

**The Gas and Electricity Markets Authority and the Gas and
Electricity Consumer Council**

Memorandum of Understanding

December 2004

Introduction

- 1.1 The Gas and Electricity Markets Authority (the Authority) and the Gas and Electricity Consumer Council (the Council) both have the objective of protecting the interests of consumers. In recognising that both bodies are independent, but that their responsibilities and functions overlap in certain areas, both organisations are committed to developing a relationship which recognises the expertise and unique competences of the other to achieve their shared objective.

Background

- 2.1 The Utilities Act 2000 (referred to as 'the Act') established the Gas and Electricity Markets Authority and the Gas and Electricity Consumer Council. Section 7 of the Act calls on the Authority and the Council to make arrangements with a view to securing:

- a) co-operation and the exchange of information between them; and
- b) consistent treatment of matters which affect both of them.

Section 7 also states that the Authority and the Council shall jointly agree a Memorandum (MoU) that sets out the agreed arrangements.

- 2.2 The MoU was signed in November 2000. It was agreed that this would be reviewed every two years. This first revision to the MoU recognises the developments in the relationship between the two bodies and sets out the framework within which the relationship will continue to evolve.
- 2.3 A copy of this is to be sent to the Secretary of State who will lay a copy before each House of Parliament.

Roles of the Authority and the Council

- 3.1 The role of the Authority is to protect the interests of consumers of gas and electricity, wherever appropriate by the promotion of effective competition, The Office of Gas and Electricity Markets (Ofgem) works under the direction and governance of the Authority. Where appropriate, references to Ofgem have been included in the MoU.
- 3.2 The purpose of the Council is to protect the interests of current and future consumers of gas and electricity by: providing advice and information to consumers, public authorities and other persons; investigating consumer complaints; and by obtaining and keeping under review information about

consumer matters and the views of consumers about such matters.
energywatch works under the direction and governance of the Council.
Where appropriate, references to energywatch have been included in the MoU.

- 3.3 In carrying out their duties both organisations do so with particular regard for consumers who are of pensionable age, disabled, chronically sick, on low incomes or who reside in rural areas.

Aims of the agreement

- 4.1 The joint aims of the Authority and the Council in drawing up this agreement are to:

- foster mutual understanding and effective relations generally between the two bodies;
- ensure each other's ability to fulfil its respective statutory functions is not hampered through action or inaction by the other body;
- minimise duplication of effort by consulting on forward work programmes, specific issues of concern and any other appropriate tasks as and when they arise;
- maximise the benefits of the relationship to the consumer and the energy industry whilst minimising costs;
- identifying areas for joint research, policy development and work;
- establish a sound basis for providing a coherent and effective service to consumers of gas and electricity and make this service as seamless as possible;
- ensure consistent treatment of matters in those areas in which there are convergent responsibilities. Where one body's views differ from those of the other, ensure there is clarity as to why they differ; and
- ensure that information is shared, subject to any legal constraints, including the need to respect personal or commercial confidentiality.

Fostering effective working relations

- 5.1 The Authority and the Council will take all reasonable steps to ensure that wherever possible they will facilitate the ability of the other to operate effectively. To this end, the Authority and the Council agree to hold a formal, joint meeting at least annually. In addition, the Chairman of the Authority and the Chairman of the Council will meet informally and regularly to review matters of concern to consumers.

- 5.2 Senior officials of Ofgem and energywatch, including the respective Chief Executives, will meet at least quarterly to discuss major policy issues which currently impact upon gas and electricity markets; those issues likely to arise in the future; and to act as a sponsor for joint research, policy development and work across a range of topics. The Chief Executives of Ofgem and energywatch will also meet informally and regularly to review matters of concern to consumers.
- 5.3 Officials of Ofgem and energywatch will meet at least every two months to identify and discuss means to address industry poor performance and issues related to the operational performance of both organisations.
- 5.4 There will also be *ad hoc* meetings as required.
- 5.5 Furthermore, wherever possible they will consult each other on matters of common interest and common concern prior to any public consultation.

Strategic planning

- 6.1 The Authority and the Council recognise the importance of coordinating work programmes to avoid duplication and identify areas for joint working. Therefore, the Authority and the Council agree to consult one another on their corporate plans and forward work programmes. The Authority and Council will seek to identify priorities, propose areas for appropriate co-operation and joint working, and appropriate methods of delivery, for example research. The Authority and the Council will each nominate an appropriate representative to liaise on European matters.

Handling consumer complaints

- 7.1 Both the Authority and the Council are committed to ensuring that the interests of consumers of gas and electricity are protected. In doing so they wish to ensure that their respective roles and responsibilities are clearly defined and transparent for consumers, the industry and other interested parties.
- 7.2 The Council is the main body for handling all consumer enquiries and complaints, including those that may be about an enforcement matter or dispute for which the Authority has powers. Therefore, Ofgem will log and refer promptly all written, electronic, and telephone complaints and enquiries to energywatch, informing the customer of this action. If the contact relates to an enforcement matter the Authority may, whilst referring

the matter to energywatch, retain details of the dispute to assist with any possible enforcement investigation.

- 7.3 The Authority and Council recognise their obligations to data subjects under the Data Protection Act 1998. Consumer correspondence will be referred in accordance with the Data Protection Act to enable respective parties to carry out their statutory functions.
- 7.4 The Authority will use all reasonable endeavours to provide the Council with access to advice and technical expertise available within Ofgem about disputes, for example determinable matters such as connection charges, and endeavour to respond to such requests promptly. Where such disputes arise, the Council will inform the complainant that they may have the right to refer the matter to the Authority, but will use all reasonable endeavours to resolve the dispute prior to making any referral. Should the matter remain unresolved, the Council will submit the complainant's written request that the matter be referred for determination and full documentation to the Authority for action.
- 7.5 The Authority and the Council agree to liaise closely on enquires or complaints received from elected representatives, which appear to either body to overlap the others' area of responsibility, to ensure there is no unnecessary duplication of effort and to ensure the correct body deals with issues relevant to their own area of expertise.

Enforcement

- 8.1 The Authority recognise that the Council is a major source of knowledge and intelligence about the consumer experience of energy markets. This information should play an important part in determining how and where the Authority utilises its compliance resources.
- 8.2 If, following its investigation it appears to the Council that circumstances exist which require investigation by the Authority to establish whether enforcement action may be necessary, it will refer the matter to the Authority. The Authority will consider the Council's referral and, where it does agree, the Authority will provide information at regular intervals to the Council of the progress of its enforcement action. In the event it does not agree, it will provide details of why it will not be taking any action.
- 8.3 The Authority and the Council agree to establish working procedures and standards of service to ensure efficient and effective administration and communication in dealing with referral of enforcement matters arising from complaints.

Consultation

- 9.1 The Authority and the Council recognise the importance attached to consultation, with each other and with all other interested parties. Wherever possible, the Authority and the Council will provide advance notice of forthcoming consultations and publications either directly or through their respective websites.
- 9.2 In recognition of the Council's statutory role in representing consumers, the Authority will use its best endeavours to meet all reasonable requests from the Council for additional verbal briefing to elicit and discuss views on important consultation issues, and requests for discussion following publication of decision documents.
- 9.3 Wherever possible, the Authority and the Council will brief the other prior to undertaking discrete areas of activity which will impact on the other but will not be subject to public consultation.

Exchanging information

- 10.1 The Authority and the Council agree to share information necessary to enable both bodies to carry out their respective functions in a proper manner. In doing so, they will have respect for any relevant legislation.
- 10.2 The Authority and the Council agree to give each other reasonable notice of information required from each other, wherever possible. Each will endeavour to respond to written requests for information within 10 working days, unless required earlier when a timescale will be agreed.
- 10.3 The Authority and the Council will share information required to enable effective monitoring on a regular basis, including complaint statistics, codes of practice data, transfer data, market share data, and standards of performance data.
- 10.4 As far as reasonable practicable, both bodies will ensure that their requests for information from licensees will be co-ordinated so as to avoid unnecessary duplication and placing any unnecessary burdens on companies.

Disclosure of information

11.1 The Authority and the Council aim to minimise the restrictions on access to information from each other, and the publication of information. The Authority and the Council agree to develop a common understanding of the restrictions and to publish the agreed understanding as an annex to this document.

External relations

12.1 The Authority and Council recognise the mutual benefit in liaising on and where appropriate co-ordinating external relations activities. 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 wherever possible. Where the information is of a sensitive nature, the Authority and the Council agree to provide as much advance notice as possible.

Reviewing performance

13.1 This agreement will be reviewed at least every two years.

Distribution


14.1 A copy of this document has been sent to the Secretary of State, so that she may lay it before each House of Parliament. It is also available, free of charge, to consumers and any other interested parties, upon request, and has been placed on the Authority's and the Council's websites.

Signed:


Sir John Mogg
Chairman
Gas and Electricity Markets Authority

Date: 21/12/04

Signed:


Prof Ed Gallagher CBE
Chairman
Gas and Electricity Consumers Council

Date: 21/12/04

