

**Minutes of the forty seventh meeting of the Council of the Telecommunications
Ombudsman Service Limited (TOSL)**

Tuesday 16 May 2006 at 1:30pm

Otelo Offices, Wilderspool Park, Greenalls Avenue, Warrington

Present:

Council: Peter Holland (Chairman)
Margaret Doyle
Chris Holland
Rosaleen Hubbard
Roger Jefferies
Julie Meadows
Jeremy Mitchell

In Attendance: Elizabeth France (Ombudsman)
Richard Brown
Richard Sills
Duncan Sedgwick
Andrew Bradley (Minutes)

1 Apologies for Absence

There were no apologies.

2 Minutes of the Council Meeting, held on 21 March 2006

With minor amendments to drafting, the Minutes were approved for publication on the Otelo website.

3 Matters Arising

There were no matters arising.

4 Chairman's Report

Two people had now been selected to join the Council, subject to references. It was hoped that they would both be able to attend the June meeting. Those Council members who were involved in the recruitment process were thanked for their assistance.

5 Ombudsman's Performance Report

The first month of the year showed volumes at the lowest level seen (excluding December) in the last 12 months. It was too early to say whether this was the level which would be maintained for the year, but the levels would be kept under close review to see whether budget assumptions needed to be adjusted. The budget was based on 425 invoiced cases per month. 347 were invoiced in April.

It was agreed that a column showing a break-even analysis would be added to the quarterly performance report.

There was a discussion about unit costs and it was confirmed that the Member Board would continue to keep an eye on this.

Finance

The level of debt looked high. This was largely attributable to two factors: invoicing of subscriptions and late payment by a number of members which had experienced personnel changes in their accounting Departments. Failure to pay case fees by one company would be discussed as a separate agenda item. A separate paper had been tabled listing those companies which had not responded to requests for the provision of details of their Total Relevant Retail Revenue.

Operations

This month the results in relation to Key Performance Targets were very similar to those for the previous month. The reduction in volume had inevitably affected the unit cost.

Staffing

The recruitment exercises referred to last month were reaching completion.

Ofcom: formal request for information.

Using its powers under s135 of the Communications Act 2003 Ofcom made two requests for information about one of our member companies The first related to cases considered and the second to details of membership. Both were responded to and the company was informed by us of the request and the action taken.

Future Meetings

- 30 May: Presentation to Ofcom and Ofgem on future plans
- 14 June: Annual meeting for communications companies at Otelo
- 19/20 June: Council meeting in Edinburgh preceded by meetings, as yet to be confirmed
- 24 July: Annual report launch at Portcullis House

6a Outstanding remedies

A formal report was shown to the Council which gave details of those companies which were not in compliance with the requirement to implement the Ombudsman's Final Decision within 28 days and who had already received reminders from the Executive in line with the agreed escalation procedure.

6b Outstanding debts

A formal report was made to the Council which gave details about a company which was not compliant with the standard payment terms for case fees.

7 Member Board Report

The Member Board had been actively involved with the Energy Supply Ombudsman Project Manager and a member of the Council to redraft the Terms of Reference and Articles of Association.

Discussions had taken place regarding the terms of appointment of Member Board Representatives to the Council. It had been agreed to amend the terms of reference to allow consecutive terms if confirmed by election.

A call for nominations for an intermediate industry representative had been made. Only one nomination had been received so an election would not be required. Darren Wight of Pipex Homecall Ltd. would be invited to join the Member Board.

Mergers and acquisitions in the market place were affecting the make-up of the industry market share. Changes to the constitution of the Member Board would be required to reflect this and ways this could be done had been proposed.

Member Board representatives would be present at the Otelco open-day and at the launch of the Ombudsman's Annual Report. Members will be notified of this and invited to use these occasions to meet their representative.

8 Member Update

The Ombudsman reported that a further five members had joined the Service since the last meeting.

9 Members that have failed to provide a Total Relevant Retail Revenue Statement

The Council was asked to consider removing these 11 companies from membership. The removal process was clarified and it was agreed that they should be immediately removed from membership of TOSL and that Ofcom should be notified of this decision.

10 Energy Supply Ombudsman Project update

Seven key areas were defined for reporting progress:

Governance:

The process for changes to the Terms of Reference and the Articles of Association was explained. A written resolution will be submitted to the Council by the end of May.

The Chairman thanked Roger Jefferies for his work on these documents.

Recruitment:

Council interviews were complete. Changes to the structure of the Senior Management Team had been approved and recruitment was on course to bring in the required number of staff for the project.

Training:

The Open-day for Energy member companies had taken place and was well received. Meetings between the operational staff at Energy member companies and TOSL staff were underway. Ofgem were scheduled give a presentation to TOSL staff on the broader environment on 15 June. It was suggested that a similar presentation for Council members should be arranged for later in the year. A presentation would be made on 30 May to Ofcom and Ofgem to allow these regulators to learn more about what is planned.

Communications:

The name of the new service is to be 'The Energy Supply Ombudsman'. A brand had been designed which would be used on all communication material. Work is underway to create a booklet, stationery, deadlock leaflet and a website. The TOSL Communications Manager had attended an industry communications group meeting at the Energy Retail Association attended by representatives from each of the Energy Member Companies.

The Council stressed the importance of placing details about the new service on the back of Members bills as soon as practical.

Systems:

Changes to the complaint management system had been delayed to incorporate the new branding on templates but was now on track. All other systems changes were on target. Testing was due to commence in the week beginning 22 May.

Procurement:

Orders had been placed for all required equipment and furniture. The required alterations to the office layout were complete. Accommodation was discussed.

Finance:

Start-up costs had been agreed and the Energy Retail Association had been invoiced.

It was explained that the new service would handle all complaints except those about selling. The ERA were working to secure the support of all key stakeholders. The Council stressed that they should also be involved in developing relationships with key stakeholders.

11 Membership of TOSL

A previous decision had been taken to begin the process to remove a company from membership of TOSL for failing to pay case and membership fees and for failing to pay remedies. Some of these remedies had since been paid.

The Council was asked to decide if the process to remove this company from membership should be completed.

After a discussion the Council considered the proposed resolution to remove the company from membership of the Service for failure to implement remedies within 28 days of being notified by the Ombudsman. The Council took into account an updated list of cases in which there were outstanding remedies. It noted that the company claimed that most had now been put in place, but that the Executive had been unable to confirm that all had been received by the complainants. The Council also took into account a letter from the company which stated that the payment of all outstanding remedies had been authorised. The Council decided in the circumstance not to proceed to remove the company from membership at this time. If evidence cannot be shown by 20 June that all remedies have been implemented, immediate suspension will follow.

The Council also made it clear that any further failure to make awards required by the Ombudsman within 28 days of the notification of her Final Decision will follow the Service's escalation process and, if referred to the Council, will lead to the immediate issue of a 21 day letter warning of a further resolution proposing removal from membership.

On the issue of the company's failure to pay case fees it was agreed that if the consent order (agreeing to the settlement of the original court action) was not signed an immediate 21 day notice of removal from membership would be issued.

The company will be notified of this decision.

12 IT Review

A consultant had determined that systems were robust and had developed well over the previous three years. There had been some licensing issues that need to be addressed. Costs had been given to develop the system for future use. These would be circulated to the Council. Further comments would be collated by the Chairman for the June meeting.

13 AOB

The new allocation of Ministerial responsibilities at the DTI was noted. The Secretary of State is Alistair Darling. Telecommunications now come within Margaret Hodge's portfolio, Consumer Affairs within Ian McCartney's; and Energy remains with Malcolm Wicks.

14 Date of Next Meeting

9:30am, 20 June 2006 at The Caledonian Hilton, Edinburgh.