

## Council had sufficient advice before making decision on water reticulation scheme

<b>Legislation</b>	Ombudsmen Act 1975
<b>Agency</b>	Local authority
<b>Ombudsman</b>	Nadja Tollemache
<b>Case number(s)</b>	A3018
<b>Date</b>	1992

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*Proposed water reticulation scheme full Council decision—section 13(1) Ombudsmen Act—whether the Council had sufficient information before it at the time to make the decision*

The complainant was strongly opposed to the Council's decision to create a separate water reticulation scheme for the area concerned, contending that the Council had failed to carry out proper investigations concerning the need for the scheme and its size and also that the Council had failed to adequately research other existing/potential water supply resources. The complainant, among other things, suggested that the Council had misled ratepayers about the costs of the scheme, and the purity of the water supply Council intended using for the proposed scheme.

Right from the outset of this investigation, the Ombudsman made it clear that the investigation of the complaints was circumscribed by her limited jurisdiction in relation to full Council decisions. Pursuant to section 13(1) of the Ombudsmen Act 1975, an Ombudsman is not authorised to investigate any decision made at a full meeting of a body named in Part III of the First Schedule of the Act. The most an Ombudsman can do is examine any information before that body at the time the decision was made to determine whether the members were in a position to make an informed decision. If the Ombudsman concludes that they were not, the Ombudsman can then request the organisation to reconsider the matter.

Having explained this limitation to the complainant the Ombudsman then went on to consider the information that had been before the Council at the time it made its decision in April-May 1988.

The Council had had before it a report prepared by the Council's District Engineer, Water, explaining what the extent and likely costs of a water scheme for the area would be. The report also contained a brief appraisal of the likely engineering requirements based on existing knowledge of the area. The Council also had an updated report prepared by the Council's Divisional Engineer before it, which was essentially a revision of the earlier report outlining the engineering content of the proposal as it then stood and a preliminary assessment of the costs. The Council had conducted a number of surveys in the area to find out what ratepayers views were in respect of having a water supply. Results based on two questionnaires used in those surveys were available to the Council at the time it made its decision to proceed with the water supply. Prior to the decision being made, public meetings had been held in the district to discuss the proposal on 15 December 1986 and 11 November 1987.

The Council also had before it information as a result of consultations with the Department of Health, objections from objectors to the Council's application for the variation of a water right, various petitions from ratepayers and numerous letters from the complainant (approximately 39 letters and/or facsimiles) setting out very clearly his concerns about the scheme.

After examining the reports, questionnaires, correspondence and other information the Council had before it at the time it made its decision, the Ombudsman was satisfied that the Council was well aware of the complainant's concerns and had had ample opportunity to consider his opposing points of view before making its decision. The Ombudsman also considered that the information before the Council was sufficiently comprehensive and factual to enable the Council to make an informed decision.

The Ombudsman stated that it was interesting to note that when the Department of Health approved a subsidy in principle to the Council for the scheme, it advised the Council to then proceed with detailed design and planning of the scheme. The Department of Health was obviously prepared to accept the information the Council had submitted to it as being sufficiently comprehensive to justify providing the necessary subsidy.

The Ombudsman's view in this case was that the Council did have sufficient information before it on which to base its decision. Accordingly the investigation was discontinued.

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