

DELEGATIONS TO SPECIAL OFFICERS

PREFACE

Delegations of authority are the mechanism by which the Ombudsman enables certain officers to act on his behalf. Delegations provide formal authority to that officer to undertake a function or exercise a power of the Ombudsman for the Ombudsman.

We aim to be an effective organisation. The delegations approved by the Ombudsman are intended to improve the efficiency of operations of the Office by the devolution of management and administrative authority to appropriate officers to enable proper discharge of their responsibilities.

PURPOSE

The purpose of this policy is to ensure that the authority of the Ombudsman is properly delegated to staff and that all staff are aware of the nature and extent of their delegated authority. This policy does not refer to any administrative or financial delegations to staff, which are documented elsewhere.

RESPONSIBILITY

Each Team must have a designated staff member responsible for maintaining and preparing special officer delegations in accordance with this policy

The Manager Legal is responsible for the overall maintenance of the NSW Ombudsman Special Officer Delegations Authority and for the ongoing screening and review of delegations within the Office to ensure their currency. Particular attention will need to be paid to the delegations when a position is reclassified or a business unit is restructured in ways that affect position profiles.

A Master List of Delegable Functions is to be maintained by the Manager Legal.

All inquiries regarding delegated authorities should be directed to the Manager Legal.

Each Team should nominate a person responsible for liaising with the Manager Legal in relation to the issue and approval of delegations and the maintenance of the delegations folder within the respective teams.

LEGISLATIVE FRAMEWORK

The *Ombudsman Act* 1974 establishes the Office of the Ombudsman and provides in section 10 of the Act that, subject to identified exceptions, the Ombudsman can delegate to a special officer of the Ombudsman the exercise of certain functions.

The Ombudsman may appoint an officer of the Ombudsman to be a special officer of the Ombudsman pursuant to section 9 of the *Ombudsman Act* 1974. The delegation may be subject to conditions or limitations (section 10(3)) and must be made by instrument in writing (section 10(4)), and must specify the function the exercise of which is delegated, and any conditions or limitations on the delegation (section 10(5)).

NSW Ombudsman policy number:	55(a)
Policy originally created:	December 2006
Last reviewed / updated:	12 March 2008
Version number:	2
Related policies:	Procedure Manuals & Internal Guidelines
File reference:	ADM/5059

This policy does not supersede any other policy.

DEFINITIONS

Not applicable.

POLICY STATEMENT

1. Principles of Devolution and Delegation of Authority

As a general principle, the Ombudsman supports the wide delegation of his powers. Such delegations facilitate:

- the efficient and effective implementation of the NSW Ombudsman Statement of Corporate Purpose and Business plans;
- the effective implementation of the NSW Ombudsman policies and procedures;
- the alignment of responsibility and accountability in a manner that increases the accountability of staff for their performance;
- observance of the NSW Ombudsman's commitment to probity and equity in all of its activities;
- the placing of decision making authority as close as possible to the point of service delivery within the NSW Ombudsman;
- a reduction of steps in decision making processes, enabling the decisions to be made promptly and in a manner more responsive to the needs of stakeholders; and
- increased staff involvement in decision-making, thereby increasing the motivation and commitment of staff.

2. Operation of Delegations

Delegations to special officers attach to the position occupied, not to the individual, and do not authorise special officers to do what the Ombudsman himself could not. The responsibilities of a particular position appear in a position description appropriate to the position. The delegations for that position should properly reflect the role and functions of that position.

Delegations are not transferable, except in the limited circumstances where an officer is temporarily required to perform partial duties of another position. In these circumstances, any delegations approved for that position apply to the acting officer for the period that they perform additional duties.

Delegations must be exercised within:

- the provision of the *Ombudsman Act* and other relevant legislation, such as the *Police Act*;
- audit requirements;
- budgetary limitations, and
- NSW Ombudsman policy and procedures.

Subject to any limitations imposed by a delegation, the special officer may be given any approval and do anything necessary to properly exercise the delegation in question, unless otherwise excluded.

Delegations are to be reviewed by supervisors as part of the performance management process, and in circumstances where:

- a staff member is promoted or demoted;
- a staff member is transferred for operational reasons to a new position;
- a new position is created within a Team; or
- a recruitment process is undertaken.

Levels of authority are hierarchical, through relevant lines of authority up to and including the Ombudsman. This allows a delegate's supervisor to exercise the same level of authority as the delegate. The delegations for a particular Team should reflect the structure of the Team and assign authority in relation to the reporting lines within the Team.

The Ombudsman may at any time revoke or vary any delegation.

3. Process for Preparing a Delegation

Each Team should maintain a folder within TRIM containing all current and approved delegations for each position within the Team. The Team Manager or Legal Officer should administer their teams folders.

When the Ombudsman delegates a new power, or a delegation is revoked, the Manager Legal will advise the relevant Assistant Ombudsman, Deputy Ombudsman, and Team Manager, as well as provide a copy of the new delegation or revoked delegation for Team records.

- (a) Preparing a delegation for a new staff member:
 - (i) when a new staff member is appointed, the appropriate delegation for their position should be prepared by the Team Manager using the templates contained within each Team's delegation folder in TRIM.
 - (ii) the draft delegation must be sent to the Manager Legal for screening. The Manager Legal will then forward the delegation to the Ombudsman for signature. The Team Manager will be provided with a copy of the signed delegation, which should be stored within the Team's delegation folder.
 - (iii) the original of the signed delegation will be provided to Personnel by the Manager Legal to be placed on the staff member's personnel file.
 - (iv) upon commencement of employment, the team manager (or delegate) must provide a copy of the delegation to the staff member, as well as explaining the nature and extent of the delegation in the context of the role they will be undertaking within the Team.
- (b) Preparing a delegation for a staff member who has been promoted or transferred to a new position:
 - (i) upon completion of the recruitment or expression of interest process, the appropriate delegation for the position should be prepared by the Team Manager responsible for the recruitment using the templates contained within each Team's delegation folder in Trim.
 - (ii) the draft delegation must be sent to the Manager Legal for screening. The Manager Legal will then forward the delegation to the Ombudsman for signature. The Team Manager will then be provided with a copy of the signed delegation, which should be stored within the Team's delegation folder.
 - (iii) the original of the signed delegation will be provided to Personnel by the Manager Legal to be placed on the staff member's personnel file.
 - (iv) upon commencement of duties in the new position, the team manager (or delegate) must provide a copy of the delegation to the staff member and explain the nature and extent of the delegation in the context of the role they will be undertaking within the Team.
- (c) Preparing a delegation for a newly created position:
 - (i) in consultation with the relevant Assistant Ombudsman or Deputy Ombudsman the Legal Officer or Team Manager should prepare a draft delegation for the newly created position using the delegation template contained within each Team's delegation folder in Trim.
 - (ii) the draft delegation must be sent to the Manager Legal for screening. The Manager Legal will then forward the delegation to the Ombudsman for approval. The Team Manager will then be provided with a copy of the approved delegation, which should be stored within the Team's delegation folder

(iii) delegations are prepared in accordance with (a) or (b) above following a recruitment decision.

OMBUDSMAN APPROVAL

A handwritten signature in black ink, appearing to read "B. A. Barbour". The signature is written in a cursive style with a large initial "B" and a long, sweeping underline.

Bruce Barbour
OMBUDSMAN