

**Energy and Water Ombudsman (Victoria) Limited**

ABN: 57 070 516 175

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4 June 2008

Mr Johan Scheffer MLC  
Chair, Law Reform Committee  
Parliament of Victoria  
Spring Street  
EAST MELBOURNE VIC 3002

By email: [vplrc@parliament.vic.gov.au](mailto:vplrc@parliament.vic.gov.au)

Dear Mr Scheffer

**INQUIRY INTO VEXATIOUS LITIGANTS**

Thank you for your invitation to contribute to this Inquiry. You are correct when you write that the Energy and Water Ombudsman (Victoria) (EWOV) sometimes encounters people who might be described as difficult or persistent complainants. However, these encounters are not in a litigation context and our management practices and policies are likely to be of limited relevance to your Inquiry.

EWOV's Charter (Clause 6.3) gives the Ombudsman a discretionary power to decline to investigate a complaint if, among other reasons, "the complaint is frivolous or vexatious or was not made in good faith". This power has not been used. Rather we prefer to manage customers with difficult behaviours through policies and practices, noting that a person who exhibits difficult behaviour may have a valid complaint and, therefore, not be a vexatious complainant. The remainder of this letter deals with difficult behaviours rather than with vexatious complainants.

We have a number of internal policy documents that set out the way in which modes of access are managed for people whose difficult behaviour warrants that, because giving them full access would be likely to:

- compromise EWOV's obligations as an employer
- be excessively wasteful of EWOV's resources
- encourage or allow behaviour which goes against the rules of common courtesy.

We also intermittently provide sessions with a consultant psychiatrist to discuss with staff the best way to handle people with difficult behaviours and to protect themselves. We have a number of experienced Complex Case Managers and we would generally assign one of them to handle a case where the customer involved demonstrates difficult behaviour.

EWOV's comment on Inq Vex Litigants

Dealing with difficult behaviours is of concern to all Ombudsmen offices and there has been a project conducted under the leadership of the New South Wales Ombudsman's Office, but involving all the State and Commonwealth Ombudsmen, to produce a manual providing practical guidance on this point. The interim practice manual is available at <http://www.nswombudsman.nsw.gov.au/dealing%20with%20difficult%20complainants%20project.htm?id=418>.

A central feature of this project is the shift in focus away from the 'difficult person' to the 'person's conduct', and the project is based on the premise that dealing with unreasonable conduct is core to the role of Ombudsman staff, not an occasional occupational hazard. To quote the introduction to the Manual:

The project focus is on shifting the culture of complaint handling so that dealing with difficult complainant behaviour is seen as part of the core function of a complaint handling agency, not just an occupational hazard or interruption to the normal routine, an imposition or a nuisance on the periphery of core work. Such conduct must be dealt with by staff who are well trained, resourced and supported by endorsed official policies and detailed guidelines so that they can confidently make decisions in their interaction with complainants whose behaviour is difficult.

I trust these comments are useful to you. If you require clarification or more detail, please contact Stephen Gatford, Manager Public Affairs and Policy on (03) 9649 7599 or [stephen.gatford@ewov.com.au](mailto:stephen.gatford@ewov.com.au).

Yours sincerely



**Fiona McLeod**  
Energy and Water Ombudsman (Victoria)