

## **Terms of Reference for the Consumer Advocacy Council**

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This Terms of Reference describes the purpose, role, functions, membership, systems and processes of the Consumer Advocacy Council (the **Council**).

### **Background**

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1. Consumers, particularly households and small businesses, struggle to make their voices heard and exert influence over decisions affecting them in the electricity sector.
2. They struggle because:
  - the complexity of the sector makes it difficult for them to understand and express their views about things affecting their electricity supply and power bills;
  - they lack the considerable time and resources needed to get involved in decision-making processes, the outcomes of which are largely made on their behalf by industry participants, regulators and the Government; and
  - cultural differences and language barriers stand in the way.
3. This Terms of Reference sets out the parameters of the Council in undertaking consumer advocacy on behalf of household and small business electricity consumers. The Council would operate independently of industry participants, regulators and the Government.

### **Purpose of the Council**

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4. The purpose of the Council is to be the trusted, credible, authoritative advocate for small electricity consumers<sup>1</sup>, operating independently of industry participants, regulators and Government.

### **Role of the Council**

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5. The role of the Council is to advocate on behalf of residential and small business electricity consumers by providing evidence-based advocacy on policy and regulatory consultations, in decision-making processes and on matters of strategic importance or material consequence for consumers.

### **Responsible Minister**

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#### **The Minister of Commerce and Consumer Affairs**

6. The Minister of Commerce and Consumer Affairs is the responsible Minister for the Council, similar to that Minister's current responsibilities for energy dispute resolution schemes under Part 6 of the Electricity Industry Act 2010. Members of the Council are appointed by, and report to, the responsible Minister.

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<sup>1</sup> We see small electricity consumers as domestic consumers and small businesses. For the purposes of the Council, 'small businesses' relates to the quantity of electricity used, not to the turnover or number of employees.

## Consulted Ministers

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### The Minister of Energy and Resources

7. The Minister of Energy and Resources will be consulted by the Minister of Commerce and Consumer Affairs in regards to the Council's membership (the appointments process), role and functions (any changes to them).

### The Minister for Small business

8. The Minister for Small Business will be consulted by the Minister of Commerce and Consumer Affairs in regards to the Council's membership (the appointments process), role and functions (any changes to them).

## Functions of the Council

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9. The Council will:
  - establish its own work programme to meet this Terms of Reference;
  - work with the Electricity Authority, Commerce Commission, government agencies and industry participants on any electricity matters that are of importance to households and small business electricity consumers;
  - work with other consumer groups, particularly those advocating on behalf of small businesses and residential consumers, including electricity consumers in vulnerable circumstances,<sup>2</sup> Māori, Pasifika, elderly, new immigrants, those in lower socio-economic groups and youth cohorts;
  - work with other consumer groups where relevant;
  - commission specialist research and analysis to support its activities (such as making formal submissions on behalf of consumers, hosting or participating in workshops, and regularly meeting regulators, other agencies and industry participants);
  - complement, rather than replace, consumer representation on existing advisory groups and consumer panels;
  - advocate on behalf of residential and small business electricity consumers;
  - build knowledge and expertise and make it widely available; and
  - influence the regulatory system and wider market for energy.

## Operation of the Council

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### Operations

10. The Council can determine how it meets its Terms of Reference, including its work programme.
11. The Council will receive an annual budget to undertake its work and have performance measures set by the responsible Minister in consultation with the other two Ministers.
12. The Council is accountable to the responsible Minister, and will provide regular reporting on delivery of its consumer advocacy strategy, performance measures and work programme.

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<sup>2</sup> As outlined in the Council of Financial Regulators framework: <https://www.fma.govt.nz/assets/CoFR/CoFR-Consumer-Vulnerability-Framework-April-2021.pdf>

### *Role of the Chair*

13. The Chair of the Council is responsible for:
  - chairing meetings and other stakeholder forums;
  - organising the agenda, with the assistance of Council members and the Secretariat;
  - determining what action is appropriate if a member has a potential conflict of interest;
  - ensuring the Council operates in a manner that enables it to meet its Terms of Reference;
  - overseeing the development and the delivery of an effective work programme for the Council within budget;
  - providing subject matter expertise on the work undertaken by the Council;
  - liaising with the secretariat on all matters relating to the role of the Council;
  - acting as the spokesperson for the Council; and
  - maintaining close and effective relationships with all relevant stakeholders.
14. The Chair will advise the Government directly of their intention to make public comments subject to the Chair's discretion.

### *Membership*

15. The Minister of Commerce and Consumer Affairs may appoint up to six Council members, including a Chair. The Minister of Commerce and Consumer Affairs must make these appointments in consultation with the Minister of Energy and Resources and Minister for Small Business, and must be satisfied that any persons appointed have the necessary expertise and experience to carry out the functions of the Council.
16. Attendance of 50% of the named members will constitute a quorum.

### *Secretariat*

17. The Ministry of Business, Innovation and Employment (MBIE) will provide the Council with a Secretariat, removed from MBIE's policy functions. The Secretariat is responsible for support and administrative services and tasks associated with the Council. The Secretariat will be given direction by the Council on its work.
18. The Secretariat will support the Council to undertake and progress the work-programme, but will not take part in decision-making, ensuring the independence of the Council members.

### *Expectations of Members*

19. The members of the Council will support the Chair to undertake the Council work programme with support from Secretariat. Members are expected to:
  - attend meetings, unless extenuating circumstances provide otherwise;
  - prepare adequately prior to each meeting by reading all papers provided to them;
  - ensure that matters of significance are brought to the attention of the Council;
  - bring to the Council perspectives based on their experiences and interests;
  - take a whole system view to the policy advocacy of consumers in the electricity market and not regard themselves as representatives or advocates for particular sectors or interests;
  - base their advice on understanding of broader issues in society and the economy;
  - work with the Secretariat to write reports and submissions or material that progress the work programme and the Council's role and functions; and

- comment on reports or submissions or other material from market participants, regulators and Government.

#### *Responding to proposals from regulators, government and suppliers*

20. In considering and providing advice/recommendations in response to any of the proposals the Council may:
- confer with any groups that represent households and small-business, and/or individual households and small business owners, including seeking any additional necessary information; and
  - seek any other relevant external advice, including global best practice.

#### *Working in a transparent manner*

21. The Council will document systems and processes it will use to operate, including:
- the procedures for providing advice/recommendations as may be sought by decision makers;
  - how its meetings are conducted and the procedures for when the Chair is absent;
  - how information is to be treated, secured and returned where a person is no longer a member of the Council;
  - a conflict of interest policy that complies with Te Kawa Mataaho – Public Service Commission guidance<sup>3</sup>, including procedures for where members of the Council have an actual or perceived conflict of interest and the maintenance of a conflict of interest register; and
  - working relationships with stakeholders.

#### *Meetings*

22. The Council may meet as frequently as it sees fit, within budget constraints, in order to deliver on agreed outcomes. Additional meetings may be called when needed on particularly urgent or important issues. Where such issues arise between scheduled meetings, the Secretariat may contact the group by electronically to seek their views.
23. An agenda will be circulated to members prior to each meeting. Pre-reading will be made available where this will be useful for discussions. Where members cannot attend a meeting, they can provide written or verbal feedback on proposals to the Chair.

#### *Work programme*

24. The Council will have its own work programme which will be informed by its stakeholders and its response to regulatory processes and government policies. The work programme may include a consumer advocacy strategy to ensure effective engagement.
25. The Secretariat will work with the Council to develop the work programme. The Council will have decision making authority and final approval of the work programme.

#### *Amending the Terms of Reference*

26. The Chair, on behalf of the Council, can advise the Minister of Commerce and Consumer Affairs via the Secretariat, if they wish to amend the Terms of Reference.
27. The Chair will require the unanimous support of all Council members to bring a proposal to amend the Terms of Reference. Once support is established the Secretariat will draft this proposal along with the new Terms of Reference for the Council.

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<sup>3</sup> <https://www.publicservice.govt.nz/resources/conflicts-of-interest/>

28. This proposal to amend will be subject to the discretion of the Minister of Commerce and Consumer Affairs in consultation with the Minister of Energy and Resources and the Minister for Small Business.

### **Conditions of Appointment**

29. The appointments to the Council are subject to the following conditions:
- members are appointed for a term of 2 to 3 years;
  - appointments shall be effective from the time and date specified in the notice;
  - a member may, at any time, resign membership of the Council by providing written notice to the Minister of Commerce and Consumer Affairs;
  - any member of the Council may at any time be removed from office by the Minister of Commerce and Consumer Affairs, in consultation with the Minister of Energy and Resources and Minister for Small business, for inability to perform the functions of Council, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister; and.
  - any reappointments are made for a duration that is at the Minister of Commerce and Consumer Affairs' discretion, in consultation with the Minister of Energy and Resources and Minister for Small Business.

### **Fees Framework**

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30. The Council is classified as a Group 4 Level 2 body under the Cabinet Fees Framework. Members are responsible for paying all Inland Revenue payments, other taxes and Accident Compensation Corporation levies in respect of remuneration and disbursements. The daily remuneration for all members of the Council will be claimed in accordance with Cabinet Office instructions.
31. The Secretariat will seek financial delegation from MBIE. Travel, accommodation and meals will be organised and paid by the Secretariat where practicable. Disbursements will be agreed with the Secretariat. Where travel, accommodation and meals cannot be organised by the Secretariat then actual and reasonable costs will be reimbursed in accordance with relevant policies.

### **Obligations of the Council**

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32. The Council members will:
- act in good faith, and show honesty, integrity, openness and accountability in their dealings with each other and all other stakeholders;
  - act consistently with the Te Kawa Mataaho - Public Service Commission standards of integrity and conduct;<sup>4</sup>
  - provide free and frank advice in relation to matters before the Council; and
  - consult and gain approval from the Chair before making public statements on any aspect of the Council.

### **The role of invited Experts**

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33. The Council may resource additional subject matter experts to undertake its work-programme. All contracting responsibility for additional subject matter experts will be held

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<sup>4</sup> <https://www.publicservice.govt.nz/our-work/integrityandconduct/>

with the Council. This would be any person or persons whose qualifications or experience are likely, in the opinion of the Council, to be of assistance to the Council in dealing with a particular matter which relates to the Council's work programme. That person, who is resourced as a subject matter expert, while not a member, will be subject to the same obligations of the Council members and will be paid at a market rate that is deemed appropriate. Administration of experts will be conducted by the Secretariat.

## **Official Information Act 1982**

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34. The Official Information Act applies to the records of the Council.