



2023

# Independent Review

of the UDL

Energy Complaints Scheme

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Report by  
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# Independent Review of the Energy Complaints Scheme

## Contents

<b>Executive Summary</b>	<b>2</b>
<b>Recommendations</b>	<b>4</b>
<b>Background</b>	<b>5</b>
<b>Scope of review</b>	<b>6</b>
<b>Review process</b>	<b>6</b>
<b>Context</b>	<b>7</b>
<b>Rationale for key findings</b>	<b>9</b>
Operating effectively	9
Visibility	11
Early resolution	17
Investigation delays	21
Quality of decision making	23
Learning from complaints	25
Systemic issues	28
Happy workplace	29
Te Tiriti capability	30
2017 Independent Review	31
<b>Appendix 1</b>	<b>33</b>
<b>Appendix 2</b>	<b>34</b>

# Independent Review of Energy Complaints Scheme

This is a report to the Board of Utilities Disputes Ltd | Tautohetohe Whaipaiinga (UDL) on the five-yearly Independent Review of the Energy Complaints Scheme, undertaken by reviewer Professor Ron Paterson from March to September 2023. It concludes that the Scheme is operating effectively to resolve consumer complaints about electricity and gas supply, and meets the expected standards of an industry-based dispute resolution scheme.

Recommendations for improvement are made in relation to scheme visibility, timeliness of investigation, learning from complaints and reporting of systemic issues – areas that UDL is already working on.

At a time of rapid change in the energy sector, with many consumers experiencing energy hardship, the Energy Complaints Scheme continues to play a vital role in the prevention and prompt, fair and independent resolution of energy complaints.

## Executive Summary

1. The Energy Complaints Scheme is **operating effectively** as an independent scheme to resolve consumer complaints about electricity and gas supply. It is well managed and governed and adequately funded. UDL enjoys the confidence of community support organisations, scheme participants, regulators, government officials and Ministers. Complainants report a high degree of satisfaction with their experience of making a complaint to UDL and members report confidence in the operation of the scheme.

However, the rapid changes in the energy sector as it transitions to carbon zero are driving growth in the use of solar power and distributed energy sources. This shift will increase the risk of significant gaps emerging in UDL's jurisdiction. UDL already has to turn away energy complaints with no connection to the retail or distribution of electricity. This unsatisfactory situation needs attention by government to ensure appropriate consumer protection is maintained as the sector develops.

2. The Energy Complaints Scheme is readily accessible to consumers, being easy to use and having no cost barriers. The low **visibility** of the scheme among members of the public, especially vulnerable communities and individuals experiencing energy hardship, remains an issue. UDL does not have the benefit of the Ombudsman title enjoyed by all similar schemes in Australia, and by the banking, insurance and financial services dispute resolution schemes in New Zealand. The current Ombudsman name protection rule should be revisited by Parliament. The scheme needs to build on its current community engagement by increasing the number of staff dedicated to engagement and strengthening relationships with scheme members and community support and advocacy organisations that can promote UDL's service.

3. The **early resolution** model operated by UDL is appropriate and working well. It resolves most cases promptly via First Contact and Early Resolution teams. The use of complaint summaries is an effective tool that helps the parties and UDL focus on the key issues in dispute and the complainant's desired outcome.
4. Cases that are not speedily resolved – so-called 'deadlocked' complaints – proceed to formal investigation by the Conciliation Team. **Investigation delays** are a problem: a significant minority (> 25%) of cases take too long (> 90 working days) before concluding with a Commissioner determination. The current delays in UDL's investigation process are detracting from the performance of an otherwise effective and efficient dispute resolution scheme. The distribution to scheme participants of simplified monthly updates on the status of files and the sharing of regular KPI reports with managers and staff will usefully highlight where delays are occurring and should help lift performance.
5. Based on my review of 15 energy complaint files, the **quality of decision making** is generally high, with peer review and quality assurance by senior staff leading to clear, well written decisions. Fairness and rigorous independence is evident at all stages of the complaint handling process, and is reinforced by Board oversight and independent review of any complaint about UDL's handling of a case. A minority of complex cases would benefit from early senior and legal review to clarify the extent of UDL's jurisdiction and the range of possible remedies, and avoid unnecessary delays and uncertainty.
6. Although UDL undertakes some very good educational initiatives (notably monthly webinars and an annual forum), it could do more to fulfil its overall objectives to 'prevent' and 'educate' as well as 'resolve' disputes. There is scope for the office to do more to promote **learning from complaints**. Publication of more case studies and prevention insights is recommended, as well as working with scheme participants to examine the feasibility of production of a complaints dashboard for the energy sector, which would be valuable for sector and the broader community.
7. The focus on individual dispute resolution, and improvements in the performance of individual scheme participants, should be complemented with more identification and reporting of **systemic issues** – bringing them to the attention of regulators, scheme participants and the public. This is currently an area of unrealised potential value to the energy sector, where UDL can and should do more. The recent adoption of a new CRM (customer relationship management) system with simplified complaint categories will enhance UDL's ability to mine its own data and gain research insights.
8. UDL is a **happy workplace** with engaged staff who love their work. There is significant investment in staff training (in complaint resolution, mediation, resilience, dealing with difficult behaviours, technical energy issues, relevant law and decision writing), development and wellbeing. Given the correlation between a happy workplace and productivity and effectiveness, the Energy Complaints Scheme is in good hands.

9. The commitment to improving UDL's **Te Tiriti capability** is impressive. It is reaping benefits by upskilling staff in te reo and te ao Māori, developing a sense of kotahitanga and ensuring that UDL's dispute resolution services are consistent with Te Tiriti o Waitangi and accessible to Māori complainants.
10. UDL has made good progress in responding to and, where appropriate, implementing the recommendations of the **2017 Independent Review**.

## Recommendations

1. UDL should employ additional Community Engagement Officers, based in communities of need outside of Auckland, to build links with community support and advocacy organisations working with vulnerable consumers and raise the profile of the Energy Complaints Scheme.
2. The wording of General Rule 18 of the Energy Complaints Scheme should be revised to express the discretion to take no further action on a complaint in clearer and more neutral language, specifying a discretion to take no further action on the complaint if UDL considers that, having regard to all the circumstances of the case, further action is unnecessary or inappropriate.
3. UDL should rename the Conciliation team as the Investigation and Conciliation team, and team members as Investigators or Conciliators, develop an action plan to reduce investigation delays in the Energy Complaints Scheme, and report on progress to the Board and scheme participants, and publicly in the Annual Report.
4. UDL should formalise a process for senior and, if necessary, legal review of investigation files where there are complicated facts or novel legal issues, to occur when a complaint is first assigned for investigation or at trigger points when an investigation is exceeding expected time limits.
5. UDL should reinvigorate its production and publication of case studies, practice statements, prevention insights and guidance for providers, and work with scheme participants and key stakeholders to examine the feasibility of developing a complaints dashboard for the energy sector, to maximise learning from complaints.
6. UDL should prioritise the identification and reporting of systemic issues in the energy sector, bringing them to the attention of regulators, scheme participants and the public.

## Background

UDL runs an independent energy dispute resolution scheme, the Energy & Gas Complaints Scheme, approved by the Minister of Commerce and Consumer Affairs under the Electricity Industry Act 2010 (the Act). There are 368 scheme participants.

UDL, and its predecessor the Office of the Electricity and Gas Complaints Commissioner, has been handling energy complaints since 2001, operating as a free dispute resolution service for consumers. It is funded by a combination of membership and complaint fees levied on participants.

UDL currently operates four dispute resolution schemes:

- o the government-approved Energy (Electricity & Gas) Complaints Scheme
- o the government-approved Broadband Shared Property Access Disputes Scheme
- o a voluntary Water Complaints Scheme
- o a voluntary Telecommunications Service for broadband and mobile services.

The two government-approved schemes and the voluntary Water Complaints Scheme each has an advisory committee made up of industry and consumer representatives that meet quarterly to provide advice to the UDL Board. UDL is governed by an independent board consisting of a chair and four directors. Current staff total 29, including Commissioner and CEO, Mary Ollivier.

UDL describes its mission as “providing prompt, fair and independent prevention and resolution of utilities disputes”. Its complaint handling model promotes early resolution and conciliation. Unresolved cases proceed to formal investigation and, if necessary, to a binding determination by the Commissioner. UDL describes its purpose as “to facilitate a strong relationship of trust between consumers and utility organisations”. To achieve this, UDL focuses on three key aspects of effective dispute resolution: prevention, education and resolution.

UDL is required to have an independent review of its Energy Complaints Scheme at least once every five years (section 95 and schedule 4, cl 15, of the Electricity Industry Act 2010). The last review, by Gavin McBurnie and Chris Gill of Queen Margaret University, Edinburgh was in 2017.

UDL operates under the Australian Benchmarks for industry-based dispute resolution schemes.<sup>1</sup> These principles were adopted and are reflected in UDL’s original constitution, subsequent governance documents, and relevant legislation. The six principles are: accessibility, independence, fairness, accountability, efficiency and effectiveness.

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<sup>1</sup> The benchmarks are explained in detail in *Key Practices for Industry-based Customer Dispute Resolution* (Treasury, Australian Government 2015):

[https://treasury.gov.au/sites/default/files/2019-03/key\\_pract\\_ind\\_cust\\_dispute\\_resol.pdf](https://treasury.gov.au/sites/default/files/2019-03/key_pract_ind_cust_dispute_resol.pdf)

## Scope of review

The terms of reference require the independent review to consider whether:

1. UDL's energy scheme is operating effectively as an integrated scheme capable of dealing with a wide range of complaints, competently governed and managed, broadly supported by members and adequately funded;
2. the energy scheme is meeting the six principles of being accessible, independent, fair, accountable, efficient and effective;
3. UDL's early resolution model is appropriate;
4. UDL's dispute resolution practice is consistent with Te Tiriti o Waitangi;
5. improvements are needed to UDL's dispute resolution practice.

## Review process

The review was undertaken over the period March to September 2023. I observed the work of UDL staff during visits to UDL's Wellington office on 16 March, 17-19 April, 23-25 May, 28-30 June and 28 July, and met with the Commissioner, Deputy Commissioner, managers and staff, observed the phone work of the First Contact team and joined two staff discussions of current cases (at 'scrum' meetings). In Auckland, I met twice with UDL's Community Engagement Officer. I also met with the Chair and Board of UDL, and the Energy Advisory Committee.

I interviewed key stakeholders, including the Minister of Commerce and Consumer Affairs, the two former Commissioners, the Chair of the Consumer Advocacy Council, the Banking Ombudsman, the current and former Energy and Water Ombudsman Victoria, the Chair of the Electricity Price Review, the Chief Executives of Consumer NZ, the Consumer Advocacy Council, FinCap, the Electricity Authority, the Gas Industry Co and the Electricity Retailers' Association of New Zealand, and officials from MBIE, the Government Centre for Dispute Resolution and the Commerce Commission. I held meetings with several scheme members, both large and small (in Auckland, Hamilton and Wellington) and with community support organisations in South and Central Auckland, and joined a discussion with a focus group of financial mentors and budget service advisors convened by FinCap.

I reviewed 15 energy complaint files, ranging from enquiries, through early resolution to complex matters that concluded with a final determination by the Commissioner. I had telephone interviews with a random selection of the complainants whose files I had reviewed. I read three 'scheme complaint' reviews from 2020-2022.

I browsed the UDL website, [www.udl.co.nz](http://www.udl.co.nz) and read key UDL documents, including the UDL Constitution and Governance Charter, the General and Scheme Rules for the Energy Complaints Scheme, the MOU with the Electricity Authority, UDL's draft *Forward Data Strategy* (2022), a draft report for UDL and the Banking Ombudsman on *Awareness and engagement among lower decile communities* (2023), UDL's *Community Engagement Strategy 2021-2024*, the Energy Complaints Scheme *Accepted deadlocked complaints report 2022-2023*, UDL's latest annual report: *2022-2023 year in review*, papers for board meetings

2022-2023, UDL brochures and fact sheets, several UDL systemic issues reports, and a history of UDL: *Utilities Disputes Ltd Tautohetohe Whaipanga 20 Years of History*.<sup>2</sup>

I reviewed relevant Ombudsman scheme independent reports from New Zealand (including the 2017 Independent Review of UDL by McBurnie and Gill, and a confidential 2021 Wi Pere Mita / Laidlaw Consultants report on whether the UDL dispute resolution schemes are aligned with Te Tiriti and accessible to Māori consumers), and from Victoria and the United Kingdom.

I also read relevant guidelines, surveys and reports, including What will energy consumers expect of an energy and water ombudsman scheme in 2020, 2025, and 2030? (University of Sydney Law School, 2019), Electricity Price Review: Final Report (MBIE, 2019), Consumer Care Guidelines (Electricity Authority, 2021), New Zealand Consumer Survey 2022 (MBIE, 2022), the Electricity consumer sentiment survey – residential consumers and small businesses: 2022 baseline survey results (Kantar Public, 2023), New Zealand 2023 Energy Policy Review (International Energy Agency, 2023) and the discussion paper, Energy Hardship: The challenges and a way forward (Energy Hardship Expert Panel, 2023) and the UDL submission in response to the discussion paper.

I am grateful to Commissioner Mary Ollivier, Deputy Commissioner Neil Mallon and Senior Manager, Strategy and Innovation, Markus Frey, and all the staff of UDL for their openness and willing co-operation during the review. I also acknowledge with thanks all the external organisations and individuals who contributed to the review.<sup>3</sup> My background in complaint resolution and independent reviews is set out in an appendix.<sup>4</sup>

## Context

New Zealand has experienced major upheavals in the past three years due to the impact of the prolonged Covid pandemic, the ongoing Russian-Ukraine war, climate change (including devastating ‘weather events’ affecting North Auckland, Auckland, Coromandel and the Hawke’s Bay in February-March 2023) and high inflation leading, in 2023, to a cost of living crisis affecting many households.

Energy hardship is a reality for many New Zealanders: around 20 – 30% of complaints received by UDL include aspects of financial vulnerability. Over the past five years, high bills and disconnection issues have figured in around 19% and 9% of complaints respectively. The number of energy complaints have increased markedly (to nearly 4,500 in the 2022-2023 year), following the Electricity Code change effective 1 April 2021, requiring UDL’s contact details to be made clear and prominent for customers on member websites and bills and in phone and email communications.<sup>5</sup>

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<sup>2</sup> Nanette Moreau Hammond, 2021.

<sup>3</sup> The organisations and individuals I met with are listed in Appendix 1.

<sup>4</sup> See biography of reviewer in Appendix 2.

<sup>5</sup> Electricity Participation Code 2010 Part 11, cl 11.30A as inserted, on 1 April 2021, by cl 4 of the Electricity Industry Participation Code Amendment (Requirements to Improve Awareness of Dispute Resolution Scheme and the Electricity Plan Comparison Site) 2020.



Many consumers are in significant arrears on their energy accounts yet cannot afford to purchase more energy-efficient products. They are often unaware how to find out what plan is right for them or how to switch plans, and what to do when they are unable to pay their energy bills. Some complainants who contact UDL are highly stressed, with the result that the frontline team encounters difficult behaviours.

Rural consumers face unique problems, and commonly experience a lower quality of supply due to power outages (a major problem during recent ‘weather events’) and damage to lines from trees. These problems can lead to expensive claims and complaints that are difficult to resolve.

The landscape for energy services has changed since energy retailers and distributors were mandated to join the Energy Complaints Scheme under the Electricity Industry Act 2010. The ‘new electricity future’ is ‘coming fast’.<sup>6</sup> New Zealand is on track to meet the target of 100% renewable electricity by 2030. As noted by the Electricity Price Review, “a low-emissions economy will mean more demand for electricity, more grid-connected wind, hydro and geothermal power, widespread use of electric vehicles, and the emergence of a two-way flow of electricity as consumers install solar panels and sophisticated battery technology”.<sup>7</sup>

The rapid changes in the energy sector as it transitions to carbon zero are driving growth in the use of solar power and distributed energy sources. Solar power, EV charging and multiple trader relationships – with several providers operating through the same ICP<sup>8</sup> – are examples of advances on traditional energy retailing.

The recent Energy Hardship Expert Panel identified the need to “expand consumer protection and existing dispute resolution schemes to cover other forms of energy provider relationships”.<sup>9</sup> Such a move would be consistent with a recommendation from a report for ANZEWO (the Australian and New Zealand Energy and Water Ombudsman Network), to expand scheme coverage to “any service relating to the sale or supply of energy, or that may otherwise interrupt the supply of energy or impact upon the sale or supply of it”.<sup>10</sup>

The shift to new energy sources will increase the risk of significant gaps emerging in UDL’s jurisdiction. UDL already has to turn away energy complaints where there is no connection to the retail or distribution of electricity. This is an unsatisfactory situation that needs attention by government to ensure appropriate consumer protection is maintained as the sector develops.

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<sup>6</sup> Patrick Smellie, ‘The new electricity future: it’s coming fast’, *BusinessDesk*, 17 January 2023.

<sup>7</sup> Electricity Price Review: Final Report (MBIE, 2019), p 2.

<sup>8</sup> Installation control point.

<sup>9</sup> *Energy Hardship: The challenges and a way forward*, Energy Hardship Expert Panel Discussion Paper, March 2023, Strategy CP4.

<sup>10</sup> University of Sydney report, *What will energy consumers expect of an energy and water ombudsman in 2020, 2025, and 2030?* (2019) p 5.

## Rationale for key findings

### Operating effectively

My review confirms that the energy scheme is operating effectively as an industry-based utilities dispute resolution scheme.

In part, this is a qualitative assessment, based on interviews with external stakeholders – ranging from consumer advocacy and community support organisations to regulators and government officials – and internal stakeholders (staff, board members, advisory committee members and scheme participants). The universally held view expressed by external stakeholders is that the energy scheme works well and that UDL is a trusted, independent agency that resolves utilities disputes fairly and reasonably. Comments from key informants included:

“We rely on UDL to be a source of truth – it makes good submissions about unfair situations, gaps or lack of regulation.”

“UDL raises awareness in local communities not only about [the dispute resolution scheme] but generally about the rights electricity consumers have under the Consumer Care Guidelines.”

From within the scheme, the common view is that UDL achieves what it was set up to do. Comments from scheme participants included:

“It’s a great scheme and very effective. Having an independent third party mediate is really helpful.”

“We value the objectivity and the facilitation – and the relationship with the conciliators.”

“It’s helpful to tap into UDL expertise – what is fair and reasonable, even without it going to a determination. Decisions appear balanced and fair.”

“Most of the time UDL surfaces the concerns and we then have the benefit of a different lens and can sort the problem.”

Complainants, especially the majority whose complaint is resolved without the need for formal investigation, expressed fulsome praise for the assistance of UDL staff:

“UDL staff ... were very helpful, understanding and really made me feel listened to, when I was at my wit’s end with the company / energy supplier.”

“The UDL people were very understanding. It was done pretty timely once UDL had the information. They nursed me through it very well and gave me all the information I needed – I thought they were very good.”

Quantitative data for the 2022/2023 year<sup>11</sup> also give some indication of the effectiveness of the energy scheme. The number of energy complaints received by UDL is continuing to increase (4,468, up 21% on the previous year), after a 56% increase in enquiries<sup>12</sup> to UDL in the previous year, following the Electricity Authority's code change in April 2021.

UDL's emphasis on early resolution is reflected in results. Most complaints received by UDL are resolved without the need for formal investigation, with only 602 (13.4%) reaching 'deadlock' stage (ie, not resolved within 20 working days of receipt by the provider). Amongst the tally of 'deadlocked' complaints, UDL is achieving a high success rate during a 72-hour period when providers are given an opportunity to challenge jurisdiction.<sup>13</sup> UDL Early Resolution conciliators put intense effort into resolution during this brief window of time, which allows a final chance for both providers and complainants to resolve the complaint – with focused ADR assistance available – before the case is formally assigned for investigation and levies become payable. In 2022/2023, only 131 cases were accepted for investigation (2.9%).

UDL surveys complainants and providers to assess their satisfaction with the complaint handling process. The results for 2022/2023, based on responses from over 100 complainants, are positive. For complaints resolved in the early resolution stage,<sup>14</sup> overall complainant satisfaction was 4.54 out of 5; for complaints resolved at the conciliation / investigation stage,<sup>15</sup> overall complainant satisfaction was 4.09 out of 5. Provider response rates are low (fewer than 10 responses) but satisfaction across all phases of UDL's complaint handling was similarly high, at 4.44 out of 5. UDL's net promoter score – the likelihood of recommending the service to a friend or colleague – was 66, within the 'great' band of NPS promoter scores.

Staff and external stakeholders expressed confidence in the senior management of UDL:

“Management and senior staff are very approachable, receptive of and responsive to feedback, and committed to realising positive outcomes for staff and service users alike.”

A number of internal and external stakeholders spoke highly of Commissioner Mary Ollivier and Deputy Commissioner Neil Mallon, noting their open and trusting style and their fair and balanced approach to adjudicating complaints.

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<sup>11</sup> The UDL reporting year is from 1 April to 31 March. The latest report is *Annual Report 2022-2023*: <https://www.udl.co.nz/public/report2023/>

<sup>12</sup> A consumer's contact with UDL is categorised as an 'enquiry' if the consumer was simply seeking information or contacted UDL in error, thinking they were calling their provider. A 'complaint' is an expression of dissatisfaction made to or about a provider where a response or resolution is explicitly or implicitly expected.

<sup>13</sup> The jurisdiction challenge period was extended from 24 to 72 hours in 2023. The longer window of time appears to be working well, enabling more cases to be resolved before formal investigation by UDL.

<sup>14</sup> UDL's early resolution stages encompass the enquiries and complaints dealt with by the First Contact team, and the complaints (including 'deadlocked' complaints) dealt with by the Early Resolution team.

<sup>15</sup> UDL's investigation stage refers to all the 'deadlocked' complaints that are assigned to the Conciliation team for conciliation and investigation, with a minority proceeding to a Commissioner determination.

UDL is governed by a board of four independent directors and an independent chair (Heather Roy since 2014), which meets around seven times a year. The current board brings governance skills and a good mix of public sector, engineering and social services experience. Having read a selection of board papers, attended a board meeting, and interviewed the chair, two current board members and one former board member, my assessment is that UDL is well governed, with the board functioning effectively, setting strategy, monitoring organisational performance and staying abreast of emerging issues in dispute resolution and the energy sector.

### Visibility

The first of the Australian benchmark principles for industry-based dispute resolution is “accessibility”, described as: “The office makes itself readily available to customers by promoting knowledge of its services, being easy to use and having no cost barriers.”

UDL does not have the advantage of widespread name recognition amongst the general public (in contrast, for example, to the Banking Ombudsman), nor the benefit of the Ombudsman title, enjoyed by similar schemes in Australia. UDL is a notable exception as a member of ANZOA (the Australian and New Zealand Ombudsman Association), being the sole industry-funded dispute resolution scheme without the title Ombudsman attaching to the scheme or an office-holder.<sup>16</sup> The New Zealand Parliamentary Ombudsman has taken a protectionist stance to the use of the Ombudsman title – even though the title has already been bestowed on the banking, insurance and financial services dispute resolution schemes (the Banking Ombudsman Scheme, the Insurance & Financial Services Ombudsman Scheme and the Financial Ombudsman Service, FSCL). In a retrograde step, in 2020 Parliament legislated to require Ministerial approval for any new scheme to be permitted to use the title Ombudsman.<sup>17</sup>

As former Commonwealth Ombudsman and Australian legal scholar John McMillan observes, Parliamentary Ombudsmen can learn from industry-based Ombudsman schemes<sup>18</sup> – an observation that accords with my own experience as former chair of the Banking Ombudsman Scheme and Parliamentary Ombudsman. It is to be hoped that Parliament will revisit the current name protection rule and enable UDL to enjoy the status and name recognition of the title Ombudsman.

UDL lacks sufficient funding for a national advertising campaign or to employ a network of community engagement officers (in contrast, for example, to the Nationwide Health & Disability Advocacy Service contracted and funded by the Health and Disability Commissioner). Instead, UDL relies on the efforts of a single, dedicated community

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<sup>16</sup> The ANZOA website lists nine current industry-funded dispute resolution schemes with the title Ombudsman attaching to the scheme or the office-holder, with UDL notable as having a Commissioner as office-holder: see <https://anzoa.com.au/about-anzoa/>

<sup>17</sup> Ombudsmen Act 1975, s 28A, substituted by the Ombudsmen (Protection of Name) Amendment Act 2020, s 5. UDL is not included as an organisation which the Minister could permit to use the name Ombudsman (see Ombudsmen Act 1975, s 28A(1)(c), (2) and Schedule 1, Part 2) – yet the Electricity Authority and the Small Electricity Consumers Agency are listed as organisations theoretically eligible for a grant of the name.

<sup>18</sup> John McMillan, ‘Complaint Handling Effectiveness: What Can We Learn from Industry-Based Ombudsmen Schemes?’, ch 8 in M Groves and A Stuhmcke (eds), *The Ombudsman in the Modern State* (2022).

engagement officer based in Auckland, links with financial mentoring organisations and community and social agencies and targeted participation in events such as Permobil's annual 'Power in the Park', a community open day held at Eden Park for medically dependent and disabled people who rely on power for life or movement support.

UDL maintains an active social media presence, with a user-friendly, interactive website, [www.udl.co.nz](http://www.udl.co.nz), videos of webinars on topical issues, and Facebook and LinkedIn pages that are regularly updated with helpful information. A quarterly community engagement update is published on the website<sup>19</sup> and records a wide range of activities connecting with vulnerable consumers and directing people with energy problems to UDL.

UDL staff have taken commendable steps to accommodate users with a non-English language preference or a sight or hearing impairment.<sup>20</sup> Staff use an Accessibility checklist when first contacted by a member of the public, to assess whether an individual has a preferred language or mode of communication and any special needs. Users can access Interpreting New Zealand so information and services can be translated into their own language.<sup>21</sup> NZ Relay services are available for those who are hard of hearing, deaf, deafblind, or hearing or speech impaired.

UDL publishes guidance in Easy Read for those who have difficulty reading and understanding written information. Guidance is published in multiple languages including Te Reo Māori, Arabic, Hindi, Tongan, Simplified Chinese, Korean, Samoan, Spanish, Japanese, Punjabi and Dari. UDL also offers tikanga-based resolution via a staff member who has achieved external accreditation as a tikanga mediator through the Tūhono Collective and Resolution Institute.

Consumers who contact UDL are sent clear and simple fact sheets with illustrative graphics about the complaint process. By phone calls and emails from UDL staff, they are carefully guided through the process and regularly updated. They receive complaint summaries that neatly encapsulate their concern, its impact and what it will take to fix the problem. UDL's services are free, so potential users do not face cost barriers.

Which population groups are accessing UDL's energy complaints scheme? UDL collects ethnicity and age demographic data from the users of its service when first contacted.<sup>22</sup> For 2021-2022, the ethnicity data for the people who called UDL's 0800 number broadly reflected census data.<sup>23</sup>

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<sup>19</sup> See <https://www.udl.co.nz/en/support-and-information/community-outreach/>

<sup>20</sup> See <https://www.udl.co.nz/en/support-and-information/information-in-other-languages/>

<sup>21</sup> This service was used 18 times in 2022.

<sup>22</sup> In accordance with UDL's 'Demographic data collection policy and procedure' (2022).

<sup>23</sup> Data was not collected from 4916 callers and 176 callers declined to answer.

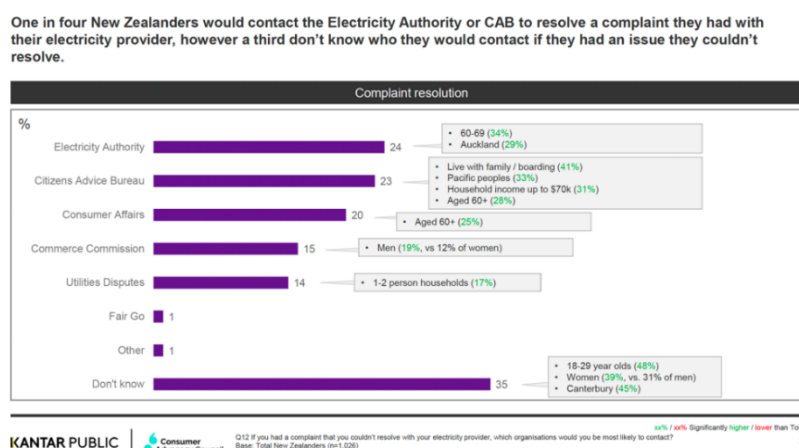
	Count	% of total	2018 Census
NZ European	1797	65.9%	70.2%
Māori	416	15.2%	16.5%
Samoan	66	2.4%	3.9%
Cook Island Māori	18	0.7%	1.7%
Tongan	18	0.7%	1.8%
Niuean	3	0.1%	0.7%
Chinese	96	3.5%	5.3%
Indian	144	5.3%	5.1%
Other	370	13.6%	

UDL recognises that, since it is likely a higher proportion of Māori and Pacific peoples experience financial and energy hardship, it should aim to exceed census data for those groups – which demands greater visibility of UDL in those communities (discussed below).

Since 2021, UDL has also collected demographic data (ethnicity, age and whether the user has a disability) when surveying users on their experience, after the file has been closed. The results<sup>24</sup> indicate broadly similar levels of satisfaction (75% to 85%) across a range of measures for all respondents, Māori respondents and respondents with a disability.

The key challenge faced by UDL, along with other dispute resolution schemes, is that members of the public often do not know where to raise concerns about a product or service. Lack of knowledge about how to exercise their rights is a particular problem for electricity consumers.

The 2022 Kantar Public ‘Electricity consumer sentiment survey’<sup>25</sup> highlights UDL’s low visibility among the general public:



<sup>24</sup> Results for the period October 2021 to October 2022, based on 70 responses to surveys sent to 360 UDL service users, after file closure.

<sup>25</sup> Commissioned by the Consumer Advocacy Council. Online interviews were conducted with 1,026 household consumers and 500 business consumers over the period 25 November to 20 December 2022.

In the *New Zealand Consumer Survey 2022*, even when prompted with the names of key dispute resolution services, including UDL, only 16% of 2,000 surveyed members of the public knew of UDL / Utilities Disputes.<sup>26</sup> And in a 2022 Electricity Authority online survey of a nationally representative sample of 1,030 New Zealanders aged 18 years and over, when asked if they had ever heard of the UDL service, 12% said they were aware, down 1% on the previous year.<sup>27</sup>

The lack of consumer knowledge about how to make a complaint is not confined to the energy sector in New Zealand. The *FMA Consumer Experience with the Financial Sector survey 2022* found that “only three in ten New Zealanders feel very or fairly confident in knowing what steps to take if they experienced unfair treatment”.<sup>28</sup>

Given the low awareness of UDL, it is likely that there is a significant level of unmet need among electricity and gas consumers. UDL has previously estimated that 4.5% of all electricity consumers have unresolved complaints about their electricity company.<sup>29</sup>

The UDL Board and management are acutely aware of the need to increase awareness of UDL and the Energy Complaints Scheme in the general population, especially among those who are experiencing energy hardship. UDL’s ‘Communications and Engagement Strategy 2022-2024’ outlines a strategy of active community engagement and Māori engagement, with a dedicated full-time Community Engagement Officer and a Māori Cultural Advisor. UDL’s strategy aims to raise awareness of UDL and its services among vulnerable groups and agencies, by building relationships with Māori agencies and community organisations. The focus on Māori reflects UDL’s emphasis on ensuring that its services are consistent with Te Tiriti and recognises that significant numbers of Māori experience energy hardship and need help with billing and disconnection problems.

To date, Community Engagement Officer Jessica Niemack has concentrated on building strong links with community and social agencies in South Auckland, an area characterised by low-income households and large Māori, Pacific and migrant populations, often living in homes with multiple dwellers and experiencing financial hardship and dependence on budgeting services and food banks. An example is the weekly clinics held at the Pride Project in Manurewa, where Jessica has built trust in the local community and is known as ‘the Power Lady’ who helps tāngata whai ora stressed by power bill arrears.

In the first half of 2023, UDL partnered with the Banking Ombudsman in holding focus groups in lower decile, harder-to-reach communities in Mangere, Gisborne, Porirua and

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<sup>26</sup> *New Zealand Consumer Survey 2022* (MBIE, 2022) Figure 10, p 21.

<sup>27</sup> Electricity Authority survey of residential electricity consumer perceptions 2021/22 (Electricity Authority, 2022), p 24.

<sup>28</sup> Financial Markets Authority research report (2022), p 11:

<https://www.fma.govt.nz/assets/Reports/FMA-Consumer-Experience-with-the-Financial-Sector-Survey-2022.pdf>

<sup>29</sup> Utilities Disputes’ Submission to the Electricity Price Review – First Report (2018), p 19:

<https://www.mbie.govt.nz/dmsdocument/4233-utilities-disputes-electricity-price-review-first-report-submission>

Christchurch. Feedback indicated that to increase awareness of UDL's services, communication and engagement needs to be face-to-face and in the community, if it is to be effective.

Staff from the Electricity Authority commented favourably on UDL's efforts to raise awareness in local communities not only about the Energy Complaints Scheme but more generally about the rights of electricity consumers under the Consumer Care Guidelines.

UDL's visibility in the community would be enhanced by employment of additional staff as community engagement officers. Its current Communications and Engagement Strategy depends on herculean efforts by a single Community Engagement Officer based in Auckland. Even with the partnership role played by UDL's Māori Cultural Advisor, community engagement staff numbers need to be increased, to cover parts of the country other than Auckland. Given the universal praise for the effectiveness of the UDL engagement officer in building links with community support and advocacy organisations working with vulnerable consumers, and raising the profile of the Energy Complaints Scheme, there is a compelling case to increase resources in this area. In light of the overlap of their work and the people in need of their services, UDL may wish to consider partnering with the Banking Ombudsman in contracting community engagement officers.

#### **Recommendation 1**

*UDL should employ additional Community Engagement Officers, based in communities of need outside of Auckland, to build links with community support and advocacy organisations working with vulnerable consumers and raise the profile of the Energy Complaints Scheme.*

UDL should also continue to work with providers and other agencies to promote UDL and the Energy Complaints Scheme. UDL already works closely with the Banking Ombudsman, which makes good sense given that consumers experiencing financial and energy hardship are likely to have problems with both their banks and energy retailers – and to need recourse to an independent complaint scheme resolution scheme. One interviewee suggested that there could be a useful education piece between UDL, the Banking Ombudsman and financial mentors, to promote both schemes.

UDL has well-established links with FinCap, Consumer New Zealand, which runs the Powerswitch website, and the relatively new Consumer Advocacy Council. UDL should maintain and further develop these links. At interview, Consumer NZ noted the potential for the Consumer NZ call centre and the UDL First Contact team (ie, UDL's call centre) to get together and share lessons.

UDL should strengthen its links with other agencies (including budgeting services and community support and advocacy organisations) that are well placed to promote UDL and the Energy Complaints Scheme among vulnerable communities. Agencies with nationwide networks, such as Community Law Centres, Citizens Advice Bureau and the Nationwide Health & Disability Advocacy Service, can provide a valuable education awareness conduit for UDL.



UDL naturally has good links and regular contact with its scheme participants. While UDL needs to maintain its independence, good communication between providers' customer relations staff and UDL staff is important. It enables the sharing of emerging energy issues and lessons in complaint resolution, builds trust and strengthens support for the scheme. The current range of contacts and educational activities (notably UDL's webinars) are welcomed by providers and helpful for UDL staff in staying up to date with developments in the industry.

Retailers will usually be the first port of call for customers to raise a concern. The Scheme Rules require providers to promote the relevant scheme on any invoice or other customer information, have a documented complaints process and provide information about it to customers, provide UDL's contact details to complainants and advise them of their right to complain to UDL, if not satisfied with the outcome of their complaint to the provider.<sup>30</sup>

The need to improve consumer awareness of UDL prompted the Electricity Price Review to recommend the Electricity Authority to amend the Electricity Industry Participation Code to require retailers to provide clear and prominent information on their websites and all customer communications (including bills) – a change implemented by the Code change in 2021.

The Code change has helped promote awareness of UDL among electricity consumers. The Consumer Care Guidelines issued by the Electricity Authority, which are currently voluntary,<sup>31</sup> could explicitly specify that a retailer's consumer care policy include a requirement to inform consumers of their rights (including the right to complain to UDL) and enable consumers to exercise their rights.<sup>32</sup> An amendment along these lines would be consistent with the Electricity Authority's new objective "to protect the interests of domestic consumers and small business consumers in relation to the supply of electricity"<sup>33</sup> and with the commitment by the Authority and UDL to work together in areas of common interest relating to the supply of electricity to New Zealand consumers.<sup>34</sup>

Guidance on complaint handling is a well-established role for Ombudsman offices.<sup>35</sup> UDL currently provides complaint handling training to providers. In partnership with the

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<sup>30</sup> General Rules, cl 12(a), (b), (c), (f), (g): <https://www.udl.co.nz/assets/Publications-and-schemes/Scheme-Complaints-Rules/ECS-rules-Utilities-Disputes-1-April-2019.pdf>

<sup>31</sup> In September 2023, the Electricity Authority commenced a consultation on options to update and strengthen the guidelines: 'Improving the Consumer Care Guidelines' – <https://www.ea.govt.nz/projects/all/consumer-care-guidelines/consultation/improving-the-consumer-care-guidelines/>. The Consumer Advocacy Council has called for the guidelines to be made mandatory: 'Time to make Consumer Care Guidelines Mandatory', Consumer Advocacy Council news release, 15 May 2023: <https://www.cac.org.nz/news/time-to-make-consumer-care-guidelines-mandatory/>

<sup>32</sup> Compare the similar overarching duty on providers of health and disability services in the Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulation, cl 1(3).

<sup>33</sup> Electricity Industry Act 2010, s 15(2), inserted by the Electricity Industry Amendment Act 2022, s 10(3), effective 31 December 2022.

<sup>34</sup> Memorandum of Understanding between Electricity Authority and Utilities Disputes Limited, 8 March 2022.

<sup>35</sup> The Scottish Public Services Ombudsman is a leader internationally in this field and has developed model complaint handling procedures for public services: see <https://www.spsso.org.uk/the-model-complaints-handling-procedures/>

Resolution Institute, UDL has developed three different training levels to assist providers to educate their complaint handling staff.

Although the Energy Scheme Rules do not envisage UDL preparing a code of conduct providers must follow when handling complaints,<sup>36</sup> UDL should continue to provide best practice guidance on complaint handling, including the requirement that customers are informed of their right to complain to UDL at any time. UDL could also require providers to self-audit and report on their handling of complaints, consistent with its power to collect and analyse “information about complaints and their handling and about the utilities sector”.<sup>37</sup>

### Early resolution

As noted by John McMillan, “each Ombudsman scheme necessarily develops a model and approach that is attuned to its own jurisdiction and cultural setting”.<sup>38</sup> UDL has continued to evolve and improve its approach to dispute resolution in the six years since the 2017 Independent Review, responding to increased demand for its services.

Since its foundation under CEO Judi Jones, who served as Commissioner for 14 years (2002-2016), the UDL approach to complaint handling has been marked by pragmatism and a strong emphasis on conciliation and early resolution. Ombudsman offices have historically looked for investigative and analytical skills in their caseworkers. UDL staff also pay close attention to the procedural, emotional and substantive needs of the parties in a conciliation and negotiation process.<sup>39</sup>

Communication skills and the ability to clarify and ‘reality test’ a complainant’s expectations, while being sensitive to their emotions, are critical skills in effective dispute resolution. Complainants want “to be heard, understood, taken seriously, offered a satisfactory explanation and responded to with respect”.<sup>40</sup> From my review of phone call records and emails, UDL staff excel in these aspects of dispute resolution and achieve very good results. Under the leadership of Commissioner Mary Ollivier, these techniques are now being enhanced by training all staff in a tikanga-based dispute resolution framework, which seeks to resolve disputes using beliefs, principles and values that derive from mātauranga Māori (traditional Māori knowledge).<sup>41</sup>

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<sup>36</sup> Energy Scheme Rule 13. Contrast the general discretion for UDL to issue a “code of conduct Providers must follow when handling complaints”, in General Rule 48(g). In April 2023, UDL issued a Customer Services Code (2023) for the Telecommunications Complaints Scheme: see <https://www.udl.co.nz/assets/Publications-and-schemes/Scheme-Complaints-Rules/The-Telecommunications-Customer-Code.pdf>

<sup>37</sup> This is a permitted activity for UDL under its General Rules, cl 48(e).

<sup>38</sup> John McMillan, ‘Complaint Handling Effectiveness: What Can We Learn from Industry-Based Ombudsmen Schemes?’, ch 8 in M Groves and A Stuhmcke (eds), *The Ombudsman in the Modern State* (2022), p 180.

<sup>39</sup> Nicely captured in the ‘Satisfaction Triangle’: [https://clu-in.org/conf/tio/negotiations4\\_100810/satisfaction-triangle-Chris-Moore-and-Australia.pdf](https://clu-in.org/conf/tio/negotiations4_100810/satisfaction-triangle-Chris-Moore-and-Australia.pdf). I am indebted to Judi Jones for this reference.

<sup>40</sup> Gavin McBurnie, ‘Evolving as a modern Ombudsman office’, ANZOA conference paper, July 2023. In the quoted passage, McBurnie cites Sharon Gilad, “Accountability or expectations management? The role of the ombudsman in financial regulation” *Law & Policy* (2008) 30(2): 227-253.

<sup>41</sup> Training is provided by the Tūhono Collective: <https://www.tuhono.nz/>

UDL senior management stay abreast of developments in industry-based dispute resolution in New Zealand (including through close links with the Banking Ombudsman) and Australia, through membership of ANZOA (the Australian and New Zealand Ombudsman Association) and ANZEWON (the Australian and New Zealand Energy and Water Ombudsman Network) and regular attendance at their conferences.

UDL also learns from independent reviews of other industry-based schemes. The independent review of the Telecommunications Industry Ombudsman (TIO) in Australia in 2022<sup>42</sup> has been closely studied by UDL and has influenced its dispute resolution model. Two strong themes in the TIO review were that for most complaints, the best opportunity for resolution is early in the process of contacting the scheme; and that ‘refer backs’, when the complainant is simply given the contact details of the company and left to their own resources, do not meet complainants’ needs. Research confirms the importance of an Ombudsman scheme operating as a ‘one stop shop’, with no wrong front door for complainants.<sup>43</sup>

Taking on board these important lessons, UDL has significantly increased its staff resource in the ‘front end’, with its First Contact and Early Resolution teams. The effectiveness of this change is reflected in results, with 97% of complaints being resolved after initial assessment but without the need for formal investigation. Staff negotiate or conciliate in phone and email communications with the parties, in order to reach a satisfactory settlement. File reviews show staff ‘checking in’ regularly with complainants during the early resolution phases. In cases where the complainant is referred back to the company, the file is kept open until the complainant confirms that the complaint is resolved and the company has fulfilled any undertakings.

If, during the early resolution stage, staff form the view (based on an initial assessment and preliminary investigation) that the provider has acted appropriately, a ‘no further consideration’ (NFC) letter will be sent to the complainant. NFC decisions provide clear reasons for the parties and may avoid the need for a lengthy, formal investigation process where there is little chance of a successful outcome.

UDL relies on the discretion in rule 18 of the General Rules, which states: “Utilities Disputes may refuse to deal, or stop dealing, with a complaint if Utilities Disputes considers it appropriate”, including “where it appears to Utilities Disputes, on the basis of the facts presented by the complainant, that the relevant provider has made a reasonable settlement offer in settlement of the complaint”. The language of the rule is rather harsh and not consumer-friendly. In practice, UDL staff soften the language by words such as:<sup>44</sup>

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<sup>42</sup> *Five-year Independent Review of the Telecommunications Ombudsman* (G McBurnie & J Williams, Queen Margaret University, 2022): <https://www.tio.com.au/about-tio/independent-review/independent-review-2022/>

<sup>43</sup> See the University of Sydney report, *What will energy consumers expect of an energy and water ombudsman in 2020, 2025, and 2030?* (2019), p 11: <https://www.ewon.com.au/content/Document/Publications%20and%20submissions/EWON%20reports/ANZEWON-report-Dec-2019.pdf/>

<sup>44</sup> Case example provided to reviewer by Deputy Commissioner.

“The issues I need to consider to determine Mr A’s complaint are:

- Did X [the company] provide appropriate and correct information about its services and prices?
- Did X apply its charges correctly?

If I am satisfied X has acted appropriately in relation to the above issues, I can decide to take no further action in relation to Mr A’s complaint. If I determine X has not acted appropriately, I can decide to investigate the complaint further.”

In keeping with modern legislative directions for Ombudsman schemes, and with the wording that UDL is using in practice, it would be helpful to amend the wording of the ‘no further consideration’ discretion in the General Rules along the following lines:<sup>45</sup>

“At any time after completing a preliminary assessment of a complaint ... the Commissioner may, at his or her discretion, decide to take no action or, as the case may require, no further action on the complaint if the Commissioner considers that, having regard to all the circumstances of the case, any action or further action is unnecessary or inappropriate.”

### **Recommendation 2**

*The wording of General Rule 18 of the Energy Complaints Scheme should be revised to express the discretion to take no further action on a complaint in clearer and more neutral language, specifying a discretion to take no further action on the complaint if UDL considers that, having regard to all the circumstances of the case, further action is unnecessary or inappropriate.*

The exercise of the ‘no further consideration’ (NFC) discretion should always be accompanied by reasons, which is UDL practice. Complainants should also be given a brief time (perhaps five working days) to provide any further feedback before the NFC decision is finalised, consistent with fairness and good administrative practice, rather than simply being told that a final decision has been made to close the file.<sup>46</sup> This has been UDL practice in the past and should be reinstated.

Stand-out features of the early resolution model adopted by UDL are:

- investment in training all staff in mediation, so that everyone involved in the handling of a complaint has a single-minded focus on what it will take to resolve the matter

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<sup>45</sup> Health and Disability Commissioner Act 1994, s 38(1) – Commissioner may decide to take no action or no further action on complaint.

<sup>46</sup> At the time of file closure, complainants are advised that they may contact UDL again if there is new or relevant information that was not available during the assessment or investigation, or if they can show that the Commissioner’s decision was based on a significant error.

- use of complaint summaries that carefully capture what the complainant says is the issue, its impact and the remedy sought, and are shared with the complainant and the company at the same time
- continually looking for opportunities for conciliation, such as by video-conferences, even when a complaint has been assigned for formal investigation
- incorporation of tikanga-based approaches to dispute resolution where preferred by the parties
- a culture of collaboration among UDL staff, with strong emphasis on teamwork and discussion (in 'scrum' meetings) of complex or perplexing cases.

Are there any risks or downsides to early resolution as practised by UDL? Two risks merit consideration.

First, there is a risk of 'chequebook justice'. Companies may calculate that it is in their interests to 'pay off' or settle an individual complaint, thereby avoiding the financial levies that kick in once a complaint is under investigation by UDL as well as the costs in time and money when responding to UDL throughout an investigation, which can be a protracted process. Comments from retailers at interview confirmed that such calculations are prominent in their thinking, unless the complaint is seen as so important – because of the risk of an unhelpful precedent determination adverse to the supplier – that it will be contested all the way.

The second, related risk is that early resolution may meet the interests of an individual complainant, who gets their problem sorted, but fail to address what may be a recurrent, systemic issue affecting many of a retailer's customers. One advantage of a determination by the UDL Commissioner is that the formal ruling creates valuable guidance<sup>47</sup> for everyone in the energy sector, putting a line in the sand for future disputes.

Internationally, as Ombudsman schemes are inundated with complaints, there is a natural tendency to promote early resolution and conciliation, but there is also recognition that investigation and formal rulings are an important function for an Ombudsman. Some offices are moving to increase the proportion of complaints that are formally investigated, generating guidance that can be shared in the relevant sector by issuing decisions on what is fair and reasonable.<sup>48</sup>

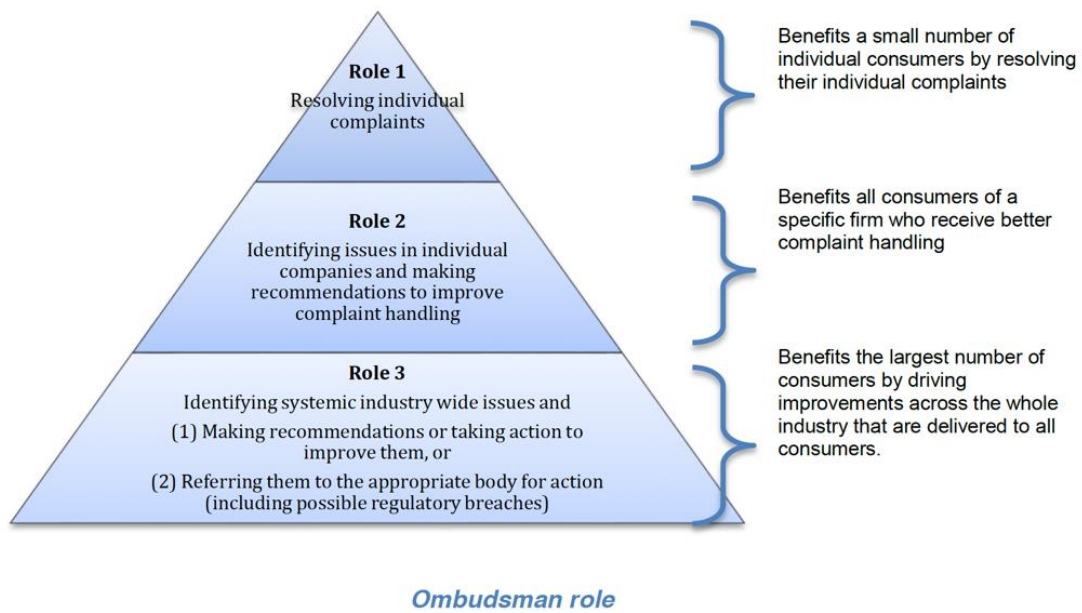
The various spheres of influence of an Ombudsman are nicely represented in this diagram, in a 2015 review of Ombudsman services in the energy sector in the United Kingdom.<sup>49</sup>

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<sup>47</sup> Previous UDL decisions are not a binding legal precedent, since General Scheme Rule 31(c) states that the Scheme "must aim to be consistent with the way other Complaints have been resolved by Utilities Disputes ... Decisions do not create precedents."

<sup>48</sup> Interview with Catherine Wolthuizen, Energy and Water Ombudsman of Victoria, 12 July 2023.

<sup>49</sup> *Review of Ombudsman Services: Energy* (Report for Ofgem by Lucerna partners, 2015), p 18: <https://www.ofgem.gov.uk/publications/review-ombudsman-services-energy>



UDL is operating effectively in role 1, resolving individual complaints through conciliation by First Contact and Early Resolution staff. Some of those resolutions may help individual companies fix a problem affecting other customers, fulfilling role 2. But the potentially greatest impact – role 3, identifying systemic, industry-wide issues – may not be reached if there is too much emphasis on early resolution. I return to this issue in my discussion below of learning from complaints and reporting of systemic issues.

### Investigation delays

As UDL notes in its Annual Report 2022-2023, “the significantly higher number of cases received and closed through our early resolution efforts has meant that the cases accepted and investigated ... are more complex and taking longer to close”.<sup>50</sup> This has led the average time for files to remain open to creep up, with a current average of over 45 days.<sup>51</sup> In 2021-2022, energy complaints took on average 70.3 working dates from date accepted to date closed – an increase from average 43.4 days in the previous year.

The delays are frustrating for complainants and companies. A complainant whose complaint was not upheld by a Commissioner determination advised me:

“My complaint was lodged in August, but not finished until September the following year. Too long! I felt that I wasn’t listened to. I had to chase UDL for responses.”

Several providers, drawing on their experience of UDL over time, noted a lack of communication on cases that are ‘deadlocked’ or under investigation and queried the cause of delays. One company representative commented at interview:

<sup>50</sup> Annual Report 2022-2023, p 32.

<sup>51</sup> Information provided to reviewer in April 2023.

“Some complaints go into the ether – we hear nothing then it pops up six months later. We’ve requested improvements in monthly reporting systems – we want to know the status of individual cases and when it’s likely to be resolved.”

In consultation for UDL’s ‘Forward Data Strategy’, feedback from scheme participants indicated:<sup>52</sup>

“They want to know who an action is sitting with, to check they are not a bottleneck, to have confidence that UDL is effective and efficient in their processes in dealing with each individual case ... UDL currently meets [this] through the monthly report, with the table showing active cases, though participants noted that the amount of other data in the report at best added no value, and at worst made it more difficult to focus down on the key microdata which they were interested in.”

UDL is currently trialling the production of simplified monthly updates for providers, with more specific, tailored information on the status of current cases and comparative information on the proportion of a member’s complaints that relate to a specific issue, such as disconnection, compared with the proportion of all scheme complaints about that issue. This is an excellent initiative that should both highlight any bottlenecks in UDL’s handling of a case and identify areas where a provider needs to take action.

Delays in investigation undermine confidence in any Ombudsman dispute resolution scheme. The current delays in UDL’s investigation process are detracting from the performance of an otherwise effective and efficient scheme. Senior management and the Board are aware of the problem and determined to reverse the current trend.

From my reading of files that became protracted investigations, complaints referred for investigation need senior review at an early stage and closer monitoring during the investigation. In several cases, I noted numerous ‘back and forth’ phone and email conversations between staff and the parties, a protracted information-gathering phase (possibly indicating that a staff member had been slow to appreciate what key pieces of information to request) and, in complex cases, the need for much earlier legal advice to clarify what, if anything, the Commissioner could recommend.

The following is an example of the factors that can lead to investigation delays. In a case where a complainant complained about delays by UDL in handling her complaint, a review by the Commissioner confirmed that regrettable delays had occurred in responding to a jurisdictional challenge by her electricity suppliers, assigning the file to a conciliator / investigator and following up with the suppliers for their responses. The Commissioner apologised for the delays and said that UDL was “taking steps to avoid similar delays in the future”.<sup>53</sup>

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<sup>52</sup> Draft report prepared for UDL by Martin Jenkins, November 2022, p 12.

<sup>53</sup> Report by Commissioner on complaint about delays in UDL’s handling of energy complaint, 2022.

A number of initiatives currently being rolled out will help surface delays and tackle problems. They include the new CRM electronic case management system, the revised monthly updates for providers noted above and relatively new KPIs (key performance indicators) for UDL staff. The file updates and sharing of regular KPI reports with managers and staff will usefully highlight where delays are occurring and should help lift performance. These are all good enablers.

However, it will take a concerted effort and leadership from managers and senior leadership at UDL to turn around the investigation times. Files that exceed specified times should be subject to automatic review by a manager and escalated to the Deputy Commissioner, if necessary (see recommendation 4 below).

I found it telling that the investigation team at UDL is called the Conciliation team. This reflects the heavy emphasis on conciliation at UDL. One staff member advised me that “the complaints process is necessarily non-linear, as it explores options for alternative dispute resolution while also seeking to progress matters towards determination of the issues”. While it is sensible to continue looking for opportunities to resolve a complaint without the need for a final determination, once a file has been assigned for investigation the focus should be on thorough and timely fact-finding and forming of a view on a fair and reasonable resolution of the matters under investigation.

In my view, there needs to be greater clarity in the purpose of the team whose members are assigned files for investigation. Although they are appropriately trained in conciliation, their role is to *investigate* the cases. The following change is intended to send a signal internally and externally about this key function within UDL’s organisational structure. It should be accompanied by development of an action plan to reduce investigation delays and reports on progress to the Board and scheme participants, and publicly in the Annual Report.

### **Recommendation 3**

*UDL should rename the Conciliation team as the Investigation and Conciliation team, and team members as Investigators or Conciliators, develop an action plan to reduce investigation delays in the Energy Complaints Scheme, and report on progress to the Board and scheme participants, and publicly in the Annual Report.*

### **Quality of decision making**

As part of my review, I read 15 files closed at different stages of UDL’s complaint process, and three decisions on complaints about the way UDL handled a complaint (so-called ‘scheme complaints’, discussed further below). In my view, UDL’s written decisions, explaining the reasons for a ‘no further consideration’ decision or a recommendation to uphold or reject a complaint (and, if the former, the basis for recommended compensation) are clear, logical, use plain English and are well written and presented. They compare favourably with decisions from other Ombudsman services known to me. The investment in training staff in decision writing is clearly paying dividends.

In more complex cases, I was impressed by the quality assurance provided by the Deputy Commissioner and noted extensive edits and comments on matters needing further



explanation. These are the hallmarks of good quality decision writing in an Ombudsman’s office.

The impartiality and independence of UDL as decision maker was also clearly evident in the files I reviewed. I detected no signs of UDL being “in the pockets of industry” or acting as “just a woolly consumer organisation always on the side of the consumer”.<sup>54</sup> Rather, I observed meticulous care to “walk the tightrope of independence”.<sup>55</sup>

Fairness is evident at all stages of the complaint handling process, and is reinforced by Board oversight and independent review of any complaint about UDL’s handling of a case.

Appropriately, if a complainant is unhappy about their interactions with UDL staff or the process of handling their complaint, including how long it took – but not the substantive outcome – they may make a complaint about UDL, known as a ‘scheme complaint’.<sup>56</sup> The Governance Charter for UDL states that it is a duty of the Board to “investigate complaints about the operation of any Scheme”.<sup>57</sup>

In the two most recent scheme complaints considered by the Board, the matter was referred to an independent expert (a lawyer / former Human Rights Commissioner and a retired judge respectively). In both cases UDL’s handling was found to be appropriate and consistent with expected service standards, and no further action was recommended in response to the complaint.<sup>58</sup>

One area where I observed scope for improving the quality of decisions is in cases with complicated facts or raising novel legal issues. On a review of two files, I was left with the distinct impression that the matter had dragged on longer than desirable, leading the complainant to assume their complaint had a realistic prospect of resulting in a favourable determination. Earlier senior and legal review of the file, soon after it had been assigned for investigation, may have clarified the extent of UDL’s jurisdiction and the range of possible remedies and avoided delays and uncertainty.

As the energy sector becomes more complicated, there will inevitably be increasing complexity in the subject matter of disputes (for example, in cases involving solar retailers and peer-to-peer traders). There may be a case for UDL to employ an in-house legal advisor (a role commonly found in Ombudsman offices, even when some conciliator and investigators are legally trained) or to seek external legal advice more readily.

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<sup>54</sup> These accusations have been levelled at UDL and its predecessor the Electricity and Gas Complaints Commission in the past: see Nanette Moreau Hammond, *Utilities Disputes Ltd Tautohetohe Whaipanga 20 Years of History* (2021), p 21.

<sup>55</sup> Hammond, *op cit*, p 21.

<sup>56</sup> See ‘Complaints about our service’ information sheet: <https://www.udl.co.nz/assets/About-us/Comments-complaints-compliments/IS13-Complaints-about-our-service-v2.pdf/>

<sup>57</sup> Utilities Disputes Limited Governance Charter, cl 18(c).

<sup>58</sup> Scheme complaint reviews, December 2020 and March 2022.

#### Recommendation 4

*UDL should formalise a process for senior and, if necessary, legal review of investigation files where there are complicated facts or novel legal issues, to occur when a complaint is first assigned for investigation or at trigger points when an investigation is exceeding expected time limits.*

#### Learning from complaints

‘Educate’ is a key dimension of UDL’s three-fold strategy to ‘Prevent, Educate, Resolve’. In some respects, UDL performs well in education, notably through its monthly webinars that are recorded as videos on its website.

General Scheme rule 48 prescribes as one of UDL’s activities:<sup>59</sup>

“e) collecting and analysing information and data about complaints and their handling and about the utilities sector, and using these to monitor, prepare and publish reports about trends, practices and systemic issues in relation to a particular Scheme.”

Publishing case studies and information about complaints trends is an important aspect of accountability, described in the Australian benchmark principles for industry-based dispute resolution as: “The office publicly accounts for its operations by publishing its final determinations and information about complaints...”

The UDL website contains ten Energy Complaints Scheme ‘complaint case examples’ with summaries of the complaint and the outcome, with catchy titles such as ‘Trimming trees near powerlines – whose responsibility?’ and ‘Flickering LED lights – whose responsibility?’<sup>60</sup> A selection of case studies (eg, ‘The empty bottle’) is published in the Annual Report.<sup>61</sup>

Case studies are a commonly used technique for Ombudsman schemes to illustrate their work, and are useful points of reference for providers, community organisations and motivated members of the public researching their options. Publication of case studies and insights is a useful way for UDL to demonstrate its accountability to the energy sector and the broader community.

In the past, UDL used to include two case studies, one related to lines distribution and one related to retail energy, in its monthly newsletter. However, it seems that in recent times, the publication of case studies has fallen away. At interview, several scheme participants and external stakeholders commented that they missed seeing case studies: “There used to be a lot of precedents published by UDL with case history – key findings and decisions – on the website. We found them really useful, but they seem to have dropped away.”

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<sup>59</sup> See General Rule cl 48(e): <https://www.udl.co.nz/assets/Publications-and-schemes/Scheme-Complaints-Rules/ECS-rules-Utilities-Disputes-1-April-2019.pdf> .

<sup>60</sup> See <https://www.udl.co.nz/en/support-and-information/case-examples/>

<sup>61</sup> See <https://www.udl.co.nz/public/report2023/#case-studies/>

The comparable Banking Ombudsman scheme publishes several short, clear and easily understood case studies on its website every month,<sup>62</sup> covering 30% to 50% of cases that are categorised as a formal dispute (ie, files that have progressed beyond early resolution). Banking Ombudsman Nicola Sladden advised me:<sup>63</sup> “We receive very positive feedback on the case notes from participants, who find them a useful tool for educating industry participants as well as consumers. In a recent survey of our participants, they all rated our case notes as useful or very useful.”

It seems likely that the drop-off in publication of case studies by UDL is related to fewer complaints going to formal investigation and concluding with a Commissioner determination. With the majority of complaints being resolved early, without formal investigation, it is important that UDL captures the lessons and outcomes of those cases, as well as the cases that are investigated.

The discipline of writing and publishing case studies can easily fall away in times of heavy complaint intake. One way to ensure they continue to be produced is to simplify the format. Case studies do not need to be a major production. There is a tendency for Ombudsman offices to write case studies as if they were a law report, making them more time-consuming to craft and less reader-friendly. UDL’s complaint summaries already provide the foundation for brief case studies, needing only the outcome and key lesson to be written up. Standardising this activity as a staff member’s final action on a file also provides a good opportunity to pause and reflect on what was learnt in handling the case.

In conjunction with publication of more case studies, there is scope for UDL to publish more prevention insights. ‘Prevent’ is the first directive in UDL’s three-fold strapline: ‘Prevent, Educate, Resolve’. The Electricity Retailers’ Association of New Zealand noted that UDL is a key source of independent information and that “members would like to see more insights – more transparent and available to retailers, so they can address emerging problems”. This view was echoed by several interviewees: “UDL needs to do more in the prevention space and share the insights back to the industry.”

During my meeting with the Energy Advisory Committee, which provides the UDL Board with advice on issues that affect industry and consumers, it was noted that UDL should report the themes it is hearing from community organisations. Regulators are also keen to be kept informed of the outcomes of complaints and trends. The Gas Industry Company – the body that works alongside industry and government to regulate gas – does not currently receive any formal data from UDL. They would find it useful to receive anonymised information on the outcome of gas complaints, which comprise around 12% of the complaints received each year by the Energy Complaints Scheme.

Effective dispute resolution schemes use their insights to help industry improve and reduce the number of complaints. Again, the Banking Ombudsman is an exemplar. Each month it circulates a one or two-page ‘Prevention Insights’ report to banks, listing recently published

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<sup>62</sup> See <https://bankomb.org.nz/guides-and-cases/case-notes?start=9>

<sup>63</sup> Personal communication, 19 June 2023.

case notes and highlighting any pertinent lessons for banks. A recent independent case audit noted the impact and influence the Banking Ombudsman has on banking practices through sharing regular prevention insights.

UDL does publish periodic practice statements and guidance notes. They are intended to offer guidance to scheme participants on how to prevent and resolve complaints, and how best to interact with UDL's processes. There are seven practice statements (eg, one on 'How Utilities Disputes handles complaints about smart meters, including installation' issued in 2022) and four notices for providers on the UDL website.<sup>64</sup> However, most date from 2016 to 2018. There is clearly scope for UDL to do more in the prevention and guidance space, through practice statements and prevention insights.

It may also be useful for UDL to issue specific guidance for individual providers. As one experienced energy advisor commented to me:

“Providers have resources and unlimited pockets. UDL needs to take them along and use their power. A few companies have a ‘service charter’ and a ‘service guarantee’ payment. UDL could write to retailer saying, for example, you should be telling customers x, y or z. Scheme rules could provide for the Commissioner to ask retailers to send information to their customers, if there’s an indication of lack of knowledge in a particular segment.”

The General Rules already provide for UDL to provide “reports and recommendations to providers based on the outcome of monitoring”. Making provider-specific recommendations for improvement in customer care and complaint handling would be consistent with the thrust of the Consumer Care Guidelines, which recommend that providers publish a consumer care policy.

Each year, UDL publishes an ‘Energy Complaints Scheme accepted deadlocked complaints report’ showing the number of deadlocked complaints that were accepted for consideration and the relevant provider (distributors and retailers), including its market share, calculated by the number of ICPs or equivalent.<sup>65</sup> Providers find the aggregated data useful,<sup>66</sup> particularly where it highlights if a company is a significant outlier, suggesting the need to do more to resolve complaints before they are escalated to UDL and reach deadlock.

UDL may wish to consider developing and publishing on its website a complaints dashboard. In order to capture energy providers’ internal complaints, they would need to be encouraged to share data about those complaints – something that is not currently required.

The Banking Ombudsman has developed an easily accessible complaints dashboard in partnership with its scheme members. It provides an industry-wide picture of what’s causing

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<sup>64</sup> See <https://www.udl.co.nz/assets/Publications-and-schemes/Practice-statements/UDL-Practice-statement-How-we-handle-smart-meters-complaints-inc-instal.pdf/>

<sup>65</sup> See <https://www.udl.co.nz/assets/Publications-and-schemes/Deadlocked-Complaints-/Accepted-Deadlocked-Complaints-report-2022-23-Final.pdf/>

<sup>66</sup> Draft ‘Forward Data Strategy’ prepared for UDL by Martin Jenkins, November 2022, p 13.

complaints and why, based on information supplied by banks. The dashboard is prominent on the Banking Ombudsman’s website and updated quarterly.<sup>67</sup> It provides detailed, comparative information about each bank’s complaints. The intention is to improve transparency and identify opportunities to learn from complaints, by helping:

- customers understand which products and services most often lead to complaints
- customers see how providers perform in responding to complaints
- providers learn to improve their products and services
- the Ombudsman’s office anticipate trends and offer timely advice
- regulators monitor the soundness of the sector.

It is unclear whether energy providers will be ready to embrace such a development, but they should be encouraged to do so, as part of their commitment to customer care and transparency. UDL, with support from key stakeholders including the Electricity Authority, the Gas Industry Company, the Commerce Commission, the Consumer Advocacy Council and MBIE energy analysts, should take a lead in exploring this idea.

### **Recommendation 5**

*UDL should reinvigorate its production and publication of case studies, practice statements, prevention insights and guidance for providers, and work with scheme participants and key stakeholders to examine the feasibility of developing a complaints dashboard for the energy sector, to maximise the potential of learning from complaints.*

### **Systemic issues**

A key dimension of accountability is described in the Australian benchmark principles for industry-based dispute resolution as “the office publicly accounts for its operations by ... reporting any systemic problems to its participating organisations, policy agencies and regulators”. As noted earlier, potentially the greatest impact for an industry-based Ombudsman scheme is in identifying systemic, industry-wide issues and (1) making recommendations or taking action to improve them, or (2) referring them to the appropriate body, including regulators, to take action.

The General Rules clearly envisage this, empowering UDL to make “recommendations and reports in light of trends, practices and issues in relation to a particular scheme or part of the utilities sector”.<sup>68</sup> UDL currently exercises this function informally, in the regular meetings the Commissioner convenes of the ‘Alphabet’ group, meeting with key members of the Electricity Authority, Gas Industry Co, Commerce Commission and energy analysts from MBIE. This is a useful forum for UDL to gain a view of issues right across the energy sector and raise concerns, issues or work initiatives related to the energy industry and consumers.

Under its Memorandum of Understanding with the Electricity Authority, UDL has committed to notify the Authority (which assumes a corresponding obligation) of “reports and insights

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<sup>67</sup> See <https://bankomb.org.nz/complaints-dashboard/>

<sup>68</sup> General Rule 48(f).

on the energy industry” and “enquiry trends and observed behaviours”.<sup>69</sup> If UDL thinks there may be systemic issue, it may refer the matter to the Commerce Commission. There is a longstanding relationship of trust between UDL and the Commerce Commission, whose staff report “the scheme is most proactive in maintaining good open lines and alerting the Commission to matters where it may be in the public interest to intervene”.

UDL has issued three systemic issues reports, which were shared with providers by email and presented at UDL’s annual forum. Providers reported that they found the reports very useful. The 8-10 page reports, published in 2019 and 2020 covered significant industry-wide problems:

- ‘What’s wrong. How can we fix it? A systemic analysis of distribution customer service’
- ‘What’s wrong. How can we fix it? A systemic analysis of retailer customer service’
- ‘How did it get so high? A systemic analysis of billing complaints in the energy sector’.

UDL is uniquely placed to identify and report on systemic issues in the energy sector. At a time of significant energy hardship, reports on topics such as disconnections could be highly influential in addressing consumer needs and improving industry practice. This is currently an area of unrealised potential value to the energy sector, where UDL can and should do more. The recent adoption of a new CRM (customer relationship management) system with simplified complaint categories will enhance UDL’s ability to mine its own data and gain research insights.

### **Recommendation 6**

*UDL should prioritise the identification and reporting of systemic issues in the energy sector, bringing them to the attention of regulators, scheme participants and the public.*

### **Happy workplace**

Anyone who has worked in an Ombudsman’s office knows that a constant diet of complaints and disputes can be wearying. When staff are confronted by difficult behaviours from stressed complainants, it can take a toll on their own mental health and wellbeing. In recent years, the Covid-19 pandemic and long periods of staff working remotely from home have contributed to loss of a sense of kotahitanga (solidarity) and mahitahi (working together) in many organisations.

My observation is that the leadership of UDL has been well attuned to these issues and has worked hard to make it a happy workplace that values employees. Staff describe UDL as “a place where people want to come to work, with lots of opportunities to grow – almost a family”. They appreciate “an open and trusting CEO” and note the benefits of having the

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<sup>69</sup> Memorandum of Understanding between Electricity Authority and Utilities Disputes Limited, March 2022, cl 7(a)(ii), (iii).

Commissioner and Deputy Commissioner working alongside them in an open plan office<sup>70</sup> and modelling willingness to have frank and robust discussions about cases.

There is significant investment in staff training (in complaint resolution, mediation, resilience, dealing with difficult behaviours, technical energy issues, relevant law and decision writing), development and wellbeing. Flexibility to work from home one day a week, or when necessary for special circumstances, has been retained. A staff engagement survey has been undertaken each year since 2018, with very good and improving overall results: most recently 4.2 out of 5 in July 2022, which compares favourably with other New Zealand workplaces.

As one staff member noted: “UDL invests in its staff and that makes a big difference, to both internal dynamics and experiences and, I think, outcomes for those who engage our services.” The result – which was clearly evident during the days I spent in UDL’s office, meeting with staff – is that the workplace is happy and has a perceptible buzz from engaged staff who clearly love their work.

Obviously, staff comfort should not be the prime consideration in a complaint handling organisation. Productivity and meeting organisational performance standards must remain the focus for UDL senior management and the Board. However, research confirms what common sense suggests: happy staff are more likely to be productive and effective in their work. On this score, the Energy Complaints Scheme is in good hands.

### Te Tiriti capability

A new dimension of this independent review is assessing whether UDL’s dispute resolution practice is consistent with Te Tiriti o Waitangi. UDL models itself on the Aotearoa Best Practice Dispute Resolution Framework developed by the Government Centre for Dispute Resolution (GCDR) within MBIE – including Standard 1, Consistency with Te Tiriti o Waitangi.

In 2021, UDL commissioned a confidential independent review by Wi Pere Mita / Laidlaw Consultants to assess whether the UDL dispute resolution schemes are aligned with Te Tiriti and accessible to Māori consumers, using the GCDR best practice framework as a guide. The report recommended improvements in each of the capability areas specified by GCDR: dispute resolution processes, relationships with Māori, equitable outcomes and Māori-Crown relationship.

In the past two years, with strong endorsement from senior management and the Board, UDL has committed to a Te Ao Māori journey that is yielding good results. Examples include the ability to provide a tikanga-based resolution process, building cultural capability in staff including knowledge of Te Ao Māori and tikanga Māori, developing strong relationships with Māori organisations with an interest in dispute resolution, and taking action to identify and remedy any structural discrimination in the scheme.

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<sup>70</sup> After two years of hybrid and flexible working arrangements, in December 2021 UDL staff returned to a smaller, modern workspace at 22 The Terrace, Wellington.

UDL's work has been led by a dedicated Māori Cultural Advisor, and the organisation has been advised by the Tūhono Collective and Wi Pere Mita. At interview, he noted:

“As a national dispute resolution scheme, UDL has shown a commitment to meeting GCDR standard 1, demonstrating a commitment to Te Tiriti and Treaty principles. The scheme design delivers culturally responsive dispute resolution services to Māori users, seeing it right through to accreditation for some staff.”

UDL continues to self-appraise against the various dimensions of Tiriti capability and is well on the way to meeting the various standards. The organisation's Te Ao Māori journey is reaping benefits by upskilling staff, developing a sense of kotahitanga and ensuring that UDL's dispute resolution services are consistent with Te Tiriti o Waitangi and accessible to Māori complainants.

### 2017 Independent Review

The 2017 Independent Review confirmed that UDL was “an effective and well run alternative dispute resolution scheme”, but made a number of recommendations for improvement. The recommendations were considered by the Board, after consultation with scheme participants and the Electricity Authority, and the majority have been implemented or remain in progress.

UDL has implemented the 2017 Review recommendations on accessibility by developing a strategic communications plan, improving the format of scheme documents to accommodate users with special needs, seeking detailed socio-demographic information from service users and working with community advocacy groups able to provide support for complainants.

In relation to independence, since 2018 the chair and members of the UDL Board are each appointed as independent members and, as recommended, an Energy Advisory Committee has been created (with three consumer and three industry representatives) to provide advice to the Board on energy issues. In response to the 2017 recommendation that it adopt “a more proactive role in complaint handling by bodies in jurisdiction”, UDL has worked with the Resolution Institute to provide complaint handling training to providers, with three different training levels offered.

The 2017 recommendation that UDL create and publish a dataset based on the significant amounts of data it holds on complaint themes and trends is still being implemented, as part of a new Forward Data Strategy. Progress has been made on the recommendation that UDL “publish and promote more of its systemic work as its contribution to the [energy] system”, via its reports to the Electricity Authority and the Commerce Commission, but more work needs to be done, as reflected in recommendation 6 of this Review.

Giving effect to the 2017 recommendation that UDL should “seek to gain additional jurisdictions covering utilities which do not already have an alternative dispute resolution scheme, to ensure coherent and simple access to redress for consumers,” remains a firm goal for the Board, but is a challenge in the fragmented dispute resolution landscape in New



Zealand. UDL has worked hard to attract additional schemes and now has a voluntary water scheme for the two biggest water providers in NZ and a telecommunications scheme pilot for a large energy provider.

Two recommendations of the 2017 Review were rejected. UDL does not name providers in its case notes. Even in an era of persistent calls for public naming to ensure accountability, industry-based dispute resolution schemes have resisted the temptation to name individual providers subject to an adverse determination, opting instead to publish aggregate data (adjusted for market share) showing how providers compare. This approach recognises the need for scheme participant co-operation in complaint processes and is likely to be more effective in achieving quality improvement for all consumers, rather than a 'name, blame and shame' approach.

The curious 2017 recommendation that UDL remove the principle of natural justice from its scheme document was also rejected. While it is true that fairness encompasses the freedom from bias and fair hearing aspects of natural justice, the latter phrase is deeply ingrained in 'ombudsprudence'. Removing the requirement for UDL to comply with the rules of natural justice in handling complaints could send an unfortunate signal to complainants and providers.

## Appendix 1

### List of external organisations and individuals interviewed during Review

Consumer Advocacy Council Chair, Deborah Hart  
Electricity Price Review Chair, Miriam Dean KC  
FinCap, CEO Ruth Smithers, Senior Policy Advisor Jake Lilley  
Consumer NZ, CEO Jon Duffy, Powerswitch Manager Paul Fuge  
The Pride Project, Operations Administrator Roxanne Pouwhare,  
Hope Navigator Polly Edwards  
Pandy Hawke, Ngāti Whatua representative  
Dr Peter Apulu, Pacific communities representative  
Wi Pere Pita, the Tūhono Collective, mediator and consultant  
Ron Beatty, energy expert advisor  
Electricity Authority, CEO Sarah Gillies  
Gas Industry Co, Principal Advisor Tim Kerr, Legal Advisor Mark Dunlop  
Commerce Commission, Principal Advisor Yvette Pickering,  
Screening and Analysis Manager Grant Barrott  
Government Centre for Dispute Resolution, Acting Head Rachel Crawley  
MBIE officials, Policy Advisor Monica Quinn, Senior Energy Analyst Michael Smith  
Electricity Retailers' Association of New Zealand, CEO Bridget Abernethy,  
Policy Advisor Ken Clark  
Minister of Commerce and Consumer Affairs, Hon Dr Duncan Webb  
Banking Ombudsman, Nicola Sladden  
Contact Energy, Head of Operations Optimisation Brook Barrington  
Electric Kiwi, Head of Customer Experience Sam Hughes  
Genesis Energy, Group Platform Owner Customer Service Tara Parata,  
Sales Operations Manager Bhags Phadiar  
Vector, Manager, Customer Experience Ross Malcolm  
Wellington Electricity, CEO Greg Skelton  
Judi Jones, former Electricity and Gas Complaints Commissioner  
Nanette Hammond Moreau, former Utilities Disputes Commissioner  
Campbell Roberts, former Board member  
Energy and Water Ombudsman of Victoria, Catherine Wolthuizen  
Telecommunications Industry Commissioner (Australia), Cynthia Gebert

## Appendix 2

### Biography of reviewer

Ron Paterson is Emeritus Professor of Law at the University of Auckland and Senior Fellow at the Melbourne Law School. He has law degrees from Auckland and Oxford Universities and is admitted as a barrister and solicitor of the High Court of New Zealand. He undertakes mediations in the public sector, having trained in mediation with leading US programmes in Colorado and at Harvard.

Ron's career has been in tertiary education and public service roles. He was a Deputy Director-General of Health 1999–2000, Health and Disability Commissioner 2000–2010, Chair of the Banking Ombudsman Scheme 2010–2013 and Parliamentary Ombudsman 2013–2016. He is a member of the Board of the Health Quality and Safety Commission and lay member of the Medical Council. His research interests include complaint resolution, inquiries and the regulation of professions.

Ron has led several major inquiries and independent reviews in New Zealand and Australia, in patient safety and quality, medical regulation, veterans' support, mental health and the regulation of lawyers.

