

INDEPENDENT REVIEW OF THE
ENERGY AND WATER
ONBUDSMAN QUEENSLAND
2025



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List of Abbreviations

ACCA	Association of Chartered Certified Accountants
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
ANZEWON	Australia and New Zealand Energy and Water Ombudsman Network
CERs	Community Energy Resources
CRE	Customer Resolution and Engagement
ECA	Energy Consumers Australia
EWO	Energy and Water Ombudsman
EWO Act	<i>Energy and Water Ombudsman Act 2006</i>
EWON	Energy and Water Ombudsman New South Wales
EWOQ	Energy and Water Ombudsman Queensland
EWOV	Energy and Water Ombudsman Victoria
IPOLA	<i>Information Privacy and Other Legislation Amendment Act 2023</i>
MC	Marketing and Communication
NERR	National Energy Retail Rules
PV	Photovoltaic Panels
RAP	Reconciliation Action Plan
RB	Refer Backs
RHL	Referral to Higher Level
SLO	Social Licence to Operate
SP	Scheme Participant

Executive Summary

The period since EWOQ's last independent review has been challenging. There was both the Covid pandemic and the cost-of-living crisis, the consequences of both of which are still with us. During this period, one constant has been the leadership of the Energy and Water Ombudsman, Jane Pires, about whose leadership and integrity the Review Team heard great praise from interviewees across all stakeholder groups. Within the constraints discussed below and, in detail within the review, EWOQ is a successful industry ombudsman scheme. It is a timely and efficient complaint resolution scheme which also secures good levels of customer satisfaction.

It was not just changes arising from Covid and the energy price shock that have had implications for EWOQ. Climate change is ongoing and is likely to lead to more severe droughts and adverse weather conditions which could negatively impact not only water and sewerage services but also the consistent supply of energy in northern Queensland. There has also been the continued uptake of consumer energy resources and rollout of smart meters where complaints about services may not be within EWOQ's jurisdiction but for which EWOQ could usefully play an important consumer protection role.

In 2022, EWOQ's exempt sellers were included within EWOQ's jurisdiction. This has proven problematic as there is no single register of all exempt sellers in Queensland and, when they became part of EWOQ's jurisdiction, it was on the proviso that they would not be liable for any participation fee until a review, which looked at the costs and impact of this jurisdictional extension upon EWOQ, had been undertaken. This review has yet to take place. However, their inclusion has had a significant impact on EWOQ as it needs to onboard and educate exempt sellers individually as it becomes aware of them as well as handling complaints made against them.

There have also been changes in the nature of ombudsman practice, with ombudsman internationally taking on a more pronounced role on how they may contribute to system improvement and, for industry ombudsman, how they can make a contribution to the workings of an effective market place.

While the Review Team are very pleased to see that EWOQ was established on a statutory basis, as this provides EWOQ with a secure foundational basis. However, this legislation is now showing its age and may actively impede EWOQ's ability to operate as a modern industry ombudsman scheme and to fully comply with the Treasury benchmarks: EWOQ's ability to contribute to system improvement through the conduct of systemic investigations is one example where the legislation does not provide enough powers to EWOQ to fulfil its role optimally. Other areas where the legislation should be usefully updated include EWOQ's jurisdiction, to ensure that all businesses involved in Queensland's energy operations are within its jurisdiction, and EWOQ's funding model. The Review Team acknowledges that EWOQ is operationally independent but challenges the degree of independence that it has from Queensland's government, particularly when the members of its Advisory

Council are formally appointed by the Minister who also has to formally approve EWOQ's budget. EWOQ also has jurisdiction over a number of state-owned enterprises.

The Queensland Government did consult on potential changes to the *Energy and Water Ombudsman Act 2006*, but any changes are likely to take some time to be approved by the Queensland Parliament. The Review Team is of the view that the proposed changes do not adequately address all the issues that need addressed. The delay is, perhaps, an opportunity for there to be further consideration on what changes are required.

One issue that would benefit from further consideration is whether the Advisory Council is the correct governance model for the future. As the nature of the industries over which EWOQ has oversight changes, as EWOQ's jurisdiction expands and ombudsman practice continues to evolve, it is unlikely that an Advisory Council model will continue to be able to provide the oversight, strategic direction and risk management that EWOQ will need and it is likely to need to move towards the Board model utilised by other Australian industry ombudsman schemes. This could be included in discussions on potential changes to EWOQ's founding legislation. If EWOQ does develop the Board governance model, there will also be the challenge of ensuring that the Board receives the necessary advice from industry and community representatives that it does at present.

Despite the size of Queensland, or perhaps because of its size, EWOQ works hard to engage with Queensland communities, particularly those who may benefit the most from EWOQ's assistance. However, EWOQ is a small organisation and the level of investment in community engagement and outreach activity is relatively low when compared with other industry ombudsman schemes. This activity would benefit from further investment in staff and in the number of activities that are undertaken.

In such reviews, the Review Team is always keen to examine how successful the industry ombudsman scheme is at identifying and supporting vulnerable and disadvantaged customers. EWOQ does very well in this regard.

As would be expected, interviewees from all stakeholder groups that participated in this review were keen that EWOQ publish more data. EWOQ is working hard on its new scheme participant portal and has some interesting plans for its future development which would address many of the wishes of interviewees from scheme participants. It would be beneficial for EWOQ to consult with its stakeholders on what information EWOQ could reasonably provide. EWOQ could also usefully consult with its scheme participants on how best they would wish to be engaged with the work of EWOQ.

In summary, EWOQ is a successful industry ombudsman scheme. It faces challenges arising as a result of changes within its operating environment compounded by the fact that its foundational legislation constrains EWOQ's ability to act flexibly and with the powers that it needs. Resolving its legislative challenges is likely to be EWOQ's biggest challenge in the next five years.

Recommendations

Recommendation 1:

EWOQ should review the means by which it can obtain sufficient socio-demographic information about its service-users in order that it can identify who does, and who does not, make use of its services.

Recommendation 2:

In light of stakeholders' support for EWOQ's current approach to community outreach and engagement, EWOQ should conduct a review of this community and outreach programme, involving its community stakeholders. Any proposed change to EWOQ's community outreach and engagement programme should be preceded by a rigorous evaluation of all aspects of value for money.

Recommendation 3:

EWOQ should work with its scheme participants, its community stakeholders and other members of its wider regulatory and government network to identify and agree the changes needed to the EWO Act, to both secure its independence from government and to ensure that it is able to accommodate the changes in ombudsman practice, the industries over which it has oversight and its jurisdiction. The legislation should ensure that EWOQ is the final body for complaints about energy and water businesses under its jurisdiction.

Recommendation 4:

As part of its work on its foundational legislation, see recommendation 3, EWOQ should include the issue of whether an Advisory Council model or Board model is the appropriate governance model for its future.

Recommendation 5:

EWOQ should create and publish a policy which outlines its approach regarding the provision of customer service gestures¹.

Recommendation 6:

EWOQ should increase its investment and staffing in its community outreach and engagement activity.

Recommendation 7:

EWOQ should works with its scheme participants to agree how best EWOQ should engage with scheme participants and survey their opinions on all aspects of its work.

Recommendation 8:

¹ Customer service gestures are *ex gratia* payments made in recognition of poor service or complaint handling rather than payments made to account for a direct financial loss.

EWOQ should consult with its stakeholders on what information they would like EWOQ to reasonably provide.

Recommendation 9:

EWOQ should work with the Treasury and conduct the review of the costs and impact upon EWOQ of it having exempt sellers within its jurisdiction.

Recommendation 10:

In any review of funding, EWOQ the fundamental principle should be that all participants within the scheme should pay a fair scheme participation fee.

Recommendation 11:

EWOQ should consult with its members as to whether EWOQ should be notified of the outcome of all RHLs.

Recommendation 12:

EWOQ should work with its relevant scheme participants, regulators and government department to explore the option of EWOQ becoming the sole water ombudsman for Queenslanders.

Recommendation 13:

EWOQ should work with its relevant scheme participants, regulators and government department to explore the option of EWOQ's jurisdiction being extended to cover all businesses involved in the production, distribution and selling of energy in Queensland.

Recommendation 14:

EWOQ should include within its work on the changes needed to the EWO Act, see Recommendation 3, its future powers to conduct systemic investigations and support the implementation of any recommendations.

Recommendation 15:

EWOQ should produce an overarching strategy and supporting action plan on how it can maximise its contribution to system improvement and the maintenance of effective markets, including the identification of any additional investment.

SCOPE OF THE REVIEW

The Energy and Water Ombudsman Queensland (EWOQ) plans its activities and measures its performance against the Australian Government's Benchmarks for Industry-based Customer Dispute Resolution (Benchmarks) (The Treasury 2015). The Benchmarks provide standards and encourage best practice in industry-based dispute resolution services. This includes the requirement for periodic independent review to be undertaken in consultation with relevant stakeholders. This independent review has been commissioned by EWOQ in compliance with these Benchmarks.

The Terms of Reference for this independent review were:

A review of EWOQ's complaint handling service (complaint resolutions/remedies and procedures across all of EWOQ's primary complaint issues (including billing, credit, customer service, land, marketing, privacy, provision, supply, transfer) and its related operations, including systemic issue identification, complaints reduction and policy influencing work to ensure they are in accordance with the Australian Government's Benchmarks for Industry Based Customer Dispute Resolution (Benchmarks):

- I. accessibility
- II. independence
- III. fairness
- IV. accountability
- V. efficiency
- VI. effectiveness

In addition, the independent review was tasked with examining the following matters:

- Scheme participant/stakeholder engagement
- Promotion of EWOQ's services to customers
- Complainant satisfaction
- The effectiveness of the statute, terms of reference or other documents establishing the office, its jurisdiction, functions, rules and procedures
- Consider EWOQ's funding model – ensure fit for purpose with evolving jurisdiction
- EWOQ's commitment to privacy and the remedies EWOQ can provide for privacy related complaints and credit reporting complaints, including EWOQ's processes to identify serious or repeated interferences with privacy, and systemic privacy issues.

1.1 Methodology

Phase 1: Desk-top research was undertaken by the Review Team². Included within the Terms of Reference were a list of documents to be supplied by EWOQ to the Review Team and which were duly supplied. Further internal documents were provided by EWOQ to the Review Team upon the latter's request. Supplementary

² Brief biographies of the members of the Review Team are provided in Appendix One.

relevant documents were sourced from websites covering EWOQ's peers, industry bodies and academia.

Phase 2: Dr McBurnie conducted the fieldwork in Brisbane. During this phase, he interviewed:

- 9 of EWOQ's scheme participants (SPs) (11 individually invited).
- 4 community group representatives (5 invited).
- 2 organisations from the regulatory sector and industry bodies (4 invited).
- 17 members of staff.
- 5 members of EWOQ's Advisory Council.

The organisations which provided representatives with whom the Review Team interviewed are listed in Appendix Two. A total of 35 interviews were undertaken. Dr McBurnie also undertook a review of 136 cases, representing a mix of casework undertaken by EWOQ, both in the type of case (Refer Backs, Referral to Higher Level (RHL) and Investigation)³, internal reviews of EWOQ decisions, and complaints that raised concerns that an individual's privacy had been compromised by either EWOQ or a SP. Table 1, overleaf, provides detail on cases sampling.

The Review Team is confident that all relevant information necessary for this review was collected and considered.

1.2 Structure of the Report

The report comprises two principal sections. The first section provides background and context in which to place the report's findings and recommendations. It covers the changing energy and water markets. It also provides background information regarding leading ombudsman practice and the context for industry ombudsman practice before focusing on EWOQ as an organisation. The second section of the report reviews the performance of EWOQ against the six Benchmarks.

1.3 Acknowledgements

The Review Team wishes to thank:

- The many individuals from consumer groups, scheme participants and other stakeholders who generously gave their time to speak to the Review Team.
- The Ombudsman and all EWOQ staff, in particular Angela Arico, Melanie Edwards, Jeremy Inglis and Laurie Kanizaj for ensuring that the fieldwork and data collection was a smooth and uneventful exercise.
- The staff of EWOQ for their helpfulness and their time in answering questions and providing information.

³ These refer to the categories of case closures used by EWOQ: Refer Back, complaint referred to the scheme participant as it previously had not had an opportunity to resolve it, Referral to Higher Level, complaint referred back to the scheme participant for a second attempt at resolution, and, Investigation, EWOQ attempts to resolve the case.

Their input and support are greatly appreciated and ensured the Review Team was able to come to a holistic view on the performance of EWOQ.

Complaint type	Number Sampled
Refer Backs	25
Referrals to Higher Level	25
Level 1 Investigations	25
Level 2 Investigations	25
Level 3 Investigations	21
Internal Reviews	5
Privacy-related complaints - EWOQ	5
Privacy-related complaints - SPs	5
Total	136

Table 1: Split of cases sampled by the Review Team

BACKGROUND AND CONTEXT

2.1 Changing energy market

Traditionally, the energy market has involved the centralised generation and storage of energy, such as power stations, which is then transmitted and distributed to the homes of consumers. Today, and even more so in the future, this traditional model is being supplemented by the local generation and storage of energy, where energy is produced and stored on a consumer's property, for example, through solar panels and storage batteries.

This new approach to energy generation and storage is referred to as Consumer Energy Resources (CERs). This includes photovoltaic solar panels, batteries, smart meters, electric vehicles, microgrids and Virtual Power Plants. ANZEWON commissioned Benvenuti (2016) to review the changes in the energy market who, subsequently, suggested that changes in home energy management services and associated technologies would provide consumers with novel ways to manage and reduce bills (Benvenuti 2016, p.3). Other changes identified by Benvenuti were the growth in distributed generation as a means of trading excess generated power facilitated through new software technologies.

Rooftop solar is the second largest source of renewable electricity generation in Australia behind wind energy generation and provides over 11% of Australia's power supply (Clean Energy Council 2023, p.4). Battery installations attached to the rooftop photovoltaic panels (PV) are also growing although it was argued that there was room for further uptake (Clean Energy Council 2023). Around one in three Australian homes have PV solar panels (Chandran 2024). Benvenuti found that eight Australian energy retailers had offerings to supply battery storage for residential customers but warned that 'Battery storage in combination with PV is likely to also result in more complex purchase arrangements' (Benvenuti 2016, p.2). The Australian Energy Market Commission (AEMC) argues that developments in 'behind the meter batteries' by energy retailers will result in such batteries becoming a more 'prominent' element of the market in the future (AEMC 2018, p.vi). A range of new energy service providers have entered the market, sometimes in partnership with existing energy retailers (AEMC 2017, p.iii).

As a result of these changes in the market, the regulatory framework for consumer protection creates a complex interplay between national and state governments (Benvenuti 2016). Benvenuti stated that:

The energy market is in a period of dynamic change, decentralising and fragmenting largely as a result of technological advances and the growth in distributed generation. In turn, new service providers are emerging, the relationships between providers and consumers are changing, and there is a growing convergence with other industries. It is increasingly difficult to distinguish between 'products' and 'services' and to untangle how this distinction impacts on the relationship between the consumer as a buyer or seller. As a result, consumers are facing a rapid increase in complexity, particularly in determining where they can resolve any problems that emerge. (Benvenuti 2016).

These new developments in the market are subject to inadequate consumer protections with customers often dependent upon the use of generic consumer protection law or taking their complaint to the Queensland Office of Fair Trading or the Queensland Civil and Administrative Tribunal. Commenting on this situation back in 2019, the then Chair of the AEMC, John Pierce (2019), stated,

We have recommended jurisdictional action to improve consumer protection for some years and this job is fast becoming absolutely essential, ... Solar, being led by widespread roll-out of household PVs, is experiencing strong market penetration and the steadily falling costs of batteries will reinforce this trend. Consumers are also more actively engaging with the market and selling the surplus energy they are generating themselves to the grid. These market shifts are happening so rapidly that consumer protections that fully take into account all the issues associated with this new technology are yet to be devised or available.

Six years later the situation remains largely unresolved. This challenge is one of the factors that has contributed to the reality that the regulatory framework to provide comprehensive consumer protection has not kept pace with changes in the market. The lack of a comprehensive consumer protection framework extends into the area of external dispute resolution, where EWOQ's jurisdiction is prescribed via the *Energy and Water Act 2006* and has not kept pace with the changing consumer market. Benvenuti (2016, p.5) concluded that 'a comprehensive jurisdiction is an essential component of an effective ombudsman scheme'.

2.2 Rising prices and public concern

Energy Consumers Australia (ECA) conducts a consumer sentiment survey every six months. In its December 2024 survey, Energy Consumers Australia (2024) found:

- Following price hikes beginning in 2022, the % of households and small businesses who say that their electricity and gas services represent value for money remains low.
- Electricity and gas rank lower than all other utilities in perceived value for money, apart from the insurance industry.
- Household and small business confidence that the energy market is working in their long-term interests also declined in the last two years.
- Consumers who identified as being under financial pressure were even less likely to feel confident (20%) compared to those who say they are financially comfortable (42%). Since June 2022 the number of households across all income brackets identifying as under financial pressure has increased.

One of the consequences of this increased financial pressure is an increase in 'energy vulnerability', much of it hidden (RMIT 2023). Both the Federal and Queensland Governments have tried to mitigate this vulnerability with the provision of universal rebates to help individuals pay their energy bills. For some people this may be the first time that they have experienced energy vulnerability and they may miss out on assistance programs as they may not recognise or want to admit their difficulties. Willand, Tarabi and Horne (2023) found six aspects of hidden energy vulnerability:

1. Underconsumption – households limit or turn off cooling, heating and/or lights to avoid disconnections.
2. Incidental masking – other welfare support, such as rent relief, masks difficulties in paying energy bills.
3. Some households disguise energy poverty by using public facilities such as showers or pooling money for bills between families.
4. Some people conceal their hardship due to pride or fear of legal consequences, such as losing custody of children if food cannot be refrigerated because the power has been cut off.
5. Poor understanding of energy efficiency and the health risks of cold or hot homes adds to the problem.
6. Eligibility criteria for energy assistance programs may exclude some vulnerable households. For example, people with income just above the welfare threshold are missing out on energy concessions. Energy retailer hardship programs also ignore people who have voluntarily disconnected due to financial hardship.

In this context it is, perhaps, unsurprising to find that the number of electricity complaints closed by EWOQ in 2024 was up by 62% on the previous year while gas complaints were up by 46% over the same period. For both, energy resources billing complaints accounted for around 70% of all complaints. More concerning is the fact that there was a continuing increase in the number of complaints made to retailers that evolved to become a complaint to an ombudsman scheme from 22% of all retailer complaints in 2023 to 29% of all retailer complaints in 2024. For EWOQ, nearly 30% of all complaints received by retailers within its jurisdiction evolved into a complaint to it (AER 2024, pp.117-120).

2.3 Water market

In South East Queensland there are five providers of water and sewerage services across 11 local council areas. Outside of South East Queensland, local councils are responsible for providing these services to households and businesses. Some of these councils own their own water supply infrastructure and are responsible for water supply planning for their region (Department of Local Government, Water and Volunteers 2025). Currently five water and sewerage services are scheme participants of EWOQ with the remaining businesses under the jurisdiction of the Queensland Ombudsman.

The impact of climate change will potentially significantly and adversely impact the Queensland water industry:

A changing climate is likely to bring about changes to the amount, timing, and intensity of rainfall. This will increase the risk of both heavy rainfall events and extreme droughts. An increase in temperatures will also increase potential evaporation and greater demand for water for purposes such as crop irrigation and human consumption. This means there may be less runoff when rain does occur, with less water flowing into rivers, streams and groundwater systems, less water in lakes and storages and more water loss from dams. In the south, cool-season rainfall from cold fronts is likely to reduce. In the north, monsoon troughs that deliver widespread rainfall may become less frequent, but more intense, leading to cycles of drought and flood. On the coast, tropical cyclones are likely to become less frequent but more intense

and may travel further south. The convective storms that bring rainfall to the coastal mountains in the wet tropics may become less frequent, especially in the cool season (Department of Regional Development, Manufacturing and Water 2023, p.6).

The result of these changes is likely to be increased droughts, leaks, and floods, resulting in problems with water availability and sewerage which could well result in increased complaints to both the provider and EWOQ in due course.

2.4 Social license to operate

In addition to meeting their formal regulatory and legal requirements, it has been argued that companies have wider social responsibilities to their stakeholders and communities, an idea reflected in the concept of a social license to operate (SLO) (see Kenton (2024), for example). The social license to operate refers to 'the level of acceptance or approval by local communities and stakeholders of organisations and their operations' (Learning for Sustainability 2019) and applies to companies working in the energy and water markets. Industry-based consumer dispute resolutions schemes, EWOQ in this case, are part of the integrity system which helps to ensure that such companies maintain their social license to operate.

'A 'SLO' is created and maintained slowly over time as a company builds trust with the community it operates in and other stakeholders. A company must be seen to be operating responsibly, taking care of its employees and the environment, and being a good corporate citizen. When problems do occur, the company must act quickly to resolve the issues, or the SLO is put in danger. ... Companies and industries often run into the concept only when it is too late' (Kenton 2024).

The standards with which companies must comply, form part of its SLO which will change over time – what was once acceptable, very often, becomes inappropriate. Companies need to recognise these wider societal changes and respond accordingly. The longstanding and continued lack of confidence in the energy market in Queensland by consumers, noted above, will inevitably become an issue for businesses. The loss of their social license to operate is possible with the low levels of customer satisfaction reported in the ECA's Consumer Sentiment Survey (2024) and the AEMC's 2018 Retail Energy Competition Review (AEMC 2018) worrying indicators of a potential future loss of the energy market's social license.

In the UK, according to YouGov large majorities of people want water (82%) and energy (71%) renationalised, figures which have 'grown significantly over the last seven years' (YouGov 2024). These industries have lost their social license to operate.

2.5 Industry Ombudsman

Speaking in the context of the European energy market, the Mediterranean Energy Regulators (Med Reg 2018, p.5) argue that consumer protection is seen as a core responsibility of an industry ombudsman. They contend that customers in the energy market are likely to be disadvantaged in relation to service providers due to an inequality in their knowledge and resources. Accordingly, 'The availability to household customers of effective means to address their complaints and to have access to efficient, effective and inexpensive means of dispute resolution is a vital

and incontrovertible characteristic of a functioning energy market' (Med Reg 2018, p.5: see also Med Reg 2020). Where complainants do not have access to 'efficient, effective and inexpensive means of dispute resolution', exacerbated by a low awareness among consumers of their rights, this should be seen as indicative of a malfunctioning market and of a significant imbalance between the rights and obligations of consumers and service providers (Med Reg 2018, p.5).

The former Commonwealth Ombudsman Colin Neave (2014) said of public sector ombudsman:

There are some people, both in the government and the community, who think that all the Ombudsman does is to handle complaints, ... This is a very narrow view and falls dramatically short. In fact, it is a very old-fashioned notion. In reality we are leaders in building better public administration. We have a critical place between government and the public, and we are a safety net for members of the community. ... We promote good governance, accountability and transparency through oversight of government administration and service delivery.

Neave (2014) continued that ombudsman achieve this through the consideration of individual complaints, systemic investigations, the feedback of data to organisations and other relevant agencies, and that their presence acts as an incentive to organisations to improve the services that they provide to their customers.

While obviously speaking about the public sector ombudsman and public administration, one can easily see how this applies to industry ombudsman. Replace 'government' with 'industry' and 'public administration' with 'industry practices' in the above quote and it remains true and applicable. A modern industry ombudsman is not simply the resolver of individual complaints. It has broader responsibilities which help it in its role to support the maintenance of effective markets. Consequently, over time the functions of industry ombudsman have increased to include consumer advice (providing information to consumers), dispute resolution, the aggregation of data from each contact to provide an understanding of 'trading conditions, infringements, traders and trends', the publication of aggregated data as feedback to members, and 'information to consumers, competitions, regulators and investors, to support the maintenance of a level and fair market place', and improving market behaviour through mechanisms such as publication of information or referrals to regulators (Hodges 2018, p.57).

Starting from these views, the Review Team suggest that the purpose and role of an industry ombudsman is to provide an accessible, free, fair and cost-effective dispute resolution service which uses its unique insights, gained from its dispute resolution activities, to inform participants, the public, and policy and regulatory networks, to help deliver a market which works for both customers and businesses. An effective ombudsman will deliver on all facets contained within that statement.

This modern role becomes a set of functions that a modern industry ombudsman service delivers:

- The independent resolution of disputes arising from contracts and transactions between consumers and private businesses,
- The provision of an equitable jurisdiction to provide consumer protection,

- The provision of advice and assistance to consumers in relation to their disputes,
- To manage complainant expectations which involves caseworkers ‘reshaping consumers’ perceptions of their disputes in such a way that they feel able to move on’,
- To equalise the balance of power between parties and identify, and provide special assistance to the most vulnerable consumers to facilitate their access to redress,
- To help consumers whose complaints are not valid understand why that is the case and to help them move on from their dispute,
- To raise standards amongst bodies subject to investigation by feeding back lessons that arise in decisions, and,
- To enhance consumer confidence and trust in the sectors subject to investigation (adapted from Gill and Hirst 2016, p3 and p.21).

One of the features of the Australian regulatory system is its preference for avoiding ‘adversarial encounters with industry’ which are undertaken only as an action of last resort (Stuhmcke 2002). This approach is predicated upon the basis that businesses within the jurisdiction of a regulator or ombudsman are seen, in the main, as socially responsible and keen to be seen as law-abiding (Stuhmcke 2002, p.74). Stuhmcke (2002) goes on to argue that this conciliatory approach is ‘quintessentially’ that of an ombudsman, which should pursue all possible non-litigious avenues as a requirement of its neutrality.

2.6 Industry Ombudsman and their boundaries

Industry ombudsman have a wide range of stakeholders including scheme participants, complainants, other regulators and the government. To maintain their legitimacy, industry ombudsman need to be clear about how they interpret, explain and manage their roles to these different sets of stakeholders, each of which will have different expectations or demands (Gilad 2008).

Industry ombudsman are reliant upon their scheme participants for their resources. Gilad (2008) identified that where such circumstances exist, there is a risk that the ombudsman can be subject to regulatory capture or constraint. The Review Team has identified the following ways by which scheme participants may attempt to constrain their industry ombudsman scheme and include restricting the amount of funds available to the office or placing conditions upon the ombudsman about how that money can be used, restricting the degree of awareness raising and community outreach that is undertaken, and limiting the office’s ability to conduct systemic investigations or other policy work.

Counterbalancing this risk are the expectations of service users and the wider public. Should industry ombudsman ignore these expectations then they risk adverse political and media scrutiny. There are examples of complainants, dissatisfied with

the Ombudsman's decision regarding their complaint, who have gone on to organise public campaigns alleging misconduct by the ombudsman office⁴.

As such, industry ombudsman requires both the resources of scheme participants and support as well as the confidence of the public, resulting in a tension between both these sets of stakeholders which an ombudsman needs to manage.

In addition to managing this compromise, industry ombudsman face potential competition from other regulators and agencies within their institutional area. This competition results in an attempt by industry ombudsman and regulators to secure exclusivity for their roles and responsibilities.

An industry ombudsman needs to take the time and effort to manage each of these boundaries. Should any of these boundaries fail then the legitimacy of an industry ombudsman is at risk.

2.7 Value for money and ombudsman schemes

The Association of Chartered Certified Accountants argues that profit-seeking organisations have an underlying objective: to maximise profit in order to maximise value for shareholders (ACCA undated), but not-for-profit organisations, which includes EWOQ, cannot have this as an underlying objective. Instead, assessments of value for money are seen as a more appropriate framework to assess performance (ACCA undated). ACCA (undated) stresses that value for money 'is not simply about minimising cost'. Thus, demands that not-for-profit organisations should demonstrate year on year efficiency savings are not appropriate. Thomas et al. (2022, p.21) state that assessing value for money 'requires significant contextualisation and sensitivity in terms of its interpretation' as it 'involves a nuanced judgment'.

There are a number of challenges that arise when assessing value for money in not-for-profit organisations: they are likely to deliver public goods which are not easy to value as cost is not the only measure, they are likely to have multiple stakeholders who may well have differing and unclear definitions of what they understand as value for money for a particular organisation (Karanja 2021), and there are particular difficulties in assessing the effectiveness of an ombudsman when there can be difficulty in isolating the impact of ombudsman from other causes and influences (Thomas et al. 2022).

Increasingly, when assessing value for money, four criteria are used in its assessment:

Economy: minimising the cost of resources used or required – spending less,

Efficiency: the relationship between the output from goods or services and the resources used to produce them – spending well,

Effectiveness: the relationship between intended and actual results of spending – spending wisely, and,

⁴ See, for example, PHSO the Facts <https://phsothetruestory.com/>

Equity: the extent to which services are available to and reach all people that they are intended to – spending fairly (National Audit Office undated).

ACCA (undated) argues that there is the potential for conflicts to exist between these four value for money criteria as each of the criteria seek to achieve different goals. ombudsman offices can find it difficult to ensure a balance between them.

2.8 Energy and Water Ombudsman Queensland

EWOQ is unusual among industry ombudsman schemes in that it is established on a statutory basis and is founded upon, and operates according to, the *Energy and Water Act 2006* (EWO Act) The main purpose of the EWO Act is to provide residential and small business customers of energy and water scheme participants⁵ a timely, effective, independent and just way of referring disputes to energy and water entities, and having the disputes investigated and resolved.

The Act details the functions of the Ombudsman:

- to receive and investigate, and facilitate the resolution of, disputes,
- to resolve the disputes if they cannot be resolved by agreement, negotiation or mediation,
- to promote the operation of this Act to eligible customers, and,
- to identify systemic issues arising out of complaints made to the Ombudsman (S11(1))

EWOQ was first established as the Energy Ombudsman Queensland on 1 July 2007, to provide a free, fair and independent dispute resolution service for small electricity and reticulated gas customers in Queensland. On 1 January 2011, its jurisdiction expanded to investigate disputes about water suppliers in South East Queensland, becoming EWOQ. On 28 February 2022, its jurisdiction was again expanded to include embedded networks⁶ and provide residential electricity customers who get their power through a privately owned electricity network. In its 2024/25 Annual Report, EWOQ's records that it has 58 scheme participants and 491 registered exempt seller members.

Figure 1 below details the number of complaints both received and resolved by EWOQ for the period 2019/20 to 2024/25:

⁵ Large businesses, defined as businesses which consume energy and water above legally determined energy or water consumption thresholds are unable to raise complaints with EWOQ.

⁶ 'Embedded networks represent a new way of providing retail energy products and services to consumers. They are increasingly being provided by non-traditional energy suppliers, such as property developers or intermediaries that are associated with property developers.' (AEMC, 2017, p.iv)

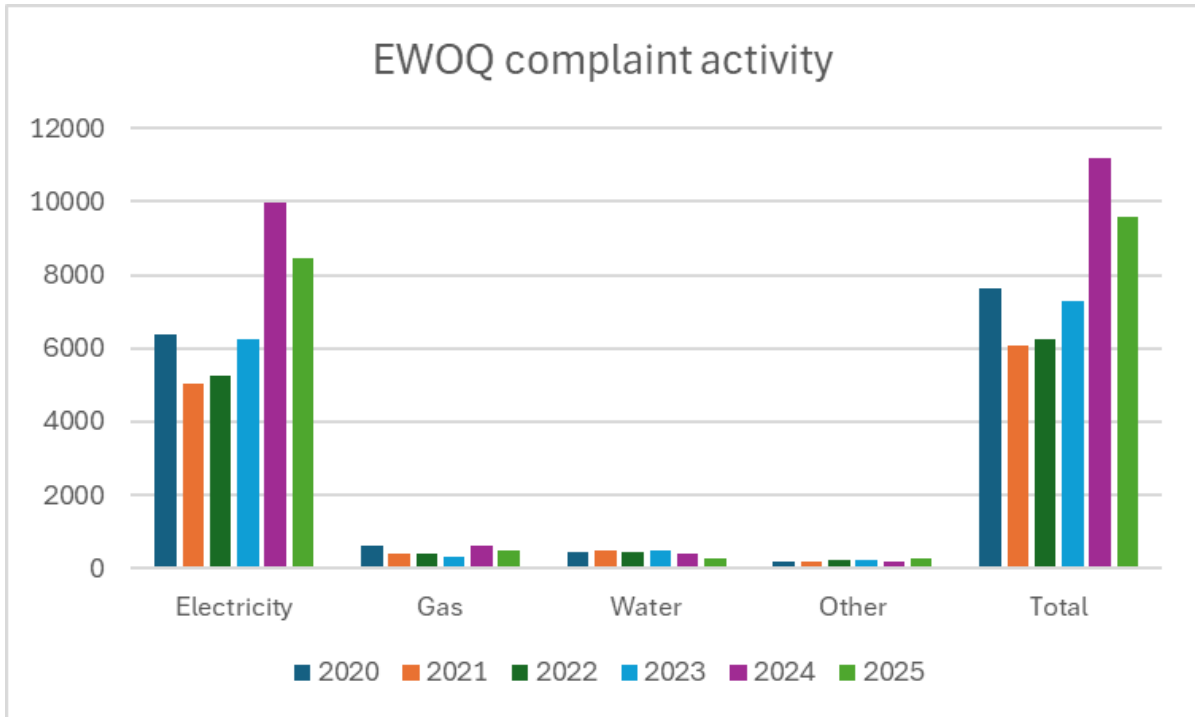


Figure 1: Number of complaints resolved by EWOQ

As can be seen, after the Covid pandemic, there was a dip in the number of complaints received by EWOQ, but this has steadily increased in the years since. Reasons for this dip include the government and regulatory responses to the Covid pandemic which persisted beyond the year that the pandemic began and included support to individuals such as ‘job keeper’ and ‘energy relief’ packages. In addition, there was additional support to vulnerable customers through the issuance by the AER of a ‘Statement of Expectations’ which required energy customers to be provided with a payment plan if they were facing financial hardship, the prohibition of disconnections without the customer’s agreement, and delaying referrals of customers to debt collection agencies (AER 2021). EWOQ report that this Statement of Intentions created a cultural shift within energy retailers leading to increased customer support and better engagement with customers to prevent disconnections and improved financial hardship support which has persisted since that time. EWOQ believes that the large increase in complaint numbers in 2024/25 is driven by continuing cost of living pressures experienced by customers.

The figures below (Figures 2,3 and 4) provide information on how customers made contact with EWOQ, the disposition of cases closed by EWOQ in 2023/24 and the top five issues raised in the complaints received by EWOQ.

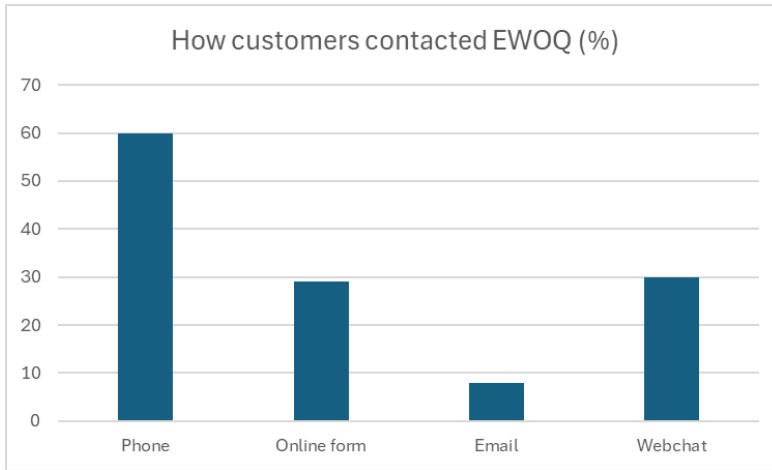


Figure 2: How customers contacted EWOQ

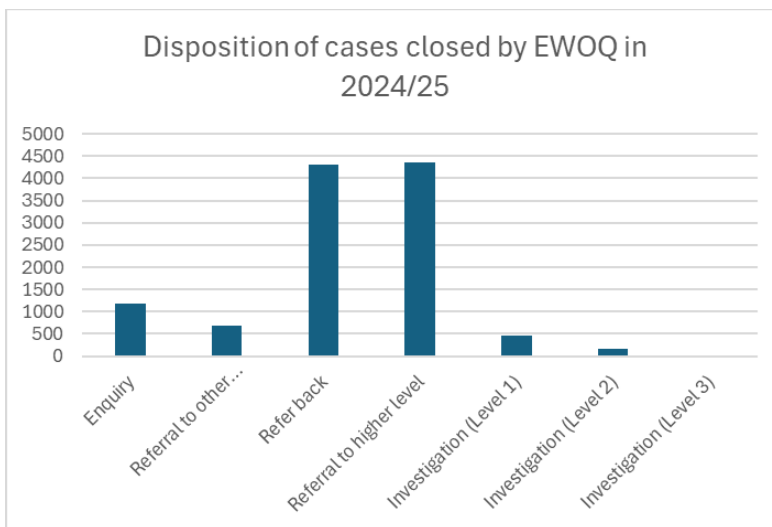


Figure 3: Disposition of cases closed by EWOQ in 2024/25

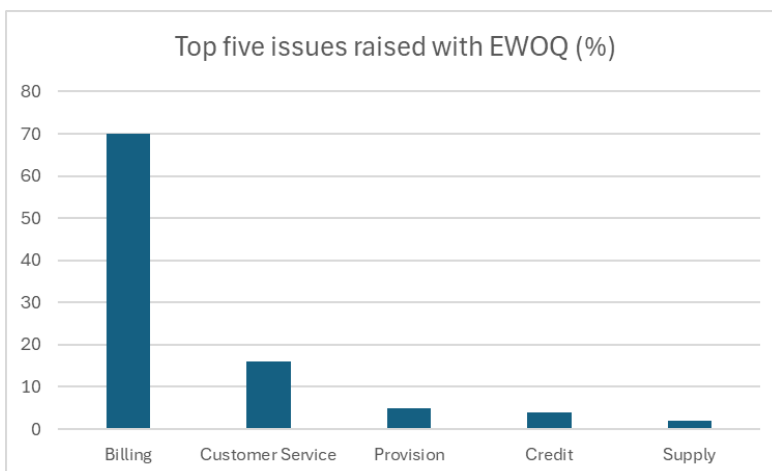


Figure 4: Top five issues raised with EWOQ in 2024/25

BENCHMARKING THE SCHEME

The Review Team are aware of the detail contained within the Key Practices for Industry-based Customer Dispute Resolution (The Treasury 2015). The focus of this section is however on the issues identified by the Review Team while conducting the review. Where individual elements within each key practice are not mentioned in this section, this does not mean that they were ignored by the Review Team but, rather, that the Review Team had no concerns that merited inclusion in the report. This allows EWOQ to focus on the key issues raised through the fieldwork.

As noted above, the Review Team was tasked by EWOQ to assess the compliance by the Energy and Water Ombudsman Queensland with the Australian Government's *Benchmarks for Industry-based Customer Dispute Resolution* (which include accessibility, independence, fairness, accountability, efficiency and effectiveness), and should further include the effectiveness of the Scheme's:

- Scheme participant/stakeholder engagement
- Promotion of EWOQ's services to customers
- Complainant satisfaction
- The effectiveness of the statute, terms of reference or other documents establishing the office, its jurisdiction, functions, rules and procedures
- EWOQ's commitment to privacy and the remedies EWOQ can provide for privacy related complaints and credit reporting complaints, including EWOQ's processes to identify serious or repeated interferences with privacy, and systemic privacy issues.

In compiling this report these additional areas are included within the section for the relevant benchmark, see Table 2 below:

Issue	Benchmark
Scheme participant and stakeholder engagement	Accountability
Promotion of EWOQ's services to customers	Accessibility
Complainant satisfaction	Efficiency
The effectiveness of the statute, charter, terms of reference or other document establishing the office, its jurisdiction, functions, rules and procedures	Independence
Consider EWOQ funding model – ensure fit for purpose with evolving jurisdiction	Accountability
EWOQ's commitment to privacy and the remedies EWOQ can provide for privacy related complaints and credit reporting complaints, including EWOQ's processes to identify serious or repeated interferences with privacy, and systemic privacy issues.	Accountability

Table 2: Assigning EWOQ's additional issues to Benchmarks

Benchmark One: Accessibility

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

Purpose: To promote access to the office on an equitable basis.

Queensland has a population of over 5 million persons with approximately 80% of the population residing within South East Queensland, which includes Brisbane, the Gold Coast and the Sunshine Coast (Australian Bureau of Statistics 2021). The majority of Queensland's territory has a population density of below 1 person per square kilometre. More than 190 different languages are spoken within Queensland, with around 20% of residents speaking a language other than English at home although only 2% reported that they did not speak English at all, or spoke it with difficulty (Australian Bureau of Statistics 2021). Nearly 30% of Queenslanders were born overseas with a similar percentage of Queenslanders having both parents born overseas. These figures are lower when considered against the general Australian population. Compared with the general Australian population, Queenslanders are less likely to hold a university qualification. Average incomes are lower compared with the Australian national average. (Australian Bureau of Statistics 2021).

There are many definitions of vulnerability, a term which is changing over time. The AER (2025) define vulnerability

as circumstances that mean a person may be less able to protect or represent their interests, engage effectively and/or are more likely to suffer detriment. This includes having insufficient capacity to pay for energy use. This experience of vulnerability may stem from:

- characteristics of the energy sector or products (such as complexity)
- individual circumstances, such as low income or lived experience of disability, family violence, and/or mental ill health.

Anyone can experience vulnerability at any time. The experience of vulnerability is complex, varied, and impacts people in different ways for different periods of time. Vulnerability can impact a person's ability to comprehend, communicate and take action. This can exclude people from markets, make it challenging to access services, reduce consumers' ability to represent their interests, and cause or exacerbate mental ill health or financial detriment.

In research for the Australian Energy Regulator (AER), O'Neill (2020, p.5) found that one in five national helpline users were experiencing mental health problems, one in five people in Australia speak a language other than English at home, one in six Australian women have experienced physical or sexual violence, one in five Australians have a disability, 44% of Australians have low levels of literacy, and two in three Australians experience some level of financial stress. These figures highlight that a large proportion of Australians are disadvantaged and may be vulnerable at any particular point in time.

4.1 Awareness and promotion of the scheme

An effective ombudsman scheme will be available and accessible to all consumers irrespective of their background or needs. To achieve this, potential users of ombudsman services must be both aware of the existence of the ombudsman office and believe that they will be able to use the ombudsman's services easily and simply. To do this effectively may require additional understanding from staff within ombudsman offices towards those from a culturally and linguistically diverse background or who may be disadvantaged or vulnerable (Beqiraj et al. 2018, p.16, Brennan et al. 2017). Ombudsman offices need to be aware of any particular additional needs exhibited by its service users at any and every stage of the complaints process (Beqiraj et al. 2018, p.16).

Most ombudsman offices are utilised disproportionately by a narrow stratum of society, typically male, white, educated middle classes and, as a rule, often find it difficult to engage with people out with this stereotype (Hertogh 2013). In the low countries, Hertogh found that people who use an ombudsman scheme tend to have higher levels of trust in the government and the justice system. However, ombudsman offices struggle to engage with complainants who have low levels of trust in the government and the law. Not only does this result in the ombudsman focusing on issues brought to them by people with higher levels of trust but also that ombudsman receive little input from those with lower levels of trust, and are, thus, not represented in their casework (Hertogh 2013). Hertogh (2013) suggests that the work of the ombudsman will, therefore, not restore confidence in government or industry for these groups.

Australian ombudsman schemes have been said in the past to suffer from low levels of public awareness (Productivity Commission 2014). In its most recently published Energy Consumer Satisfaction Survey, Energy Consumers Australia (2024) found the following levels of awareness of the different Australian Energy and Water Ombudsman (EWOs) (Figure 5):

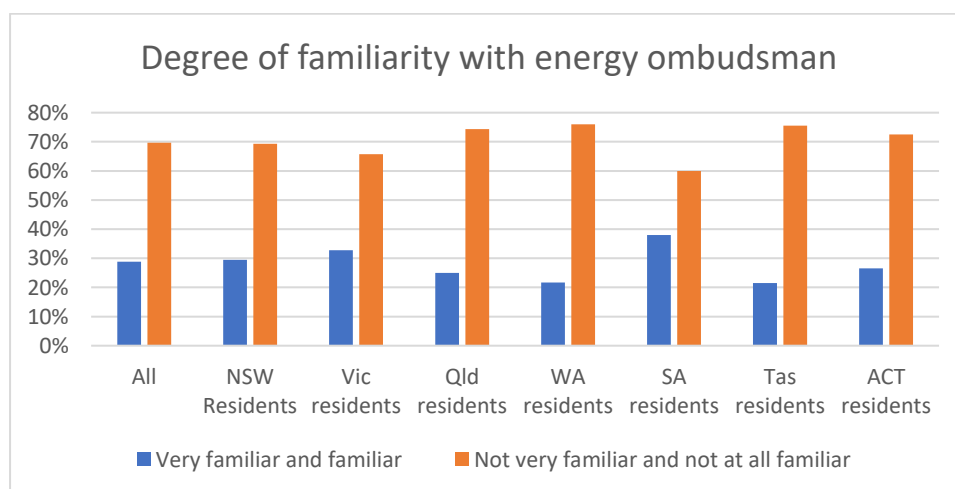


Figure 5: Degree of familiarity with energy ombudsman

These figures suggest that, generally, there continues to be relatively low levels of public awareness of ombudsman schemes, with EWOQ more or less reflecting the national average. In addition, Energy Consumers Australia (2024) found that residents in metro areas were more likely to be aware of their Energy and Water Ombudsman (EWO) than residents in county towns or rural areas, and those Australians more comfortable financially had higher awareness levels than those Australians under financial pressure. Overall, these findings are unsurprising as other research indicates that vulnerable and disadvantaged groups are less likely to be aware of, and use, third-party dispute resolution schemes (see Hubeau 2018, Productivity Commission 2014, Hertogh 2013).

Energy Consumers Australia undertakes regular surveys of Australian residents. Previously, one element of the survey was survey participants' awareness of their local EWO scheme. In December 2023, the last time that this question was included, EWOQ scored an awareness level of 28%, which is similar to the levels of public awareness for the other Australian EWO schemes.

There are challenges faced by EWOQ when considering how best to promote its scheme.

- Customers only need the assistance of an ombudsman schemes when they have a problem, meaning promotion does not always lead to immediate awareness growth, and this is inherently difficult to measure.
- EWOQ does not routinely collect socio-demographic data through its case-management activities.
- Awareness raising can be unfairly viewed by some scheme participants as encouraging consumers to make complaints.
- The cost of promotion/visits, particularly to regional/remote communities needs to be aligned with EWOQ's budget and with each area's population and demographics (EWOQ 2024, p.8).

EWOQ aims to undertake awareness raising activities in major centres across Queensland, with a focus on those areas which have significant numbers of vulnerable complainants or where there are low case numbers (EWOQ 2024).

Decisions are based on the following classes of information:

- Case data and customer survey results
- Demographic information obtained from the Australian Bureau of Statistics (ABS)
- % of First Nation individuals
- % of people from culturally and linguistically diverse (CALD) communities
- Number of people aged over 55 years
- Socio-economic indexes for areas, obtained from the ABS
- Other research sources. (EWOQ 2024, pp. 8-9)

EWOQ currently uses a wide range of systems and methods as part of its external communications in order to promote its existence and how it may help individuals. It has developed an integrated approach across a range of methods to systematically

facilitate its approach to awareness raising and based on the Paid, Earned, Shared and Owned (PESO) model where

1. Paid – an approach based upon EWOQ paying an outside body to promote the scheme. Example are paid social media, search engine marketing and display advertising
2. Earned – an approach based upon EWOQ working with external bodies which then promotes EWOQ. Examples include proactive and reactive media approaches, networking and word-of-mouth promotion.
3. Shared – an approach based upon EWOQ working with external bodies where there may be a common interest. Examples would include community outreach, stakeholder engagement and community listings.
4. Owned - an approach based upon EWOQ maximising its own resources to promote the scheme. Examples include its website, webinars, publications and other printed material (EWOQ 2024, p.13).

EWOQ completed a range of paid digital campaigns throughout 2024/25 to raise awareness of its service and to share timely information on energy and water issues affecting Queenslanders. Through its paid activity, EWOQ reached more than 314,000 Queensland energy and water consumers, an increase of 57% compared to 2023–24 and reached an additional 48,000 consumers through its own social media activity, an increase of 60% compared to 2023–24. EWOQ’s audience has grown by 32% across its social media channels, sharing content throughout the year on Facebook, LinkedIn, X (formerly Twitter), and Instagram (EWOQ 2025, p.39).

EWOQ has a clear, budgeted, awareness and community engagement plan for 2025/26 which focuses on eight key geographical target areas and four target audiences: households living under stress, people from CALD backgrounds, First Nation individuals and young people living away from home for the first time, people with a disability and older Queensland residents.

Interviewees reported to the Review Team that one of the biggest challenges facing EWOQ was a general lack of awareness of its existence and that EWOQ could do more to promote awareness of both its existence and role.

An important element of a person’s ability to access EWOQ is through its website. It is here that many, if not most, potential complainants will seek information about whether they are able to, and how they can, make a complaint. The Review Team received mixed views from interviewees about EWOQ’s website. The website was recently been updated. The Review Team noted that, at the time of the fieldwork, the website was only available in English, Mandarin and Vietnamese, these being the three most commonly spoken languages in Queensland. However, EWOQ recently enabled the provision of an additional 21 languages. Having the ability to translate the website into their own language is an important signifier that EWOQ is interested in minority communities and is prepared to help them. Conversely, having pages only in English, Mandarin and Vietnamese could be interpreted by, for example, a Punjabi speaking Queensland as being excluding. If groups such as these fail to identify

with EWOQ or believe that EWOQ is not for them, then they will be less likely to use EWOQ.

It is important to note that EWOQ complies with the Queensland Government's Web Content Accessibility Guidelines and produces an annual *Digital services accessibility plan* which focuses on the accessibility of EWOQ's digital services and, more specifically, public-facing information or transactional services. The Review Team welcomes this comprehensive plan. The plan had the following goals:

- Increase employee awareness and knowledge,
- Design and deliver accessible digital services
- Procure and use external accessible third-party digital products and contract staff
- Receive and respond to accessibility feedback, requests and complaints

An effective complaints process will be designed in a way that it is able to identify who are its users or potential users and ask them what it is that they expect from the complaint system. Hubeau (2018, p.270) cites research which demonstrates that the perception by ombudsman staff of its service users does not match the profile of actual service users. Collecting socio-demographic data on users is important for industry ombudsman as it allows them to, both, ensure that service users are representative of those who need its services and to speak authoritatively on issues affecting under-represented and disadvantaged groups. In addition, where the data indicates that service users are not representative of those who needs its services, it allows industry ombudsman to undertake more targeted awareness raising activities. Hubeau (2018), therefore, stresses the need for ombudsman schemes to collect socio-demographic data on their service users. It is the experience of the Review Team that in Australia and New Zealand, alternative dispute resolution (ADR) schemes do not systematically collect socio-demographic data on their users. Therefore, these schemes cannot be certain that some user groups are under-represented.

The Review Team does recognise that collecting socio-demographic data from individuals can be a sensitive area of questioning for minority, vulnerable and disadvantaged groups who may wish to submit a complaint. It is, nonetheless, important that EWOQ consider how best it can collect this information.

The Review Team was told that EWOQ no longer routinely asked complainants questions about their socio-demographic status. If a person volunteered this information, it would be retained. The reason for this new approach was related to the introduction by the Queensland Parliament of the *Information Privacy and Other Legislation Amendment Act 2023* (IPOLA) which came into force in July 2025. This Act broadened the definition of personal information and can include an individual's racial or ethnic origin, sexual orientation, and other socio-demographic data. Queensland Privacy Principles 3 and 6 contain specific rules for the collection, use and disclosure of sensitive information.

Queensland Privacy Principle 3 states that agencies:

- can only collect personal information that is reasonably necessary for, or directly related to, one of their functions or activities
- must collect it lawfully and fairly, and
- must collect it from the individual unless an exemption applies (including consent, lawful authority/requirement and law enforcement), or it is unreasonable or impracticable to do so.

Queensland Privacy Principle 6 states that agencies can only use or disclose personal information for the reason it was collected, unless QPP 6 allows it to be used or disclosed for a secondary purpose. These include:

- instances where the individual has consented to the use or disclosure of the information, and,
- the individual would reasonably expect the agency to use or disclose the information for the secondary purpose.

Where personal information is anonymised, that is where it is impossible for the person collecting, using, or receiving it to identify the individual, it ceases to be personal information and will be outside the scope of the IPOLA.

The Review Team would suggest that there may be scope for EWOQ to collect socio-demographic data relating to its service users. The central function of EWOQ is to provide a service to all Queenslanders. To do this, it needs to know who is using its services and who is not and therefore needs to have an understanding of the socio-demographic data of service users. It should be possible to collect and anonymise this data at the same time. EWOQ has indicated that, at the present time, it has adopted a 'cautious approach with respect to data collection due to the current system data capture and verbatim recordings but will consider what opportunities there are in future to collect anonymised data via forms, for example, with explicit consent provisions'.

Recommendation 1:

EWOQ should review the means by which it can obtain sufficient socio-demographic information about its service-users in order that it can identify who does, and who does not, make use of its services.

4.2 Community outreach programme

There is increasing recognition that the problems faced by residents in Queensland are likely to be multi-layered. That is, an individual will not just have a problem with their energy or water bill, but may well have additional problems affecting their employment status, housing or ability to travel. Focusing on one part of a person's problem may provide some short-term relief but any benefit is likely to be temporary. Therefore, the approach that is being increasingly adopted is to work more

collaboratively with partner organisations rather than in isolation. EWOQ is utilising this approach.

EWOQ strives to meet best practice community engagement principles. Its approach to community outreach and stakeholder engagement is to:

- Collaborate with community organisations, peak bodies, government agencies, other ombudsman schemes and complaint handling bodies.
- Identify opportunities to collaborate and partner with other organisations, while developing sustainable networks with community groups, government agencies and other relevant Queensland bodies.

This collaboration can take the form of sharing information stalls, co-hosting events and conducting joint outreach trips to regional and rural remote areas within Queensland. These activities are augmented by integrated communications activities. EWOQ believes that this approach delivers benefits such as access to broader networks, cross-promotion of services, increased awareness of other services that exist and opportunities to pool resources, thus reducing costs (EWOQ 2024, p.14).

These community outreach activities are paralleled by EWOQ's Reconciliation Action Plan (RAP). EWOQ is currently on its second Innovate RAP which, has at its heart, a determination to build new and stronger relationships with its key stakeholders in the Aboriginal and Torres Strait Islanders communities (EWOQ 2024, p.5).

EWOQ facilitated 27 outreach and engagement initiatives in the year 2024/25, visiting communities across regional and South East Queensland to raise awareness of its service and create opportunities for connection, collaboration and contact between community stakeholders, consumers and scheme participants (EWOQ 2025, p.38). This figure appears relatively low compared with peer EWO schemes.⁷

Responsibility within EWOQ for community outreach is shared between the Customer Resolution and Engagement (CRE) Team and the Marketing and Communication (MC) Team, with the former having overall lead. The Review Team was told that the rationale for this approach was that, as a small organisation in staffing terms, responsibility for the actual conduct of community outreach often lay with the CRE Team. However, the Review Team heard that what may be considered a priority in one part of the Office may not be considered as such by the CRE Team and action may not be taken. This is inevitable when there are split responsibilities, particularly when one element has significant public facing obligations.

Nonetheless, EWOQ has attempted to broaden its outreach and awareness raising activities through increased use of its digital channels and strengthening its strategic partnerships with other community support organisations.

⁷ EWOQ's 27 community outreach activities contrasts with 104 community outreach activities undertaken by EWON (2024/24 Annual Report) and 98 community outreach activities undertaken by EWOV (2023/24 Annual Report. EWOV did not report the number of community outreach activities that it undertook in 2024/25).

Interviewees from community organisations were very positive about EWOQ's approach to community outreach, with their approach being described as really helpful and fantastic. There was support for EWOQ's approach of targeting poorer and more remote communities within Queensland, with one interviewee positively saying that EWOQ are seen where one would not expect to see them. Community interviewees particularly liked EWOQ's approach of working and partnering with other local organisations, particularly those community groups which outreach into rural communities. This was described as a big positive.

Interviewees from scheme participants described the community outreach events as well advertised and hosted and that they were very happy to participate. They liked the multi-agency approach utilised by EWOQ saying that it was a very helpful method. Community outreach was seen as very important, particularly in rural Queensland and not a cost. There was a view expressed that EWOQ should undertake more community outreach activities.

As noted earlier, EWOQ undertakes fewer community outreach activities compared with peer EWOs and two factors significantly contribute to this: firstly, the geographical size of Queensland makes outreach activities more demanding and expensive; secondly, EWOQ is a relatively small ombudsman scheme without certain economies of scale. As a consequence, casework is already relatively costly compared with peer EWOs and caution needs to be taken to not excessively increase the costs of the scheme. Nonetheless, the Review Team would suggest that a small increase in participant fees of around 2.5% would support significant additional community outreach activity.

The approach was described to the Review Team as supporting organisations which support populations in specific demographics, that is, people who are potentially more vulnerable and disadvantaged or with greater need for EWOQ's services. The Review Team consider this a sensible and measured approach.

However, the Review Team was slightly concerned by the description of a new potential approach to community outreach as attending events organised by other organisations or EWOQ will 'tag along to events organised by others'. While EWOQ informed the Review Team that Bring Your Bills Days were seen as an important part of its community outreach approach, the Review Team was also told that there was consideration of decreasing the number of Bring Your Bills Days organised by EWOQ despite the support they have from community groups and scheme participants interviewed in this review. The Review Team would endorse EWOQ's support for Bring Your Bills Days. Particular concern was raised when the Review Team heard that one EWOQ staff member describe community outreach as 'a burden' and that EWOQ needed to be clear about the value and cost of undertaking community outreach with a second staff member wondering if it was 'cost-effective'.

Earlier in this paper there was consideration of what value for money meant for an organisation like an ombudsman office. It was suggested that a focus on economy and efficiency alone was inappropriate as there is also a need to consider the effectiveness of any spending, does it help the organisation help deliver its objectives, and equity, does the expenditure help ensure that services are able to

reach all the people for which they are intended. Taking this broader consideration of value for money suggests that community outreach is important in enabling EWOQ make its services available to all Queenslanders, particularly those in greatest need.

The Review Team suggests that EWOQ needs additional resources to lead and conduct its community outreach work. It can be problematic having the CRE team conduct community outreach when they have their everyday roles to fulfil especially when these roles are very busy. It would be better to have a separate community outreach team supported, when necessary, by CRE staff rather than a CRE led team supported by Marketing and Communications.

Recommendation 2: In light of stakeholders' support for EWOQ's current approach to community outreach and engagement, EWOQ should conduct a review of this community and outreach programme, involving its community stakeholders. Any proposed change to EWOQ's community outreach and engagement programme should be preceded by a rigorous evaluation of all aspects of value for money.

4.3 Vulnerable and disadvantaged complainants

The AER (2025, p.4) define vulnerability

as circumstances that mean a person may be less able to protect or represent their interests, engage effectively and/or are more likely to suffer detriment. This includes having insufficient capacity to pay for energy use. This experience of vulnerability may stem from:

- characteristics of the energy sector or products (such as complexity)
- individual circumstances, such as low income or lived experience of disability, family violence, and/or mental ill health.

Anyone can experience vulnerability at any time. The experience of vulnerability is complex, varied, and impacts people in different ways for different periods of time. Vulnerability can impact a person's ability to comprehend, communicate and take action. This can exclude people from markets, make it challenging to access services, reduce consumers' ability to represent their interests, and cause or exacerbate mental ill health or financial detriment.

The categories for vulnerability described by O'Neill and cited in the introduction of this Benchmark, simply describe people who are disadvantaged and, as a result, can be vulnerable in specific situations. But disadvantage is not necessarily the same as vulnerability. Vulnerability is often about the situation which an individual faces at any particular time and not about the individual. For example, in relation to legal services, a very specialist, technically complex area, people with no or minimal disadvantages may, nonetheless, still be vulnerable. The rapid change in technology may create vulnerability in an otherwise non-disadvantaged individual. Therefore, there is a need for EWOQ to consider both vulnerability arising from disadvantage and situational vulnerability (see Brennan et al. 2017). 'Protection of vulnerable consumers has

been acknowledged and promoted as one of the basic rights of energy consumers' (Med Reg 2021, p.7). The Mediterranean Energy Regulators went on to state that:

Identification of vulnerable consumers is not always an easy job as, in many cases, vulnerable consumers are not able to or fail to handle the required procedures for benefitting from protection measures. Therefore, a system that is linked with social, welfare and health databases, and works on the basis of the vulnerability criteria approach, can generate a reliable list of vulnerable consumers, at any given time (Med Reg 2021, p.7).

The AER (2025, p.4) argue that identifying and supporting vulnerable customers early 'not only improves outcomes for consumers, but also benefits businesses.

Complaint systems need to be aware of the additional challenges vulnerable and disadvantaged groups face and develop systems which can quickly identify such people and, are then able to provide a service which makes reasonable adjustments to meet their needs. The AER (2025, p.5) identify six underpinning principles to support better practice:

- Build an organisational culture focused on strong customer relationships and better consumer outcomes
- Design for all consumers
- Deliver customer service that engages effectively with vulnerability
- Collaborate with other organisations
- Use data to improve consumer outcomes
- Commit to continuously improving consumer experiences and outcomes.

Potential tools to mitigate the challenges facing vulnerable and disadvantaged people include, but are not limited to, organisations undertaking vulnerability impact assessments, focusing on good inclusive product or service design, the identification of, and provision of support to, customers in vulnerable circumstances, the proactive identification of vulnerable and disadvantaged customers, and the provision of accessible, flexible, tailored services (O'Neill 2020).

The Review Team was pleased to see that EWOQ has a bespoke Vulnerability Policy and that EWOQ has an inclusive approach to vulnerability and disadvantage as it recognises both disadvantages arising from an individual's characteristics as well as any situational vulnerability. The Policy provides helpful information to staff on how they might identify a vulnerable or disadvantaged customer, which, commendably, is fairly broad. The Policy then provides advice on how best staff may support a vulnerable or disadvantaged customer, with particular vulnerable cohorts identified and the approach to be used with them. The Policy also provides guidance on how the dispute resolution pathway may be adapted to meet the circumstances of a vulnerable or disadvantaged customer and how best a staff member may communicate with such customers.

Interviewees from both community organisations and scheme participants spoke positively about EWOQ's approach to working with vulnerable and disadvantaged individuals. The approach was described as balanced, 'really good', that EWOQ do this well, that EWOQ has an appropriate focus on the conduct of casework, and that EWOQ will not demonstrate bias but will balance support and compassion.

Benchmark Two: Independence

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

Purpose: To ensure that the processes and decisions of the office are objective and unbiased, and are seen to be objective and unbiased.

5.1 Case handling and decision-making processes

As discussed under the Benchmark: Efficiency, the Review Team heard praise from interviewees from scheme participants regarding EWOQ's approach to case handling. It was held to be impartial and interviewees often discussed the strong but professional relationships that existed between their organisation and EWOQ. If a scheme participant had a concern about any case there was clear escalation measures that they could utilise and, if they did use them, they suggested they were listened to fairly by the relevant manager. Similarly, as noted under Benchmark: Fairness, EWOQ's Voice of Customer Survey found that complainants were of the view that EWOQ was independent in its casework, a view echoed in interviews with community representatives.

5.2 The effectiveness of the statute or other document establishing the office, its jurisdiction, functions, rules and procedures.

Unlike any other Australian industry ombudsman scheme, EWOQ is the only industry ombudsman scheme that is established under a specific Act of Parliament, the *Energy and Water Ombudsman Act 2006*. The Review Team supports this approach as it provides an ombudsman scheme with a secure foundation. However, it does bring with it a range of challenges not faced by other industry ombudsman schemes, some of which actively constrain and undermine the effectiveness of EWOQ. The challenges include the fact that, in EWOQ's case, it has oversight from two separate Ministerial departments, which requires two sets of approvals for any proposal although, in practice, the Treasury, responsible for energy matters, takes overall lead. As shall be considered below this can lead to significant problems for EWOQ.

In addition, in an energy market that is rapidly changing as a consequence of technological developments and the impact of climate change on both energy production and distribution, and water supply, there is the risk, already becoming reality, that the legislation becomes rapidly outdated, unintentionally constraining EWOQ. Legislative changes can take a minimum of two years to complete (Queensland Treasury 2025). In addition, as the role of a modern ombudsman scheme evolves there is also the result that the legislation does not keep up to date with what the ombudsman scheme should be undertaking. One option being considered by the government is to establish 'an adaptable regulatory framework' as that is a 'more appropriate regulatory vehicle to keep the EWO Act flexible and adaptable' (Queensland Treasury 2025, p.1). Required amendments to a regulation

can be completed within two to three months, although complex changes may take longer (Queensland Treasury 2025). The Review Team would support this approach as it would make it easier for EWOQ's legislation to be current and relevant.

It is discussed elsewhere in this review, see sections 2.1 and 5.2, that EWOQ's current legislation does not take account of changing energy technologies such as the development of CERs which leave an individual exposed in terms of consumer protections and that the powers granted to EWOQ to conduct and publish systemic investigations and other related system improvement work are inadequate.

There can also be challenges with the interpretation of the Act as it relates to EWOQ's funding and budgeting. For most of the period since EWOQ's inception, it was believed that EWOQ was not able to retain any surplus that arose during the year and, as a consequence, it was able to hold only very limited reserves. EWOQ obtained formal legal advice which advised that EWOQ could hold some reserve funds but only reserve funds that arose from the unspent portion of participation fees. As user pay fees are directly linked to the cost of dispute handling and associated EWOQ activities in complying with the Benchmarks, any surplus arising from user fees has to be repaid to the scheme participant. As participation fees account for only a small element of EWOQ's overall income⁸, the ability to build up a meaningful and proportionate reserve is, thus, also constrained. This approach creates an organisation with limited ability for forward planning and investment.

The Review Team has no concerns about EWOQ's independence from either industry or community interests. The relationships are respectful and professional and that is how they should be. As was discussed in section 2.6 Gilad (2008) stressed the importance of an industry ombudsman scheme maintaining an appropriate balance between industry and community representatives and to avoid being too close to either side lest this compromises trust in the ombudsman scheme. EWOQ does this well but the Review Team would highlight some concerns that it has in relation to its independence from Queensland's government. The Review Team were told by one interviewee that, in their opinion, EWOQ was not truly independent from government and that the government can constrain EWOQ.

The Review Team would also note that EWOQ is treated by the government in some ways as an independent organisation and yet is also treated in some ways as a government department. This peculiarity was highlighted by one interviewee when they described the organisation as 'a bit weird', being both part public organisation and part corporation sole with a statutory basis and as if it were funded by government while it actually received no public money.

The Review Team were informed by some interviewees that the Minister was not really interested in EWOQ unless there was a particular issue that drew their attention. Appointments to EWOQ's Advisory Council have to be approved by both the Chair of the Advisory Council and the responsible Ministers. Yet there can be significant delays in making appointments. The Review Team heard that, on one

⁸ EWOQ's 2024 Annual Report indicates that participation fees account for around only 4% of EWOQ's income from scheme participants.

occasion, there was a delay of a year in appointing the Chair of the Advisory Council. Given the important role of the Advisory Council detailed within the legislation, these delays are hard to justify.

The Canadian Ombudsman for Responsible Enterprise commissioned work from Chris Gill on the issue of ombudsman independence from its government considering this issue through the lens of the Venice Principles⁹ (Gill 2023). The independence of the ombudsman office was seen as a *sine non qua* (Glušac 2021). Principle 14 of the Venice principles states that ‘The Ombudsman shall not be given nor follow any instruction from any authorities’ (Council of Europe 2025). Gill (2023) summarises the standards contained within the Venice Principles, the United Nations resolution endorsing the Venice Principles, the UK’s Ombudsman Association’s membership criteria and the Australian Benchmarks and Key Practices relating to the independence of an ombudsman office as ‘independence from those organisations subject to investigation and from the body that appoints the ombud. Those standards that include ombuds with a private sector jurisdiction emphasise independence from the organisations subject to investigation. Where the jurisdiction is public, naturally, the emphasis is on independence from state authorities as the organisations which these ombuds are empowered to oversee’ (Gill 2023, Section 4.1).

Gill (2023, Section 4.1) continues by observing that, internationally, when private sector ombudsman have been established they have typically been established to consider consumer complaints within a specific industry sector. In this situation, the government’s role in establishing and overseeing the ombudsman office has been welcomed as it has been seen as providing the ombudsman office with ‘greater authority and independence’ than industry ombudsman schemes which do not have this type of statutory basis.

EWOQ is dissimilar in several ways from other EWOs. It has an Advisory Council whose members are nominated by the Chair of the Advisory Council and subsequently approved by the responsible Minister. At least one member of the Advisory Council will be a representative from a local government enterprise (a water company) and there is a good chance that a second industry member of the Advisory Council will be a representative from a state-owned energy company.

The Advisory Council is required to provide advice, at least annually, to the Minister on the following:

- policy and procedural issues relating to the EWO Act,
- the operation of this Act for eligible customers and relevant occupiers of land,
- the development of guidelines on procedures to be followed for dispute referrals and investigations, and,

⁹ The Venice Principles are a set of set of standards aimed at strengthening the ombudsman institution by ensuring its independence objectivity, fairness and impartiality. They were approved by the Council of Europe in 2019 and the United Nations endorsed them in 2020, effectively establishing the Venice Principles as a global standard (see PRINCIPLES ON THE PROTECTION AND PROMOTION OF THE OMBUDSMAN INSTITUTION (“THE VENICE PRINCIPLES”), https://www.venice.coe.int/files/Publications/Venice_Principles_eng.pdf

- the preparation of budgets and the funding of the energy and water ombudsman's functions (adapted from EWO Act S28(5) and S49.

The government also sets the fees payable to members of the Advisory Council which are based upon the fees payable to people working for Queensland Government organisations.

EWOQ's legislation does suggest that EWOQ is an independent organisation and it is important to note that the Ombudsman does have operational independence within the parameters set by the Department(s) which have oversight over EWOQ. Having interviewed departmental representatives and read documents produced by the Queensland Treasury, the Review Team understands that there is a belief within the government that EWOQ is independent. But, if an organisation cannot appoint its own members and needs approval for its budget, including the need to make minor amendments to the budget, then that organisation is not truly independent.

There also exists what may be described as a 'state-business nexus', which, for EWOQ, comprises the state-owned energy and water companies, 'which exists both in relation to corporations controlled by the state and those that receive significant state support/services. As powerful economic and social actors, major corporations are also frequently able to gain privileged access to government and influence governmental priorities and policies' (Gill 2023, Section 4.1). This state-business nexus creates a potential conflict of interest which could negatively impact the operation of EWOQ.

Thus, there is a strong argument for greater structural independence for EWOQ from the Queensland Government. In presenting this argument, the Review Team would recognise that EWOQ is formally independent from the scheme participants over which it may investigate, and which is, arguably, the most important facet of an ombudsman scheme's independence and EWOQ is able to deliver on its functions contained within the *Energy and Water Ombudsman Act 2006*.

The Review Team understands that the government conducted a consultation in Autumn 2025 about potential changes to the *Energy and Water Ombudsman Act*. The Review Team has been able to consider the consultation paper. While the changes contained within the paper are to be welcomed, it is noticeable that the proposed amendments do not fundamentally address the challenges faced by EWOQ. These challenges include the funding of EWOQ, its jurisdiction in a changing environment, both internally and externally, inadequate governance arrangements and its ability to make a full contribution to system improvement and the regulatory and government network.

The Review Team understands that there is likely to be a delay before any amendments to the Act will be proposed by the Queensland Government. This delay provides all parties with an opportunity to consider more fundamental changes to the *Energy and Water Ombudsman Act* which address the concerns raised within this review, concerning EWOQ's independence, funding, jurisdiction and powers.

Recommendation 3: EWOQ should work with its scheme participants, its community stakeholders and other members of its wider regulatory and government network to identify and agree the changes needed to the EWO Act, to both secure its independence from government and to ensure that it is able to accommodate the changes in ombudsman practice, the industries over which it has oversight and its jurisdiction. The legislation should ensure that EWOQ is the final body for complaints about energy and water businesses under its jurisdiction.

5.3 Advisory Council

The *Energy and Water Ombudsman Act 2006* requires the establishment of an Advisory Council with the following functions:

- (a) monitor the energy and water ombudsman's independence,
- (b) advise the energy and water ombudsman on the following: policy and procedural issues relating to this Act, the operation of this Act for eligible customers and relevant occupiers of land, the development of guidelines, and the preparation of budgets,
- (c) advise the Minister on the funding of the energy and water ombudsman's functions, and,
- (d) as soon as practicable after the end of each financial year, prepare and provide the Minister with advice about matters arising in relation to the energy and water ombudsman's independence during the financial year and matters mentioned in paragraph (b) arising during the financial year (adapted from S49).

The Minister is responsible for appointing the Chair of the Advisory Council. The Chair of the Advisory Council recommends to the responsible Ministers who they should approve to be members of the Advisory Council. There is intended to be equal members from industry and community representatives. The Act currently limits the length of appointment for the Chair but not for industry or community representatives. In practice, industry members are appointed for a two-year period that can be repeated for a second time meaning that an industry member can serve on the council for a maximum of four years. Industry members are identified on a rotating basis from scheme participants. Community members are appointed on the basis of their strengths of their links with communities. There is no limit on the length of time a community representative can be a member of the Advisory Council. One of the challenges facing EWOQ when appointing members of the Advisory Council,

particularly community representatives, is the low level of remuneration, currently set at A\$390 per days for the Chair of the Advisory Council and A\$300 per day for Members. These are *pro rata* figures and actual payments depend upon the length of meetings. If a member of the Advisory Council works for any Queensland government entity then they are not eligible for any payment at all. The Review Team heard that the low level of remuneration acts as an impediment in attracting highly qualified applicants. At the present time, there are no job descriptions or skills matrix to support the identification of suitable members of the Advisory Council nor role development activities.

The Review Team were informed that the Advisory Council approved EWOQ's staffing levels and budget and that it received reports from the Ombudsman about which it provides advice. The Review Team heard views from members of the Advisory Council that discussions at the Advisory Council tended to be reactive rather than proactive and that there was an opportunity for more discussions about early warnings of problems within the industries and in the development of EWOQ strategies. There was a general view that the role of the Advisory Council was limited and that it could do more. The Review Team were also informed that the Advisory Council had no governance responsibilities and any governance activities were undertaken by EWOQ's Audit and Risk Management Committee (ARMC). Ironically, there is no requirement in the *Energy and Water Ombudsman Act 2006* for EWOQ to have an ARMC although it is seen as good governance practice and is in accordance with the Queensland Treasury's Audit Committee guidelines.

As one interviewee advised the Review Team, and in common with public sector ombudsman which are corporate sole organisations, the success of EWOQ depends upon the character of the ombudsman. If the ombudsman lacked ethics or capability, the organisation would have significant problems. Fortunately, as many interviewees told the Review Team, in the current Ombudsman, EWOQ has an individual with the highest levels of integrity, ethical standards and commitment to justice.

Recognition of these weaknesses in EWOQ's governance led to some interviewees suggesting that it would be appropriate to move towards a board style model. A Board 'is responsible for the overall governance, management and strategic direction of the organisation and for delivering accountable corporate performance in accordance with the organisation's goals and objectives' (Australian Institute for Company Directors undated). The Australian Institute for Company Directors (undated) identify the following skills that should be represented on a Board:

- Strategic expertise
- Accounting and financial literacy
- Legal skills
- Governance skills
- Management of risk
- Human resources skills
- Marketing and communications
- Industry knowledge
- Information technology

With the current approach to appointing members of the Advisory Council there is no guarantee that the members will collectively have these skills. Nor need they with the current functions of the Advisory Council as described in EWOQ's legislation. However, with the changes in the nature of ombudsman practice and changes in the industries over which EWOQ has jurisdiction and, which, in turn, will eventually extend EWOQ's jurisdiction, the old Advisory Council model will become increasingly unsuitable.

Industry ombudsman schemes typically have a Board of Directors which provides oversight, accountability and scrutiny to the activities of the organisation. In the UK, Board members tend to be appointed on a skills, competency and experience basis. In Australasia, historically, boards were comprised of equal representation of scheme participants from the industry over which the scheme had oversight and community representatives who had some knowledge or expertise concerning consumer issues relating to the industry. There was no formal assessment of the skills and competencies of Board members. In recent years, this situation in Australasia has begun to change, as industry ombudsman schemes have moved away from their original complaint handling function to the more developed and extensive role of industry ombudsman described above. Consequently, industry schemes are increasingly comprised of industry board members, community board members and independent board members. To be appointed, potential board members of whichever category increasingly, need to demonstrate the requisite skills, experiences and competencies. This appears to be the most appropriate model of board membership given the current state of development of industry ombudsman schemes as it ensures that the board receives perspectives from industry, the community as well as independent voices.

Although some members of the Advisory Council were supportive of the idea of moving towards a Board structure rather than an Advisory Council model other interviewees were more cautious. While accepting that changes may make the establishment of a Board model inevitable, they were concerned about potential conflicts. At the present time members of the Advisory Council can speak freely as they are advisors and have no personal liability. As Board members they would have to accept personal responsibilities for the running of EWOQ and that may interfere with the provision of advice as they may feel less able to speak freely and represent their community. Their concern is that the community voice on the Board may be reduced. While other industry ombudsman, which are companies limited by guarantee, and, therefore, have a Board of Directors, they also often an Advisory Council comprised of representatives from the appropriate industry and communities or a panel comprised of community representatives to ensure that the ombudsman scheme receives necessary advice. However, the success of these groups is dependent upon the commitment to them from both the Board and the Ombudsman.

Recommendation 4: As part of its work on its foundational legislation, see recommendation 3, EWOQ should include the issue of whether an Advisory Council model or Board model is the appropriate governance model for its future.

Benchmark Three: Fairness

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

Purpose: To ensure that the office performs its functions in a manner that is fair and seen to be fair.

In her research into the factors affecting the levels of trust and legitimacy held by ombudsman users in European ombudsman schemes, Creutzfeldt (2016) found that, while substantive outcomes (distributive fairness) appeared to be of greater importance in ombudsman schemes, it remained the case that any negative feelings held by a complainant about an adverse outcome could be mitigated if the ombudsman office had delivered high levels of procedural fairness during the complaint resolution process.

This next section looks at EWOQ's performance against both of these areas of fairness. However, the Review Team would first like to consider the comments made to them by interviewees.

In its Voice of Customer Survey, EWOQ achieved a satisfaction score of 65% when its customers were asked if they were satisfied with EWOQ's independence and fairness when conducting its investigations. Interviews with community representatives highlighted no concerns from them either about EWOQ's fairness and independence. Generally speaking, all the interviewees were very positive about EWOQ's approach to fairness in its casework. The Review Team heard comments such as, EWOQ applies fairness and impartiality to all its dispute resolutions and decisions and applies the fair and reasonableness test appropriately, that communication between EWOQ and scheme participant was of a high standard and was friendly yet impartial, and that EWOQ's processes were fair and consistent. While scheme participants were generally very happy, two concerns were raised which will be considered below, those of potential bias and the making of customer service gestures.

6.1 EWOQ's performance regarding procedural fairness

'Procedural fairness requires that a person be given a fair hearing before a decision adversely affecting the person's rights and interests is made. More specifically, it requires that a decision-maker give the person:

- reasonable notice that an adverse decision may be made
- notice of the specific, critical issue or issues on which the decision is likely to turn
- information about any adverse, relevant or credible evidence that has been obtained from other persons

- a fair opportunity to directly address those critical issues.

Procedural fairness then requires the decision-maker to genuinely consider the person's submissions with an open mind and without prejudgement or any form of bias' (Queensland Ombudsman 2023).

The process utilised by EWOQ when investigating a complaint is an iterative investigation. That is, EWOQ will seek information at the outset from both parties and, depending upon the responses, will ask further questions and request further information until the IRO believes that they are in a position to attempt to resolve the complaint at which point the IRO will set out what they believe is an appropriate resolution.

Two specific issues were raised by interviewees from scheme participants.

Firstly, it was claimed that EWOQ did not ask for the scheme participant's letter to the complainant explaining their decision when it was considering opening an investigation. It was suggested that if EWOQ did obtain this letter, it may reduce the number of complaint investigations undertaken by EWOQ. The Review Team has concerns about this argument. The scheme participant almost certainly has had two previous attempts to resolve the case, the initial in-house attempt at complaint resolution and an RHL. The complainant remains dissatisfied. If EWOQ were to adopt an approach where it determined whether or not to commence an investigation based upon the scheme participant's decision letter without further investigatory action, it would quickly lead to public concerns about EWOQ's fairness and independence, with a likely concomitant loss in confidence and trust. The Review Team supports EWOQ's approach that when commencing an investigation, it should seek supporting evidence and information from both parties.

Secondly, one scheme participant raised a concern with the Review Team that, on occasions, the letters that they received could be written more neutrally as they can give the impression that EWOQ is advocating for the complainant. The scheme participant identified that this was not a systemic issue but an occasional problem. In its review of cases, the Review Team did identify some cases where the letters to the scheme participant did give the impression that the IRO was being supportive of the complainant. However, the Review Team did also identify some cases where the IRO appeared to be using language supportive of the scheme participant. These both involved a small number of cases and the Review Team believes that it is the result of imprecise drafting rather than actual bias, as the IROs appeared to cut and paste material from responses into subsequent communications. It may be appropriate for this to become part of a future quality assurance audit to ascertain the scale of the issue and, if necessary, identify solutions.

6.2 EWOQ's performance regarding distributive fairness

Distributive fairness is concerned with two things. Firstly, was the correct decision reached? And, secondly, was the final remedy appropriate and proportionate? Most industry ombudsman schemes attempt to secure an appropriate resolution to a complaint based upon what would be fair and reasonable in all the circumstances,

while taking into consideration relevant laws, industry codes and regulations. This approach is underpinned by the fact that in western society there is the increasing importance of fairness as a basic element of the social contract (Hodges 2018, pp.64-65).

This use of the fair and reasonable test is one of the defining features of an ombudsman scheme (Dispute Resolution Ombudsman 2025). The use of the fair and reasonable test allows ombudsman schemes to go 'beyond the law' and look at an issue in a more holistic manner. Wheeler (2014, p.12) suggests that the objective of the fair and reasonable test is aspirational, 'directing consideration towards approaches or outcomes that are perceived to be morally right and in accordance with accepted standards of conduct'. Thus, it is more than whether or not a body acted in technical accordance with the law, regulations or industry code. A body may act in keeping with relevant laws but still be found by an ombudsman not to have acted fairly and reasonably: the ombudsman role is not to judicially review [a businesses'] treatment of their customers, but to decide for itself whether that treatment was fair and reasonable in all the circumstances (A and O Shearman 2017). Wheeler concludes that the answer to the question on whether an organisation's 'conduct was fair and/or reasonable will depend almost entirely on the circumstances in which the question arises and the role and/or interests of the person making the assessment' (Wheeler 2014, p.12).

Again, while most interviewees from scheme participants were very positive about EWOQ's approach to decision making and the fair and reasonableness tests, the Review Team would highlight some concerns that arose as a result of its review of casework.

As discussed above, ombudsman schemes use the fair and reasonableness test to resolve complaints which goes beyond compliance with legislation, codes and regulations (hereafter regulations). Compliance with regulations does not mean that a scheme participant's decisions and actions were fair and reasonable. However, in some of the cases reviewed by the Review Team, there appeared to be an over-reliance on compliance with regulations. One can understand why. In a high-pressure situation relying on regulations is simpler, creating a binary choice, and, therefore quicker and, in many ways, more defensible. But it may not be fair. As an example, one scheme participant arranged a home visit with a customer. The customer took leave from work so that they could be present. The representative from the scheme participant did not attend and made no attempt to communicate with the customer that they would not be attending. The customer submitted a complaint to EWOQ which was accepted for investigation. The scheme participant's defence was that the National Energy Retail Rules (NERR) required that the scheme participant provide a customer with notice of their intended attendance, but the NERR did not place any requirement on the scheme participant to inform a customer if it decided not to attend. Unfortunately, this was accepted by the IRO. However, the fair and reasonable test would note that the NERR were silent on the issue and base a decision on whether it was fair and/or reasonable for a scheme participant to inform a customer that they would attend on a specific time and date and then not

attend without informing the customer of the postponement. The Review Team suggest that this is unreasonable behaviour.

In several cases considered by the Review Team, it became apparent that the scheme participant's defence was that they had not been negligent and that, therefore, the complaint had no merit. Indeed, in one case, the IRO, themselves, stated that the scheme participant had not been negligent. This raises concerns with the Review Team as it is courts, and not ombudsman schemes, that determine whether a party has been negligent in law. As discussed above, complying with regulations and not being negligent are in, and of themselves, insufficient to determine whether or not a scheme participant's actions had been fair and reasonable. This can be explained with the following example from the Review Team's review of case files. A distributor will be responsible for the provision and maintenance of transformers. It is known that transformers are at risk if a wild animal makes contact with the transformer and it leads to a short circuit or a fire. The result of this would be the loss of power to the geographical area which receives its energy via that transformer. The scheme participant's defence is that the wild animal caused the transformer to cease to function and, therefore, it was not liable. Regardless of the position with regard to liability in negligence law, the ombudsman is charged with determining whether actions by providers are fair and reasonable in all the circumstances. In this case, as the risk of wild animals damaging transformers leading to blackouts is well known, then the scheme participant must take all reasonable steps to protect its asset. If it does not take all reasonable steps and an animal causes a blackout, then that blackout is a consequence of the scheme participant's decision not to take all reasonable steps to protect its asset and left it vulnerable to damage. Consequently, using the fair and reasonable test, it would appear that the scheme participant is responsible even if its actions did not directly cause the damage.

A third issue relates to the awarding of customer service gestures. Several interviewees from state owned scheme participants indicated their unhappiness with EWOQ asking them to make customer service gestures, arguing that, as they were funded by tax payers' money, they were either precluded from making such payments or that it was very difficult for them to do so.

The Review Team would note the following points in relation to this issue:

- Section 35(1)(a) of the Energy and Water Ombudsman Act 2006 states clearly that the Ombudsman may make an award of compensation. Parliament passed this Act with full awareness of the fact that many of EWOQ's scheme participants would be state owned enterprises and that such state-owned enterprises would be covered by this part of the Act.
- The provision of customer service gestures is standard practice within industry ombudsman schemes and even some public sector ombudsman schemes¹⁰.
- In the Review Team's experience, a fair and reasonable outcome to a complaint may very well require an acknowledgement of the impact of the

¹⁰ See the UK's Parliamentary and Health Service Ombudsman as an example.

issue or the handling of the subsequent complaint upon the complainant. The Review Team would, therefore, accept that a customer service gesture may be an entirely appropriate part of a complaint resolution dependent upon circumstances.

The Review Team notes that some ombudsman schemes have developed and published redress policies which outline clearly their approach with regard to the provision of redress (including financial redress).¹¹ EWOQ may wish to consider creating such a policy in order to ensure that both providers and consumers clearly understand the approach taken by EWOQ.

Recommendation 5: EWOQ should create and publish a policy which outlines its approach regarding the provision of customer service gestures.

¹¹ https://www.spsso.org.uk/sites/spsso/files/communications_material/RedressPolicy.pdf; <https://www.financial-ombudsman.org.uk/consumers/expect/compensation>; <https://www.financial-ombudsman.org.uk/consumers/expect/compensation-for-distress-or-inconvenience>

Benchmark Four: Accountability

Underlying principle: 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.

Purpose: To ensure public confidence in the office and allow assessment and improvement of its performance and that of participating organisations.

EWOQ has three sets of accountability relationships. The first is to the public and complainants, the second is to scheme participants, while the third is to other stakeholders in the wider regulatory network which include industry bodies, the AER, the AEMC, and the responsible government departments. Each of these three relationships are considered in turn.

7.1 Engagement with, and accountability towards, the public

As discussed earlier, EWOQ makes great efforts to engage with the Queensland population through its community outreach programme. In 2024/25 it undertook 27 outreach and engagement activities, an increase of 42% on the year before (EWOQ 2025, p.38). At the time of writing EWOQ has planned 18 engagement activities for 2025/26 (EWOQ 2025a). This outreach is supported by the Ombudsman and her own extensive engagement activities that she undertakes personally with peak bodies, regulators and peer networks.

Feedback from community representatives was positive with all stating that a good working relationship existed between their organisation and EWOQ. Repeated, specific praise was offered to the Ombudsman personally, with her being described as a great leader who aids communication between energy retailers and community support groups. The role of EWOQ in facilitating links between community and scheme participants was described as essential.

The Review Team suggest that one of the challenges EWOQ faces in its ability to conduct awareness raising and community outreach activities is a lack of resources. There is a small Marketing and Communications team and, as a result, much outreach work has to be undertaken by the CRE Team which then adversely impacts upon their ability to undertake casework. The Review Team acknowledges the importance of staff from the CRE Team attending community outreach events as it provides additional expertise to these community events while also providing CRE staff with real-life knowledge of circumstances affecting sections of the population.

The Review Team were informed that despite changes in jurisdiction and the increasingly recognised importance of community outreach and of ensuring accessibility for all Queenslanders, there has been no increase in available funding or staffing for nine years. The Review Team would suggest that to meet its

obligations in delivering an equitable service to all Queenslanders, there should be further investment in this area of work.

Recommendation 6: EWOQ should increase its investment and staffing in its community outreach and engagement activity.

7.2 Engagement with, and accountability towards, scheme participants.

EWOQ has recently introduced a portal on its website for its scheme participants, with the aim of it developing over time to be a one-stop source for information of importance to scheme participants. Some scheme participants were invited to pilot the first stage of the portal development and all were positive. At the time of the fieldwork, the portal allowed access to information about the scheme participant's performance and to some, if limited, real time access to information about casework.

The next stage for the portal planned by EWOQ is for it to more closely integrate Microsoft Dynamics, EWOQ's casework management system, which will provide scheme participants with greater access to information about their cases. There is an ambition to link Microsoft Power BI to the portal which will facilitate the provision of, and access to, management information about the scheme participant's performance.

Feedback from interviews with scheme participants indicated widespread praise for the introduction of the portal but, while recognising that it was a low-key introduction, expressed a desire for more information to be made available, particularly information relating to individual cases and comparative information with their peer organisations.

Interviewees from scheme participants all stated that there was a good working relationship between them and EWOQ. Comments varied from the relationship being described as great or very good, to EWOQ being no nonsense, collaborative and transparent. Several interviewees expressed the view that EWOQ was easier to work with than other EWOs. Most interviewees explained that they had regular meetings with EWOQ and valued these meetings highly. However, other interviewees stated that EWOQ used to hold forums where the relevant industry could meet together to discuss emerging issues and trends but that these had now stopped. There was regret expressed at the ending of these forum meetings. The Review Team heard that the reason for stopping these meetings was that EWOQ felt that they were insufficiently attended. That may well be true, but ending these multi-organisational forums is disappointing as the Review Team can see benefits to be accrued by both sides.

EWOQ conducted an annual survey of scheme participants. The last such survey was conducted in 2023. The results of the survey demonstrated positive results but it was noticeable that water industry scheme participants consistently reported lower

levels of satisfaction than EWOQ's energy related scheme participants. During the fieldwork, it also became apparent that interviewees from water industry scheme participants were less positive towards EWOQ, although remaining supportive of EWOQ as a whole. These results suggest to the Review Team that there is work that EWOQ needs to undertake with its water industry scheme participants to build upon their current relationships.

The Review Team notices that there seems to be a reduction in engagement between EWOQ and community organisations and scheme participants in recent years. As was noted in the section covering the Accessibility Benchmark, consideration is being given to reducing the number of Bring Your Bills days and EWOQ's participation, and role, in other community outreach events. Scheme participants have expressed their disappointment at the cessation of the different forums that EWOQ previously organised and the annual scheme participant survey appears to no longer take place. The Review Team would encourage EWOQ to undertake a full and active programme of community outreach and to work with scheme participants to revise its stakeholder relationships beyond regular meetings with individual scheme participants. The Review Team accept that these activities come with a cost and, if measured solely on an economic or efficiency basis may look expensive, but if assessed using the value for money framework appropriate for ombudsman schemes, then it will be seen that this type of activity would score highly on improving EWOQ's effectiveness and the equity of its services.

Recommendation 7: EWOQ should works with its scheme participants to agree how best EWOQ should engage with scheme participants and survey their opinions on all aspects of its work.

7.3 Engagement with, and accountability towards, members of the energy and water regulatory networks and to government.

As noted above, EWOQ is part of a regulatory system which attempts to ensure that the energy and water markets operate effectively. To do this it needs to work effectively with regulators such as the AER, AEMC, its relevant government departments as well as bodies such the Queensland Office of Fair Trading. Interviewees from the regulatory network spoke positively of their relationships with EWOQ. EWOQ actively contributes to policy and legislative reviews led by government, regulators, not-for-profit organisations and other stakeholders. EWOQ made 18 submissions in 2024/25. The greater majority of these submissions were made to, principally, the AEMC, and to the AER (EWOQ 2025b).

There was clear support for EWOQ's position within the regulatory system. Interviewees from members of the regulatory network stressed how highly they valued the information provided to them by EWOQ, which was described as being of very high quality. EWOQ provides monthly reports to the relevant government departments detailing complaint volumes and types as well as trends emerging form

within EWOQ's casework. EWOQ was described as being responsive and willing to help with the relationships being described as really strong. Participants described the regular meetings as working well.

7.4 EWOQ's fulfilment of the Benchmarks for public reporting

The Benchmarks are relatively silent on the requirement placed upon industry ombudsman for public reporting. There is a requirement for the ombudsman to produce an annual report providing both general information about the ombudsman scheme as well as information about complaints received and their outcome. EWOQ meets this rather basic requirement. EWOQ, however, does also make available a wide range of documents and other information to provide both individuals and scheme participants with relevant information. EWOQ also publishes performance data and complaint statistics via its website using Microsoft Power BI. EWOQ issues a quarterly newsletter, EWOQ News, to which individuals can subscribe, updating them on complaints and other topical issues. Finally, EWOQ publishes any submissions that it makes as part of wider consultations by regulators and government.

Interviewees from community groups stated that it would be helpful for EWOQ to publish more information. Members, while welcoming the introduction of the portal, stated that they would welcome EWOQ publishing more data together with better analysis of trends about what is happening and the publication of real-time data to allow members to benchmark themselves against their competitors. It is a common finding in independent reviews of ombudsman offices that participants across stakeholder groups request that industry ombudsman publish more information. But industry ombudsman also have to ensure that the data and information that they publish is of sufficient value to external stakeholders to justify the costs of collecting, analysing, interpreting and publishing the data and information.

Recommendation 8: EWOQ should consult with its stakeholders on what information they would like EWOQ to reasonably provide.

7.5 Funding model

The EWO Act sets out the framework through which EWOQ secures its funding. As with other industry ombudsman schemes, EWOQ is funded by its scheme participants. Unusually though, the EWO Act sets out how EWOQ is to calculate the scheme participant fees to be charged and is prescriptive about the approach to be used. Division 2 of the Act sets out the approach: EWOQ is to charge scheme participants both a 'participation fee' and a 'user-pays' fee. The legislation then sets out the levels of the participation fee for each class of participant and how EWOQ should calculate a participation fee for a new scheme participant joining midway through the year. The Division then continues by detailing how and when user-pays fees are to be calculated and charged.

The EWO Act also provides detail on how EWOQ is to calculate its budget which includes having its budget approved by both EWOQ's Advisory Council and by the Ministers from the respective Departments which oversee the energy and water industries¹². The budget has no effect until it has been approved by the Minister (S74(4)). If there is a need for EWOQ to increase its budget mid-year, then this proposed change must also be approved by the Minister before it can be implemented. The budget which has to be approved by the Minister must only cover the estimated running costs of the scheme for the year covered by that budget. Without the express permission of the Minister, the Ombudsman can only authorise expenditure that will take place in the year of that budget. Finally, twice a year, EWOQ is required to adjust the user-pays fees element to take account of actual costs incurred (Sections 74 and 75). In practice, as the legislation sets out the level of participation fees and requires the remainder of EWOQ's income to be raised through user-pays fees, this results in a split in EWOQ's income of 15% derived from participation fees and 85% from user-pays fees.

Not only does this legislative approach require EWOQ to repeatedly calculate its cost-base in-year in relation to the number of cases that actually arise and make repayments or increase charges on an individual scheme participant basis, the legislation also limits the level of financial reserves that EWOQ can hold. Examining EWOQ's most recent Annual Report, it appears that EWOQ's reserves may be in the region of 4% of its forecasted income. This compares with a figure of around 30% for EWON (2025) and 40% for EWOV (2024).

The combination of a 15/85 split in its income streams and its limited financial reserves will inevitably cause problems for EWOQ. As well as requiring repeated in-year budgetary calculations, case flow is never constant and can fluctuate considerably in-year dependent upon changes in the market or operations of a scheme participant. Staffing levels may need to flex to meet the changes in case numbers that arrive at EWOQ. A drop in case numbers would result in a drop in income but without a corresponding decrease in costs. Capital investment programmes may be multi-year in duration and require the flexing of finances. The current system constrains EWOQ's ability to manage these types of issue.

As stated earlier, in February 2022 EWOQ's jurisdiction was expanded to include embedded networks, now called exempt sellers. However, while EWOQ's jurisdiction was extended to include these exempt sellers, the accompanying Regulations set the payments to be made by them at zero, but with the intention of reviewing this position after a settling in period had elapsed, at which point the costs and impact upon EWOQ would be assessed. In its 2025 Annual Report, EWOQ reports that in the year 2024/25 it closed 536 complaints made against exempt sellers.

¹² In practice, this approval is undertaken by the Minister with responsibility for energy, currently the Treasurer of Queensland.

The Review Team would note here that EWOQ sustains costs associated with exempt seller scheme participants. These include on-boarding costs for new exempt sellers and the cost of providing advice, making both refer backs and referrals to higher level to exempt sellers, and its undertaking of investigations. The disposition of the complaints made against exempt sellers closed in 2024/25 is unstated within the Annual Report but, if one assumed the same case closure rates as for all EWOQ complaints and use the 2024/25 user-pays fees, then this represents over A\$500,000 of fees attributable to exempt sellers but paid for by the other scheme participants. The Review Team would suggest that the intended review of the impact and costs of EWOQ's handling of complaints made against exempt sellers should be undertaken as soon as possible and that a fair pricing model be adopted on the premise that all scheme participants should be liable for a fair participation fee.

Recommendation 9: EWOQ should work with the Treasury and conduct the review of the costs and impact upon EWOQ of it having exempt sellers within its jurisdiction.

Recommendation 10: In any review of funding, EWOQ the fundamental principle should be that all participants within the scheme should pay a fair scheme participation fee.

7.6 Does EWOQ have a process for accepting complaints about EWOQ, including complaints about case management, privacy, jurisdiction and day to day operations?

EWOQ has a bespoke *Complaints about EWOQ* policy (EWOQ 2025c). This sets out two categories of complaints that may be made against EWOQ: decision dispute complaints, which are complaints concerning a decision reached in any complaint, and general complaints which are complaints about any non-decision related issue. EWOQ has very clear guidelines and procedures to be followed. Where the complaint is about a decision reached in a complaint, the review is undertaken by the Manager of Dispute Resolution. For general complaints, the Ombudsman will appoint a person from within her office, who has not been involved in the case, to investigate the complaint. The Review Team examined a sample of five complaints made against EWOQ and found them to be well handled, in keeping with its general approach to complaint handling. In its 2024/25 Annual Report, EWOQ reported that it had received seven complaints about itself, a figure in keeping with the typical number of complaints about itself that it receives each year.

According to the Complaints Against EWOQ Procedure (page 3), where complaints made against EWOQ are not resolved by EWOQ's internal dispute resolution processes, then the complainant should be referred to the Queensland Ombudsman for external review and resolution. This policy does not differentiate between complaints about EWOQ's processes and decision-related disputes. Effectively, for this purpose, EWOQ is treated as a government agency. The Review Team has

some concerns about this. Although the number of potential complaints that can be referred to the Queensland Ombudsman is, in practice, small, when an ombudsman scheme is not the final arbiter of complaints within its jurisdiction its operational independence is compromised.

7.7 EWOQ's commitment to privacy

This section considers EWOQ's commitment to privacy in its own internal operations and, as EWOQ has delegated authority from Office of the Australian Information Commissioner (OAIC) to consider privacy complaints about members, how well does EWOQ discharge that responsibility.

EWOQ has a comprehensive Privacy Policy which sets out the nature of personal information, why it is collected, how it is used and stored by EWOQ, and the circumstances in which it can be shared. EWOQ also has a Data Privacy Policy which considers the prevention of data breaches, the management of any data breaches that occur, including the circumstances for which a data breach must be reported to the Australian Information Commissioner and its approach to identifying the root causes of any data breach with the intention of preventing recurrence. Both policies are comprehensive and the Review Team are impressed by the approaches contained within. EWOQ reports that there have been no data breaches which would necessitate a referral to the OAIC. Each member of EWOQ staff receives annual data security training. This training is recorded to provide an opportunity for use in-year as refresher training.

EWOQ has delegated authority from the OAIC to consider complaints, which include concerns that an individual's privacy had been breached, made against scheme participants. In 2024/25 EWOQ received 121 complaints about breaches of privacy. Of these 37 complaints were referred back to the scheme participant for action, 41 complaints were referred to back to the scheme participant at a higher level and 43 complaints were investigated by EWOQ.

EWOQ's approach to handling privacy complaints is the same as its normal complaint handling process. That is, there can be refer backs, referral to higher levels and investigations dependent upon the status and nature of the complaint. This approach is broadly similar to that used by the OAIC which refers complaints back to an organisation if it has not had the opportunity to try and resolve the issue(s). If the customer has previously submitted their concern to the original organisation and then attends the OAIC, the OAIC will attempt to use conciliation as a means of resolving the issue and only rarely will it investigate the complaint.

Of the 43 privacy related complaints investigated by EWOQ, roughly 90% of complaints were closed without further action by EWOQ as the complainant was unable to substantiate their complaint. Of the remaining four cases, the scheme participant responded appropriately and corrected any error it had made, including the provision of compensation in half of these cases. An analysis of a sample of five privacy complaints was undertaken by the Review Team. As with EWOQ's other casework, the Review Team found a high standard of work undertaken by casework staff. This review of a sample of privacy related complaints considered by EWOQ did

not indicate a cause for concern. EWOQ does not have any explicit closure codes to specifically identify privacy complaints and searches for privacy complaints need to be undertaken manually. EWOQ may wish to consider having a specific privacy complaint code which would enable it to more quickly identify and analyse privacy complaints should the need arise.

In summary, the Review Team found that EWOQ complies with Parts 2,3 and 4 of the Guidelines for recognising external dispute resolution schemes.

Benchmark Five: Efficiency

Underlying principle: 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.

Purpose: To give the community and participating organisations confidence in the office and to ensure the office provides value for its funding.

8.1 EWOQ's complaint handling model

Individuals wishing to submit a complaint to EWOQ have a range of methods through which they can contact EWOQ. Table 3 below provides information on how people contact EWOQ.

Method	% using this method
Telephone	59
Website	30
Email	6
Web	3
Other ¹³	<1

Table 3: Methods used by complainants when contacting EWOQ

Where an individual submits a complaint via the online form, an Early Resolution Officer (ERO) will make contact by telephone to discuss the complaint. This allows for two things: to ensure that all the necessary information is obtained and provides an opportunity for the ERO to manage the complainant's expectations regarding the process used and the likely outcome.

EWOQ has a relatively straightforward complaint handling process comprising three different stages. Where a customer contacts EWOQ about a matter which they have not previously raised with a scheme participant, or the customer has failed to provide the scheme participant a reasonable opportunity to resolve the complaint, then EWOQ will refer the complainant back to the scheme participant to provide it with an opportunity to resolve the complaint. This is called a Refer Back. With the customer's permission, EWOQ will inform the scheme participant of the fact that the customer has approached it and that the customer has been referred back to them. This approach provides the scheme with an opportunity to contact the customer proactively in an attempt to resolve the complaint. This is good practice.

¹³ Other includes approaches such as in-person, letter, social media and SMS

The second stage is a referral to higher level (RHL) when a complaint received by EWOQ is referred to the scheme participant’s specialist dispute resolution team for action.

The final stage is that of Investigation where EWOQ investigates complaints that were not resolved between the customer and their energy or water provider. The disposition of complaints closed by EWOQ in 2024/25 (EWOQ 2025) is shown in the Figure 6 below:

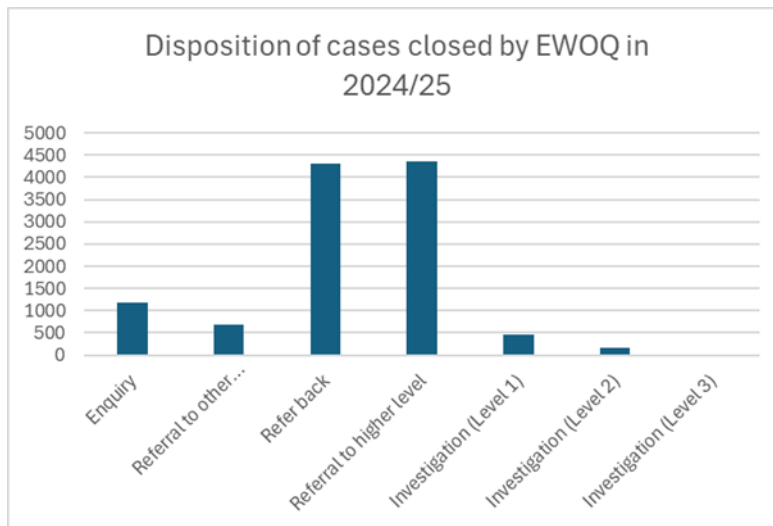


Figure 6: Disposition of cases closed by EWOQ in 2024/25

What is noticeable in this table is the very high level of premature complaints, that is, the high level of Refer Backs, received by EWOQ. Together with the AER’s reported figure of 30% of energy scheme participant complaints becoming a complaint at EWOQ suggest that the in-house complaint procedures provided by scheme participants have room for improvement. In comparison, less than 5% of complaints to energy retailers in Tasmania go on to become a complaint with their ombudsman (AER 2024, p.120)

EWOQ informed the Review Team that, as a matter, of policy, Energy and Water Ombudsman have a ‘no wrong doors’ policy, and each customer contact with EWOQ creates an opportunity to educate and inform customers of their rights as well as being able to refer them to the correct body. It should be noted that the AER requires energy retailers to prominently place the name the energy retailer’s responsible energy ombudsman on the front page of their bill which has led people to contact the ombudsman prior to contacting their retailer. The Review Team accept these points but would, nevertheless, suggest that, taken together, the high level of Refer Backs and the high transfer rate of complaints from retailer to ombudsman do indicate that retailers’ in-house complaint systems have room for improvement.

8.2 Referral to Higher Level

As above, where a customer has attempted to have their complaint resolved by the scheme participant but this has failed the customer can return to EWOQ. In most cases the complaint will be referred back to the scheme participant for a second attempt at resolution by the scheme participant's specialist resolution team. The customer needs to agree to this referral. The scheme participant has a maximum of five business days to make contact with the customer. If, for some reason, the scheme participant is unable to make contact with the customer within that five-day period, then EWOQ may provide them with an extension of up to an additional five business days. Where the scheme participant does not contact the customer or where the customer remains dissatisfied the customer may recontact EWOQ, which will accept the complaint for investigation (EWOQ 2022). RHL's can be a quick and effective method of resolving complaints when used appropriately.

The decision to refer a complaint back to a scheme participant is not automatic. EWOQ's Early Resolution Office (ERO) will assess the suitability of the complaint or complainant for RHL. Reasons an RHL may be considered inappropriate include:

- The complexity of the issue(s) within the complaint,
- Whether the complaint relates to a potential disconnection or relates to a sewerage problem, where EWOQ would automatically accept the complaint for investigation,
- How vulnerable is the complainant and, if vulnerable, is it appropriate to send the complaint back to the scheme participant?
- Is the complainant able to work with the scheme participant to resolve the complaint?

EWOQ will attempt to speak with a customer after an RHL to establish whether or not the complaint has been resolved. Some scheme participants will send EWOQ a report detailing the outcome of the RHL.

The Review Team suggests that there is more that EWOQ can do to improve the RHL process. As noted in the introduction, according to the AER, approximately 30% of all complaints received by energy retailers subsequently become a complaint to EWOQ. This suggests that the in-house complaint handling of many scheme participants has scope for improvement. Thus, the EWOQ RHL acts as a form of safety net for weaknesses in the in-house complaint handling of its scheme participants. As the levels of complaints resolved by scheme participants' in-house processes can vary widely, EWOQ may wish to consider whether it is appropriate to refer complaints back to scheme participants with a particularly high percentage of complaints that reach EWOQ as the high rate may indicate systemic problems with in-house complaint handling. For example, according to the AER (2024, pp.121-122), EWOQ participants had refer-on rates to EWOQ as follows: Ergon 35%, Dodo 48%, and Alinta 39% while Lumo Energy had a refer-on rate of 10%, Momentum 8%, and Red Energy 14%. It may be appropriate for a scheme participant to consider an RHL as a privilege rather than a right. This could encourage improvement within scheme participants' own in-house complaint handling processes which benefits all parties.

It was suggested to the Review Team that the low level of complaints that return to EWOQ after a RHL is supportive of a view that there is not a problem with the in-house complaint handling of EWOQ's scheme participants. The Review Team is sceptical of that argument and would suggest that complainant fatigue and the fact that a Level 1 complaint investigation by EWOQ costs the scheme participant A\$ 3840 and a Level 2 complaint costs A\$8161 as more likely drivers for the complaint being settled at RHL. As the average monetary value of a complaint outcome at EWOQ is around A\$735 (EWOQ 2025, p.28), the Review Team would suggest that scheme participants, for some complaints, are making commercial decisions and closing cases rather than incur EWOQ's investigation fees.

EWOQ could also require all scheme participants to notify EWOQ when it has made contact with the complainant. If the five-day target is missed EWOQ can step in and accept the complaint for investigation. Secondly, EWOQ should set a timescale for the scheme participant to resolve the RHL. EWON has a target of 28 days within which a member of its scheme must resolve an RHL (McBurnie and Gill 2024, p.50). To the Review Team this seems a reasonable target. Finally, as some scheme participants currently do, all scheme participants should send EWOQ a note stating that the case is resolved or not, and, if resolved, what was the agreed outcome. By requiring scheme participants to send to EWOQ the outcome of the RHL, this would allow EWOQ to collate a better picture of the outcomes achieved, including financial outcomes, and also provide further data to allow a better understanding of issues and trends in the energy and water markets.

Recommendation 11: EWOQ should consult with its members as to whether EWOQ should be notified of the outcome of all RHLs.

8.3 Investigations

When EWOQ decides that it wishes to commence an investigation it will send the scheme participant concerned a Notice of Investigation (NOI) which informs them that an investigation has commenced, provides the scheme participant with information about the complaint, and, includes the date by which the scheme participant must submit a response. There then follows a typically interactive process whereby the scheme participant, complainant and Investigations Resolution Officer (IRO) have a three-way interaction, with the IRO acting as the mediator, using telephone and written forms of communication, to ensure that all parties are kept informed and work towards a resolution. Where the IRO is having difficulties resolving the complaint, the IRO is able to escalate the complaint to the Manager-Dispute Resolution for them to work with the energy or water provider. If there continue to be problems resolving the case, it can be further escalated to the General Manager – Customer Resolution and Engagement, for him to work with a senior manager in the scheme participant concerned. It is within the powers of the EWOQ Ombudsman to issue a Final Order, if necessary, setting out her position on the complaint which is absolute and binding upon the scheme participant (EWOQ

2022). However, as is typical with Australian ADR schemes, the use of such orders is rare and the current Ombudsman has not made such an order during her term of office.

Where the complaint is about a billing dispute, there may be some proportion of the bill that is not in dispute. When that is the case, EWOQ's *Scheme participant manual* states that the IRO should discuss with the complainant the ability of them paying that part of the bill which is not in dispute (EWOQ 2022). During the review of investigation records, the Review Team found that this happened only rarely in practice and, in speaking with caseworkers, were informed that such discussions did not frequently take place. It was suggested to the Review Team that the significant increase in billing complaints received by EWOQ arising from the cost-of-living crisis has led to more complaints concerning the whole of the bill which, therefore, needs to be assessed in its entirety. There may also be issues of hardship in making payments of the undisputed part of the bill but this issue is addressed in EWOQ's *Scheme participant manual*. While accepting that the issue of affordability to pay a bill is a sensitive area particularly during a cost-of-living crisis, the Review Team suggest that it would be appropriate for the approach used by EWOQ's casework staff to asking customers to pay undisputed elements of a bill should be part of EWOQ's quality assurance process.

Investigations are categorised as Level 1, 2 and 3, typically based on the time taken for EWOQ to resolve the complaint (EWOQ 2022). Complaints can be upgraded from one level to another for the following reasons:

- The time spent on the complaint by an Investigations Resolution Officer,
- When scheme participants have not responded to a notice requesting information within the stipulated timescale,
- When scheme participants do not provide the information requested in a notice requesting information, or,
- When scheme participants do not comply with the requirements of the scheme.

Generally speaking, interviewees from scheme participants were very positive about EWOQ's complaint handling with observations reported to the Review Team such as, EWOQ manage cases well, EWOQ works with the scheme participant to close a case, EWOQ has a clear focus on what is needed to resolve the case and makes clear to the scheme participant what needs to happen in order for EWOQ to be able to close the case. Several interviewees described EWOQ's case handling as of a very high standard.

But such praise was not received from all scheme participant interviewees. The Review Team heard that the iterative process included a lot of questions and requests for information which the scheme was happy to provide, but they felt that as requests for further information arose, there was a chance that the case was moving away from the original scope of the investigation outlined in the original NOI. During the review of cases, the Review Team did identify that as cases progressed, and individuals argued their case, new arguments could be introduced but the Review

Team did not have any concerns that there was a systemic problem and would note that these issues were a judgment call rather than an absolute. It would be appropriate for EWOQ to include within its quality assurance programme a check that IROs do maintain their focus on the original scope of the investigation and that any extension is fully justified and evidenced.

The Review Team was also told that when EWOQ accepted a complaint for investigation, it would not require the complainant to submit the letter of outcome to their complaint to the scheme participant. It was suggested that by doing so, EWOQ may be able to reduce the number of investigations. That is an argument but the problem with this argument, as seen by the Review Team, is that it would require EWOQ to make decisions based on only partial information. Taking this approach would, inevitably, lead to questions about EWOQ’s approach to procedural fairness.

8.4 Timeliness of complaint handling

EWOQ reported the following performance against its case handling service targets in its 2024/25 Annual Report (EWOQ 2025), Table 4:

Performance Target	Target	Performance
Cases closed in less than 28 days	>80%	76%
Cases closed in less than 60 days	>90%	98%
Cases closed over 90 days	<1%	<1%

Table 4: EWOQ's performance against its case handling service targets

This performance is comparable with, and better than, peer industry ombudsman schemes.

Table 5 below provides data relating to the timeliness of case closure and the number of complaints closed for the last three financial years. The figures indicate that despite significant changes in the number of case closures, EWOQ has generally maintained its level of performance and is performing well.

Performance Target	Target	Performance	Performance	Performance
Year		2024/25	2023/24	2022/23
Number of complaints closed		9581	11169	7269
Cases closed in less than 28 days	>80%	76%	69%	82%
Cases closed in less than 60 days	>90%	98%	96%	97%
Cases closed over 90 days	<1%	<1%	1%	1%

Table 5: Timeliness of EWOQ's case closure

In September 2025, EWOQ undertook a review of 30 investigations where cases were identified as being open for more than 38 days but where only four hours of work had been allocated to the investigation. The purpose was to assess the amount of downtime that existed in these cases and the reasons for it. Key findings included:

- The average case open time for the sample was 18.1 working days.
- There was an average of 6 working days where cases could have been actioned as the required information was available.
- EWOQ waited for information from a scheme participant for an average of 13.3 days and from complainants for an average of 3.7 days.
- Thus, 67% of the length of the case duration is accounted for by the IRO waiting for information and 33% of the duration accounted for by considering and resolving the case.

No concerns were raised during the fieldwork about the efficiency of EWOQ’s case handling. Indeed, all interviewees from scheme participants expressed satisfaction at EWOQ’s efficiency in handling complaints.

8.5 Customer satisfaction with EWOQ’s complaint handling

Whenever a case is closed the complainant is emailed an invitation to participate in a Voice of the Customer Survey. Responses to the survey for the period September 2024 to August 2025 are detailed in the table below (Table 6):

Question	Refer Back (%)	RHL (%)	Investigation (%)
How easy was it access the service?	80.4	92.8	85
How satisfied were you with the overall service?	72.6	87.4	68
How well did EWOQ explain its roles and processes	79.6	89.9	78
How satisfied were you with the skills and knowledge of staff?	75.2	89.2	73
How satisfied were you with EWOQ’s independence and fairness?	Not applicable	Not applicable	65%
How well did EWOQ understand your complaint and consider your needs? (Was EWOQ considerate of your additional needs?)	65.8	80.4	72.9
How well did EWOQ understand your complaint and consider your needs? (How satisfied were you with our team listening and understanding?)	78.7	90.7	77

Table 6: Customer satisfaction with EWOQ’s service

It is always difficult to compare ombudsman schemes as they operate differently and survey methodologies are usually different. However, these results are positive.

8.6 Quality Assurance

EWOQ has introduced a dual-track approach to quality assurance. The first track, is the perhaps more traditional approach of governance quality assurance. That is, an approach which involves the review of cases and interactions that focus on potentially problematic areas which could include areas such as the investigation process, case management, decision-making, jurisdictional issues and communication with a complainant or scheme participant.

The second track is a new formative element which encourages EROs and IROs to undertake exercises in self-reflection. The approach is based upon the idea of capability uplift: staff are believed to be performing their roles well but how can EWOQ help develop their skills further? This is a particularly helpful approach when staff have been in the same role for several years. The aim of this approach is to support continuous improvement through self-reflection and structured feedback. The framework has three components of self-review, peer review and calibration. As it is in its early days, the focus is on self-review with the outcomes of these self-reviews moderated by the management team. As confidence in this approach among EROs and IROs grows then a peer review element will be introduced.

The Review Team welcomes this dual-track approach. However, it is important that EWOQ maintains the correct balance between the two approaches. The foundation of quality assurance are its traditional assurance activities: how well is the body performing against its intended outcomes? The reflective and coaching approach is an interesting and promising approach but needs to be built upon the basic quality assurance work and not replace it. The Review Team also notes that EWOQ conducts regular data integrity exercises to ensure the integrity of the data held on its casework management system as part of its approach to quality assurance. This is particularly appropriate as it holds delegated authority from the Office of the Information Commissioner of Australia to look at breaches of personal privacy made by scheme participants.

Benchmark Six: Effectiveness

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

Purpose: To promote community confidence in the office and ensure that the office fulfils its role.

9.1 EWOQ's jurisdictional coverage

9.1.1 EWOQ's jurisdiction

Within EWOQ's jurisdiction are electricity or gas retailers and distributors, exempt energy sellers and five of Queensland water and sewerage businesses. The Review Team would highlight two broad issues relating to EWOQ's jurisdiction. These are issues relating to its jurisdiction over water and sewerage providers, and changes arising within the energy market and including those related to exempt sellers and smart meters.

9.1.2 EWOQ and water companies

As noted in the introductory section, five water and sewerage companies (hereafter water companies) are scheme participants of EWOQ while all other water companies are under the jurisdiction of the Queensland Ombudsman¹⁴. In his 2025 Annual report, the Queensland Ombudsman reports that his office received 95 water and sewerage complaints. His Annual Report suggests that only about 10% of complaints that are accepted by the Queensland Ombudsman are closed after an investigation with nearly 85% of complaints closed after a preliminary assessment (Queensland Ombudsman 2025, p.42). It is not clear how many, if any, of the water complaints received by the Queensland Ombudsman were investigated. By way of contrast, in 2024/25 EWOQ received 229 water complaints of which 136 were referred to the scheme participant as the complainant had not previously attempted to resolve their complaint with the scheme participant, 54 were referred back to the scheme participant but at a higher level for the scheme participant to have a second attempt to resolve the complaint and 39 were investigated (EWOQ 2025, p.35).

Dunleavy et al (2010) discuss how complainants see their complaint as a single whole yet may find themselves faced with a fragmented or partial complaints system. In an effective complaint system, there should only be one second-tier dispute resolution body per industry sector. Having one ombudsman scheme with responsibility for all water complaints in Queensland will improve access for Queenslanders as they will not need to work out which ombudsman has jurisdiction

¹⁴ In his 2025 Annual Report, the Queensland Ombudsman states that his office accepted 14 complaints about Unitywater which is also under the jurisdiction of EWOQ.

over their water provider nor contact the wrong ombudsman scheme. Having one ombudsman scheme consider all water complaints will also build up knowledge and expertise in that industry within the ombudsman scheme which will be helpful in reaching fair decisions. The Review Team were told by interviewees from water scheme participants that EWOQ lacked expertise in some of the technological aspects of water complaints. The same must apply to the Queensland Ombudsman as it considers fewer water complaints and his casework staff have a very large number of jurisdictional areas. It would be appropriate to build up a comprehensive source of knowledge in a single ombudsman scheme. Given the fact that there is an extant Queensland water ombudsman scheme the Review Team would suggest that it becomes the single water ombudsman scheme.

Recommendation 12: EWOQ should work with its relevant scheme participants, regulators and government department to explore the option of EWOQ becoming the sole water ombudsman for Queenslanders.

9.1.3 Implications for EWOQ of changes in the energy market

Individuals who take advantage of the changes in CER will potentially face a range of problems unlike those that affect traditional energy customers. For example, they may complain about:

- The installation, maintenance or functioning of generation and storage devices
- The financing of generation and storage devices (such as Solar Power Purchasing Agreements)
- Miss-selling of generation and storage devices (where the anticipated benefits of installing particular devices are not realised)

The complaints that arise from the introduction of CERs are likely to be diverse and, yet, consumers who have such complaints face a complex and unclear path to have that complaint resolved. It is probable that most of the businesses which are providing these new technologies will not be members of an external dispute resolution scheme such as EWOQ. The consumer cannot complain to EWOQ about CERs. Instead, the current regulatory framework means that consumers need to complain to different external dispute resolution bodies, depending on the product or service they are complaining about. For example, depending on who and what they are complaining about, consumers may be able to make a complaint to bodies such as the Queensland Office of Fair Trading, the Queensland Civil and Administrative Tribunal or the Australian Financial Conduct Authority. The underlying problem is that the current legal and regulatory framework was not designed with CERs in mind and, consequently, the framework requires to be updated in order to ensure that clear pathways to external dispute resolution are available to consumers.

While there are various potential avenues for resolution that are available, from a consumer's perspective, being able to refer all energy related complaints to a single, authoritative external dispute resolution is likely to be beneficial. The Review Team are aware that this is an issue that is being considered by regulators and governments although these bodies are unclear how best to regulate this developing market and how best consumer redress may be secured. Nonetheless, should the current situation continue, the result is likely to be confusion among consumers about where they can take their complaint, a growing number of complaints made to EWOQ that are outside of its jurisdiction, and consumer detriment.

Interviewees from scheme participants were supportive of EWOQ's jurisdiction being extended to include CERs. The Review Team were advised that it is important for consumers to be able to go to one overarching body with their complaint rather than a range of bodies as people don't understand how the system works and who is responsible for what. The view was summarised as being if you are involved in the energy operations of the state of Queensland then you should be part of the ombudsman scheme.

Particular concern was expressed about the roll out of smart meters in Queensland and the growth in companies involved in their installation and co-ordination including the reading of meters and the supply of data. Interviewees from both scheme participants and the regulatory network were of the view that they should be included within the EWOQ scheme.

Embedded networks were included in the jurisdiction of EWOQ in 2022. However, this extension of EWOQ's jurisdiction has been problematic. Embedded network businesses are businesses which typically provide rental accommodation, such as retirement villages, caravan parks and some large apartment complexes, which buy energy from an energy retailer and then on-sell that energy to their customers who are occupants. Occupants very often have no option other than to buy their energy from the embedded network operator which owns their accommodation and, if they try to do so, find it very difficult to achieve. Some embedded network businesses can be small, such as a single caravan park owner, others can be very large such as the owners of retirement accommodation. The AER is responsible for their regulation although these businesses are exempt from aspects of the standard energy framework (AER 2025a). Smaller exempt sellers do not even need to register with the AER and it is impossible, therefore, for the AER and EWOQ to know how many exempt sellers there exist in Queensland.

In recent years there have been significant concerns raised about potential regulatory gaps that exist in this part of the energy market, about which the AER has been consulting on potential regulatory changes. One of the concerns that has been raised is that not all exempt sellers are aware of their duty to register with the AER nor of the fact that they are now within the jurisdiction of EWOQ.

For many exempt sellers, the selling of energy to their clients is not the main element of their business. Therefore, they are very different from typical energy retailers and, according to interviewees, they have a different culture and language than that used by the rest of the industry for which EWOQ needs to make allowances. The Review

Team were advised that clients of exempt sellers who are resident in an exempt seller's property may be fearful of making a complaint against the exempt seller as they fear that they may be evicted by the exempt seller.

It is not uncommon for EWOQ to receive a complaint from a person served by an embedded network to find that the exempt seller has not registered to become a scheme participant within EWOQ. As a first action EWOQ needs to on-board these exempt sellers before it can consider how best to resolve the complaint. Staff from EWOQ need to educate the exempt seller about what EWOQ is, its role and what they, as an exempt seller, need to do such as registering with EWOQ and responding to Notices of Investigation. However, just as exempt sellers may not be fully aware of the AER and EWOQ they may not also be fully aware of government policies and schemes, such as the rebates to all energy users. Despite these challenges faced by EWOQ, the government determined that exempt sellers were not obligated to pay any participant fee to EWOQ.

The fact that exempt sellers do not need to pay any fee for their participation within EWOQ's scheme is a point of contention with retailers who see this as unfair and that it reduces the importance and relevance of EWOQ to the exempt seller, as 'they don't have skin in the game'.

Recommendation 13: EWOQ should work with its relevant scheme participants, regulators and government department to explore the option of EWOQ's jurisdiction being extended to cover all businesses involved in the production, distribution and selling of energy in Queensland.

9.2 EWOQ's processes to promote industry improvement

There are three approaches to systemic activity that can be undertaken by an ombudsman:

- Publication of data: the analysis and publication of data, highlighting trends or specific areas of complaint which can be helpful to businesses improve their services.
- Publication of themed reports – here the ombudsman identifies a recurring subject arising from their casework, which may be across businesses and produces a report which has this subject as its theme. The subsequent report provides case examples as way of illustration of the issues involved.
- Conducting systemic investigations which is typical of industry ombudsman schemes.

9.2.1 Publishing information

EWOQ currently publishes a limited amount of data on its website. It produces monthly reports for the responsible government departments. The introduction of the

scheme participant portal has allowed scheme participants with access to better information on their cases and their performance although, as discussed under Benchmark: Accountability, there is more data and supporting interpretation that can be provided. EWOQ provides significant information to the public on its website.

9.2.2 Publishing thematic reports

Through its casework, EWOQ is in a unique position to identify themes that are emerging within the energy and water industries and, unlike regulators, are able to support this data with a very human dimension by explaining how these issues and trends that are arising are directly impacting upon consumers through the use of case studies. These thematic reports can be very helpful to regulators and government departments. The Review Team believes that EWOQ does not currently publish thematic reports. As examples, three potential thematic reports arise from issues relating to current gaps in EWOQ's jurisdiction:

1. Exempt sellers: this report could consider the number of complaints raised, the issues contained within the complaints, how many exempt sellers were or were not registered with the AER and with EWOQ, how many of the complaints alleged unlawful conduct or failure to comply with regulatory or government policy. There is much that is currently unknown about the exempt seller segment of the market and EWOQ could help fill that gap in knowledge.
2. CERs: What issues are EWOQ currently seeing about the sale and practices of CERs and for which, if any, of these issues are EWOQ able to help the consumer. If they are unable to help what are the potential avenues for redress currently available to the consumer? As discussed above, regulators and government are currently considering how best this part of the market may be regulated and consumer protections safeguarded. EWOQ has a contribution to make based on its casework.
3. Meter readers: several interviewees from different stakeholder groups told the Review Team that they held concerns about meter reading companies which have arisen recently. EWOQ could look at its casework to assess the scale of the concern and the issues raised within the complaints.

9.2.3 Conducting systemic investigations

Although Section 11(1)(d) states that one of EWOQ's functions is to 'identify systemic issues arising out of complaints anyone makes to the ombudsman' the remainder of the Act is silent on how EWOQ should undertake such functions. While EWOQ has powers to require scheme participants to cooperate with its investigations into individual complaints it has no such power when it comes to systemic investigations. EWOQ can issue a Systemic Issue Notice but scheme participants are not required to comply with any associated request for information contained within that Notice. Similarly, there is no obligation placed upon a scheme participant to comply with any recommendations that result from the systemic investigation. These lack of powers compare poorly with the requirements placed upon scheme participants in the conduct of individual complaint investigations. Finally, S78(2) and S80 of the *Energy and Water Ombudsman Act 2006* precludes

the Ombudsman from publishing the results of a systemic investigation if the report contains information that is confidential or the disclosure of which might be detrimental to a scheme participant's commercial interests, or the making of the report or observation will result in confidential information being disclosed. It is the scheme participant that determines what information is confidential in nature not the Ombudsman. Taken together these Sections within the Act severely constrain the Ombudsman's ability to publish reports although the Ombudsman is free to share such reports with the relevant energy or water regulator. EWOQ is also able to share information with bodies such as the Office of Fair Trading and the Australian Competition and Consumer Commission but must remove all identifying information before doing so. EWOQ cannot charge for work relating to systemic investigations.

EWOQ has a robust process to identify and manage potential systemic issues. A potential systemic issue can be identified by a caseworker, the scheme participant or by specific triggers on EWOQ's casework management system. Where an issue is flagged as a potential systemic issue it is considered by EWOQ's Senior Advisor (SA) who will assess the potential systemic issue as well considering the issue within the context of relevant industry legislation, regulations, codes, industry good practice. The SA may decide that the issue is potentially systemic or not. If not, the issue is closed on the casework system. If it remains potentially a systemic issue, it will be considered by the Systemic Issue Review Committee (SIRC). The SIRC can determine whether it should be investigated or monitored or closed. If it is considered a systemic issue then a Systemic Issue Notice will be issued to the relevant scheme participant who will be expected to investigate and respond to EWOQ detailing whether or not the issue was indeed systemic, and, if so, what action the scheme participant has taken to resolve the issue and how many persons were affected. The scheme participant may inform EWOQ that the issue was not systemic in nature. The SIRC will monitor progress on systemic cases and those potential cases which were to be monitored to see if further similar complaints arise and justify it to be considered as a systemic issue or should be closed.

In 2024–25, EWOQ identified 37 potential systemic issues. It issued 20 Systemic Issue Notices and monitored 15 cases that did not result in a systemic issue notice being issued. 2 cases were under assessment as of 30 June 2025 (EWOQ 2025, p.27). In 2024–25, EWOQ closed 51 potential systemic issues, of which 23 issues were monitored but did not result in a systemic issue notice being issued with the remaining issues resulting in four issues resulting in remedial action and 24 issues resulting in no action being taken by the scheme participant (EWOQ 2025, p.28). Billing was the most common area of concern (EWOQ 2025, p.27).

One relatively common theme which was raised by multiple interviewees from scheme participants was their concern that EWOQ was too quick to call something a systemic issue and to issue a Systemic Issue Notice. They cited many notices issued on the basis of a sole complaint and pointed out that each notice required the scheme participant to investigate and report back to EWOQ. Certainly, the figures published in EWOQ's 2025 Annual Report do indicate that the greater majority of systemic issues are closed without the need for remedial action. That may well indicate that EWOQ is too ready to call a potential systemic investigation. Against that view is the fact that EWOQ states that it can cite several examples where a single complaint led to a fault being identified which affected many people. As always there is the question of proportionality. The problem for the Review Team and for scheme participants is that, as the current legislation prohibits EWOQ from publishing information about systemic investigations, it is hard for either group to understand the impact of systemic investigations upon any one organisation, their substance and their outcomes. For example, one scheme participant interviewee said to the Review Team that the focus of potential systemic investigations was too focused on customer service issues and not real systemic problems. The figures published in EWOQ's Annual Report indicate that this is not, in fact the case, and that the greater majority of issues relate to billing and not customer service. What is needed first is for EWOQ to have the ability to publish information on its systemic investigation activities relating to the bodies concerned and the outcomes together with the numbers of individuals affected by systemic failings.

Recommendation 14: EWOQ should include within its work on the changes needed to the EWO Act, see Recommendation 3, its future powers to conduct systemic investigations and support the implementation of any recommendations.

Recommendation 15: EWOQ should produce an overarching strategy and supporting action plan on how it can maximise its contribution to system improvement and the maintenance of effective markets, including the identification of any additional investment.

9.3 EWOQ's policy work

EWOQ holds regular meetings with regulators and government departments to inform them of industry trends and issues identified through its complaint handling, outreach and stakeholder engagement activities. EWOQ also provides regular reports to relevant government departments and regulators. EWOQ's work in this space was warmly welcomed with EWOQ described as being a trusted voice, that provides high- quality, accurate and timely information. Interviewees from the regulatory network indicated that EWOQ did indeed influence their policies.

Appendix One – biographies of the Review Team

Dr Gavin McBurnie is an honorary research fellow at Queen Margaret University. In this role, Gavin was the lead researcher on the five-year reviews of EWON (2019 and 2024), the TIO (2022), EWON (2019 and 2024), the PTO (2019) and for Utilities Disputes Limited (2017). He was also the lead researcher on the independent review of the New South Wales Ombudsman. Gavin has provided advice to the Consumer Council for water for England and Wales as it prepares to become a water Ombudsman. He has acted as an independent external adviser to the Welsh Senate (Parliament) as it considered proposals to develop the role of the Public Services Ombudsman for Wales. Gavin has delivered training on complaint handling on behalf of the International Ombudsman Institute for the Caribbean Ombudsman Association, and for Greek civil servants on behalf of the Organisation for Economic Co-operation and Development. Gavin previously worked at the Parliamentary and Health Service Ombudsman (PHSO) where, over seven years he led on a number of senior roles.

Gavin originally trained as a doctor at Glasgow Medical School, becoming a General Practitioner before returning to Edinburgh to study for an MBA and studied for an LLM at de Montfort University in Health Care Law. Gavin was awarded a PhD from Queen Margaret University for his research on the methods used by health ombudsman in their system improvement role and the response of bodies in jurisdiction to these approaches.

Professor Chris Gill is Director of Justice Research and Innovation Ltd and helps businesses in the public and private sectors deliver innovation through cutting edge research and analysis services.

Chris has provided consultancy services to a wide range of clients including the Canadian Ombudsman for Responsible Enterprise, the Council of Europe, Utilities Disputes Ltd, the Legal Services Board, the Business Banking Resolution Service, Citizens Advice, Ombudsman Services: Energy, Ombudsman Services: Communications, the Office for Legal Complaints, the Equality and Human Rights Commission and many more.

Prior to becoming an academic and providing consultancy services, Chris worked in the ADR sector, first at the Advertising Standards Authority and then at the Scottish Public Services Ombudsman. Chris remains actively involved in ombudsman and ADR policy and practice in the UK and internationally, sitting on the Administrative Justice Council's Academic Panel, the Scottish Legal Complaints Commission's Consumer Panel, the Ombudsman Association's Validation Committee, and being a validated member of the International Ombudsman Institute's Peer Review Panel.

Appendix Two- List of organisations with whom the Review Team conducted an interview.

Scheme Participants

AGL

Big Pond

Energy Australia

Energy Queensland

Engie

Ergon Energy

Gold Coast Council

Origin

Red

Unitywater

Regulators and other key stakeholders

Australian Energy Regulator

The Treasury

Community groups

Council of the Ageing

Financial Counselling Queensland

Good Shepherd Australia and New Zealand.

Indigenous Consumer Assistance Network

Queensland Small Business Commission

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