



Telecommunications
Industry
Ombudsman

Responses to recommendations from the five year Independent Review

October 2022

Five-year Independent Review of the Telecommunications Industry Ombudsman

In March 2022, the Telecommunication Industry Ombudsman contracted Gavin McBurnie and Jane Williams of Consumer Dispute Resolution Centre, Queen Margaret University to conduct an independent review of the Telecommunications Industry Ombudsman Scheme to determine whether it complies with the [Benchmarks for Industry Based Customer Dispute Resolution schemes](#) (the CDR Benchmarks).

The CDR Benchmarks are:

- accessibility
- independence
- fairness
- accountability
- efficiency
- effectiveness

The Telecommunications Industry Ombudsman welcomes the recommendations from the Independent Review of the Telecommunications Industry Ombudsman. The review recognises the Telecommunications Industry Ombudsman's role and success in contributing to better consumer outcomes in the telecommunications industry and the improvements made by the Telecommunication Industry Ombudsman since our 2017 Independent Review. The review also recognises that there continues to be a high level of support for the Telecommunications Industry Ombudsman from stakeholder groups.

The review provides valuable feedback about how the Telecommunications Industry Ombudsman should evolve while also recommending steps that the Telecommunications Industry Ombudsman should take to improve the TIO's performance now and as our external environment continues to change.

The Telecommunications Industry Ombudsman has already commenced the implementation of some of the recommendations, and will continue to incorporate the Report's findings and recommendations in its priorities for the next financial year.

The TIO's response to the recommendations is outlined below.

TIO RESPONSES TO INDEPENDENT REVIEW RECOMMENDATIONS

Recommendation	Response
Recommendation 1	
<p>The TIO should collect the socio-demographic data of its service users and use this data to inform its communications and engagement strategy.</p>	<p>We accept this recommendation.</p> <p>Collecting socio-demographic data will assist the TIO to understand whether our service is accessible to those who need our services. It will also help us target our outreach and awareness raising activities and provide additional context to our policy submissions, case studies and reports.</p>
Recommendation 2	
<p>The TIO should work with Members to agree a common approach by which members signpost complainants to the TIO and this should be reflected in the TIO's Constitution or Terms of Reference.</p>	<p>We agree with this recommendation.</p> <p>The Telecommunications (Consumer Complaints Handling) Industry Standard 2018 includes a requirement for Members to let consumers know of their right to complaint to the TIO. We will review the extent to which consumers contacting us were informed of their right to complain by the Member and work with Members to improve compliance with the obligation.</p> <p>We will consult with stakeholders on the amendment of the Terms of Reference to reflect this recommendation.</p>
Recommendation 3	
<p>The TIO should develop and implement a vulnerability strategy which ensures that it can identify, and meet the needs of, vulnerable complainants.</p>	<p>We agree with this recommendation.</p> <p>We will work with internal and external stakeholders to develop and implement a vulnerability strategy so that our service meets the needs of vulnerable consumers.</p>

Recommendation	Response
Recommendation 4	
<p>The TIO should remove the refer-back step from its complaint handling model moving straight to case management upon the acceptance by the TIO of a complaint against a Member.</p>	<p>While we accept that the refer-back process doesn't work for all consumers and all complaints, we don't accept the recommendation.</p> <p>The refer-back process is an effective and efficient way to resolve complaints between many consumers and Members. However, the Independent Review identified several areas where improvement is required, and we will work to improve the timeliness, effectiveness and scope of the refer-back process. We will consider whether there are groups of consumers and types of complaints that should bypass refer-back to Members and we will implement changes to deliver improved outcomes for consumers and Members. We will also increase the effectiveness and efficiency of the refer back process for all consumers.</p> <p>In addition to the detail of the proceeding recommendations (9, 10 and 11), we will improve the information that we provide consumers about their rights (including to return to the TIO) and their responsibilities to increase the success of the refer-back process and mitigate against complaint fatigue. We will survey consumers to assess the impact of these improvements to determine whether we need to reconsider our response to this recommendation.</p>
Recommendation 5	
<p>TIO casework staff should collect more, and more relevant, information at the commencement of case management such that the caseworker is able to have a broad understanding of the merits of the complaint and, from this, undertake a more active role in achieving an agreed settlement.</p>	<p>We accept this recommendation.</p> <p>The collection of additional, relevant information has several benefits including reduced classification requests, improved articulation of the complaint to the member – with increased likelihood of successful resolution, reduced need for the consumer to retell their story in detail if they return to the TIO, earlier application of conciliation and investigation skills to the complaint and building richer data to support our policy work.</p>

Recommendation	Response
Recommendations 6	
<p>The TIO should remove the fast-track process from its case management process.</p>	<p>We agree with the premise behind this recommendation.</p> <p>Our complaint handling process should operate in the interests of consumers, members and the TIO and should not be a source of fatigue.</p> <p>We will review our entire process for unresolved complaints and implement changes to ensure we are able to deliver timely, quality resolution at all stages of this process.</p>
Recommendation 7	
<p>If a decision is required to be made then there should only be a two-stage-process (such as, the preliminary view and the decision). Both the Member and the complainant should be able to challenge a preliminary view.</p>	<p>We accept this recommendation.</p> <p>We will review our decision-making processes as part of the broader review of our dispute resolution process to improve the timeliness and procedural fairness of the decision making process.</p>
Recommendation 8	
<p>The TIO should focus on reducing the length of time it takes to close cases.</p> <p>If the TIO chooses not to remove the refer-back stage from its complaint handling process then the following recommendations (9-13) are also proposed.</p>	<p>We accept this recommendation.</p> <p>The review of our dispute resolution process will include a focus on our timeliness.</p>
Recommendation 9	
<p>At refer-back, the TIO should develop a triage system so that no complaint relating to a vulnerable or disadvantaged complainant is referred back to a member. It should also determine which other groups of complaints are not suitable for refer-back to members.</p>	<p>We accept this recommendation.</p> <p>The Independent Review has identified that the refer-back process isn't working effectively for certain consumer cohorts and is adversely impacting on the TIO's reputation. We will consider whether other groups of consumers should bypass refer-back to members and work toward changes to increase the effectiveness of our processes for all consumers.</p>

Recommendation	Response
Recommendation 10	
The TIO should collect better information at refer-back.	We accept this recommendation for the reasons outlined above at recommendation 5.
Recommendation 11	
There should be the automatic follow up of all complaints referred back a member such as is undertaken by the AFCA.	<p>We accept this recommendation.</p> <p>The Independent Review highlighted the scope for poor consumer outcomes and reputational damage to both industry and the TIO where the refer back process doesn't work for consumers. We will explore different ways to follow up consumers who have been referred back to members to ensure they are aware that they can return to the TIO if their complaint with the member remains unresolved.</p>
Recommendation 12	
The TIO should remove reclassifications from all complaints except where the complaint is about the wrong member or is found to be out of jurisdiction.	<p>We note the intent of this recommendation.</p> <p>The focus of this recommendation will be a longer-term consideration. The viability of the recommendation will be influenced by the effectiveness of the implementation of several other recommendations. We will reconsider this recommendation following the implementation of other, related, recommendations.</p>
Recommendation 13	
The TIO should ensure that it covers the cost of the refer-back process.	<p>We note this recommendation.</p> <p>Our current funding model is a product of a funding model review in 2018 (a recommendation of our 2017 Independent Review) and ensures that we recover the costs incurred across the TIO. It was implemented for FY19 and reflects a model that meets the expectations of our stakeholders. Given the proposed changes to our case handling processes, it would be premature to make significant changes to how our costs are recovered.</p>

Recommendation	Response
Recommendation 14	
<p>During the conciliation stage of dispute resolution, caseworkers should seek to ensure that the agreed outcome is broadly fair and reasonable.</p>	<p>We accept this recommendation.</p> <p>Consumers and members should receive a fair and reasonable outcome at all stages of the TIO process. This recommendation will be considered as part of the process review noted above.</p>
Recommendation 15	
<p>The TIO should consider increasing its systemic investigation resource with a view to increasing the number of systemic investigations that it conducts each year to ensure that all justified systemic investigations are undertaken.</p>	<p>We accept this recommendation.</p> <p>The Independent Review has emphasised the important role that the TIO plays in driving improvements in the system. We will carefully consider the resource and focus of this resource to ensure we deliver on this role.</p>
Recommendation 16	
<p>The TIO should review how it undertakes systemic investigations with the intention of reducing the time taken to complete a systemic investigation.</p>	<p>We accept this recommendation.</p> <p>Timeliness is key to an effective process. As noted above, we will carefully consider the resource and focus of our systemic issues area</p>
Recommendation 17	
<p>The TIO should amend its Terms of Reference to make clear that it can investigate complaints about a carrier's behaviour when a carrier wishes to access land under an agreement, or under the carrier's statutory powers to inspect land, maintain facilities, or install low impact facilities.</p>	<p>We accept this recommendation.</p> <p>We will clarify our role in relation handling complaints about a carrier's behaviour when a carrier wishes to access land under an agreement, or under the carrier's statutory powers to inspect land, maintain facilities, or install low impact facilities, as distinct from our statutory function in considering Land Access objections.</p>

Recommendation	Response
Recommendation 18	
The TIO should not use the refer-back process with complaints about Land Access.	We note this recommendation, recognising that the intent is to ensure the handling of these complaints is effective, including in circumstances where the carrier is asserting the right to enter the land within the referral peri . We will consider the most appropriate process refinement to achieve the intention of the recommendation.
Recommendation 19	
The TIO should ensure that the price charged for Land Access objections covers the cost of their adjudication.	We accept this recommendation. Considering land access objections is a statutory function that sits outside our standard complaint handling processes review of the funding of this function can be more readily progressed.
Recommendation 20	
The TIO should expand its resource with which it is able to conduct community outreach.	We accept this recommendation. We will explore both human and other resources available to use to enhance the accountability, awareness and accessibility of the TIO to the community.
Recommendation 21	
The TIO should review the publication of its data to address the concerns raised in this review, including increased publication about the performance of the TIO.	We accept this recommendation. We will deliver more publicly available interactive data to our stakeholders. In addition, transparency of our performance is a key accountability mechanism and will be enhanced.
Recommendation 22	
Taking account of the importance of TIO's information to a well-functioning regulatory network, the TIO should agree with the ACCC and the ACMA what information the TIO shall provide routinely to them.	We accept this recommendation. It is noteworthy that this work has already commenced.

Recommendation	Response
Recommendation 23	
The TIO should review the construct and membership of its Board.	<p>We note this recommendation.</p> <p>The representative structure of EDR governance is widely used and accepted in Australian schemes. A Board evaluation process will be undertaken to reflect on issues such as diversity so that trust and confidence in the governance of the TIO are maintained.</p>
Recommendation 24	
The TIO should, at least, remove the word Industry in its public facing material and also consider a more consumer friendly name.	<p>We note the intent of this recommendation.</p> <p>We will consider whether our public branding can be more accessible to consumers and make changes where possible to support the intent of this recommendation.</p>
Recommendation 25	
The Board and the Ombudsman should review how it manages the tension between Members and consumers to ensure that a fairer balance between the competing interests is struck.	<p>We accept this recommendation.</p> <p>We will review our Terms of Reference and our processes to ensure that there is a fair balance between competing stakeholder interests.</p>
Recommendation 26	
The TIO should amend its policy on complaints about equipment to bring it in line with the opposition adopted by the New Zealand Commerce Commission so that the TIO can consider complaint a about all and any equipment sold or provided by Members.	<p>We note this recommendation.</p> <p>We will undertake a review of the complaints received that fall in and out of the TIO's jurisdiction to ensure the effectiveness and adequacy of the TIO's role, and consumer expectations of it.</p>