

EWOV SYSTEMIC ISSUE | POLICY at November 2018

1. What is EWOV's role?

Apart from EWOV's role of assisting energy and water consumers to resolve problems with their company, EWOV also has a systemic issue role.

Energy-related Systemic Issues:

EWOV identifies and reports energy-related systemic issues to the Essential Services Commission (ESC) for its investigation and subsequent actions. The ESC believes its legislative mandate for investigation of systemic issues precludes it from enabling EWOV to carry out extensive systemic issue investigations.

Water-related Systemic Issues:

EWOV identifies, investigates and seek redress for all affected water customers and reports these systemic issues and the outcomes of our investigations to the Department of Sustainability and Environment (DSE).

EWOV also reports all systemic issues to the EWOV Board and provides updates in EWOV publications (Scheme Participants are not named).

2. How does EWOV define a systemic issue?

The definition that EWOV has adopted for the identification of a systemic issue is drawn from the definitions used by the Australian Securities and Investments Commission (ASIC), other ombudsman schemes, current best practice thinking and the *Benchmarks for Industry-based Customer Dispute Resolution (2015)*. A systemic issue may be defined as, but is not limited to, one or more of the following:

An (1) issue, (2) problem or (3) change in member policy or practice that does affect, or has the potential to affect, a number of customers. The issue may be caused by, but is not limited to, one or more of the following: a system change, an alteration in performance levels (e.g. quality of supply, access to call centre), a policy or procedure change, a lack of policy/procedure, a lack of clear regulatory guidelines, regulatory non-compliance, the conduct of an energy or water provider's employee, agent, servant, officer or contractor, or the action of a stakeholder (i.e. legislative/regulatory change leading to misunderstanding/misapplication of the change).

By their nature, systemic issues have the capacity to adversely affect large numbers of customers and/or particular customer groups sometimes on an ongoing basis, resulting in complaints to providers and EWOV by those customers.

3. Why is EWOV concerned with systemic issues?

Identifying systemic issues allows EWOV to work with scheme participants to:

- obtain timely and effective solutions to complaints
- pro-actively reduce the possible impact of an issue to all stakeholders
- promote more efficient industry practices thereby reducing the number of complaints against EWOV scheme participants.

By addressing systemic issues matters EWOV can:

- improve relationships with scheme participants/consumers/regulators and other stakeholders
- minimise the severity of a potential issue or complaint driver
- enhance customer confidence in
 - their energy and water providers
 - Alternative Dispute Resolution (ADR) through interaction with EWOV
 - the various regulatory frameworks associated with the energy and water industries.

4. Does EWOV have specific powers on systemic issues?

EWOV's jurisdiction on systemic issues matters is sourced directly from the EWOV Charter and Constitution (see Appendix A).

5. What other responsibilities does EWOV have in relation to systemic issues?

For matters that relate to potential regulatory breaches:

- EWOV has a reporting function that extends to the Australian Energy Regulator (AER), ESC, DSE, Consumer Affairs Victoria (CAV), Australian Competition and Consumer Commission (ACCC) and the relevant scheme participant, where applicable.
- EWOV can refer matters to the ESC for the ESC to investigate further, should the need arise.
- EWOV will notify the ESC and Energy Assured Limited (if door-to-door marketing) of systemic issue investigations relating to inappropriate or misleading marketing conduct.

6. How does EWOV currently handle systemic issues?

EWOV's current systemic issues process involves the identification, registration, investigation, referral and reporting of systemic issues.

Briefly, each step is achieved as follows:

- identification – systemic issues are identified through case receipt (one or more cases can suggest systemic ramifications), review of case numbers, individual case issues, staff feedback and stakeholder (including scheme participants, regulators, consumer groups and media) advice

- registration – EWOV maintains a register of all actual and potential systemic issues
- referral – a systemic issue investigation may be referred to the ESC, DSE or AER should a greater level of assistance be required, or the outcome required is outside the scope of what EWOV is able to achieve
- investigation – EWOV will investigate the potential or actual systemic issue, liaising with the scheme participant, regulator and other external stakeholders, if required. If the investigation identifies an actual systemic issue then EWOV will conduct an investigation until conclusion, ensuring that redress is sought for impacted customers.
- reporting – internal – issues are reported to staff (via training sessions, team meeting attendance and email updates), these issues are also reported to the Board at bimonthly meetings
- reporting - external – Res Online (quarterly newsletter) and Annual Reports include information about systemic issues. Regulators are informed about systemic issues via meetings and reports (for example, they are discussed with the ESC at regular meetings) and scheme participants are informed via the complaint investigation process, external reports or public reports.

7. What outcomes have flowed from scheme participants, EWOV and regulators analysing and responding to systemic issues?

Examples of outcomes achieved through systemic issue investigations be viewed on www.ewov.com.au or in annual reports.

Appendix A: Review of Sources of EWOV’s systemic issues Jurisdiction

1. EWOV’s Charter (and Constitution)

EWOV’s Charter (and Constitution) set out the functions of EWOV. The systemic issues clause (in the Charter) is:

- 4.4 We can also refer a matter in relation to a participant that holds an electricity or gas licence to the Essential Services Commission if we think there is a problem with, or change in, the participant’s policy, practice or conduct that adversely affects, or could adversely affect, a number of customers (a systemic issue)

2. Other sources of systemic issue responsibilities

EWOV/ESC Memorandum of Understanding (MOU) - 14 November 2003

- 5.4 (b) *to enable the Commission to deal with any systemic complaints or other matters that may need to be addressed by way of a licence, code or guideline amendment or by way of action under the ESC Act, EWOV will provide to the Commission reports concerning emerging, systemic or regulatory compliance issues”.*

Benchmarks for Industry-based Customer Dispute Resolution (2015) – specifically endorsed by the Commonwealth Consumer Affairs Advisory Council (CCAAC)

These Benchmarks apply to ADR schemes.

- Benchmark 4: Accountability: 4.3 Public reports of final determinations do not name parties involved.
- Benchmark 4: Accountability: 4.5 Annual Report - The office publishes a(n)... annual report... about ... the scheme, including information about complaints together with: c) any systemic problems arising from complaints. Footnote 24: “Systemic problems can refer to issues or trends arising either out of many complaints about one participating organisation or out of many complaints (which are essentially similar) about more than one participating organisation.”
- Benchmark 5: Efficiency: 5.5 The office has mechanisms and procedures for dealing with systemic problems that become apparent from complaints, including by investigating these issues or referring them to relevant participating organisations, or to regulators or policy makers.
- Benchmark 6: Effectiveness: 6.4 Systemic Problems: The office has mechanisms for referring systemic industry problems, based on cases brought to dispute resolution, to an appropriate regulator for action if required.

Document History

Action and Date	Updated By
Updated: November 2018 Added new Charter references	HMN, JE