



21 February 2025

Select Committee: Finance and Expenditure Committee

Bill: Local Government (Water Services) Bill

Submitter: Utilities Disputes Limited

Introduction

Utilities Disputes Limited Tautohetohe Whaipainga (UDL) welcomes the opportunity to make a submission on the *Local Government (Water Services) Bill*. The latest stage within the *Local Water Done Well* project.

UDL is one of New Zealand's largest providers of dispute resolution services. We have drawn on our experience in this area and focused our submissions on the proposed amendments to the Commerce Act 1986 that concern:

- a) disclosure of complaint statistics;
- b) benchmarks for complaint handling;
- c) the role of an external water dispute resolution provider; and
- d) the issuing of a *Commission service quality code* (Com SQC).¹

The key points covered in our submission are:

- I. Research suggests monopoly organisations can struggle to manage complaints effectively. Therefore, UDL supports the setting of benchmarks and processes for complaint handling through guidance and/or regulation. There are several documents that may assist with such guidance including the Australian-New Zealand Standard for dispute resolution.²

¹ See *Local Government (Water Services) Bill* (Water Services Bill), cl 226.

² See *Guidelines for Complaint Management in Organisations*, AS/NZS 10002.

- II. That guidance to Water Service Providers (WSPs) could generate savings, raise service levels and improve internal complaints handling by:
- a) identifying systemic issues, inconsistent practices and trends that can help prevent complaints;
 - b) embed consistent and fair processes across all providers, enhancing the standard and reputation of each organisation;
 - c) allow organisations and the Commerce Commission to undertake a thorough analysis of each provider's services; and
 - d) reduce costs by promoting the early resolution of complaints.
- III. The Minister will have the discretion to mandate access to an external dispute resolution process; either by the setting up of a regulated scheme or requiring suppliers to set up their own scheme.³ Such a scheme can:
- a) assist with those complaints that cannot be resolved at the first instance;
 - b) provide feedback to providers and regulators about practices that require further review and/or any systematic issues within the industry;
 - c) provide education and training for providers;
 - d) improve awareness amongst consumers and ensure they receive a consistent level of service no matter where they are based and who their provider is;
 - e) provide a level of independence and oversight that already exists in other utilities such as electricity and gas;
 - f) help maintain and repair the relationship the consumer has with their WSP; and
 - g) provide a cost-efficient external review of difficult complaints, offer increased levels of service, reduce the cost and time involved compared to other forums, such as the Disputes Tribunal, that are more adversarial in nature.
- IV. The publicity around the new WSPs coupled with their role in billing is likely to increase the number of water complaints (note billing complaints make up just over 50% of complaints in the electricity and telecommunications sectors). This predicted increase highlights the importance of WSPs having robust complaint practices.
- V. In the electricity sector complaint information about the external complaints provider must be placed on bills. This change was brought about by reviews that noted consumers often had a poor understanding of avenues for addressing their complaints. This small change led to a significant change in consumer awareness. It is recommended that a similar requirement be placed on the bills for water services.
- VI. As complaint data provides a snapshot of the health of an organisation, the sections in the Water Services Bill prescribing the content of the *water strategy document*⁴

³ See Water Services Bill, cl 226, 57Y(1)(d).

⁴ Although it may be covered under regulatory requirements, see cls 192, 194 and sch 3 of the Water Service Bill.

and the *annual report* may need further work to include the mandatory consideration and reporting of complaint data.⁵

- VII. Research highlights the importance of data analysis to assess the health of a complaints process and for comparing the performance of providers. UDL therefore supports regulations enabling the Commerce Commission (Commission) to collect WSP statistics about the number of complaints received, the subject matter of these complaints, and how the complaints were resolved.⁶

It is recommended the Commission also collect statistics on the number of complaints staff employed. This data analysed with the number of complaints can help assess performance. Some definition of terms will be required. For example, the standard definition of a complaint is an expression of dissatisfaction.⁷ This definition prevents complaints being lost in categories such as: queries, feedback, or points of interest. Having standard definitions will enable a meaningful comparison of providers.

- VIII. The electricity sector is undergoing a significant amount of regulatory change. The Electricity Authority is requiring providers to supply more data, and new processes are needed as the industry moves from voluntary *Consumer Care Guidelines* to *Consumer Care Obligations*. These changes come with costs, requiring the provider to change their systems for complaint handling and data collection. Therefore, any regulations and/or guidelines relating to disclosure, or a Com SQC should not be unnecessarily delayed. While new WSPs are being formed, new complaint handling processes and reporting can be more easily put in place.
- IX. Data analysis of complaints is a helpful measure of consumer satisfaction. However, consumer surveys provide further data points to assess customer satisfaction. The UK *Consumer Council for Water (CCW)* and the *Water Services Regulation Authority (WSRA)* have the expectation that providers will share their consumer surveys with them.⁸ Similarly the Water Services Bill could be amended to expressly allow the Commission to mandate such surveys.
- X. There is awareness in the utilities sector that some regulation is required to protect vulnerable consumers. UDL supports the Water Services Bill's specific identification that the needs of these consumers must be considered when creating a Com SQC.⁹ A standalone Consumer SQC for vulnerable consumers may be required.

⁵ See Water Services Bill cl 206-207.

⁶ *Ibid.*, cl 226, 57X.

⁷ See *Guidelines for Complaint Management in Organisations*, AS/NZS 10002, 4.2.

⁸ See CCW & WSRA (UK), *Complaint Processes in Water – A Follow up Report*, October 2021, 5, 14, 19.

⁹ See Water Services Bill, cl 226, 57ZF.

Background – UDL Dispute Resolution Provider Across the Utilities

UDL operates several dispute resolution schemes. All complaints services are free to the consumer. UDL provides water dispute resolution services principally for Watercare and Wellington Water.¹⁰ These complaints focus on a range of issues such as billing errors, alleged property damage, customer service issues, and matters arising from the management of public and private leaks. UDL considers complaints that are referred to it by the provider.

UDL's largest scheme is the mandatory Electricity and Gas Complaints Scheme. Last reporting year we processed 8,136 queries and 6,694 complaints. UDL also operates the Broadband Shared Property Access Disputes Scheme, which considers complaints arising from the installation of broadband in shared driveways.

UDL's newest scheme is the voluntary Telecommunications Scheme.¹¹ At this stage there is one member Contact. Membership enables Contact's electricity and telecommunications complaints to be considered all at once. This is especially helpful with billing issues, where a complaint may involve both electricity and telecommunications.

Water - Dispute Resolution (new part 4A of the Commerce Act 1986)

UDL, with its background in dispute resolution, focuses on the proposed amendments to the Commerce Act 1986 concerning complaint handling. UDL's submission focusses on the amendments that address:

- a) data disclosure;
- b) complaint benchmarks;
- c) an external water dispute resolution provider; and
- d) the issuing of a Com SQC.

After a research summary on the value of effective complaint handling, each of these elements is considered below.

A Complaints and Monopolies

Australian research suggests that organisations: *"...with little competition such as monopolies, are slow to respond to complaints. This is because these organisations have a lower customer-orientation due to the inability of the customer to exit the relationship and the absence of market forces (in the form of lost market share) indicating to the organisation*

¹⁰ Milford Sound Infrastructure is also a member.

¹¹ The scheme is not an industry dispute resolution scheme under Part 7 of the Telecommunications Act 2001.

*that service improvements are required.*¹² However, the research identifies that the benefits of a good complaint service include:

- a) organisational improvement, where complaints change how things are done;
- b) identification of trends, which lead to efficiencies; and
- c) reputational enhancement with responsive complaint handling leading to increased customer satisfaction.¹³

Key to achieving these benefits is robust data collection. As the Australian Commonwealth Ombudsman (ACO) observes: *“Complaints are a valuable source of intelligence and offer agencies a unique perspective on what is and is not working within their programs and services.”*¹⁴

The ACO recommends senior management regularly receive such data to assess the health of their services: *“It is good practice for an agency’s senior management to receive regular reports on its complaint handling performance and trends in complaint data. This kind of reporting provides valuable business intelligence and can enable the executive to respond proactively to potentially systemic issues.”*¹⁵

B Disclosure Requirements

Against this background the Water Services Bill marks a new start for water supply. Water services are to be provided in accord with business practices, and the supply of water is to be delivered in an open, transparent and accountable manner.¹⁶ Any economic regulation is to be effective and proportionate.¹⁷ Renewed complaint handling processes, are an important feature of this new regulatory framework.¹⁸

The Water Service Bill proposes that the Commission may require data about: the number of complaints received; the nature of these complaints; how long complaints took to resolve; and how each complaint was resolved.¹⁹ UDL supports the gathering of this data, as the proposed data points are fundamental to good practice.

¹² See Society of Consumer Affairs Professionals Australia (SOCAP), *Return on Investment of Effective Complaints Management: Public Sector Organisations*, (Research team - University of Newcastle) June 2020, para 4.2 (textual citations not included).

¹³ *Ibid.*, 14, 40-43.

¹⁴ See Commonwealth Ombudsman, *Lessons in Good Complaint Handling, Findings from the 2010 Complaint Assurance Project*, Feb 2020, 22. See also discussion *Return on Investment of Effective Complaints*, 41. See also SOCAP, *Return on Investment of Effective Complaints Management*, (Research team - University of Newcastle), March 2018, 19. This study involved an Australian water utilities provider.

¹⁵ *Lessons in Good Complaint Handling*, 23.

¹⁶ See Water Services Bill, cls 3, 15-16.

¹⁷ *Ibid.*, cl 3.

¹⁸ *Ibid.*, cl 26.

¹⁹ *Ibid.*, cl 226, 57x.

The Commission is also encouraged to collect data on the number of complaint's staff employed and if they are full time or part time. This will give a better indication of the resources to complaint ratio.

Data Reporting

While data is gathered by the Commission,²⁰ it seems that WSPs should plan for complaint management in their *water strategy document*²¹ and that complaints should be reported on in the *annual report*.²² Complaints are a significant measure to assess performance. Therefore, some review of these sections of the Water Service Bill may be required.

Consumer Surveys

The Commission is to collect data so that it can assess "*consumers' experience of the services provided*".²³ To better achieve this purpose other data streams may be required. The UK *Consumer Council for Water (CCW)* and the *Water Services Regulation Authority (WSRA)* have the expectation that companies will share consumer surveys with them.²⁴ Similarly a clause expressly allowing the Commission to mandate WSPs to undertake such surveys could further assist with assessing accurate levels of consumer satisfaction.

Saving Costs - Learning from the Electricity Sector

The Electricity Authority is increasing the amount of data it collects about complaints through yearly and ongoing reports from providers. The Electricity Authority is also seeking to change data collection processes to prepare for the development of the consumer data right.²⁵ However these changes do come with increased costs, as one retailer explains: "*...each change necessitates significant technical and operational system changes to the way retailers store, retrieve, use and export data.*"²⁶

Therefore, it seems that any regulations and/or guidelines relating to disclosure, or a Com SQC should not be unnecessarily delayed. To delay will only increase costs, as each new regulation will require the adjustment or revision of existing processes.

Data Definitions

Understandably the Water Service Bill does not define the scope of the data points to be collected. UDL provides some commentary that may assist with the definition of these terms. Such scoping and definition is important to ensure quality data is collected:

²⁰ Ibid., cl 226, 57Y1(c).

²¹ Although it may be covered under regulatory requirements, see cl 192 and sch 3 of the Water Service Bill.

²² See *ibid.*, cls 206-207.

²³ Ibid., cl 226, 57X.

²⁴ See CCW & WSRA (UK), *Complaint Processes in Water – A Follow up Report*, October 2021, 5, 14, 19.

²⁵ See Electricity Participation Code 2010 (EPC 2010), part 11A, 11 A.4, and Electricity Authority, *Improving Retail Market Monitoring: Amended Information and Updated Analysis*, 1 October 2024, para 4.8.

²⁶ Mercury, *Improving Retail market Monitoring: Amended Information Notice and Updated Analysis*, 22 October 2024, 1.

Number of Complaints	<p>To enable quality statistics to be collected an adequate definition of complaint is required. The Australian and New Zealand Standard is an: “an expression of dissatisfaction”.²⁷</p> <p>A clear universally adopted definition prevents complaints from disappearing into other categories such as queries, feedback, or points to be noted.²⁸</p>
Nature of those Complaints	<p>A universal classification system of complaints is necessary to ensure a meaningful comparison of services. The Commission is encouraged to work with WSPs to identify a list of categories that are broad enough not to be onerous but meaningful enough to identify the subject matter of the complaint.</p>
Timing for Resolution	<p>Resolution times matched with the subject matter of a complaint will identify where the difficult complaints are. Such data can then be used to work out new strategies to manage these complaints and shorten resolution times. Long resolving times can also help the Commission and/or WSP understand if more staff are required and/or if further training is required.</p>
How the Complaint was Resolved	<p>The Commission is encouraged to work with WSPs to work out some broad categories that give an adequate account of how complaints are resolved, eg: customer service payment, complaint abandoned, extra works completed, complaint not upheld. This data can indicate the health of a complaints systems. For example, if there are a large number of complaints abandoned this can signal that the complaints process is not fit for purpose</p>

The Water Service Bill recognises that WSPs are to act consistently with the principles of Treaty of Waitangi settlements.²⁹ When the Commission advises about complaint processes this element will likely need to be considered, inclusive of making provision for complaints to be resolved through tikanga-based approaches.³⁰

²⁷ *Guidelines for Complaint Management in Organisations*, AS/NZS 10002, 4.2. See, for examples Energy Complaints Scheme, pg 11 (Definitions); further examples include but are not limited to Financial Markets Conduct Regulations 2014, cl 229(f); Credit Contracts and Finance Regulations 2004, cl 5A(2); New Zealand Law Society, “Running an Effective Internal Complaints Process”, <https://www.lawsociety.org.nz/professional-practice/practice-briefings/running-an-effective-internal-complaints-process/>; and Commerce Commission, “Complaints about the Commerce Commission”, <https://comcom.govt.nz/about-us/our-policies-and-guidelines/complaints-about-the-commerce-commission>.

²⁸ See discussion *Return on Investment of Effective Complaints*, 30-31.

²⁹ See Water Services Bill, cl 41.

³⁰ See for example the Tuhono model of mediation, <https://www.tuhono.nz/tuhono-model>

C The Benchmarks for an Internal Complaints Framework

The Minister has wide discretion in the Water Service Bill to make regulations relating to consumer protection and the supply of water services.³¹

Information on Bills – Electricity Sector

In the electricity sector information about how to make an external complaint is to be displayed on every bill.³² This small change more than doubled the number of energy complaints and appears a cost effective way to publicise complaint services.³³

Similarly, regulation could mandate water invoices must display information about the WSP's internal complaints procedure and information about the external complaint handler (if there is one).

Increased Number of Complaints

Even without this change, the number of complaints about water is likely to increase. This will be brought about by a growing awareness of the specific responsibilities of these new WSPs.

The tasks of the WSP are varied, however importantly for everyday consumers WSPs will be able to charge for water, stormwater, and wastewater services.³⁴ These charges must be published and are recoverable as a debt.³⁵ Considering billing issues make up the majority of complaints in electricity (55.38%)³⁶ and telecommunications (50.58%),³⁷ a similar percentage of complaints can be expected when it comes to water.

Billing issues are then likely to further drive-up complaints, highlighting the importance of the WSP's internal complaints process being fit for purpose.

Regulation

The ACO identifies five elements of robust complaint handling that are set out below. Regulation in all these areas is unlikely to be required.³⁸ However, some guidance (if not regulation) in terms of these elements may be necessary:

³¹ See *ibid.*, cl 226, 57Y(1)(a)-(b) (g).

³² See EPC 2010, part 11, 11.30A.

³³ This change was brought about in part by the government report, *Electricity Price Review, Hikohiko Te Uira*, 21 May 2029, C 2, 34.

³⁴ See Water Services Bill, cl 60.

³⁵ *Ibid*, cls 64, 67, & 70.

³⁶ UDL internal data.

³⁷ See Telecommunications Dispute Resolution, *Annual Report 2024*, 20-21.

³⁸ See Water Services Bill, cl 226, 57Y(1)(b).

Culture	Agencies value complaints as a means of strengthening their administration and improving their relations with the public.
Principles	An effective complaint handling system is modelled on the principles of fairness, accessibility, responsiveness, efficiency and integration.
People	Complaint handling staff are skilled, professional, trained and supported.
Process	The seven stages of complaint handling – acknowledgment, assessment, planning, investigation, response, review, and consideration of systemic issues—should be clearly outlined and implemented.
Analysis	Information about complaints should be examined as part of a continuous process of organisational review and improvement. ³⁹

Regulations are likely to be helpful in setting out the concrete application of the principles of complaint handling. Much of this work has been completed as the complaint principles have guided many New Zealand external complaint systems.⁴⁰ Some of these practical aspects are summarised below. The material is adapted from the Australia - New Zealand Standard for complaint handling, and can be adjusted to the size of the organisation.⁴¹

Accessible	There is to be more than one contact point to make a complaint, and such points should be accessible and publicised. Consumers who have difficulty making a complaint are to be helped eg allowed to have a representative, support person, and/or translator if required. Complaints should be able to be made in writing or verbally. There is to be no fee to make a complaint.
Responsive	Complaints are to be resolved according to benchmark timeframes. To prevent a complaint getting stuck, the process is to have a number of stages of review or escalation points. At the outset complainants are to be informed about the complaint's process.
Fair (natural justice)	There is to be a standard process followed for all complaints. The process is to be flexible enough to pause matters if the complainant is sick or requires time to receive advice. Complainants are to have access to any information that addresses the subject matter of the complaint, and this information should be accompanied by a consumer-friendly explanation. Conflicts of interest are to be managed. There should be process in place for how to deal with abusive complainants. This prevents resources being wasted, ensures staff safety, and that these complaints are resolved in a professional manner.

³⁹ *Lessons in Good Complaint Handling*, 6 (direct quote formatting changed). For a model created in New Zealand see the Aotearoa best practice dispute resolution framework created by the Government Centre for Dispute Resolution (now defunct), <https://www.mbie.govt.nz/cross-government-functions/government-centre-for-dispute-resolution/guidance-on-dispute-resolution/aotearoa-best-practice-dispute-resolution-framework>

⁴⁰ These principles or versions of them are affirmed in New Zealand legislation, see for example Telecommunications Act 2001, sch 3C, and Electricity Industry Act 2010, sch 4.

⁴¹ See *Guidelines for Complaint Management in Organisations*, AS/NZS 10002. See also The Australian Treasury, *Key Practices for Australian Based Industry Customer Dispute Resolution*, Feb 2015.

Efficient	Complaints are to be resolved at the earliest level of the complaint process, with the majority of complaints not having to be resolved through intensive inquiries.
Integration	The complaints process is to be integrated into the organisation, so all staff are aware of the process. Media, and communications teams should publicise the complaints process as appropriate. Complaint staff are supported and trained, and colleagues provide them with ready assistance when information is needed about a complaint.

D An External Water Dispute Resolution Provider

The Minister will have the discretion to mandate access to an external dispute resolution process, by the setting up of a regulated scheme, or requiring suppliers to set up their own scheme.⁴²

Research suggests that a process which has different stages of review (escalation points) prevents a complaint getting stuck.⁴³ Ultimately this can involve the provider advising that they cannot reach agreement with their customer.

UDL's experience across its schemes is that it is helpful having an external provider for resolving complaints. This is especially so where positions may have become hardened, information is poorly understood, and/or parties are at cross purposes about the issues of the complaint.

A neutral and external complaint handler, with subject matter expertise, can often breakdown these misunderstandings and successfully restart negotiation. Where a resolution is not possible the scheme can issue a recommendation or determination, which can bring finality to the complaint.

When a recommendation is needed, a fair and reasonable standard for decision-making is adopted. This consumer-focused approach, means the complaint is considered in the round taking into account legal precedent, industry practice, guidelines, the exchanges with the consumer, and any terms and conditions. Research affirms this approach gives substantial savings to the consumer when compared to other alternative dispute resolution schemes.⁴⁴

The following examples of UDL's water complaints illustrate the added value that an external provider can bring:

- I. A provider sent two letters, about leak, to a consumer. In the first the consumer was advised that it was their responsibility to fix the leak, and in the second that they would be liable for a fine if the leak was not fixed. It turned out that leak was not on the consumer's property. UDL after reviewing the complaint observed that the letters did not appear to conform to best practice regarding timeframes

⁴² See Water Services Bill, cl 226, 57Y(1)(d).

⁴³ See discussion *Return on Investment of Effective Complaints*, 28.

⁴⁴ See discussion New Zealand Institute of Economic Research (report to UDL), *Independent Dispute Resolution -Cost Benefit Analysis*, 12 November 2024, 2-3, 17-18.

for action, advising of fines, and consumer responsibilities.⁴⁵ It recommended the provider reimburse the costs incurred by the complainant, and this recommendation was accepted by the parties.

- II. A consumer received a large back bill going back some months. During this period there had been both misreads and a significant period of estimated reads. The water provider offered a small reduction of the bill. The parties could not agree on a resolution and the Commissioner issued a proposed recommendation. The Commissioner noted the misreads, and the period of estimated reads exceeded the timeframes promised by the water provider. After reviewing industry practice the Commissioner recommended a 20% reduction of the bill. This was accepted by the parties.
- III. A leaking pipe delayed works on a property. The complainant claimed costs for the delay in building work. UDL's inquiries found the water supplier had acted appropriately in terms of first giving the leak a low priority, as initially it appeared minor. When the complainant later advised the leak had worsened, the provider fixed the leak the same day. After sharing these insights and others with the parties, discussions resumed, and the complaint was settled.⁴⁶

UDL, because of examples like these recommends that an external complaints scheme be included as part of any regulatory framework for water complaints. Such a scheme can: assist with those complaints that cannot be resolved at the first instance; provide feedback to providers and regulators about practices that require further review and/or any systematic issues within the industry; help maintain and repair the relationship the consumer has with their WSP; and provide a cost-efficient external review of the difficult complaints that sometimes arise.

E A Com SQC

The Commission, under the Water Service Bill, may issue a Com SQC for water services.⁴⁷ As noted in the disclosure section it may not be cost-effective to delay this. This is seen in the electricity sector with the increased costs arising from the Electricity Authority's plans for increased data collection and the move this year from voluntary *Consumer Care Guidelines* to compulsory *Consumer Care Obligations*.

Vulnerable consumers

There is awareness in the utilities sector that regulation is required to protect vulnerable consumers: Medically Dependent Customers may not have their electricity disconnected,⁴⁸ and providers in telecommunications must provide vulnerable customers with information about how to access the 111 line when there is a power failure.⁴⁹ UDL therefore affirms the Water Service Bill's specific identification that the needs of these consumers must be

⁴⁵ See UDL, *Systematic Insights 2024*, Dec 2024, 4-5.

⁴⁶ See UDL website "Case Examples," <https://www.udl.co.nz/en/support-and-information/case-examples/>

⁴⁷ Water Services Bill, cl 226, 57ZC.

⁴⁸ Medically Dependent Consumer: "means a residential consumer who depends on mains electricity for critical medical support, such that loss of electricity supply may result in loss of life or serious harm, including a residential consumer who depends on medical or other electrical equipment to support a medical treatment regime (which may include use of a microwave to heat fluids for renal dialysis and similar use of electrical equipment)" *Consumer Care Obligations*, 11 A.2.

⁴⁹ See *Commission 111 Contact Code 2024*, 26 June 2024.

considered when creating a Com SQC.⁵⁰ This will be especially the case when considering billing issues, particularly when there has been non-payment for some time.

When considering the needs of vulnerable consumers, a number of bodies will be able to assist, including water providers in Australia and New Zealand who have various processes in place offering help. For example, the Water Utility Consumer Assistance Trust assists Watercare customers, and can approve repayment arrangements, write off some or all parts of a bill, and refer the consumer to other organisations that can help.⁵¹ The *Consumer Care Obligations* for electricity may also assist with the drafting of any rules or guidelines.⁵²

A standalone Consumer SQC for vulnerable consumers may also be required, which covers all aspects of the consumer relationship.

UDL thanks the Finance and Expenditure Committee for the opportunity to submit on the Water Services Bill and UDL is available to further assist as needed.

Yours sincerely



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Toihau Commissioner

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⁵⁰ See Water Service Bill, cl 226, 57ZF.

⁵¹ See Water Utility Consumer Assistance Trust, <https://www.waterassistance.org.nz/>

⁵² See for example *Consumer Care Obligations*, ob 23.