

MEMORANDUM OF UNDERSTANDING

NSW Ombudsman *and* Energy & Water Ombudsman NSW

— June 2006 —

Introduction

The NSW Ombudsman has the authority, under the Ombudsman Act 1974, to investigate the conduct of NSW public authorities.

The Energy & Water Ombudsman NSW (EWON) has the authority, under legislation and its constitution, to investigate and facilitate the resolution of complaints against NSW electricity and natural gas providers, and some water providers.

In recognition of the fact that the NSW Ombudsman and EWON have overlapping jurisdictions in respect to energy and water providers who are public authorities within the meaning of the Ombudsman Act 1974, and that consumers may make complaints to either or both bodies about these providers, the two bodies have entered into this memorandum of understanding to set out a protocol for referring matters and exchanging information.

To promote transparency, the NSW Ombudsman and EWON intend to publish on their websites this Memorandum of Understanding and other relevant information on coordination of their roles.

Agreed aims of the MOU

The agreed aims of the NSW Ombudsman and EWON in entering this Memorandum of Understanding are to:

- foster mutual understanding and cooperation
- ensure the ability of each body to fulfil its respective functions is not hampered through action or inaction by the other
- minimise duplication of effort by consulting on specific issues of concern and any other appropriate tasks as and when they arise
- promote consistent treatment on issues of common interest
- ensure that information is shared, subject to any statutory limits, including the need to respect personal or commercial confidentiality.

To facilitate these aims, the NSW Ombudsman and EWON have agreed on the following actions:

Fostering cooperation

At the instigation of either body, officers of the NSW Ombudsman and EWON will conduct joint meetings to discuss issues of interest and concern. In addition, the NSW

Ombudsman and the Energy & Water Ombudsman NSW will meet informally as necessary to review matters of concern to consumers, including the working of this Memorandum and any associated documents.

They will inform each other on matters of common interest and concern prior to any public consultation.

Investigating complaints

The NSW Ombudsman and EWON agree to establish working procedures to ensure efficient and effective administration and communication in dealing with consumer complaints.

Exchanging information

Subject to legal constraints, the NSW Ombudsman and EWON agree to share information necessary to enable both bodies to carry out their respective functions in a proper manner. In doing so they will respect any personal or commercial confidentiality.

Wherever possible, the NSW Ombudsman and EWON agree to provide reasonable notice of information required from each other.

Both bodies agree to identify contact points within their organisations to be responsible for the exchange of information and to set up appropriate standards of performance for these contacts.

Arrangements within the NSW Ombudsman

The NSW Ombudsman recognises EWON as the preferred body for investigating complaints about NSW electricity and natural gas providers and some water providers.

The NSW Ombudsman recognises that EWON may deal with systemic issues as well as individual grievances, is able to require providers to take prescribed actions and provide information, and may make certain binding determinations.

In advising complainants to contact EWON, the NSW Ombudsman will couch its referral information in such a way as not to obligate EWON to investigate the matter.

The NSW Ombudsman, however, reserves the right to make preliminary enquiries or investigate any particular complaint exercising the discretion accorded by the *Ombudsman Act 1974*.

The NSW Ombudsman may, where appropriate and at any time, consult with EWON on whether EWON has jurisdiction to investigate a particular complaint and the likelihood of EWON conducting such an investigation.

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Where EWON refers a complainant to the NSW Ombudsman, the NSW Ombudsman will advise EWON expeditiously if there are any reasons why the matter is not able to be dealt with in a satisfactory manner by the NSW Ombudsman.

Arrangements within EWON

Where EWON receives a complaint that it considers could be more appropriately dealt with by the NSW Ombudsman, whether or not it is within the jurisdiction of EWON, EWON will inform the complainant and draw their attention to the powers of the NSW Ombudsman to review the matter.

In considering whether a matter may be more appropriately investigated by the NSW Ombudsman, EWON will have regard to the fact that the NSW Ombudsman gives priority to complaints that indicate systemic deficiencies in public administration and that the NSW Ombudsman has coercive powers to require public authorities and private citizens and organisations to produce documents and give evidence if needed.

EWON may, where appropriate and at any time, consult with the NSW Ombudsman on whether the NSW Ombudsman has jurisdiction to investigate a particular complaint and the

likelihood of the NSW Ombudsman conducting such an investigation.

Where EWON decides any complaint or conduct related to a complaint would be better dealt with by the NSW Ombudsman and expresses such a view, EWON will advise the NSW Ombudsman of its reasons when referring a matter.

In advising complainants to contact the NSW Ombudsman, EWON will couch its referral information in such a way as not to obligate the NSW Ombudsman to investigate the matter.

Where the NSW Ombudsman refers a complainant to EWON, EWON will advise the NSW Ombudsman expeditiously if there are any reasons why the matter is not able to be dealt with by EWON.

Review

The NSW Ombudsman and EWON agree to review this Memorandum and any associated documents not less than every two years, and at other intervals as necessary to take account of developments. Either body can, when it considers appropriate, instigate a review of these documents.

SIGNED

Bruce Barbour, NSW Ombudsman
21st June 2006

SIGNED

Clare Petre, Energy & Water Ombudsman NSW
21st June 2006