

3 March 2020

By email AwarenessOfUDandPS@ea.govt.nz

Submission to the Raising consumer awareness of Utilities Disputes and Powerswitch services Consultation Document

Utilities Disputes welcomes the opportunity to comment on the *Raising consumer awareness of Utilities Disputes and Powerswitch services* Consultation Document. We agree that ensuring there is adequate information available to consumers in the electricity market about how to access a specified consumer dispute resolution service is crucial for contributing to ensure the market in New Zealand is efficient and competitive.

Background

Utilities Disputes provides an independent and effective resolution service for complaints and disputes companies have been unable to resolve with complainants. Utilities Disputes operates three dispute resolution schemes: the government approved Energy Complaints Scheme and Broadband Shared Property Access Disputes Scheme (BSPAD), and the voluntary Water Complaints Scheme.

Utilities Disputes, formerly the Office of the Electricity and Gas Complaints Commissioner, was incorporated as a limited liability not-for-profit company and rebranded as Utilities Disputes on 1 November 2016. The purpose of the name change was to allow Utilities Disputes to provide multiple dispute resolution schemes under an umbrella structure rather than being viewed as limited to electricity and gas disputes.

Utilities Disputes is governed by an independent Board.

It has specialist Advisory Committees for our Energy and BSPAD schemes. These committees provide consumer and industry feedback to the Board.

Submission

We have responded below to each consultation question in the Appendix. For the purpose of our submission, we have referred to our member companies as 'providers'.

If we can be of any further assistance, please contact Paul Moreno, Research and Reporting Manager at p.moreno@utilitiesdisputes.co.nz.

Yours sincerely



Mary Ollivier
Commissioner + CEO
Utilities Disputes

Appendix: Utilities Disputes' response to the consultation questions

Q1 Do you agree the issues identified by the Authority are worthy of attention

and

Q2 Do you agree with the objectives of the proposed amendment? If not, why not

We agree the issues identified by the Authority are worthy of attention. We note this was a focus of the Electricity Price Review where low awareness of Utilities Disputes and Powerswitch was identified as an issue that needed to be addressed.

We agree with the objectives of the proposed amendment to improve consumer awareness of Utilities Disputes and Powerswitch.

We believe the level of awareness and need for awareness of Utilities Disputes and of Powerswitch are somewhat different. While they are both important we consider Utilities Disputes has the greater need for increased awareness.

Awareness

The consultation paper refers to between 4 and 6% of consumers are aware of Utilities Disputes. In March 2019 an independent survey commissioned by Utilities Disputes found unprompted awareness of Utilities Disputes is 2%, and prompted awareness is 8%. MBIE's National Consumer Survey 2019 tracks prompted awareness of Utilities Disputes at 8%.

Awareness of Utilities Disputes is undoubtedly low when compared to other dispute resolution schemes in New Zealand and Australia. MBIE's National Consumer Survey 2018 estimated the following awareness levels of schemes:

Disputes Tribunal 80%

Banking Ombudsman Scheme 51%

Motor Vehicle Disputes Tribunal 35%

Insurance and Financial Services Ombudsman Scheme 31%

Telecommunications Dispute Resolution: 16%

Financial Dispute Resolution Service: 15%

Utilities Disputes: 8%

Awareness of our Australian counterparts (Energy and Water Ombudsman schemes) is estimated to be around 50-66%.

Unmet need

Perhaps of greater concern however is the reference to the likely unmet need for Utilities Disputes' service that was identified in the consultation paper. The March 2019 independent survey found 10% of people have had an issue (ever) with their electricity or gas company, and 22% of them never had the problem resolved. If this finding is correct and if we assume there are around 2.1 million ICPs in New Zealand, each having one possible complainant per ICP, this translates to around 46,000 potential unresolved complaints.

MBIE's National Consumer Survey 2018 is in line with these statistics noting approximately 12% of consumers who bought utilities services (electricity, gas, or water) in the 2 years ending November/December 2018 had a complaint.

Of those, 79% took action, with the majority raising the complaint with the provider. However, 32% of those who took action said they were not satisfied with the outcome and a further 11% said their complaint was unlikely to be resolved. We survey and report against questions to assess complainant satisfaction of our service. In 2019 we recorded an average complainant satisfaction of 4.30 out of 5 for our service.

Mystery shopper – lack of referrals

The consultation paper notes consumers are not regularly being referred to Utilities Disputes by their electricity providers. This is borne out by our own research. In 2017 we conducted a mystery shopper exercise where we anonymously phoned our largest 32 providers and asked for Utilities Disputes' contact details. 16 of the 32 providers failed to provide correct contact details for Utilities Disputes when prompted on one or more calls.

A further question was asked in a second call enquiring how a friend of the caller could make a complaint. This gave the provider the opportunity to explain its complaints process and provide unprompted information about Utilities Disputes. If Utilities Disputes' information was not provided unprompted, the caller asked what their friend can do if they aren't satisfied with the result of the provider's complaints process, giving the provider the opportunity to provide information about Utilities Disputes. 17 of the 30 providers contacted did not identify the existence of Utilities Disputes when prompted during one or more calls. 20 of the 30 providers contacted failed to provide or provided incorrect contact details for Utilities Disputes when prompted during one or more calls.

At the time of writing this submission we are part way through conducting a current mystery shopper exercise.

Powerswitch awareness

We broadly support greater awareness of Powerswitch. We note the switching mechanism has received significant investment since the Consumer Switching Fund was established in 2010 and has far greater awareness in the marketplace than does Utilities Disputes. From a provider's point of view it is likely that the two services are viewed differently.

Grouping awareness of Utilities Disputes with awareness of Powerswitch

The consultation paper notes Utilities Disputes' awareness is estimated to be between 4% and 6% where as Powerswitch awareness is estimated to be 60.8%. Clearly Utilities Disputes has a greater need currently for awareness measures.

In our view Utilities Disputes' details are most appropriately linked to the contact details of a provider, or in the case of an invoice, the price. We believe the contact section of directed consumer communications is the most appropriate and most likely place for consumers to look for information when they have a complaint. We believe placing Utilities Disputes' details near the price on an invoice will have the greatest impact on awareness because we believe consumers primarily look at their invoices to see the amount owing.

Providers hopefully see Utilities Disputes as an extension of their own customer service team and our objective is to resolve the issue for both the customer and provider with an added objective of maintaining the relationship where possible although noting that consumers can always switch to another provider.

Powerswitch information may be preferably included on invoices and other customer communications displayed near the price on invoices as pricing is the primary reason for consumers using Powerswitch.

Q3 Do you agree the benefits of the proposed amendment outweigh the costs?

While we agree the benefits of the proposed amendment outweigh the costs, we believe the unmet need for Utilities Disputes' service is not sufficiently included in the Authority's cost benefit analysis. The Authority has only calculated the benefit in terms of time savings for those consumers who are already accessing our service and not included the benefit to those who would gain access to our service through increased awareness.

The Authority is estimating awareness could increase to 25%. We believe this increased awareness would significantly reduce the unmet need for Utilities Disputes' service, which we estimate to be around 46,000 consumers (see explanation of this in our response to questions 1 and 2) who need our service and have not accessed it.

Q4 Do you agree the proposed amendment is preferable to the other options? If you disagree, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.

We agree the proposed amendment is preferable to the other options identified by the Authority. We agree with the Authority's reasoning that the change is relatively simple and low risk and does not merit delaying for consumer advisory council input.

We do not believe a voluntary industry led approach would be as effective as the Authority's proposal. Industry has been working under a less prescriptive arrangement through Utilities Disputes' rules for a number of years. This has resulted in the current position with different providers operating to different standards and low consumer awareness of Utilities Disputes. We have met with retailers and distributors to discuss this but have been unsuccessful to date in finding a satisfactory workable solution.

Q5 Do you agree the Authority's proposed amendment complies with section 32(1) of the Act?

We agree the Authority's proposed amendment complies with section 32(1) of the Act.

Q6 Do you have any comments on the drafting of the proposed amendment?

We believe promotional requirements should be consistent across all providers in Utilities Disputes' Energy Complaints Scheme. The proposed amendments place different requirements on distributors and retailers, and the proposed guidelines place different requirements on Transpower.

The proposed amendment says distributors who directly invoice consumers for lines function services must include Utilities Disputes' details on invoices or documents relating

to the supply of line function services. The proposed amendment does not require distributors who do not direct invoice to provide Utilities Disputes' details, and only requires retailers to provide Utilities Disputes' details on websites and consumer communications.

We believe all distributors, including those who do not directly invoice consumers, should be required to provide information about Utilities Disputes on invoices and consumer communications. All distributors receive complaints from consumers, not just those who direct bill, therefore all distributors need to tell consumers about Utilities Disputes.

Under Utilities Disputes' rules distributors and retailers are both held to the same standard of promoting Utilities Disputes on *relevant customer information*. The standard proposed by the Authority would place inconsistent requirements on distributors, that are to a lesser standard than those in Utilities Disputes' rules. Last year around 38% of the complaints investigated by Utilities Disputes were about distributors.

We believe the proposed threshold of including Utilities Disputes' details in **all** consumer communications is too high. We believe it is the Authority's intention to require Utilities Disputes' details be included in all **directed** consumer communications is appropriate and needs to be made clearer in the proposed amendment.

As explained in our response to Questions 1 and 2, we believe Utilities Disputes' information should be displayed with the provider's contact information on directed consumer communications and with the price on invoices.

Q7 Do you have any comments on the proposed principles?

Principle 1: Communication should be prominent

The Guiding Principles require communication of Utilities Disputes' details to be prominent, but not so prominent that it overshadows the key purpose of the communication. We support this clarification, noting it requires many of our providers to increase how prominently they are displaying Utilities Disputes' information. We can draw on our own experience of where our details were required and given more prominence on providers' invoices.

Utilities Disputes requires providers to promote its schemes on any invoice to customers and in other relevant customer information (Utilities Disputes General Rule 12(a)). This rule allows providers to place Utilities Disputes' details on invoices in a flexible way. Utilities Disputes' details currently tend to be in fine print, towards the end of customer information, and, to be more effective should be displayed more prominently.

The requirement for Utilities Disputes' details to be included in invoices first came into effect during 2010. That year we saw case numbers increase from around 900 to around 2500, and increase again to around 4500 every year since. It is important to note this increase was not solely driven by increased enquiries (enquiries are often consumers trying to contact their energy company), the ratio of complaints to enquiries remained consistent after Utilities Disputes' contact details were required to be included on invoices.

In 2011 Utilities Disputes noted one provider appeared to be disproportionately represented in its total case numbers, with around 25% of Utilities Disputes' cases coming

from that provider. This compared to around 5 to 15% of total cases coming from this provider in previous years. This provider was prominently displaying Utilities Disputes' contact details on the front of its invoices. The provider moved Utilities Disputes' contact details to a less prominent position on its invoices, and in subsequent years this provider's total case numbers dropped to around 10% of total cases considered by Utilities Disputes. This is direct evidence of the prominence of Utilities Disputes information impacting the number of consumers contacting us.

In our experience if Utilities Disputes' contact information is displayed *too* prominently on the front of invoices and on the first page of websites there is a risk that consumers can confuse Utilities Disputes with their provider and Utilities Disputes would receive many calls intended for providers. This would mean Utilities Disputes is less able to perform its complaint resolution function.

This is one reason why we support the Authority's principle that Utilities Disputes' details should be prominent, but not so prominent that they overshadow the key purpose of the communication. We also believe the most appropriate place for Utilities Disputes' contact information is for it to be appropriately displayed where consumers are likely to look for information. We believe on directed consumer communications consumers are most likely to look for complaint information where the provider's contact details are displayed and on invoices consumers are most likely to look at the price.

Technology neutral

We note the Guiding Principles are designed to be technology neutral. This is important as we have concerns about the ongoing relevance of invoices. In 2010, when the requirement to place Utilities Disputes' information on invoices was first implemented, the majority of consumers were receiving paper invoices or equivalent through email. Now with the increased use of mobile apps and more creative pricing plans we believe consumers are less likely to view traditional invoices.

We have also seen examples of providers sending customers an email with the amount to be paid included in the email text and a more formal invoice attached, in this instance the consumer is less likely to open the attached invoice and become aware of Utilities Disputes. In this case we support the Authority's intention that will see Utilities Disputes' contact information required in customer communications.

Phone message

We support Utilities Disputes' information being made available in an introductory message when calling a provider. Providers are currently required to inform complainants of Utilities Disputes, however this is often problematic with providers sometimes not recognising or identifying a complaint. Financial Service Providers inform all callers they are members of a dispute resolution scheme. Many choose to do this by way of an automated phone message at the start of every call. At least one insurance company refers to the Insurance Ombudsman while callers are waiting to speak to a customer service representative. A similar requirement for Utilities Disputes' providers would help ensure all consumers are aware of Utilities Disputes.

Principle 2: Communication should be clear

and

Principle 4: Communication should be simple

We agree information provided about Utilities Disputes should be clear and simple. We agree the information should include the name and purpose of Utilities Disputes and contact details including telephone number and a URL to our website.

We believe, where technology and space allows, providers should go into more detail. This would include Utilities Disputes' logo as a live link to "How to make a complaint" section of Utilities Disputes' website on all directed consumer communications.

We have standard recommended text we send to all of our providers. We can share this with the Authority.

Principle 3: Communication should be consistent

We believe there is conflict between the principles of communication being consistent and appropriate. We consider it is more important that the contact information is provided in a way that is accessible to specific classes of users, for example information provided through technology like an app might be written in language that is more accessible and easily understandable to its users when compared to information provided through a retailer's terms and conditions or as part of a telephone call. We do not see the need for exact consistency across all forms of communication within the retailer or distributor so long as the information provided meets the other agreed principles.

Principle 5: Communications should be appropriate

We agree communications about Utilities Disputes should be appropriate to the situation. We believe where the primary message of the communication is about safety it may not be appropriate for providers to include information about Utilities Disputes as it may cloud the important message of safety. This is consistent with our submission in relation to Question 6.

Items where the principles should be applied

The guidelines propose distributor communication with consumers billed directly are considered in scope, but are silent on distributor communication for distributors who don't direct bill consumers. Consistent with our response to question 6, we believe the same standard should apply to all distributors and retailers.

We believe it needs to be clarified that all **directed** consumer communications are in scope, rather than **all** consumer communications. We believe this was the Authority's intention.

Items where the principles may not need to be applied

Transpower is required by Utilities Disputes' rules to include Utilities Disputes' details on its communications with consumers and on its website. It is required to because consumers are able to make complaints about Transpower. The Authority is proposing this is not required under its Guiding Principles, which would be a lesser requirement than Utilities Disputes'

current rules. Likewise, the Authority Guiding Principles are proposing distributors who only direct bill and interact with a small number of high value major customers are not expected to comply, when these providers are required to comply under Utilities Disputes' rules. We believe the Authority's Guiding Principles should be consistent with Utilities Disputes' rules and consistent across all providers.