

Memorandum Of Understanding

NSW Ombudsman and

Energy & Water Ombudsman NSW

1.0 Introduction

- 1.1 The NSW Ombudsman has the authority, under the *Ombudsman Act 1974*, to investigate the conduct of NSW public authorities.
- 1.2 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 that are members of the scheme.
- 1.3 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 consumers may make complaints to either or both bodies about these providers.

2.0 Purpose

- 2.1 This Memorandum of Understanding (MOU) sets out the arrangements between the NSW Ombudsman and EWON for sharing information, referring complaints and other operational matters.
- 2.2 The MOU acknowledges the preparedness of the NSW Ombudsman and EWON, in the public interest, to share with each other as far as is legal and practicable, information on relevant matters within the jurisdiction of the other.
- 2.3 The MOU does not limit any other statutory powers or discretion of the parties to exchange information.

3.0 Complaint Referral Arrangement

Notification of complaints

- 3.1 The NSW Ombudsman and EWON will notify each other of matters which come to their attention and which relate to specific areas of interest and/or jurisdiction of the other, as agreed between them (see 3.4-3.9 below).

3.2

- 3.3 All complaints received by EWON will be emailed to the NSW Ombudsman at:
nswombo@ombo.nsw.gov.au

Circumstances in which a complaint may be referred

- 3.4 A complaint may be referred by one agency to the other if it appears to the referring agency that the complaint:
- (i) is within, or partly within, the receiving agency's jurisdiction.
 - (ii) requires action, the nature of which the receiving agency has a special interest in.
 - (iii) is best dealt with by the other agency

Consent of complainant

- 3.5 The express consent of the complainant is to be obtained by the NSW Ombudsman before a complaint may be referred to EWON. The express consent can be given orally or in writing. Where consent is given orally, a written record is to be made and retained on the relevant file.

Information to accompany a referred complaint

- 3.6 Subject to the Information Sharing Arrangement set out in Part 4 below, the information to accompany a referred complaint is to include:
- (i) copies of all documentation held by the referring agency that relates to the complaint, or part of the complaint, being referred.
 - (ii) advice on whether any part of the complaint being referred is also being referred to any other agency for attention.
 - (iii) advice on whether the referring agency intends to continue to deal with the complaint, or part thereof.
- 3.7 Documents obtained from any party in the course of a formal conciliation/mediation proceeding will not be disclosed without the consent of the party that provided the documents.

3.8 At or about the time a complainant is or is to be referred, the referring agency must send to the complainant in writing, the following information:

- (i) the name and contact details of the receiving agency.
- (ii) Advice whether the full, or part of the complaint is referred to the receiving agency; and
- (iii) If only a part of the complaint, whether the other part is being dealt with by the referring agency or any other agency.

3.9 On receipt of a referred complaint, the receiving agency is to give the complainant in writing, the following information:

- (i) confirmation of receipt of the referred complaint, or part thereof.
- (ii) its relevant contact details.

4.0 Information Sharing Arrangement

Circumstances in which information can be shared

4.1 Each agency is authorised to disclose information to the other agency in the following circumstances:

- (i) where one agency requests the disclosure of information reasonably necessary to assist that agency to carry out its functions relating to a matter within its jurisdiction.
- (ii) where one agency is referring a complaint to the other agency pursuant to this MOU.
- (iii) where one agency becomes aware that the other agency has received a complaint and the information held by the other agency would assist the other agency to carry out its functions.
- (iv) where it is reasonably necessary to share information, regularly or in appropriate circumstances, in order for one or both of the agencies to carry out its functions in an efficient manner.

Confidentiality of information provided

4.2 It is acknowledged that confidentiality is to be maintained within the statutory framework, or any other requirements that exist for each agency.

5.0 Management of the MOU

- 5.1 EWON and NSW Ombudsman will each nominate a liaison officer to be responsible for matters arising under this MOU and for cooperation arrangements between the parties.
- 5.2 The NSW Ombudsman and the Energy & Water Ombudsman or their delegates will meet as necessary to assess the operation of this MOU and to discuss the ongoing relationship between EWON and NSW Ombudsman.
- 5.3 In the event of a disagreement between the parties as to the implementation of this MOU or the performance of their respective functions, powers and duties, the NSW Ombudsman and Energy & Water Ombudsman (or their delegates) will seek to resolve the matter in accordance with the objectives of this MOU.
- 5.4 This MOU will continue in force until such time as another MOU is agreed and signed between the parties. Either EWON or NSW Ombudsman may initiate a review of this MOU where necessary.

6.0 Termination

- 6.1 This MOU may be terminated:
- (a) by either party given written notice to the other party of the date on which termination takes effect; or
 - (b) by written agreement signed by both parties that specifies a date on which the termination takes effect.

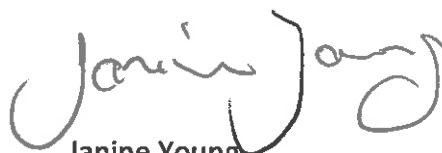
7.0 Public Availability

- 7.1 This MOU will be published on the NSW Ombudsman and EWON websites and available for inspection at the office of the NSW Ombudsman during ordinary business hours.



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NSW Ombudsman

21 November 2016



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Energy & Water Ombudsman NSW

21 November 2016