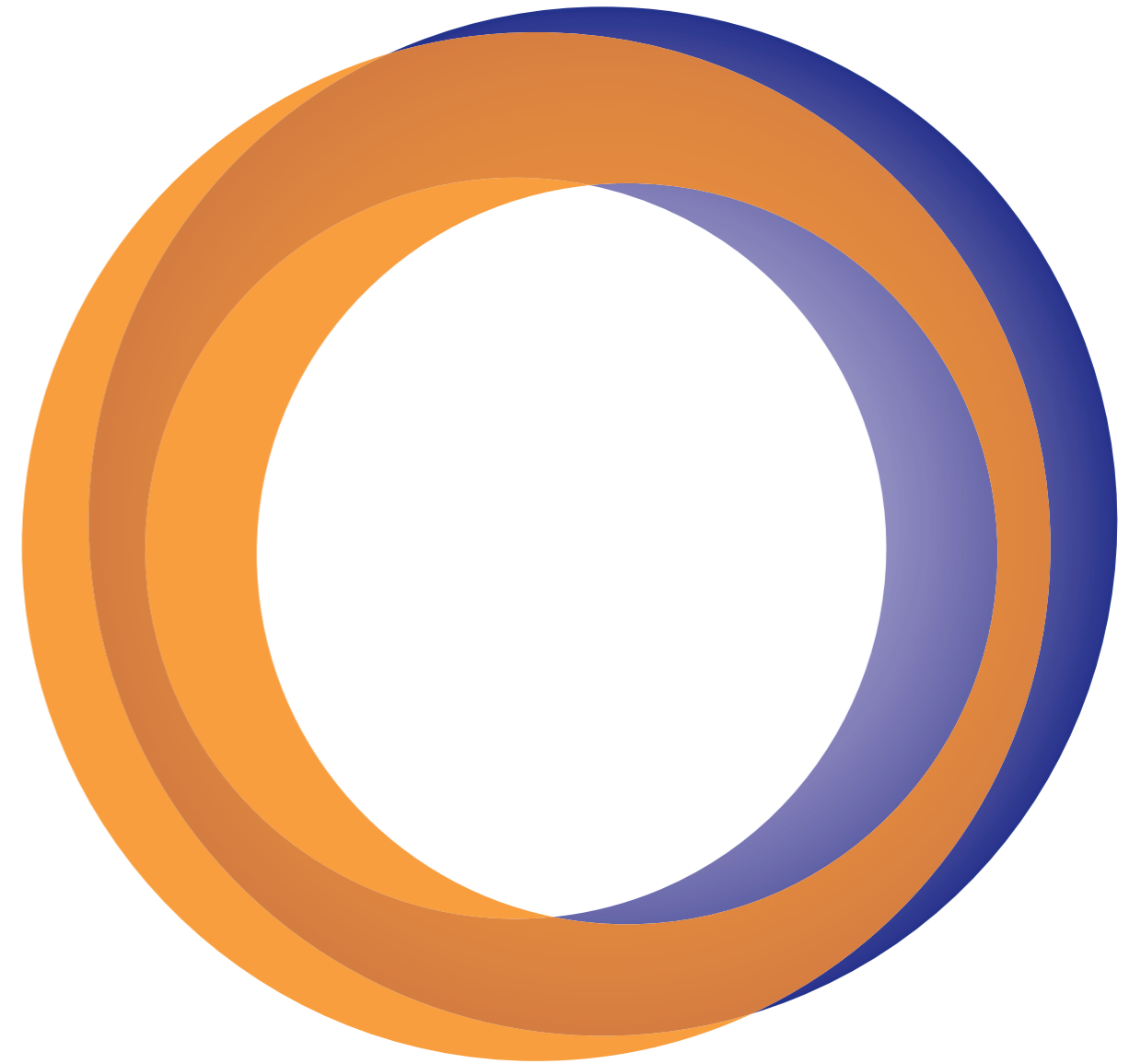


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# Energy Supply Ombudsman

An independent view  
**Annual Report 2007**

**Energy Supply Ombudsman**  
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We are the **Energy Supply Ombudsman**, the Ombudsman Service set up to sort out disagreements between gas and electricity suppliers and their customers.

### **Our service is independent.**

We aim to provide a first class service of dispute resolution for gas and electricity suppliers and their customers.

In achieving our aims we shall be: accessible, consistent, honest, effective and efficient.

9,500

...contacts were made to the Energy Supply Ombudsman from 1 July 2006 to 31 March 2007.

81%

...of those surveyed hoped to receive an apology though 69% also wanted a financial reward.

88%

...of complaints included the issue of billing in 2006/07.

376

...contacts were received about companies which are not members of the Energy Supply Ombudsman.

## Chairman's foreword from Peter Holland CBE DL

The Ombudsman Service Limited



I concluded my Foreword to the annual report of the Telecommunications Ombudsman last year by expressing my delight that the Energy Retail Association (ERA) had asked the company which administers that service, and which I Chair, to set up an Ombudsman service to meet the requirements placed on them by their regulator, Ofgem, to have an alternative dispute resolution scheme in place for energy billing complaints by July 2006.

Our company began life offering a single sector Ombudsman Service.

A number of factors led the Council to conclude that it would be advantageous to expand the remit:

- with a single line of business but with more than one approved provider it was recognised that we were vulnerable to possible fluctuations in membership;
- most complaints, contrary to expectation, were taken because the member company had not dealt with them within 12 weeks. An improvement in customer service standards would reduce the case load;
- a reduced case load would increase unit costs;
- the number of staff needed to cope with the expected demand in telecommunications related work gave little room to offer staff career development opportunities;
- small numbers of staff reduce resilience.

### The Council also recognised:

- that we had a case management system which could be readily adjusted to take on multiple schemes;
- we had an excellent recruitment pool which could be drawn on to meet an increased workload;
- the senior staff team, having completed the 'set up phase' had the capacity to manage a larger business;
- we had a business model of which we were proud and which we believed could be applied to dispute resolution for other sectors.

### The Council was however mindful that:

- any additional work should not detract in any way from the quality of service being offered to Otelo members;
- expansion should be achieved in a way which allowed a real reduction in unit costs;
- the culture already established should not be 'swamped' by a new scheme;
- no work should be taken which would dilute the focus of the company as a provider of excellent ombudsman services.

...expansion should be achieved in a way which allowed a real reduction in unit costs

When it became evident that the Department of Trade and Industry (DTI) was considering an approach to customer complaints handling for utilities similar to that set out in the Communications Act 2003, it was agreed that the Chairman and the Ombudsman should visit those of Otelo's members which, at that time, also offered energy supply services. Their aim was to see if there was likely to be sufficient synergy between the types of complaint to warrant taking this further. The pace was accelerated following Ofgem's response to the Super Complaint on Billing and the proactive search for an appropriate Alternative Dispute Resolution (ADR) service by the Energy Retail Association (ERA). The Council decided that all the potential benefits of expansion could be gained by working with the ERA and that the risks could be managed.

By dint of their enthusiasm, professionalism and sheer hard work the ERA, its consultants (Engage), representatives of the six member companies, and our staff were able to ensure that the Energy Supply Ombudsman Service was ready to open for business on schedule. The service has been modelled closely on the Office of the Telecommunications Ombudsman (Otelo), taking advantage of its processes and case management system.

I congratulate the energy supply industry for working, in such a short space of time, to turn round its own complaints procedures...

With minor changes to our Articles of Association we have been able to bring the new service within the governance structure we established in 2003. This has meant the enlargement of our Council to include, as a Director of the company, a representative of the industry. In this role Duncan Sedgwick, Chief Executive of the ERA, has joined us. Then, to ensure that for every one Industry Council Member there are two Independent Council Members new appointments were made. A full list of Council Members is at Appendix 1.

The Council's primary task is to protect the independence of the Ombudsman. We also ensure that appropriate resources are forthcoming, and that they are then properly used. It has been encouraging to see the pragmatic approach taken by the industry members, through their Member Board. They appreciated that there could be no certainty about predicted case numbers for the early months but were ready to ensure that the Service was adequately funded to provide a quality service to those of their customers with whom they had unresolved disputes.

We have had the benefit of running the Energy Supply Ombudsman service in advance of the legislative requirement for such a scheme. We now await the shape of the regulations which will follow as part of the implementation of the Consumers, Estate Agents and Redress Act. We are ready to adapt and expand the scope of the scheme or to alter its criteria as necessary.

I congratulate the energy supply industry for working, in such a short space of time, to turn round its own complaints procedures so that they lead, through an escalated route, to the Ombudsman; and the Ombudsman's staff for rising to the new challenges this presented.

**Introduction** from Elizabeth France, Ombudsman  
The Ombudsman Service Limited



This is my first report as Energy Supply Ombudsman. While it is a year since the Service was launched, the first Final Decision was not taken until November 2006: there was just one in that month. Numbers did not begin to flow through from contacts and investigations until January. By the end of the financial year, which this report covers, 64 Final Decisions had been taken. This was the pace of growth which my experience as Telecommunications Ombudsman had led me to expect.

The terms of reference for the Service allow us only to consider complaints which came to notice after 1 July 2006. We must then allow the opportunity for the company to resolve the complaint. It is of the utmost importance that companies be given an appropriate amount of time for this. There must be no risk that companies will see the creation of an Ombudsman Service as a signal that difficult complaints can simply be passed on without the need for resolution.

Resolution at the earliest point possible is in the consumers' and the companies' best interests. The Ombudsman is there as part of the framework for complaints handling. This extra step in the complaints escalation process gives confidence to the consumer that if there is no resolution, an independent investigation and a decision, binding on the company, is available. It gives a route forward for companies where resolution cannot be achieved.

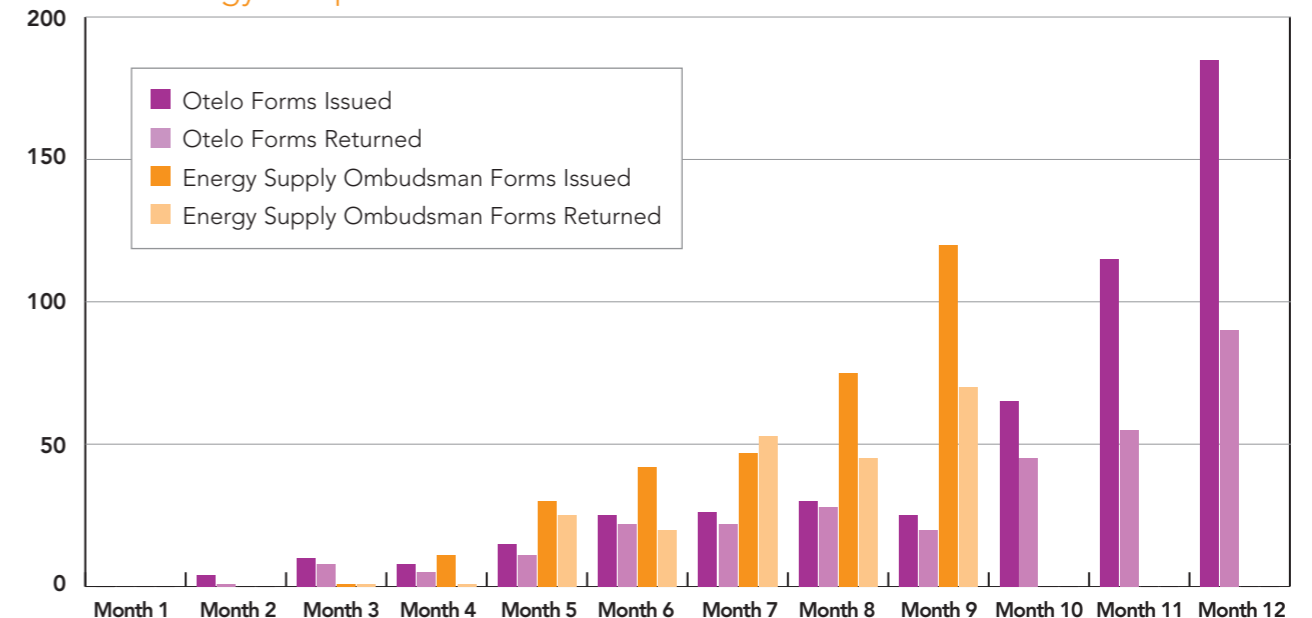
The Ombudsman is there as part of the framework for complaints handling.

While there are few closed cases on which to report the flow of work into the Service shows a faster build-up of work than we saw for telecommunications. The issue of forms to those we are satisfied have a complaint which is within our terms of reference, and the rate at which these are being returned, indicate that awareness of the Service is growing significantly month on month.

Increasing that awareness has been a key part of our work in this first year. I have been impressed with the changes member companies have made to their processes, and their readiness to include clear signposting to the Ombudsman Service in their literature. Energywatch too has helped to ensure that appropriate cases have been referred to us and have, where they thought it helpful to customers, acted for them as third parties. We have visited all energywatch offices and explained our role and way of working to their staff, and they have sent representatives to spend time with us. I am grateful for the constructive approach they have taken to helping us ensure that redress is available to energy consumers.

As we wait to see just what the regulator (Ofgem) will require once their statutory approval for the scheme is needed, the understanding between us, set out in our Memorandum of Understanding, gives us a good foundation on which to build. That is what this year has been about: building the foundations for a first class service of dispute resolution for energy companies and their customers. We have enjoyed the new relationships we have developed and those we have extended in order to do this and we are ready for the challenges which the year ahead will bring.

**Figure 1: Comparison of Telecom and Energy complaints from the start of the services**





### Case study: Whose reading was right?

In the process of changing energy supplier a customer provided meter readings to the losing supplier. In accordance with industry set procedures, these could not be used until confirmation was received from the new supplier that it had taken over the account. When this confirmation was received, the readings provided by the new supplier were different to those provided by the customer. The customer disputed this. The supplier was unable to resolve the complaint and so it advised the customer that the Energy Ombudsman Service may be able help to give an independent view.

After looking at the evidence from both parties, the Ombudsman considered that the supplier had acted within industry procedures and had made real attempts to resolve the problem. However, on the balance of the evidence provided to her, the Ombudsman decided that the meter reading provided by the customer should stand. The supplier was required to amend both the opening and closing meter readings on the account; credit the account with the new balance for the disputed period and to provide written confirmation that the customer's credit file was unharmed. A goodwill payment was also required.

## Establishing the Service

The Service was set up to ensure that redress was available to customers of energy supply companies. It was billing which had been the subject of a Super-Complaint and so billing complaints were those which the regulator, Ofgem, required that any dispute resolution scheme, put forward by the industry, should consider. While billing complaints are the largest category received by member companies it was recognised that a wide variety of customer service issues could trigger complaints, which might not strictly be 'billing complaints'.

A broad definition of complaints which the Energy Supply Ombudsman could consider was therefore agreed by the industry members. It includes everything other than mis-selling (for which there is an agreed code of practice). This broad definition recognises the importance of making the process easy to use for customers. The messages are more straightforward and the risk of raising expectations which cannot be met is reduced.

One of the lessons learned from the work of Otelo, is the importance of explaining clearly what can and what cannot be expected of the Service.

**The Ombudsman is not a regulator:** awards are not punitive and each case is looked at on its individual merits.

**The Ombudsman is not a consumer advocate:** if companies are operating within the regulatory framework it is not for the Ombudsman to champion change.

**The Ombudsman is not there to provide emergency support:** the Office is not geared up to deal with the immediate problems which might face a customer whose energy supply, for whatever reason, is unavailable.

We shall, of course treat any call we do receive sensitively and we have ensured that, for all our member companies, we have a contact point we can offer to vulnerable consumers in distress. By its nature however, the Ombudsman Service comes in to play after the event. What we do provide is an independent, accessible, dispute resolution service which costs the customer nothing to use and leaves that customer free to accept the Ombudsman's Final Decision in full and final settlement of the dispute raised, or to reject it and pursue the matter by other routes (perhaps through the courts). If, however, the customer accepts the decision then it becomes binding on the member company. All member companies have accepted, contractually, an obligation to abide by the Ombudsman's decisions.

...an independent, accessible, dispute resolution service which costs the customer nothing to use...

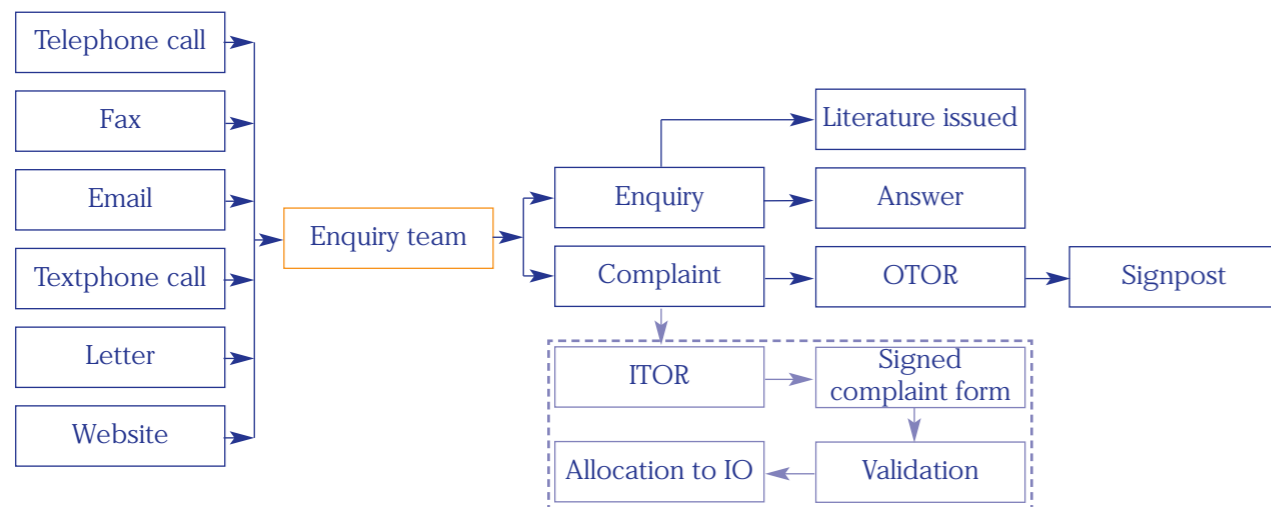
## Establishing the Service

continued

The process itself parallels the one used by Otelo. Our focus has been to encourage people to make their complaints by telephone. In that way we can talk through the issues: check that the complaint seems to be within our terms of reference, offer alternative ways forward if it is not, and if it is, take down the key points which are in dispute.

The summary of the key points is then sent to the complainant who is asked to check them and return the form, agreeing that we should proceed and authorising the supplier to release any information about them or their accounts which may be relevant to the complaint. The receipt of the authorisation triggers our request for the file from the supplier.

**Figure 2:** Enquiry and complaint receipt process



Our case management system, honed as we have used it to meet our needs across the services we provide, has proved robust. Enhancements which would enable it to deal with a second service were ready on time and have provided us with the ability to respond appropriately as the volume of work has gradually built up.

In establishing the Service and learning the context for our work we had a range of valuable meetings and training events. Ofgem provided training to all our staff and to our Council members, about the regulatory framework. The factual information and their willingness to answer our questions as we have developed our understanding of the area have helped build strong foundations for the Service. The Energy Retail Association ensured that we had identified all the key

Most importantly, our staff visited all energywatch offices, and members of their staff visited us, for sessions which allowed the development of mutual understanding. Meetings with all six member companies also played a key part in our preparation. All member companies spent time with us before the first complaints were received for investigation. Our staff also spent time with each company, experiencing how its complaints handling process worked and looking at the changes being introduced to ensure clear escalation routes which end with referral to the Ombudsman. We have been impressed with the effort that has gone in to reviewing existing ways of working to see what changes might be made to make the process simpler for consumers and tailored so that it works with the interface to alternative dispute resolution which we provide.

**We have been impressed with the effort that has gone in to reviewing existing ways of working to see what changes might be made...**

stakeholders and worked with us on the launch of the service. Energywatch shared with us current issues of concern to consumers and provided us with briefings they had produced.

By 1 July 2006 we had developed branding for the Service. We had published a Plain English guide to explain what the Service offers and how to make use of it, and our website was in place.

## The experience so far

Inevitably this first annual report, based on just nine months of operation shows a slow build-up of work. The build-up has however been steady. In July 2006 we had just 241 calls and 87 written contacts, by March 2007 the figures showed over 8000 calls and more than 1500 written contacts. Many of these are from customers with a complaint enquiring about the process we offer but not yet at the point when they can use it. Some will come too early in error, others because they want to be sure that they understand how they will be able to proceed if their complaint is not resolved.

Our terms of reference made clear that we could only deal with complaints which had arisen since 1 July 2006. There must then be an opportunity for the company complained about to put things right before we become involved. As soon as a company has completed its consideration of a complaint and decides that the offer it has made is its final position, then their customer can bring that complaint to the Ombudsman if they remain dissatisfied. We call such cases complaints which have reached 'deadlock'. There is also another criterion which, if met, allows us to investigate. This is the provision which ensures that if a case is not making satisfactory progress then that warrants the Ombudsman's involvement. This safety net is currently set at 12 weeks.

By the end of September just one case had met the criteria for investigation. A provisional report was issued the following month and a Final Decision in November. At the end of the financial year we had received more than 200 cases for investigation and issued reports on more than half of those. Growth is always a difficult topic for those whose role is to consider complaints. Clearly our aim is to play our part in ensuring an improvement in customer service and so, over time, a reduction in the number of cases which need independent dispute resolution. However, before that time comes, a new service will have a growth path. We looked at that for other similar services and can draw a direct comparison with the growth of Otelo.

The graph on page 7 shows the growth curve for complaints forms issued and returned for the early months of Otelo compared with the Energy Supply Ombudsman Service. A form is issued where we believe a complaint is within the Service's terms of reference. While just 64 Final Decisions were taken in the first nine months, the figures continue to climb and our budget has been set on an assumption that the first full year of operation (2007/8) will see some 2000 cases investigated.

Not surprisingly, of those cases we have investigated the majority (88%) were about billing. Within that category, complaints about inaccurate invoices, failure to send a bill at all, and poor customer service, were the most common causes of complaint. The figures are however too small to draw any general conclusions about the areas which are likely to be the primary sources of complaint for the future.

### Case study: Meter change

A supplier changed a meter but then failed to update its system to confirm that this had been done. Because of this a customer didn't receive a statement for a considerable period and when it arrived the costs were high. The customer was unhappy with the resolution offered by the supplier and asked the Ombudsman to look into the complaint.

The Ombudsman decided there was a clear shortfall in customer service in the handling of this complaint. The Ombudsman also noted that the supplier had collected two payments from the customer without authorisation. She required the supplier to make a payment, for goodwill, and to arrange a payment plan for the outstanding amount.

The supplier was also required to provide a refund of the unauthorised payments, to make a payment, for goodwill, for its poor level of customer service and to send a formal written apology to the customer.

## The experience so far

continued

We are prepared to predict that customer service will feature in a high proportion of cases. A complainant who uses alternative dispute resolution has generally lost confidence in the supplier's ability to deal with the matter. Our expertise is needed to look into why the relationship between the supplier and the customer has broken down. The issue is often one of poor communication or failure to apologise when things go wrong rather than a technical problem. After all, by the time we see a case it has been through the company's escalated complaints process. While we have, and will continue to see errors, these have largely been spotted and dealt with. The issues which leave the customer dissatisfied are often about failure to recognise the distress and inconvenience already experienced and to deal with that as well as the issues of substance. Part of our role, therefore, is to work with member companies to improve their complaints handling. As part of that **we are clear that a confident company can encourage confidence in its customers by explaining before a problem even exists how complaints are handled, and that there is the opportunity to go to a free, independent and accessible Ombudsman service if resolution can not be achieved.**

For our part we are working to raise the profile of the Service with consumers, member companies, and those who give advice to consumers.

### Consumers

In the first nine months of the service nearly 10,000 customers made contact with us. They may have been referred to us by their supplier or by those who give advice and help to consumers. They may have received a copy of the booklet we produce or the leaflet we make available for member companies to include with their deadlock letters.

The booklet is available in hard copy and can be downloaded from our website. We have basic information about the service on the website in 16 languages. We also have a contract in place which allows us to respond to any contact in the language in which it is made; if the contact is made by phone we can offer a call-back with real-time translation.

It is pleasing that information about the Service is now on member company bills. This takes time to achieve – redesigns are not straightforward, but we are pleased to note that all companies have now included information about the Ombudsman Service or have a time-table for doing so.

There have also been some bill inserts with commendably clear explanations of the complaints process.

Our first Customer Satisfaction Survey, conducted for us by independent researchers, and published in summary at Appendix 5, is encouraging - showing that our front line staff have provided professional and appropriate advice to those who have contacted us.

### Member Companies

For member companies we hold an annual open day for operational staff. This allows them to discuss with each other, as well as with us, any issues that have arisen during the year. It also allows us to pick a topic which might benefit from such a forum. This year, as well as picking up any teething problems we decided to use a booklet published by the Scottish Public Sector Ombudsman on how to make an appropriate apology as the basis for some discussion, with a view to issuing some similar guidance to our member companies during 2007/8.

We also meet companies regularly on a bilateral basis. These meetings focus on their own complaints and allow them to discuss Decisions and Recommendations made by the Ombudsman. These discussions are, of course, after the process is complete and have no impact on the Decision in an individual case. While such Decisions do not create precedents, there are often points which might help to improve complaints handling for the company in the future.

The Energy Member Board includes representatives of all the current members of the Service. It meets regularly to discuss budgeting and finance. It is provided with information about how the business is running and, as well as appointing a Council Member to represent the industry it has the benefit of Independent Council Members' input to its meetings.

### Those who give advice and help to consumers

Energywatch is the key consumer body for the customers of our member companies. Its advocacy precipitated the creation of the Ombudsman Service, and its interaction with consumers puts it in an excellent position to explain to them the contribution the Ombudsman can make, where that is appropriate. It is clear from the cases we see where the complainant mentions energywatch that its case officers have a high level of understanding of what we can and can not do. That said we had planned on an assumption that we would see more cases where energywatch was acting as a third party, on behalf of consumers, than has so far been the case. So far we have seen less than ten cases.

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**We must distinguish ourselves as independent from consumer advocacy groups...**

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While we must distinguish ourselves as independent from consumer advocacy groups we have found our associate membership of the Consumer Action Network valuable both as a means of explaining what we do and learning more about issues across a range of industries.

We have also had meetings with a range of advice groups including Citizens Advice, Citizens Advice Scotland, National Consumer Council, Scottish Consumer Council, Which? and National Energy Action. We held two seminars for the advice sector, one in London and one in Warrington, to explain what we do and to ask how we could improve the way we interact with them.

The consumer press is also vital to the establishment of a new service. We have been pleased to provide information to journalists who deal with consumer queries and to those with an interest in the utilities sector. The Ombudsman is always keen to respond to requests for information about the Service or contribute to discussion in the print or broadcast media. Raising the profile of ombudsman services generally and of the Energy Supply Ombudsman in particular is an important part of our strategy.

## Case study: Unfair debt collection

A customer complained that a supplier was sending aggressive debt collection letters, though the customer had no outstanding bills. The supplier investigated and found that the account was clear. The supplier could not explain why these letters were being sent but they continued to arrive. The customer gave the supplier a reasonable time to resolve the complaint then raised the matter with the Ombudsman.

Following a full investigation the Ombudsman decided that the supplier had not explained the situation sufficiently well and that the debt collection method was inappropriate. The supplier was required to make an apology for the debt collection letters and the poor customer service it had demonstrated. It was also required to confirm that there was no debt, and to make a goodwill payment to the customer.

## Our people

It goes without saying that in a Service like ours our people are our greatest asset. We are very fortunate. We have enthusiastic, professional staff who are committed to the strategic aims and values of the organisation.

Freed from the pressures of a case load, he is looking at the quality of the investigation reports we produce and at our processes. The reports we issue with our Provisional Conclusions are the main product of the Investigations team. All team members have had the opportunity to attend Plain English courses offered during the year. It is not only important that our reports are clear and concise but that the reasons for decisions are provided and that there is consistency in decision taking. To ensure that we are complying with the "Principles of good complaint handling" published by BIOA in April, the Investigation Manager will use the self-audit tool kit it provides.

In a small organisation it is inevitable that some professional roles are covered by just one person (who may have other responsibilities). This has also been a risk to our resilience, and one we have been keen to address. We are delighted therefore to have been able to justify providing additional support in our finance and communications functions.

### Strategic aims:

- We will provide a first-class service of dispute resolution for public communications providers, energy suppliers and their customers.
- We will strive to provide the Alternative Dispute Resolution (ADR) service of choice.
- We will create a model for dispute resolution that could be used in other industry sectors.

We have a low staff turnover and an excellent pool from which to recruit - at all levels. To start the new Service we trained members of staff already familiar with the way we work. We have then been able to allocate their time to the work of the Energy Supply Ombudsman as the workload has grown. It also means we have staff members trained to deal with both communications and energy work. This also improves the resilience we can offer to our member companies. To add to the skills of our small Human Resources team as we take this work forward, we have been pleased to be able to recruit a Learning and Development Adviser.

Experience we gain is shared, but we are working to underpin that sharing with systems which make it easier to access the collective learning. We have a system of champions for subjects which arise: prepayment meters for example, and we are formalising our approach to quality through our newly appointed Investigation Manager.

### Values:

- In achieving our aims we shall be:
  - accessible
  - accountable
  - consistent
  - honest
  - effective
  - efficient
  - independent



## Our Service

We value the support provided to us by the British and Irish Ombudsman Association, and are keen to demonstrate our compliance with the standards set for membership. The validation process is rigorous. Although the Telecommunications Ombudsman is a voting member, detailed questions were asked and some minor changes to our Articles of Association sought before full voting membership was granted to the Energy Supply Ombudsman. The Validations Committee's approval was endorsed by the Executive at its April meeting.

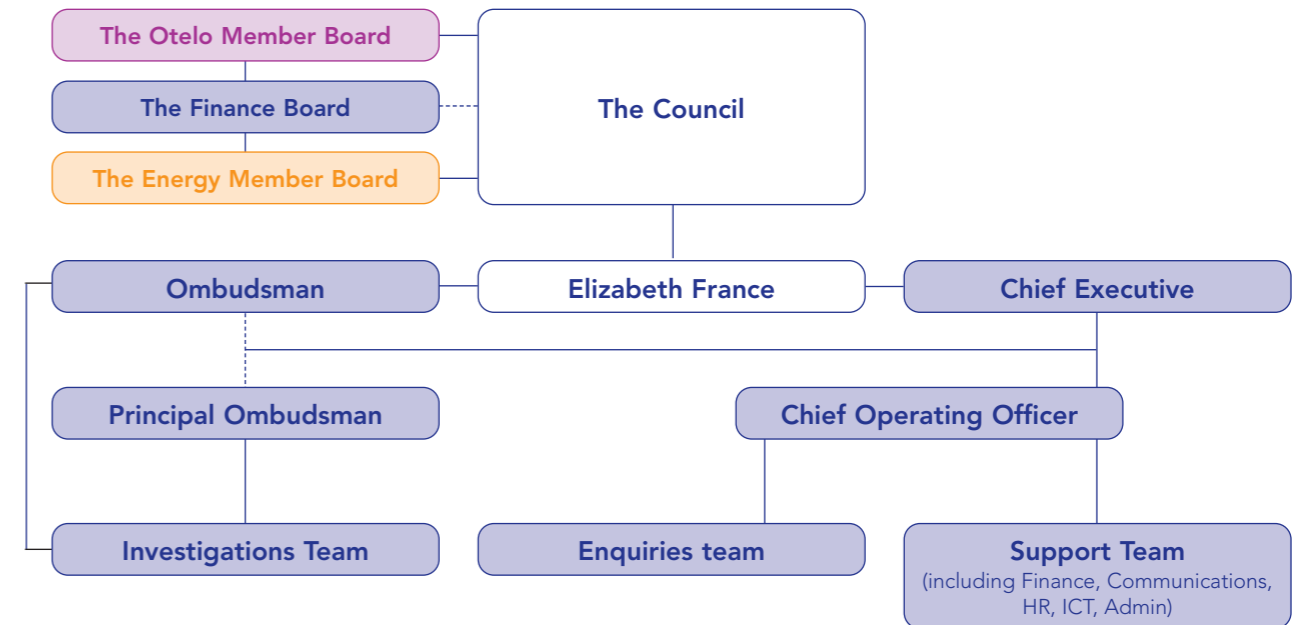
When we were established, to meet the regulator's requirements of the industry, it was agreed that the terms of reference would be revisited and the working of the scheme reviewed after 12 months. The Energy Retail Association commissioned a review for its own purposes in order to help scope the wider review, but it has now been agreed that this work will be carried forward by Ofgem. Their open letter of 23 May sets out the terms of the review for which information has now been provided. We look forward to responding to any recommendations it may make.

In the meantime we agreed a Memorandum of Understanding (MoU), with Ofgem. This fills a particularly important gap in the period prior to implementation of the Consumers, Estate Agents and Redress Act, after which there will be a clear statutory framework within which we shall provide information to the regulator and respond to changes to the scheme which may, from time to time, be required if approval is to be maintained. A copy is at Appendix 4.

Our aim is to be transparent about what we do while respecting the privacy of those consumers who complain to us. All decided cases are placed on our website as soon as the complainant has indicated whether or not the remedy is accepted. Statistical information has not been produced on an interim basis at this early stage – the figures have been so small – but the Council has decided on quarterly publication of basic statistics for the future. These, with the minutes of all Council meetings (published on our corporate website at [www.tosl.org.uk](http://www.tosl.org.uk)) give a good, and timely, picture of the way the Service is performing.

## The structure

**Figure 3: Structure of The Ombudsman Service Limited (TOSL)**



The Ombudsman's purpose is to consider complaints made by energy suppliers that have chosen to nominate the service as their dispute resolution scheme. The Service is free to complainants and independent of the industry and the regulator.

The company is funded by its industry members who have chosen to pay 20% of budgeted costs by subscription, the remainder being paid through case fees. The governance structure has been designed to protect the independence of the Ombudsman. The Council, which is the Company's non-executive Board, consists of nine members, six of whom are independent of the industry and three elected by the Industry Member Boards.

Each Council Member has a fixed term of office. Elizabeth France reports to them in her role as Chief Executive of the Company but the Ombudsman's decisions are independently taken.

The primary role of the Council is to appoint, maintain and safeguard the independence of the Ombudsman. This was recognised when the Service was admitted to membership of the British and Irish Ombudsman's Association (BIOA).

The Industry Member Boards - elected by the member companies - are tasked with reviewing and monitoring overall performance and setting fees.

The Chairman of the Finance Board is appointed by its members from the Independent Council Members. The Members are drawn from each industry Member Board. The Finance Board receives the draft Annual Business Plan and draft Annual Budget prepared by the Council and consults each Member Board for the approval and adoption of each. Following the approval of the Annual Business Plan and Budget the Finance Board will meet to review the financial performance of the business.

## The future

As this annual report is launched the Consumers, Estate Agents and Redress Act will be receiving Royal assent. We look forward to the certainty which a statutory framework will bring for all stakeholders. The statutory duty for energy companies to provide an approved alternative dispute resolution service; the statutory right of consumers to use one; the provision for the regulator to set standards and the clarification of the roles of companies, regulator, National Consumer Council and alternative dispute resolution providers can only be helpful for customer service in the sector.

There will be work for us all to do between now and full implementation of the provisions, and we look forward to that. Indeed we have already begun to talk to some of the smaller energy suppliers, who are not members of the Energy Retail Association, and to distributors to see how the scheme can be adjusted to meet their needs.

The Consumers, Estate Agents and Redress Act does, of course, have impact beyond the energy sector. We currently await the Office of Fair Trading's (OFT) recommendations following its consultation on approval of estate agent redress schemes. The decisions OFT takes on how to select a scheme or schemes will potentially have a significant impact on the way ombudsman services operate. Competing ADR schemes in a single sector is not something our Council supports. It is competition which is likely to benefit the provider at the expense of the consumer. Nevertheless, as ADR spreads to cover most service provision there will be inevitable overlap, as professional service providers offer a range of services to their clients. The challenge for Ombudsmen will be to work together to ensure that there is no consumer confusion even where there is potential for co-incidence of jurisdiction.

### Case study: Incorrect billing

A customer complained that a supplier had incorrectly billed for services a long time after it knew that there was an error on the customer's account. The customer considered that the supplier should waive the arrears. The supplier investigated the complaint and offered to reduce the arrears by half, allowing a long defined period for payment of the balance.

The Ombudsman considered that the offer made by the supplier was generous as the customer could have identified the error and brought it to the attention of the supplier, sooner. The customer also complained of a shortfall in customer service, though the Ombudsman could find no significant evidence of this. The supplier was required to honour the offer it had previously made in full and final settlement of the dispute.

## Key facts

**Figure 4: Awards**

Those who complain to the Energy Supply Ombudsman are not usually looking for large awards and we always try to make it clear that the Ombudsman is precluded from making punitive awards.



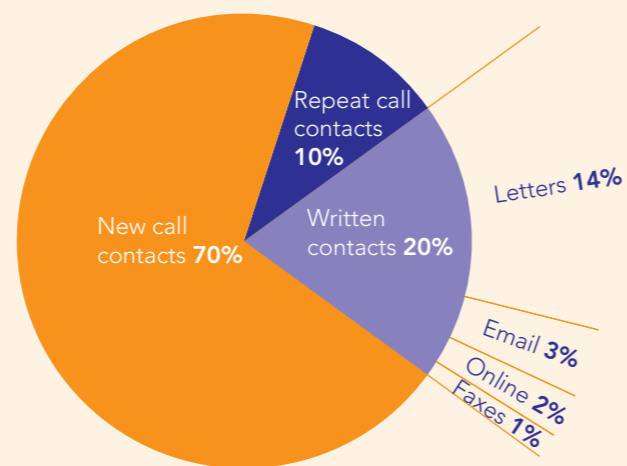
Most people (81%) of those who responded to the customer satisfaction survey hoped to receive an apology though 69% also wanted a financial award.

78% of all Final Decisions decided in the period 2006/7 included a financial award. The average award for the period was for an amount less than £90.

**Figure 5: The route by which consumers contacted the Energy Supply Ombudsman**

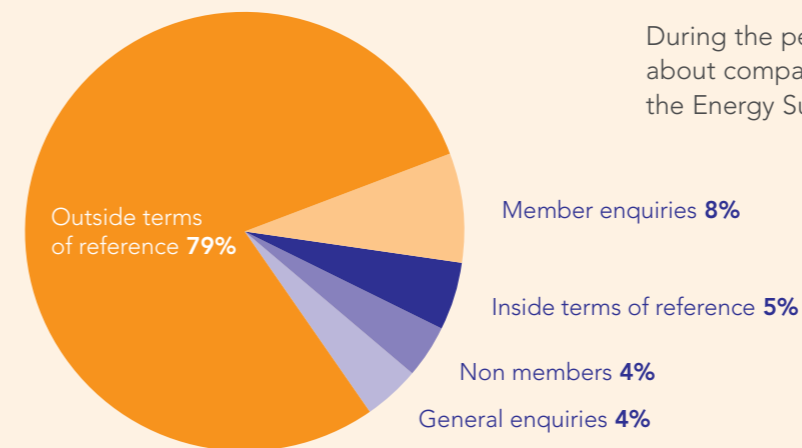
As awareness of the service increases more people have contacted the Energy Supply Ombudsman with an enquiry or a complaint.

The Energy Supply Ombudsman received over 9,500 contacts during the period 1 July 2006 to 31 March 2007.



**Figure 6: The types of contact received**

Of the total number of contacts received, on average one in fifteen is accepted for investigation.

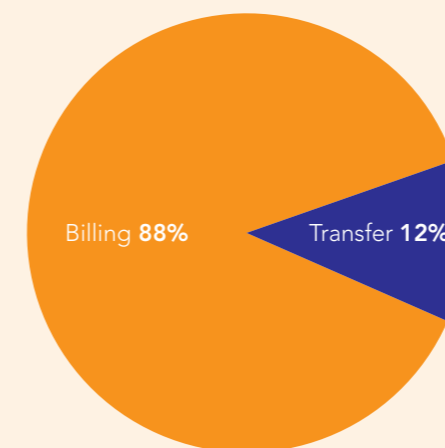


The majority of contacts to the Energy Supply Ombudsman are issues which are outside our terms of reference. Most commonly this is because the complainant has contacted the Energy Supply Ombudsman too early in the complaints process and has not allowed the company adequate opportunity to resolve the complaint.

During the period 376 contacts were received about companies which are not members of the Energy Supply Ombudsman.

**Figure 7: Complaint types**

The complaints we handle usually include more than one issue and customer service is an element of most. Importantly, the categories shown in figure 7 are derived from the complainant's description of the problem when they first raise a complaint with the Energy Supply Ombudsman. Issues relating to billing were a major cause for complaint. The Ombudsman can look at any complaint except for those which relate to mis-selling. **Sales will come within the remit of the Ombudsman later in 2007.**





## Appendix 1 – Executive Team & Council members

### Executive Team

#### Elizabeth France CBE is the Telecommunications and Energy Supply Ombudsman.

Elizabeth France took responsibility for Otelo on 1 October 2002 and for the Energy Supply Ombudsman Service on 1 July 2006. Previously Elizabeth was a career Civil Servant. She resigned from the Civil Service to become the Data Protection Registrar in September 1994 and later the Information Commissioner, in January 2001. Elizabeth is a non-executive Director of the Serious and Organised Crime Agency. She is a member of the General Assembly of the University of Manchester and of the Council of the University of Wales, Aberystwyth. Elizabeth has been awarded honorary doctorates by the Universities of De Montfort, Loughborough and Bradford. In June 2002 Elizabeth was awarded a CBE, for services to data protection.

#### Dr Richard Sills is the Principal Ombudsman

Richard Sills graduated from Birmingham University with a B.Sc. and Ph.D. in Chemistry before joining the UK Atomic Energy Authority and transferring to British Nuclear Fuels (BNFL). He worked in all of the principal areas of the company's business, including as General Manager of an advanced ceramics company, eventually becoming Senior Vice President of BNFL Inc. in Washington DC.

On leaving BNFL, he worked for a small radioactive waste handling company and also as a freelance consultant in energy and the environment.

In 1996, he was appointed as the first Chief Executive of Entrust, the regulator of the Landfill Tax Credit Scheme, and joined the Telecommunications Ombudsman Service in 2002 as Project Manager, for assisting the Council and Ombudsman in setting up the organisation. He was appointed as Director of Operations for the Service, becoming Principal Ombudsman in July 2006.

#### Richard Brown ACMA is the Chief Operating Officer

Richard is the Company Secretary and was the Director of Finance and Administration. He is a qualified accountant with a broad range of commercial and public sector experience and was formerly Finance Director with North & Mid Cheshire TEC. Richard was the project manager responsible for setting up the Energy Supply Ombudsman with the Energy Retail Association and is now the Chief Operating Officer with the responsibility for the way the Service is provided on a day-to-day basis.

### The Council

#### Peter Holland CBE, DL is the Chairman of the Council of The Ombudsman Service Limited (TOSL)

Peter Holland began his career as a journalist on local and national newspapers in this country. During his career with Reuters he moved into management with roles including Managing Director of Reuters Europe, Chairman of Reuters Latin America and Chairman of Visnews, a television news agency. He is the former Chairman of Hertfordshire Police Authority, the Vice Chairman of the Association of Police Authorities, a non-executive director of an IT company and Chairman of Herts in Trust, a Hertfordshire charity. Peter became Deputy Lieutenant of Hertfordshire in 2000 and was awarded the CBE in the Queens' 2005 New Year Honours list. In November 2006 Peter was made Chair of the new National Policing Improvement Agency.

**Roger Jefferies** is a lawyer by training. He had a career in local government serving as chief executive of two London boroughs, Hounslow then Croydon. In 1993 he was appointed the Independent Housing Ombudsman. Following retirement in 2001 he was appointed as non-executive director of the National Clinical Assessment Authority, and to the Board of the Financial Ombudsman Service. He also chairs the discipline committees of the South East London Health Authority.

**Tony Allen** is the Head of Trading Standards and Licensing for the Metropolitan Borough of Oldham. Formerly, he was a member of the Council of the Trading Standards Institute and worked as Head of Development. He is currently their Lead Officer on Crime and Disorder. Tony has worked in Cheshire, Trafford, Enfield and Oldham in Trading Standards and has a background in electrical retailing prior to joining Trading Standards.

**Julie Meadows** is a member of the Institute of Chartered Accountants in England and Wales. She has significant commercial and operational business management experience and has worked as an independent auditor.

**Jean Couper CBE** is a director of K3 Management Consultants and The Law Academy and a member of the Accounts Commission and The Police Advisory Board for Scotland. Formerly she was the Chairman of the Scottish Legal Aid Board and Vice Chairman of the Health Education Board for Scotland and The Wise Group Ltd. Jean was awarded the CBE for services to the administration of justice in the Queen's birthday honours list in 2006.

| Council Member   | Appointed  | Term  | End of Office | Max 2nd term* | End date   | Status      |
|------------------|------------|---|---------------|---------------|------------|-------------|
| Peter Holland    | June 2002  | 4 years   | June 2006     | 3 years       | June 2009  | Independent |
| Roger Jefferies  | June 2002  | 3 years   | June 2005     | 3 years       | June 2008  | Independent |
| Margaret Doyle   | June 2002  | 4 years   | June 2006     | 3 years       | June 2009  | Independent |
| Julie Meadows    | Feb 2005   | 3 years   | Feb 2008      | 3 years       | Feb 2011   | Independent |
| Tony Allen       | June 2006  | 3 years   | June 2009     | 3 years       | June 2012  | Independent |
| Jean Couper      | June 2006  | 3 years   | June 2009     | 3 years       | June 2012  | Independent |
| Chris Holland    | March 2003 | The terms of Office for Industry Members of the Council are determined by the respective Member Board |               |               |            | Industry    |
| Duncan Sedgwick  | June 2006  |   |               |               |            | Industry    |
| Rosaleen Hubbard | Jan 2003   |   |               |               | March 2007 | Industry    |
| Darren Wight     | Jan 2007   |   |               |               |            | Industry    |
|                  |            |   |               |               |            |             |

\* At the 36th Meeting of the TOSL Council on 19 April 2005 it was decided that there would be an assumption that appointments should be for a term of 3 plus 2 years

**Duncan Sedgwick** is the Chairman of the Energy Member Board and the Chief Executive of the Energy Retail Association. Duncan was formally a Director of Powergen, his most recent position was as the Director of Business Transformation. His other posts have included Chairman of the Learning & Skills Council, Chair of Race for Opportunity in the East Midlands and the Citizens Advice Bureau for the East Midlands.

**Margaret Doyle** is a mediator and a consultant in alternative dispute resolution (ADR). She is the author of "Advising on ADR: The essential guide to appropriate dispute resolution" (2000), which gives an overview of ADR schemes in the UK. She is a member of the British and Irish Ombudsman Association (BIOA) and a trustee of Mediation UK, the national umbrella body for community mediation

**Rosaleen Hubbard** was the Chairman of the Otelo Member Board until leaving the Council in March 2007.

**Chris Holland** is the Head of the Ombudsman Interface Team and Chairman of the Otelo Member Board.

**Darren Wight** is a former Royal Naval Engineer and is now a Senior Executive Manager at Pipex Homecall.

## Appendix 2 – Key Performance Indicators

The TOSL Council identified Key Performance Indicators for the year 1 April 2006 – 31 March 2007, and set associated targets:

- 1 the percentage of Provisional Conclusions issued within 6 weeks of authority, from the customer, to investigate (not less than 90%);
- 2 the percentage of Provisional Conclusions issued more than 8 weeks after authority, from the customer (not more than 1%);
- 3 the percentage of calls answered by a member of staff within 2 minutes (not less than 80%);
- 4 the percentage of calls answered by a member of staff within 5 minutes (not less than 95%);
- 5 the percentage of written correspondence receiving a response within 5 working days (not less than 95%);
- 6 the percentage of written correspondence receiving a response within 10 working days (100%);

Figure 11: Performance for 2006/2007

| KPIs for year 2006/2007                            |        |           | Mar | Apr | May | Jun | Jul  | Aug   | Sep   | Oct   | Nov   | Dec   | Jan   | Feb   | Mar   |
|--|--------|-----------|-----|-----|-----|-----|------|-------|-------|-------|-------|-------|-------|-------|-------|
| Measure  | Target | Avg 06/07 |     |     |     |     |      |       |       |       |       |       |       |       |       |
| 1 % PCs under 6 weeks                              | >90%   | 99%       |     |     |     |     | 0%   | 0%    | 0%    | 100%  | 100%  | 100%  | 100%  | 96.4% | 97.7% |
| 2 % PCs over 8 weeks                               | <1%    | 0%        |     |     |     |     | 0%   | 0%    | 0%    | 0%    | 0%    | 0%    | 0%    | 0%    | 0%    |
| 3 % calls answered in under 2 mins                 | > 80%  | 96.2%     |     |     |     |     | 99%  | 99.9% | 99.4% | 97.5% | 93.3% | 97.8% | 95.4% | 94.5% | 88.7% |
| 4 % calls answered in under 5 mins                 | > 95%  | 100%      |     |     |     |     | 100% | 100%  | 100%  | 100%  | 100%  | 100%  | 100%  | 100%  | 100%  |
| 5 % written correspondence responded to in 5 days  | > 95%  | 84.2%     |     |     |     |     | 100% | 100%  | 90%   | 98.5% | 96.4% | 100%  | 97.2% | 51%   | 25%   |
| 6 % written correspondence responded to in 10 days | 100%   | 99.9%     |     |     |     |     | 100% | 100%  | 100%  | 100%  | 100%  | 100%  | 98.7% | 100%  | 100%  |

- Achieving target
- Below target – expect to achieve target next month
- Below target – not expected to achieve target next month

## Appendix 3 – Processes and procedures

### Enquiry stage

Enquiry Officers are the first point of contact for members of the public and they provide the following:

- standard literature describing what the organisation does and how it does it;
- advice about how to complain and contact points for all members;
- a dictation service taking down the main points of consumers' complaints over the telephone and advice if the complaint is outside the terms of reference (OTOR);

- advice and signposting to appropriate alternative bodies if the complaint is outside the terms of reference (OTOR).

The Enquiry Team members also:

- review all complaint forms submitted via the internet to ensure that they are inside our terms of reference (ITOR);
- receive and check signed complaint forms.

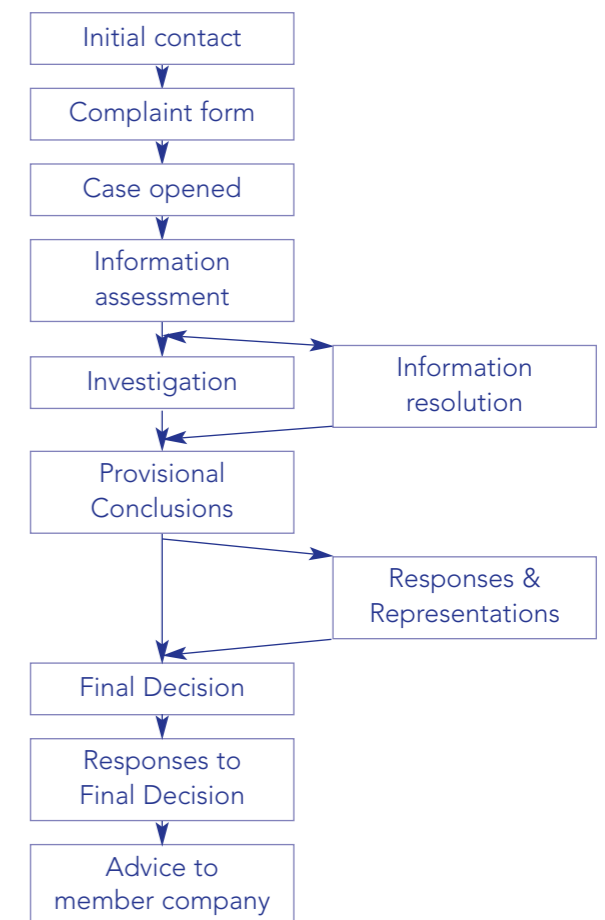
### Informal resolution stage

Following notification from the Energy Supply Ombudsman of a complaint against it and requesting a case file, a member company sometimes realises that a simple review of the case could well resolve the dispute. An example of the opportunity for this is when there has clearly been a breakdown in the communications chain within the member company and the customer's complaint has been mislaid. The member company will make contact with the customer and offer a resolution which, if acceptable to the customer, means that the Energy Supply Ombudsman will no longer be involved. We call this process Pre-Investigation Case Closure (PICC).

### Investigation stage

Following the receipt of the case-file, the complaint is allocated to an Investigation Officer, who reviews the material provided by both consumer and the company, asking for further information if necessary, and develops the Provisional Conclusion (our initial findings). This report is issued to both parties. The parties have twenty-eight days to respond with either an acceptance or further representations and a reminder will be sent if no reply has been received by the end of this period.

Figure 12: The process



## Appendix 4 – Memorandum of Understanding between The Gas and Electricity Markets Authority and the Ombudsman Service Limited

### Introduction

- 1 The parties to the Memorandum of Understanding (MoU) are the Gas and Electricity Markets Authority (for the purposes of this document, referred to as the Authority) and The Ombudsman Service Limited ("TOSL"), which oversees the operation of the Energy Supply Ombudsman Service.
- 2 The Energy Supply Ombudsman Service is an alternative dispute resolution mechanism set up by the Energy Retail Association (ERA) and TOSL, to resolve disputes arising from customers of the member companies of the Energy Supply Ombudsman Service.

### Roles of each party

- 3 The Authority was established through the Utilities Act 2000 and is responsible for the regulation of the gas and electricity industry. More particularly, the Authority's principal statutory objective is to protect the interests of consumers, wherever appropriate by promoting effective competition.
- 4 In meeting its statutory duty, the Authority must have particular regard to the needs of vulnerable customers; particularly older people, the disabled or chronically sick, those living on low incomes and in rural areas. It also has duties to help gas and electricity markets achieve environmental improvements as efficiently as possible and have regard to the principles of best regulatory practice.
- 5 The Office of Gas and Electricity Markets (Ofgem) works under the direction and governance of the Authority. As such, references to Ofgem have been included in the MoU where it is working in this capacity.
- 6 As a result of its investigation into the billing practices of energy suppliers, the Authority required energy suppliers to set up an alternative dispute resolution scheme as a way to give customers redress in the event that suppliers fail to adequately address billing complaints and to provide an incentive

on suppliers to improve both their billing and complaint handling processes. The Authority will therefore ensure that arrangements within TOSL meet these objectives.

- 7 TOSL has the responsibility to provide an independent and impartial ADR service (the Energy Supply Ombudsman Service) for the domestic customers of its members (as defined above). TOSL is a private company limited by guarantee and ensures the independence of the Energy Supply Ombudsman from the industry, the regulatory authorities and the consumers.
- 8 Membership of the Energy Supply Ombudsman Service is available to any company offering a supply of gas or electricity to domestic customers, within the scope of those holding a licence under the Gas Act (1986) and the Electricity Act (1989).

### Aims of the agreement

- 9 The joint aims of the Authority and TOSL in drawing up this MoU are to:
  - minimise any potential causes of uncertainty for consumers, or for either of the organisations, by being clear about how potential overlap areas will be dealt with
  - foster mutual understanding and effective relations generally between the two bodies
  - ensure each other's ability to fulfil its respective functions is not hampered through action or inaction by the other body
  - ensure information and views are exchanged with regard to the current and future operations of the Energy Supply Ombudsman Service, and
  - ensure that information is shared, subject to any legal constraints including the need to respect personal or commercial confidentiality, which enables the organisations to fulfill their respective functions.

### Dealing with potential overlap areas

- 10 Both organisations recognise that domestic customers of energy suppliers may be uncertain as to the respective areas of responsibility of the Authority and TOSL. This might lead to confusion about which organisation is best able to assist them. This MoU is intended to minimise any potential causes of uncertainty by ensuring that services provided by Ofgem and the Energy Supply Ombudsman Service are clear and accessible to consumers.
- 11 Ofgem will redirect to the Energy Supply Ombudsman any enquiry made to it about the Ombudsman and the services available to the consumer through the Ombudsman. The Energy Supply Ombudsman will redirect any enquiries or complaints which are outside its terms of reference to energywatch. However, it will alert the Authority to any systematic issues that it considers are arising within the industry and which it cannot address directly and, where it appears that a complaint relates to potential supply licence breach, the Energy Supply Ombudsman will make the Authority aware of the matter.

### Fostering effective working relationships

- 12 The Authority and TOSL will take all reasonable steps to ensure they facilitate the ability of the other to operate effectively. The Authority and TOSL agree that representatives of Ofgem and the Energy Supply Ombudsman will meet at least quarterly to ensure the effective implementation of this agreement and discuss operational issues.
- 13 In addition, the Energy Supply Ombudsman and senior officials of Ofgem will meet to discuss major policy issues, including the future development of the scheme, that impact on the service provided by the Energy Supply Ombudsman and ultimately upon consumers of gas and electricity at least bi-annually.
- 14 The Authority and TOSL will nominate primary points of contact between the organisations, although both bodies wish to ensure maximum efficiency and would not wish to limit contact solely to the nominees.

- 15 The Authority and TOSL agree to carry out the following actions:

- TOSL and the authority will, as appropriate, review the working relationships between each organisation. This will include reviewing the way we work together to ensure that the interests of consumers are met
- wherever possible, the Authority and TOSL will provide advance notice of forthcoming consultations and publications which may impact on the other party. As far as is reasonably practicable, press releases which refer to or call for action from the other party or which otherwise are likely to result in media enquiries requiring a direct response from the other party, will be shared at least one day in advance
- both bodies will share information on emerging generic issues, in terms of both regulatory developments and consumer representation ideas. This will be used by both organisations to ensure the consumer needs are met and the resources of both are targeted to best effect
- the Authority and TOSL will seek to work together where appropriate to deliver information, including publishing the availability of the scheme, to consumers, stakeholders and other relevant bodies
- both bodies will share information and ideas on the future development of the scheme.
- the Authority will review the impact of the Energy Supply Ombudsman on the energy retail markets after twelve months of operation and will share the proposed scope of that review and its findings with TOSL
- TOSL will, as far as it can, take on board any concerns or issues raised by the review
- the Authority will consult TOSL, along with all the other stakeholders, about the Authority's criteria for giving formal approval to redress schemes within the context of the Consumers, Estate Agents and Redress Bill.

## Appendix 4 – continued

### Provision of performance data

- 16** TOSL will make available certain performance-related data concerning the Energy Supply Ombudsman Service to the Authority at the beginning of each month. The performance-related data will be as follows:
- a** number of contacts to the Energy Supply Ombudsman split by those which are inside and outside the terms of reference of the Service (i.e. nature of calls/contacts/cases)
  - b** response times between receipt of complaint form and issue of Provisional Conclusion (i.e. time taken by the Energy Supply Ombudsman to make provisional rulings on cases)
  - c** number of complaints/cases
  - d** number of complaints/cases initiated as a result of a 'deadlock' letter
  - e** the level of each award made and information on each action that was required
  - f** anonymised summaries of cases investigated and closed by the Energy Supply Ombudsman.
- 17** Subject to explicit agreement from the member companies, TOSL will also make available the following performance related data broken down by member company:
- a** number of complaints/cases
  - b** number of complaints/cases initiated as a result of a 'deadlock' letter
  - c** the level of each award made and information on each action that was required.

- 18** TOSL will also provide the Authority with any surveys of customer satisfaction with the Energy Supply Ombudsman Service that it commissions or undertakes, any research that it undertakes to assess the socio-economic breakdown of consumers using the service, information on complaints received on the Energy Supply Ombudsman's service, steps that TOSL has taken to ensure that it or its members adequately signpost the Energy Supply Ombudsman Service and steps that are being taken to facilitate wider membership of the Energy Supply Ombudsman Service.
- 19** The provision of any other performance related data that the Authority may need in the future will be a matter of agreement between the Authority and TOSL.

### Review of the Agreement

- 20** This MoU may be reviewed or revoked following any changes to the framework within which the two organisations operate or at least every two years, whichever is the sooner.

Signed on behalf of the Gas and Electricity Markets Authority

Signed on behalf of the Ombudsman Service Limited

## Appendix 5 – Customer satisfaction survey

**Having started operating as an alternative dispute resolution for the energy supply industry in July 2006 the Energy Supply Ombudsman has recently commissioned an independent research company to undertake a customer satisfaction survey. The survey asked members of the public to rate a range of different aspects of the service they had received, including the quality of the first contact with the Ombudsman Service and the quality of service they received from the organisation's staff. They were also asked about their satisfaction with the Service overall.**

- The survey was primarily sent to people who had made an enquiry of the Energy Supply Ombudsman. In addition, the small number of people who had made a complaint to the Ombudsman and the case had already been concluded were consulted. However, as the number of concluded cases is currently very small, any complainant related results can not be considered to be statistically robust.
- People contacting the Energy Supply Ombudsman are evenly split between those with a problem relating to their gas supply, those with a problem relating to their electricity supply and those with a dual fuel related problem. Difficulties associated with billing and charging were reported as the single most serious problem by the majority of both those making an enquiry and a complaint.
- **The staff of the Energy Supply Ombudsman are already emerging as one of the organisation's greatest assets.** Almost 9 out of 10 of those making an enquiry reported being satisfied with their first contact with staff. Overall, 9 out of 10 enquirers were satisfied with the friendliness, knowledge, helpfulness and reliability of staff. While still high, at just under 4 out of 5 enquirers, the lowest satisfaction rating related to staffs' authority to deal with people's problems.
- When people first got in touch with the Energy Supply Ombudsman over 7 out of 10 were advised to get back in touch with their energy supplier and give them another chance to sort out the problem. Around half of these people reported that they had gone back to their supplier and the problem had now been resolved. For around 2 out of 5 people who had re-contacted their supplier the problem remained unresolved at the time they were surveyed.
- Less than half of enquirers felt that the Energy Supply Ombudsman had done most to help resolve their problem. The remainder of people were split evenly between feeling the energy supplier or their own advisor or another agency had done the most.
- Almost 3 out of 5 enquirers were satisfied with the Energy Supply Ombudsman overall and just 1 out of 5 people were dissatisfied. Although the numbers were small 13 of the 16 complainants also reported being satisfied. Encouraging, 7 out of 10 enquirers said they would use the Energy Supply Ombudsman again or would recommend the Service to family or friends.
- **Although there is a clear potential to improve overall satisfaction ratings these are nonetheless positive results for an organisation's first year of operation and based on these early findings the contribution of the staff is likely to be key to improving customer satisfaction over the next few years.**

## Appendix 6 – Members

British Gas, Nwy Prydain, Scottish Gas  
EDF Energy  
npower  
Powergen  
Southern Electric, Scottish Hydro Electric,  
SWALEC, Atlantic Electric and Gas  
ScottishPower

### Contact details

Phone:  
0845 055 0760

Phone (Geographic)  
01925 530 263

Fax:  
0845 055 0765

Fax (Geographic):  
01925 530 264

Textphone:  
18001 0845 051 1513

Textphone (Geographic):  
18001 01925 430 886

Email:  
[enquiries@energy-ombudsman.org.uk](mailto:enquiries@energy-ombudsman.org.uk)

Website:  
[www.energy-ombudsman.org.uk](http://www.energy-ombudsman.org.uk)

Postal Address:  
Energy Supply Ombudsman  
PO Box 966  
Warrington  
WA4 9DF

AGM Date:  
24th July 2007