table at Figure 12 shows some effort made to adapt costs to changing workload, it is evident that this lags by some margin.
171. An example of this is that EWOQ, like every ombudsman scheme in the country, is anticipating an increase in its workload as a consequence of projected pandemic-related financial hardship applications increase scheme participant complaints. Sensibly, EWOQ has planned its resourcing so that it will be ready to manage increased volumes. If, as we understand is the case, recruitment will not be required, EWOQ will be able to bring down the average cost of complaints if the anticipated volume increase occurs. Inevitably, current apparent cost-efficiency is suffering.

172. We also examined EWOQ's office structure and compared it with both EWON and EWOV, to see if there were additional layers of supervision however, on the surface at least, the structures were quite similar, with the same number of levels. The proportions of staff that are dedicated to complaints-handling (as opposed to management and support functions) appears to be lower than for EWON and EWOV by about 10%, although we would expect some of this given the scale differences. We are also conscious that this is another comparator that can be misleading without examining each staff member's actual role and how time is spent in some detail.

## Practices

173. Elsewhere in this report, we identified a few EWOQ practices that may be impacting on cost-efficiency, some of which would warrant some closer attention from EWOQ management over the coming year.
174. We received some feedback from Intake Team staff that the administrative work associated with calls (eg. data entry, statistics recording) is taking considerable time – often more time than is spent with the customer. This is contributing to what seems to be low volumes of calls handled by Intake staff ie. approximately 15 calls per day with an average length of 1 to 7 minutes phone time.
175. EWOQ's Intake Team resolves a lower proportion of cases than the front-end teams in some other energy and water ombudsman offices – and in particular does not manage the Refer to Higher Level process. For complaints that are resolved through the Refer to Higher Level process (approx. 1,700 complaints in 2018/19), this means that there is 'double-handling' by EWOQ staff, whereas in other schemes a single person takes responsibility for these complaints.
176. We identified one EWOQ complaints handling practices that is different from those of other energy and water ombudsman schemes but that we regard as better practice and that in our view should be adopted by other state schemes. This is the practice of calling to check on complainants who have not been heard from, following their complaint being dealt with in a Refer to Higher Level process (see discussion from paragraph 108). We don't think that this practice should be sacrificed in the pursuit of cost-efficiency.

## Capabilities and focus

177. While we acknowledge that EWOQ management are well aware of the cost comparisons and the importance of cost-efficiency, it is also fair to say that we have seen a greater management focus on cost-efficiency in other schemes we have reviewed. Some of this is because of recent management focus on building culture and capability and on quality of service, which we think was the correct emphasis.

178. It is also a function of the capability of existing EWOQ systems. We have elsewhere commented on the relative immaturity of EWOQ IT infrastructure – and we acknowledge that significant investment is occurring now to address this. We expect this investment to pay cost-efficiency dividends including by improving internal workflows, some greater automation, better standardisation and consistency, improved workload tracking and reporting and streamlining the exchange of information with scheme participants.

### Case fees vs levies

179. A threshold observation that we frequently find, across all types of industry-funded ombudsman schemes, is that case fees receive much more attention than annual and other fees when we consult with scheme participants. The result is that ombudsman schemes with a higher proportion of case fees in their cost-recovery appear to be more expensive than schemes with higher annual fees and therefore with a smaller proportion of their costs that must be recovered from case fees.
180. EWOQ is almost entirely funded by case fees as required by its legislation and as the following comparison illustrates. While this does not represent a substantive difference in overall costs, it may be contributing to the perception of costliness. At the end of this section, we have recommended a move to reducing case fees as a proportion of EWOQ's cost-recovery.

**Figure 13 Comparison of case fee-based cost-recovery (Source EWOQ)**

	% of cost-recovery from case fees	% of cost-recovery from annual and other fees
<b>EWOQ</b>	97%	3%
<b>EWON</b>	85%	15%
<b>EWOV</b>	94%	6%

### Conclusion

181. Whilst we have not undertaken a detailed resourcing study, it seems evident from our examination that there is no single overriding reason for the higher costs of complaint-handling at EWOQ. Rather, we think the evidence points to a series of factors, some relatively small on their own, but that together add up to a significant challenge for EWOQ.
182. We have identified that expected changes to the environment and improvements being currently implemented will bring improvement, however we think that more concerted effort will be needed. We think there are factors, particularly that relate to the

Queensland environment and the scale of the scheme that will mean EWOQ will always be a degree more costly per complaint than schemes in Victoria or NSW, however in the long term, that should be a matter of percentage difference, not a multiple.

183. We think that EWOQ will have enough on its plate for the next 12 months, without us overloading the agenda with demands for immediate efficiency gains. Rather, we think that EWOQ should deal with the pandemic impacts, complete its current very busy agenda, harvest the efficiency improvements that will come with completion of current change, deal with likely changes to its legislation, and then progressively turn its focus to cost-efficiency, most likely in financial year 2021/22.

### Recommendation 21

EWOQ should identify cost-efficiency as a priority for the coming three years, including:

- a) Completing efficiency capability-building currently underway
- b) Improving understanding of the use of time within EWOQ
- c) Developing a deeper knowledge of the detail of practices in comparable schemes
- d) Developing cost-efficiency targets and priorities as part of business planning for 2021/22
- e) At the next fees review, move to reduce the proportion of costs recovered from case fees – we suggest to 70%

## 10. Effectiveness

The office is effective by having an appropriate and comprehensive jurisdiction and periodic independent reviews of its performance.

Benchmark 6

### Coverage

184. Chapter 4 discusses EWOQ's jurisdictional scope and includes our recommendations as to this.
185. The EWOQ Act gives EWOQ the power to require scheme participants to provide information or documents. EWOQ's notices of investigation exercise this power. From our case review, we were satisfied that scheme participants generally respond promptly to these. Where they do not, there are good processes to ensure that EWOQ staff promptly follow up the matter. EWOQ investigation escalation procedures serve to encourage prompt response given that any failure to respond adequately or provide requested information on time can lead to escalation to a higher level and higher fees being incurred.

### Systemic issues

186. As discussed in Chapter 4, the EWOQ Act confers on EWOQ the role of identifying systemic issues arising out of complaints, but does not provide express power to investigate systemic issues and assess the adequacy of scheme participants' remediation of these: see Recommendation 6 that proposes clearer powers for EWOQ as to this.
187. EWOQ has processes to identify and escalate potentially systemic issues. ICOs can flag a complaint as potentially systemic. Some types of complaints, such as those about marketing practices, are automatically flagged as potentially systemic. Because of limitations in its case management system, EWOQ does not, however, currently utilise data analytics to identify systemic issues, see Recommendation 20.
188. Potential systemic issues are assessed by an EWOQ Senior Adviser who escalates these to the weekly Regional Management Group meetings, with a recommendation as to the issues that should be closed as not systemic, those that should be monitored (kept open to see if further similar complaints arise) and those where the scheme participant should be issued with a systemic issues notice. A systemic issues notice may request

information from the scheme participant. Primarily, however, the emphasis is on providing the scheme participant with a chance “to confirm whether it agrees with the assessment that the matter is a potential systemic issue” (EWOQ Systemic Issues Policy and Procedures, April 2020). The scheme participant is given 10 days to respond.

189. As noted in Chapter 4, EWOQ reports systemic issues to regulators. For energy, a monthly report is provided to the Queensland Competition Authority and a quarterly report to the Australian Energy Regulator. For water, a monthly report is provided to the Department of Natural Resources. Monthly reporting is also provided to Fair Trading and the Australian Competition and Consumer Commission.
190. Our review of a sample of systemic issues cases showed that the process is ‘light touch’ compared with that in other States. It is rare that documents are collected or that there is depth to the exploration of whether the scheme participant’s response was adequate. A couple of scheme participants agreed with us as to this. The ‘light touch’ is also evident from the following table of outcomes.

**Figure 14 Outcomes of potential systemic issues (source: EWOQ)**

Outcome	2018/2019	10 months to 30/4/2020
Information provided to EWOQ by scheme participant	27	13
Monitored by EWOQ for period of time and then closed without action	13	32
Systemic issues notice not warranted	12	2
Remedial action undertaken by scheme participant	9	7
Staff feedback/training undertaken by the scheme participant	6	6
<b>Total</b>	<b>76</b>	<b>60</b>

191. EWOQ’s ‘light touch’ approach is, we think, also reducing the utility of its regulator reporting, as are the constraints imposed by EWOQ’s privacy and confidentiality obligations: see Chapter 4 as to this.
192. We think that the approach to systemic issues has not kept up with increasing regulatory and community expectations of an ombudsman scheme’s role in identifying and actively working with scheme participants and regulators to resolve systemic issues and minimise future complaints. This was evident in our consultations with consumer groups, during which particular concern was raised about inappropriate payment plans and door to door selling.
193. We recognise that EWOQ needs broader powers before it can revamp its systemic issues processes. A substantial revamping will then be needed.



## Recommendation 22

If, as proposed in the Department’s Option Paper, EWOQ’s systemic issues mandate is made more explicit, EWOQ should develop a more in-depth approach to systemic issues. Additional resourcing will be necessary. In developing its approach, EWOQ should seek to build upon best practices in other States.

194. We would also like to see EWOQ’s Annual Report include more specific information about systemic issues. The 2018/2019 report disclosed the number of potential systemics by issue type, with comparative numbers for previous years. The number of systemic issues notices were also disclosed.

Figure 15 Potential systemic issues in 2018/2019 (source: EWOQ Annual Report)

Billing	27
Customer service	13
Provision	12
Marketing	9
Transfer	6
Metering	1
Other	8
<b>Total</b>	<b>76</b>
<b>No. of systemic issues notices</b>	<b>60</b>

195. The Annual Report usefully includes a couple of systemic issues case studies, but we think more is required to give readers a sufficient picture of systemic problems. We think that the one word classification system is too broad to be useful. There should be more discussion of themes. Reporting would be more meaningful if focused on the issues raised with the scheme participant (rather than bundling these with issues that were never pursued by EWOQ because the Regional Management Group considered they were not systemic issues). In addition, reporting should be included as to the outcomes of these matters.

## Recommendation 23

EWOQ should provide more detailed and meaningful information about systemic issues in its Annual Reports. Themes should be identified and discussed. Outcomes should be reported.

## 11. Stakeholder engagement and satisfaction

196. EWOQ's stakeholders include government bodies and Ministers, consumer and community organisations and industry participants. To give greater structure and focus to its efforts to engage with all stakeholder groups, EWOQ is in the process of developing a Stakeholder Engagement and Communications Plan for 2020-2023.
197. In our interviews, we heard general praise of EWOQ's commitment to engagement and efforts to meet stakeholder needs.
198. EWOQ has developed a manual for scheme participants (February 2019) that provides a good introduction to EWOQ, its dispute resolution process and how it operates.
199. EWOQ meets regularly with scheme participants. A Water Scheme Participant Forum was last held on 7 November 2019 at Logan City Council office. An Energy Scheme Participant Forum was held on 12 November 2019 in Melbourne and repeated on 14 November 2019 in Brisbane to give scheme participants a choice of location. These engagements were very well received.
200. Whilst EWOQ has regular dialogue and engagement with a range of consumer groups, it does not bring them together in a single forum to meet with the Ombudsman, as do some other ombudsman schemes. In part, this reflects the geographic spread of Queensland and it is clear that EWOQ is highly active in a range of other ways of engaging with consumer representatives including regionally. The Advisory Council meetings, which include representatives of consumer groups, operates as the main vehicle for engagement – and we are told by both EWOQ and consumer groups that this is effective.
201. Commencing in late 2019, EWOQ has undertaken surveying to test the satisfaction of scheme participants and complainants. This is good practice that we encourage EWOQ to maintain. We also encourage EWOQ to report the results of surveys in its Annual Report. We regard this as an important accountability issue.

### Recommendation 24

EWOQ should regularly survey scheme participants and complainants to test their satisfaction with the scheme. Trend information should be reported in EWOQ's Annual Reports.

## Scheme participants' satisfaction with EWOQ

202. EWOQ undertook a survey of scheme participants in October 2019 that elicited 15 responses. Respondents on average gave EWOQ an overall rating of 7.7 out of 10. The average rating for contact with EWOQ employees was 8.4. 40% of respondents indicated that there was no need for any improvement in the operation of the EWOQ service offering. Of those who nominated areas of improvement, the key suggestions were a quicker response (3 respondents), more knowledgeable team (2 respondents) and improved communication (2 respondents). A few of the free text comments raised efficiency or cost issues.
203. Whilst these results are generally pleasing, some caution needs to be exercised given that less than a third of EWOQ's scheme participants responded to the survey.
204. Our interviewing of a similar number of scheme participants does provides support for EWOQ's survey findings. Comments to us about EWOQ were overwhelming favourable. General satisfaction was expressed with EWOQ's communication with stakeholders. The annual forum is clearly valued, although some scheme participants would appreciate more insights from EWOQ as to trends and emerging issues from complaints, something they value from other schemes. Whilst there was general satisfaction with EWOQ's handling of complaints, there were a few suggestions for improvements, and these we have noted in earlier sections of this report.

## Complainant satisfaction with EWOQ

205. EWOQ undertook surveying in January 2020 of complainants whose complaint was closed that month as either a Refer to Higher Level complaint or an investigated complaint. 36 responses were received to 144 emailed surveys. EWOQ calibrated these survey results against its 2019 survey results.
206. EWOQ's survey included questions as to the accessibility of its services, the expertise, helpfulness and courtesy of EWOQ staff and views as to the various stages in the complaints handling process. Some questions were yes/ no questions and others utilised a rating. There were also free text boxes where comments could be made.
207. We have referred earlier in this report to various positive findings emerging from these surveys.

208. Also of note, more than 87% of those surveyed in 2019 and 83% of those surveyed in January 2020 said that they would recommend EWOQ to another person. Whilst this is undoubtedly an encouraging result, greater insight would be achieved if the survey was designed in a way that permitted a net promoter score (NPS) or similar to be calculated (respondents would have to be asked to rate how likely they would be to recommend EWOQ – ie. along a standardised scale). We are aware that some other energy and water ombudsman do this and monitor the trend over time. NPS is used widely by service providers in energy which would help with understanding. We encourage EWOQ to do likewise.

### Recommendation 25

EWOQ should alter its complainant survey so that respondents are given a rating range for the question as to whether the respondent would recommend EWOQ. This would then permit EWOQ to calculate a net promoter score. The trend in this score should be tracked over time.

## Complaints about EWOQ

209. EWOQ has a webpage that invites feedback about its services. An email address and its 1800 phone number can be used to do this.
210. The webpage also provides a link to EWOQ's Customer and Scheme Participants feedback procedure. This explains the feedback process. All complaints will be registered in EWOQ's Register of Complaints within 24 hours. An acknowledgement in writing will be provided within 1 business day. A complaint that is not resolved informally is investigated and a response generally provided within 10 business days. An internal review of the decision may be available if requested in writing and clear and logical reasons provided. If the person is still unhappy, the Ombudsman will conduct a final review and provide a decision in writing.
211. EWOQ's Register of Complaints records only 17 complaints about EWOQ's services since 1 January 2019. These were all low or medium complexity matters. Six complaints were not closed off in the Register. However, our review of a sample of these complaints found that EWOQ had responded to the complaint and did so appropriately and promptly.
212. To enhance focus on these complaints, we recommend that the Register of Complaints is provided to each meeting of the Advisory Council and a report is provided once or twice a year analysing these complaints – the issues, root causes, responses, reviews and timeframes to close complaints. Reporting does not presently happen and would meet good practice and we think, strengthen the Advisory Council's oversight role.

### Recommendation 26

EWOQ should provide a regular report to its Advisory Council about complaints about EWOQ. This should encompass the issues raised in complaints, root causes, responses and timeframes to close complaints and reviews requested and undertaken. Trend information should be provided.

## 12. List of Recommendations

CRK Recommendations	EWOQ Response
<b>Theme 1. Extending and clarifying jurisdiction and powers</b>	
<p>Rec 1. EWOQ’s jurisdiction should be expanded to encompass complaints referred by all water small customers in Queensland (not just South East Queensland small customers).</p>	
<p>Rec 2. EWOQ’s jurisdiction should be expanded to encompass new energy technology complaints as recommended in the ANZEWON commissioned research paper of October 2019.</p>	
<p>Rec 3. EWOQ’s jurisdictional exclusions should be compared with those in other States with a view to removing EWOQ jurisdictional exclusions, unless there is a strong imperative for them to be retained.</p>	
<p>Rec 4. The EWOQ Act should be amended to oblige scheme participants to tell customers about EWOQ at the time of responding to their complaints.</p>	
<p>Rec 5. The EWOQ Act should be amended to expressly permit EWOQ to provide customer feedback to a scheme participant where this is consistent with EWOQ’s functions and purposes including promoting better complaint management.</p>	
<p>Rec 6. a) The EWOQ Act should be amended to give EWOQ clear powers to investigate scheme participant systemic issues and determine the adequacy of the scheme participant’s response to a systemic issue. EWOQ should be able to levy a charge to defray the costs of these investigations.</p> <p>b) EWOQ should be exempt from normal privacy or confidentiality restraints when reporting systemic issues to regulators.</p>	

## Theme 2. Quality and fairness of process

Rec 13. EWOQ quality assurance reviews of investigated complaints should strengthen focus on the framing of information requests. The aim should be to ensure that requests are no broader than needed to resolve the complaint.

Rec 14. For cases that go to investigation, EWOQ should inform the complainant that on their request EWOQ can send them a copy of the scheme participant's information.

Rec 15. EWOQ should explore ways to enhance its access to specialist skills to assist its resolution of highly technical complaints.

Rec 16. EWOQ should delegate the power to ICOs to issue a section 22 letter informing a complainant that their complaint will not be further investigated. Where a complaint is closed on the basis that it does not warrant investigation, the ICO's letter should be framed as an exercise of the section 22 power and should inform the complainant about the possibility of an internal review.

Rec 17. For investigated complaints, EWOQ should set an expectation that the ICO will try to call the complainant before sending out any significant piece of communication, in particular, before moving to close the investigation. More use of text messages should also be explored.

## Theme 3. Measurement, analysis and reporting

Rec 7. EWOQ should continue its efforts to develop ways of measuring the impact of its consumer awareness-raising and outreach activity, both through its own surveying and complaints data capture and from external sources.

Rec 9. The EWOQ's next stage of awareness building should focus on the demographic groups that currently under-utilise the EWOQ. To measure the success of its

<p>efforts, the EWOQ should undertake targeted awareness testing and monitor complainant demographic trends.</p>	
<p>Rec 8. EWOQ should enhance its case categorisation system so that it can monitor the extent to which the 12 month timeframe to refer a complaint to EWOQ is operating as a restriction on access. Data collected should include:</p> <ul style="list-style-type: none"> <li>a) the number of complaints ruled outside of jurisdiction on the basis of the 12 month rule;</li> <li>b) the number of complaints where the complainant requests EWOQ to handle a complaint that is more than 12 months old; and</li> <li>c) the number of instances in which such a request is granted.</li> </ul> <p>This information should be reported in EWOQ’s Annual Reports.</p>	
<p>Rec 18. EWOQ should separately categorise complaints that are closed on the basis of the complainant’s failure to respond to EWOQ. Reporting as to the number and trend in relation to closures of this type should be included in EWOQ’s Annual Report.</p>	
<p>Rec 19. a) EWOQ should collect data that permits it to provide meaningful information in its Annual Reports about investigated complaints outcomes, for example, the number of complaints where the complainant obtained redress, the number where EWOQ refused to further investigate, the number where the complainant withdrew and the number where the complainant failed to respond.</p> <p>b) As a longer term initiative, EWOQ should use the ANZEWON forum to endeavour to develop investigation outcome classifications that are uniformly applied by all energy and water</p>	



<p>ombudsman schemes in Australia and so permit comparison of schemes.</p>	
<p>Rec 20. EWOQ should ensure that its upgraded case management system enables it to capture and report more extensive data than at present. This should include:</p> <ul style="list-style-type: none"> <li>a) complaints that have been excluded on the basis that they fall outside of EWOQ’s jurisdiction (number per category of exclusion); and</li> <li>b) better facilitation of data analytics, for example, to assist in identifying demographic groups that are under-utilising EWOQ and identifying potentially systemic issues.</li> </ul>	
<p>Rec 24. EWOQ should regularly survey scheme participants and complainants to test their satisfaction with the scheme. Trend information should be reported in EWOQ’s Annual Reports.</p>	
<p>Rec 25. EWOQ should alter its complainant survey so that respondents are given a rating range for the question as to whether the respondent would recommend EWOQ. This would then permit EWOQ to calculate a net promoter score. The trend in this score should be tracked over time.</p>	
<p>Rec 26. EWOQ should provide a regular report to its Advisory Council about complaints about EWOQ. This should encompass the issues raised in complaints, root causes, responses and timeframes to close complaints and reviews requested and undertaken. Trend information should be provided.</p>	
<p><b>Theme 4. Strengthen approach to systemic issues</b></p>	
<p>Rec 22. If, as proposed in the Department’s Option Paper, EWOQ’s systemic issues mandate is made more explicit, EWOQ should develop a more in-depth approach to systemic issues. Additional resourcing will be necessary. In developing its approach,</p>	

<p>EWOQ should seek to build upon best practices in other States.</p>	
<p>Rec 23. EWOQ should provide more detailed and meaningful information about systemic issues in its Annual Reports. Themes should be identified and discussed. Outcomes should be reported.</p>	
<p><b>Theme 5. Cost-efficiency</b></p>	
<p>Rec 12. EWOQ should undertake detailed analysis to test whether the increase this financial year in the proportion of investigated complaints is warranted – or whether other responses to the perceived increased complexity are available that would enable the complaints to be resolved more efficiently but without compromise to fairness.</p>	
<p>Rec 21. EWOQ should identify cost-efficiency as a priority for the coming three years including:</p> <ul style="list-style-type: none"> <li>a) Completing efficiency capability-building currently underway</li> <li>b) Improving understanding of the use of time within EWOQ</li> <li>c) Developing a deeper knowledge of the detail of practices in comparable schemes</li> <li>d) Developing cost-efficiency targets and priorities as part of business planning for 2021/22</li> <li>e) At the next fees review, move to reduce the proportion of costs recovered from case fees – we suggest to 70%</li> </ul>	
<p><b>Theme 6. Governance</b></p>	
<p>Rec 10. EWOQ’s Advisory Council and Ombudsman should take what steps they can to expedite filling the 2 vacant customer representative positions on the Advisory Council in order to achieve the balance specified in the EWOQ Act.</p>	

Rec 11. EWOQ and the Advisory Council should regularly review and update the Advisory Council Handbook.	
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## Attachment – Benchmarks for Industry-based Customer Dispute Resolution

The terms of reference for our review required us to consider EWOQ’s progress in meeting the Benchmarks for Industry-based Customer Dispute Resolution issued by the Australian Government in 2015. To address this, we have set out a summary of those measures, with cross references to chapters of our report where we have made recommendations or undertaken more detailed discussion.

### 1. Accessibility

The office makes itself readily available to customers by promoting knowledge of its services, being easy to use and having no cost barriers.	
Summary of Benchmark Key Practices	Measures to comply with Key Practices
<p><b>Awareness/ promotion</b></p> <p>The scheme seeks to ensure the community is aware of its existence and promotes itself in the media, through consumer agencies and advocacy services or by other means in an inclusive way. It makes information available in appropriate languages, large text and audio.</p> <p>The scheme produces readily available explanatory material about the scheme and its timelines.</p> <p>The scheme requires participating organisations to inform their customers about the scheme including when the participating organisation responds to a complaint and also if the customer is not satisfied with the response or a reasonable time has elapsed and the complaint remains unresolved.</p>	<p>EWOQ actively promotes awareness. Its Community Outreach Plan and awareness building efforts are described in Chapter 5.</p> <p>Recommendation 9 is that EWOQ’s next stage of awareness building should focus on demographic groups that currently under utilise EWOQ.</p> <p>EWOQ is about to launch its new website [which has enhanced information about the scheme]. See Chapter 5.</p> <p>EWOQ’s scheme participants are subject to obligations to provide customers with information about EWOQ. See Chapter 4 where we explain these obligations and Recommendation 4 that proposes enhancement of these obligations.</p>
<p><b>Access</b></p> <p>The scheme seeks to ensure access and appropriate facilities across the community, including disadvantaged complainants.</p> <p>Initial contact with the scheme can be oral or in writing.</p> <p>The jurisdiction must be clear.</p> <p>‘Virtual barriers are minimised for example by providing an online complaints form.</p>	<p>EWOQ accepts complaints via its 1800 number, web complaint form, fax, letter or in person. These avenues are easy to use and an interpreter service is available: see Chapter 5.</p>
<p><b>Cost</b></p> <p>No charge to customers.</p>	<p>EWOQ provides a free service to consumers.</p>

### Staff Assistance

Scheme's staff are able and adequately trained. Scheme's staff provide complainants with simple explanation of how the scheme operate. Scheme's staff assist complainants to make a complaint where assistance is needed.

EWOQ's staff are very able. New staff are provided with induction training. Thereafter training is largely on-the-job: see Chapter 9. Scripting and written procedures have been developed to assist them with their work: see Chapter 7.

Customers are provided with clear oral information about how the scheme operates: see Chapter 7. EWOQ's telephone process guides customers through the process of making a complaint.

### Use

The scheme's processes are easy for complainants to understand and use with the consumer's case being presented verbally or in writing at the discretion of the scheme. Complainants may be supported by another person.

EWOQ's processes are easy to use with complaints able to be made verbally or in writing: see Chapter 5.

A consumer can be assisted or represented by a third party. A third-party authorisation is required in these circumstances. See Chapter 5.

### Acceptance by scheme

Complaints are accepted or an appropriate and timely referral made where another dispute resolution office is more appropriate. A transparent process is followed for excluding potentially vexatious or frivolous complaints to ensure appropriate use of the scheme's resources and minimise unreasonable cost increases.

If a case is outside EWOQ's jurisdiction, it is recorded as an Enquiry and where relevant referred to another agency: see Chapter 7.

EWOQ Act section 22 gives EWOQ the right to refuse to investigate a complaint if reasonably satisfied that the complaint is trivial or frivolous or vexatious or not in good faith or, after preliminary inquiry, the complaint should not be investigated. The complainant may seek an internal review of this decision: see Chapter 7 and Recommendation 16 that proposes greater transparency as to the availability of this. EWOQ does not currently categorise cases in a way that permits it to report the numbers of complaints excluded on these grounds: see Chapter 9 and Recommendation 20 that proposes EWOQ's upgrade case management system should enable it to capture this information.

### Non-adversarial approach

The scheme uses appropriate techniques including conciliation, mediation and negotiation to settle complaints. Proceedings are informal, discouraging legalism.

EWOQ makes extensive use of conciliation in resolving complaints and its process is informal and non-legalistic.

### Legal Representation and proceedings

The scheme permits the use of a support person but generally only allows legal representation with permission. If one party is granted permission, so will the other party. If the industry participant is legally represented, it will be required to pay the legal costs of the consumer.

EWOQ permits a complainant to appoint a representative. This may be a legal representative.

A participating organisation will not commence legal proceedings before a court or other forum in relation to a complaint before the scheme except in special circumstances.

## 2. Independence

The decision making process and administration of the scheme are independent from participating organisations.	
Summary of Benchmark Key Practices	Measures to comply with Key Practices
<p><b>Decision-maker and staff</b></p> <p>The scheme has a complaints decision-maker who is appointed for a fixed term. Neither the decision maker nor scheme staff are directly selected by participating organisations or answerable to or having a relationship with them.</p>	<p>EWOQ's Ombudsman is appointed for a fixed term (currently 3 years). Participating organisations are not involved in the selection of the Ombudsman or EWOQ staff: see Chapter 6.</p>
<p><b>Overseeing entity</b></p> <p>There is a separate entity overseeing the scheme's independent operation with responsibility for appointing or dismissing the Ombudsman, recommending or approving the budget, receiving complaints about the scheme, recommending and being consulted about jurisdictional changes, receiving regular updates about operations and receiving information about systemic problems.</p> <p>The overseeing entity must have a balance of consumer, industry and where relevant other key stakeholders. Consumer representatives must be capable of reflecting consumer viewpoints and concerns and have consumers' and consumer organisations' confidence.</p>	<p>The Minister and EWOQ's Advisory Council oversee the scheme. The Advisory Council has both industry and consumer representatives: see Chapter 6 and Recommendation 10. The Advisory Council's role includes providing advice about the budget and receiving regular updates about operations: see Chapter 6.</p>
<p><b>Transparency</b></p> <p>The scheme manages any actual or perceived conflict of interest and bias in a transparent manner.</p>	<p>EWOQ staff are required to comply with the Queensland Public Service Code of Conduct which includes requirements in relation to conflicts: see Chapter 6.</p>
<p><b>Funding</b></p> <p>The scheme has sufficient funding to enable its caseload and other relevant functions to be handled in accordance with the Benchmarks.</p>	<p>EWOQ has sufficient funding to cover its business-as-usual expenses. But large capital expenditure can be difficult to plan given EWOQ's current budget and funding processes: see Chapter 6.</p>
<p><b>Terms of Reference</b></p> <p>Jurisdictional changes are made in consultation with relevant stakeholders including participating organisations, industry and consumer organisations and government. Participating organisations do</p>	<p>EWOQ's jurisdiction is specified in the EWOQ Act. The Department is presently consulting about changes to give EWOQ greater flexibility to expand the subject matter of disputes by</p>

not have a right to veto a change in jurisdiction, or to significant rules and procedures.	agreement with scheme participants: see Chapter 4.
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### 3. Fairness

The procedures and decision making of the office are fair and seen to be fair.	
	Measures to comply with Key Practices
<p><b>Final Determinations</b></p> <p>The decision-maker bases determinations on what is fair and reasonable having regard to good industry practice, relevant industry codes of practice and the law.</p>	<p>The EWOQ's Act requires the Ombudsman when making a final order to consider relevant legislation or industry codes and the contract between the parties: see Chapter 7.</p>
<p><b>Procedural fairness</b></p> <p>Complainants are told of their right to access the law if they are dissatisfied with the scheme's decisions.</p> <p>Both parties are told why a complaint is outside jurisdiction or is otherwise excluded.</p> <p>Both parties are provided with information at the same time and can put their case, are told the arguments of the other party and can rebut these and are told the reasons for any decision in writing.</p>	<p>The EWOQ Act specifies that if the Ombudsman makes a final order the parties must be notified in writing with reasons for the decision. The notice of decision must state that the complainant has the right to elect whether or not to accept the order.</p> <p>EWOQ's Customer Service Charter states that the scheme will explain what they will and will not investigate and if another agency or authority is responsible for dealing with the complaint they will explain why. The Charter also commits to adherence to the principles of procedural fairness when undertaking investigations.</p> <p>Our review of investigated complaints demonstrated that both parties are provided with an opportunity to put their case but that complainants are not provided with scheme participant documents and a better approach would be to let them know that these can be requested: see Chapter 7 and Recommendation 14.</p>
<p><b>Provision of information</b></p> <p>Complainants are encouraged but not compelled to provide information relevant to the complaint. Participating organisations can be required to provide relevant information unless confidentiality or legal reasons prevent this.</p>	<p>EWOQ's Customer Service Charter states that customers should provide "an outline of their complaint (a factual and concise description or the details of the complaint in order they happen)".</p> <p>Our review of investigated complaints showed that complainants have the opportunity to provide supporting information but primarily EWOQ collects relevant documents from scheme participants in exercise of its power under EWOQ Act section 29.</p>

### Confidentiality

Participating organisation information that identifies a third party may be provided to the other party with deletions.

The scheme preserves confidentiality unless disclosure is required by law or for a purpose specified in the Benchmarks.

Section 29(3)(d) of the EWOQ Act excuses a scheme participant from complying with an EWOQ notice requiring production of relevant material if the requirement relates to someone else's confidentiality information and the other person has refused consent to disclosure despite the scheme participant's reasonable efforts to obtain their consent.

Section 79 of the EWOQ Act imposes confidentiality and privacy obligations on EWOQ. Officers may not make a record, divulge or use personal or confidential information other than as part of the performance of their functions.

### Review of Decisions and Determinations

A process is established to review decisions and determinations for consistency and compliance, such as selective sampling and auditing of cases.

EWOQ has a well-structured and implemented quality assessment process: see Chapter 7.

## 4. Accountability

The office publicly accounts for its operations by publishing its final determinations and information about complaints and reporting any systemic problems to its participating organisations, policy agencies and regulators.	
Summary of Benchmark Key Practices	Measures to comply with Key Practices
<p><b>Procedures</b></p> <p>Guidelines and policies for dealing with complaints are available to participating organisations, complainants and other interested bodies.</p>	<p>EWOQ materials for stakeholders include a Scheme Participant Manual (see Chapter 11) and website materials about the complaints process and types of complaints that EWOQ handles (see Chapter 5).</p>
<p><b>Determinations</b></p> <p>Participating organisations and other interested bodies can obtain written reports or summaries of determinations to educate them and to demonstrate consistency and fairness in decision-making.</p>	<p>EWOQ's Ombudsman has not made a final order since 2015/2016: see Chapter 7. Accordingly these are not published on EWOQ's website. The website does, however, include a good body of case studies that provide summarise typical complaint outcomes.</p>
<p><b>Responding to complainants and participating organisations</b></p> <p>The scheme uses comments from complainants and participating organisations to inform continuous improvement of their internal processes and procedures and their public reporting.</p>	<p>EWOQ has a feedback and complaints policy. Chapter 9 on internal complaints and Recommendation 17 sets out the improvements required to EWOV's current internal complaints policies and processes.</p>
<p><b>Annual Report</b></p>	<p>EWOQ prepares an Annual Report that is made publicly available. These Reports include detailed</p>



The scheme publishes a detailed and informative annual report with statistical and other data about its performance including information about its jurisdiction, how the scheme works, how equitable access is ensured, new developments or key policy or education initiatives, participating organisations and, where the jurisdiction permits, which have not met their obligations as participating organisations.

The report also includes the number and type of complaints and their outcomes including per participating organisation, time taken to resolve complaints, systemic problems and representative case studies.

The annual report is made public and distributed to participating organisations and relevant stakeholders.

statistical and other information: see Chapter 8 and Recommendation 8, Recommendation 18, Recommendation 19, Recommendation 23 and Recommendation 24 for enhancements to these.

## 5. Efficiency

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

Summary of Benchmark Key Practices	Measures to comply with Key Practices
<p><b>Appropriate process or forum</b></p> <p>The scheme deals only with complaints that are within its jurisdiction. It will generally not deal with complaints that have been either dealt with by another dispute resolution forum or where the scheme member's IDR procedures have not had reasonable opportunity to resolve the complaint. The scheme has a discretion to exclude vexatious and frivolous matters.</p> <p>The scheme has mechanisms and procedures for referring complaints to other more appropriate fora.</p> <p>The scheme has mechanisms and procedures for dealing with systemic problems including investigating and referring these to relevant participating organisations or regulators or policy makers.</p>	<p>EWOQ deals only with cases within its jurisdiction set out in the EWOQ Act. Section 12B restricts EWOQ from accepting a referral without the agreement of the parties, if the matter has already been decided by a proceeding or is the subject of an unfinished proceeding. Section 19A restricts EWOQ from dealing with a complaint if the complainant has not made a genuine attempt to resolve the matter with the scheme participant. Section 22 gives EWOQ a discretion to not deal with a complaint where the complainant has not exercised any right of appeal or review the scheme participant offers. Section 22 also permits EWOQ to exclude a complaint that is frivolous, vexatious or not in good faith.</p> <p>EWOQ refers complaints to other fora where appropriate: see Chapter 4.</p> <p>EWOQ's systemic issues jurisdiction is discussed in Chapter 4 and its systemic issues processes and reporting discussed in Chapter 10.</p>
<p><b>Timeliness</b></p> <p>The scheme considers timeliness in all its processes including acknowledging,</p>	<p>EWOQ provides a timely service, actioning and following up on complaints promptly: see Chapter 9.</p>

<p>responding to, investigating and deciding complaints.</p>	
<p><b>Tracking complaints</b></p> <p>The scheme has reasonable time limits for each of its processes which facilitate speedy resolution without compromising quality decision-making.</p> <p>The scheme has mechanisms to ensure compliance with time limits and track complaints.</p> <p>The parties are kept apprised of progress of complaints.</p>	<p>EWOQ’s dispute resolution process provides reasonable time limits. Its officers and their team leaders monitor these. The fee system incentivises scheme participants to respond on time to an investigation notice: see Chapter 9.</p> <p>The parties are kept informed of their complaint’s progress but more telephone contact would be desirable: see Recommendation 17.</p>
<p><b>Monitoring</b></p> <p>The scheme sets objective performance targets. It keeps systemic records of all complaints and enquiries, their progress and outcome. There are regular performance reviews and feedback is periodically sought from complainants and participating organisations.</p> <p>The scheme reports the results of monitoring and review to the overseeing entity.</p>	<p>EWOQ has established measures of success and reports against these in its Annual Reports. These include timeliness measures: see Chapter 9.</p> <p>The scheme has had regular independent performance reviews. Commencing late 2019, EWOQ has surveyed complainants and scheme participants to obtain their feedback: see Chapter 11. The results of these have been reporting to EWOQ’s Advisory Council.</p>
<p><b>Professionalism</b></p> <p>The scheme recruits’ staff with the requisite skills, qualifications and experience to perform the work efficiently.</p>	<p>EWOQ staff operate professionally and have the necessary skills and experience: see Chapter 9. Recommendation 15 addresses greater access to specialist expertise.</p>

## 6. Effectiveness

<p>The office is effective by having an appropriate and comprehensive jurisdiction and periodic independent reviews of its performance.</p>	
<p>Summary of Benchmark Key Practices</p>	<p>Measures to comply with Key Practices</p>
<p><b>Coverage</b></p> <p>The scheme’s scope and powers of decision-maker are clear. These are sufficient to deal with the vast majority of complaints.</p> <p>The decision-maker has power to make monetary awards of sufficient size (consistent with the nature, extent and value of customer transactions) and other awards as appropriate.</p>	<p>Chapter 4 discusses EWOQ’s scope and powers and includes our recommendations.</p> <p>EWOQ’s monetary jurisdiction is \$20,000 (or \$50,000 by agreement between the parties). This appears adequate.</p>
<p><b>Systemic problems</b></p> <p>The scheme has mechanisms for referring systemic industry problems to an appropriate regulator for action if required. Also, to bring systemic problems to the attention of policy</p>	<p>EWOQ has the power to report matters to regulators and has arrangements in place to refer systemic issues: see Chapter 10. To meet current expectations and good practice in relation to systemic issues, EWOQ’s powers, approach and</p>

agencies or other relevant bodies such as industry associations.

#### **Scheme performance**

The scheme has appropriately qualified staff and provides ongoing professional development and appropriate resources to allow staff to undertake their functions.

The scheme has procedures for receiving complaints about the scheme and referring these to the overseeing body.

The scheme responds to complaints and recommendations of the overseeing body in a timely and appropriate manner.

reporting require uplift: see Recommendations Recommendation 6, Recommendation 20, Recommendation 22, and Recommendation 23.

EWOQ's staff are able and training is sufficient: see Chapter 10.

EWOQ has a webpage that invites feedback and a procedure that specifies reasonable timeframes for investigation and response: see Chapter 12.

EWOQ does not presently report to the Advisory Council about complaints about its services: see Recommendation 26.

#### **Internal dispute resolution mechanisms**

Participating organisations are required to set up internal dispute resolution mechanisms and to inform consumers about these. The scheme has the capacity to advise members about their internal dispute resolution mechanisms.

Scheme participants are obliged to tell their small customers about EWOQ. To give greater prominence and clarity to this obligation, we recommend that the EWOQ Act specify this: see Recommendation 4.

EWOQ has processes to refer complainants back to scheme participants' internal dispute resolution processes: see Chapter 7.

#### **Compliance**

The scheme has mechanisms to encourage participating organisations to cooperate with the scheme and to abide by scheme rules.

Final determinations are binding on participating organisations if accepted by the complainant. The scheme has methods to mandate or improve compliance with decisions and ensure redress for customers when the participating organisation is non-compliant with a final determination, decision or recommendation.

The EWOQ Act and the fees regime propel scheme participant cooperation: see Chapter 9. Final orders are binding on the scheme participant if accepted by the complainant: see Chapter 7. Division 3 of Part 5 of the EWOQ Act sets out a regime for court enforcement of a final order where the scheme participant has failed to comply.

#### **Periodic Independent review**

The scheme is independently reviewed at set intervals. The review must be undertaken in consultation with stakeholders and include the scheme's progress towards meeting the Benchmarks, the appropriateness of the scope of the scheme, participating organisations' and complainants' satisfaction with the scheme, whether the dispute resolution process is just and reasonable, the degree of equitable access to the scheme and the effectiveness of the scheme's constituent documents.

The results of the review must be available to stakeholders.

EWOQ has regularly commissioned independent reviews of its performance consistent with the Benchmarks.