Statement in support of the application of ‘The Energy Supply Ombudsman’ for voting membership of the British and Irish Ombudsman’s Association (BIOA)

This statement addresses how the Energy Supply Ombudsman meets criteria in Section B to Schedule 1 to the Rules. Full details are provided in The Ombudsman Service Limited’s (TOSL) Memorandum and Articles of Association (Mem & Arts), and the Energy Supply Ombudsman Service Terms of Reference (TOR), which are submitted as attachments to this application form, and are also on the Energy Supply Ombudsman’s website. Where appropriate, references are made below to the relevant paragraphs in the attachments.

Criteria 1: Definition of Core Role of Ombudsman:

The Ombudsman's principal aim is to receive complaints made by complainants in accordance with the Terms of Reference and to consider and, where appropriate, investigate such complaints in order to encourage and/or facilitate the terms of their resolution, settlement and/or withdrawal (paragraph 5 in the TOR).

The main purpose of the Service (paragraph 1.1 of the TOR) is:

(a) the receipt and handling of unresolved complaints made to Energy Suppliers who are Energy Supply Ombudsman Service Members by any of their domestic customers;

(b) the resolution, settlement and/or withdrawal of such unresolved complaints or disputes between such Energy Supply Ombudsman Service Members and any of their domestic customers;

(c) where appropriate, the provision of remedies and redress in respect of matters that form the subject-matter of such unresolved complaints or disputes in respect of the supply or provision by Energy Supply Ombudsman Service Members of certain services.

Criteria 2: Independence:

(a) The jurisdiction, powers and method of appointment of the Ombudsman are set out in the Energy Supply Ombudsman Mem & Arts which, as noted above are published on the Energy Supply Ombudsman’s website.

(b) The Energy Supply Ombudsman is one of two schemes administered by ‘The Ombudsman Service Limited’ (TOSL). Otelo, Office of the Telecommunications Ombudsman, is the other. A structure diagram of TOSL can be viewed at Appendix A.

1 www.energy-ombudsman.org.uk
2 Otelo (then the Telecommunications Ombudsman Service Ltd) was approved as a voting member of BIOA on 3 March 2003.
TOSL’s constitution comprises a Council, two industry Member Boards, a Finance Board and the Ombudsman. The Ombudsman is also Chief Executive of TOSL. The Council is the Board of Directors of TOSL, and comprises six independent Council Members and three members from the Member Boards. The Council appoints the Ombudsman, determines her/his terms and conditions, and must ensure that her/his independence is safeguarded and maintained. Biographies of Council members are given at Appendix B.

The ‘Energy Member Board’ comprises one representative from each of the six member companies, an industry based Chairman and up to two independent Council members.

The Finance Board comprises up to two members of each industry Member Board, and up to two independent members of the Council, one of whom acts as Chairman. The Finance Board receives the TOSL Annual Business Plan and Budget for approval or rejection.

(c) The powers and duties of the Member Boards are set out in paragraph 101 of the Mem & Arts. They do not include the power to alter or suspend the remuneration of the Ombudsman. No individual member has any power outside that of the Member Board.

(d) Paragraph 6.1 of the Terms of Reference states that the Ombudsman has absolute discretion to decide whether a complaint is within the Ombudsman’s jurisdiction.

(e) The Ombudsman reports to the Council.

(f) The Ombudsman prepares a draft Annual Business Plan and Budget, which must be approved first by the Council and then, amended as necessary, by the Member Boards. The Council must then ensure that TOSL is run in accordance with both the Plan and the Budget.

Criteria 3: Accessibility

(a) The members, while not necessarily advertising the existence of the Ombudsman, are required to encourage complaints to be dealt with by the Ombudsman (paragraph 13(d) of the TOR).

(b) Paragraph 13(c) of the TOR requires member companies to maintain and operate an adequate internal complaints procedure.

(c) Complaints can reach the Energy Supply Ombudsman service directly by telephone, fax, email, post, on-line or text-phone.

(d) The Energy Supply Ombudsman’s complaints procedure is explained in its leaflet ‘An Independent View’ which is available by post from the Energy Supply Ombudsman or on its website. It is also distributed to stakeholders in the consumer and advice sector.

(e) The service is free to complainants
Criteria 4: Powers and Procedures

(a) The Ombudsman has discretion as to whether to investigate any complaint made to her/him, but s/he will require that complainants have first exhausted the member company’s complaints procedure.

(b) Members must provide any information which the Ombudsman may lawfully and reasonably request (paragraph 7.1 of the TOR).

(c) The Ombudsman may disclose information provided by one party, to another party, except where that party has made a reasonable request that the information be treated as confidential and that this does not impede the ability of the Ombudsman in determining the complaint (paragraph 7.3 of the TOR).

(d) The handling of complaints by the Ombudsman, in respect of fairness and observance of the principles of natural justice, is as set out in paragraph 8.6(a) of the TOR, which satisfies the BIOA requirements.

(e) Where the Ombudsman decides not to accept a complaint for investigation, s/he will notify that decision to the complainant, and the reasons for it.

(f) The Ombudsman must issue the final decision in writing, including a statement of any remedies and a summary of the reasons for reaching that decision.

Criteria 5: Implementation of Decisions

Each member company has executed a Deed Poll under which it is legally bound to comply with any decision of the Ombudsman. Under paragraph 8.6(e) of the TOR, the Ombudsman, in carrying out an investigation and reaching a final decision, must have regard to best practice in the handling of complaints, and this would include a decision as to whether to publicise non-compliance with a decision.

Criteria 6: Annual Report

Under paragraph 10.1(h) of the Terms of Reference, the Ombudsman is required to prepare an annual Ombudsman's Report which will disclose, inter alia, anonymised reports of investigations. This report will be distinct from the annual report of the company.
Appendix A

TOSL Structure

The Ombudsman Service Limited

Council

Energy Member Board → Finance Board → Otelo Member Board

Chief Executive & Ombudsman

Chief Operating Officer

Principal Ombudsman

otelo

Energy Supply Ombudsman
Appendix B

Council Biographies

Current independent Council members are:-

**Peter Holland CBE, DL - Chairman**
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 a former Chairman of Hertfordshire Police Authority and currently 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. Peter has recently been appointed as the first Chairman of the new Police Improvement Agency.

**Margaret Doyle**
Margaret Doyle is a consultant and researcher on alternative dispute resolution (ADR) and an independent mediator. She works as a researcher with voluntary-sector organisations involved in access to justice, including Advice Services Alliance, National Consumer Council and Public Law Project. She trained as a mediator in 1987 and is accredited as part of the Legal Services Commission's Mediation Quality Mark. She mediates in disputes involving special educational needs, disability discrimination and community conflicts. She is an independent director of The Ombudsman Service Ltd (Otelo and Energy Supply Ombudsman services) and the Office of the Independent Adjudicator for Higher Education.

**Roger Jefferies**
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.

**Julie Meadows**
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.

**Tony Allen**
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.

**Jean Couper CBE**
Jean Couper 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.
Appendix B (continued)

Current Industry Members of the Council are:-

**Chris Holland**

Chris Holland is the head of the Ombudsman Interface Team at BT and is the Vice Chairman of the Otelo Member Board.

**Rosaleen Hubbard**

Rosaleen Hubbard of Tower House Consulting is a trained lawyer and is retained by ntl. She currently chairs the Otelo Member Board.

**Duncan Sedgwick**

Duncan 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 having been the Director of Business Transformation a business wide role which saw significant changes to the manner in which work was carried out as well as major reductions to the overall cost base. Prior to that he was the Director of Retail Mass Markets being responsible for the sales, service and internal functions of the residential customer base at a time when this increased from 2 to 3 million customers. His family home is in Nottinghamshire. 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.