

Minutes of the 52nd meeting of the Council of the The Ombudsman Service Limited (TOSL)

21 November 2005 at 1pm

Otelo Offices, Wilderspool Park, Greenalls Avenue, Warrington

Present:

Council: Peter Holland (Chairman)
Jean Couper
Chris Holland
Rosaleen Hubbard
Roger Jefferies
Julie Meadows

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

1 Apologies for Absence

Apologies were received from Tony Allen, Margaret Doyle and Duncan Sedgwick

2 Minutes of the Council Meeting, held on 17 October 2006

The Minutes were approved for publication on the Otelo website.

3 Matters Arising

Matters arising from the previous minutes were discussed.

4 Chairman's Report

While Rosaleen Hubbard was to remain on the Council until the end of March she had resigned her chairmanship of the Otelo Member Board. The Chairman begun by thanking her for her immense contribution to the establishment of Otelo and The Ombudsman Service Limited. Rosaleen thanked everyone for supporting her over the previous five years. The Chairman went on to congratulate Chris Holland on his appointment as the new Chairman of the Otelo Member Board.

It was confirmed that Duncan Sedgwick would remain on the Council and would continue to Chair the Energy Member Board.

Notification was given that the 'Consumers, Estate Agents and Redress Bill' had been published. The Bill will have a direct influence on the work of the Energy Supply Ombudsman but also states that there will be a requirement for a redress scheme (defined in the Bill as "a scheme which provides for complaints against members of the scheme to be investigated and determined by an independent person ("the

ombudsman”)) for Post. Initial meetings with key stakeholders from this sector will be arranged so that differences in the nature of the business and the nature of likely complaints can be better understood.

There were clear signs that Ofcom now recognises the importance of ensuring consistency between the two approved dispute procedures. [A follow-up letter received by the Chairman from Claudio Pollack, was circulated after the meeting]. A further meeting with the Chairman has been arranged for 27 November.

5 Ombudsman’s Report

Finance

This month’s report showed the projected outturn for the first time. The surplus predicted for Otelo is inevitably dependent on the rate of increase in staffing needed for Energy, but the possible variation should still result in a significant surplus.

The debtors figure had been reduced to 6% at 60 days (from 32% last month), thanks to some diligent work by the new finance assistant.

Operations

Not only had all targets been met for the month for both services, but for all but one of the KPIs (correspondence responded to within 5 days), the average figure for the year to date was on, or better than the, target.

10 Energy complaints forms were issued during the month and both enquiries and written contacts reflected a steady upward trend in the use of the service.

Staffing

An Investigations Manager had been appointed to manage the Investigations Department and to take the lead on quality issues, including taking responsibility for the choice of subsequent implementation of an appropriate quality standard. Vacancies at EO, IO and SIO level are currently being filled.

Communications

Communications features as a separate agenda item this month, allowing the Council to consider progress against the 2006/7 Business Plan and to offer initial thoughts for inclusion in the draft Plan for 2006/7.

Tenders for provision of the 2007 Customer Satisfaction Survey have been considered and the contract let for a further three years with Craigforth.

DTI proposals for consumer advocacy and redress

The Government response to the consultation on consumer advocacy and redress was published on 17 October; paragraphs 74-79 dealing with redress. As noted by the Chairman, the Bill was announced in the Queen’s Speech and the draft Bill has been issued. Once the legislative timetable is clear the Council will want to consider how best to anticipate the obligations which will be placed on existing and prospective members.

The terms and time-scale of the Bill will be the key drivers for the revised strategy and business plan to be put to the Council as a first draft in December.

Actions taken since the Chairman's meeting with Claudio Pollack (Director of Consumer Policy, Ofcom)

Following the last meeting a note was circulated proposing a list of actions to implement the strategy agreed at the October meeting.

Actions taken during the month were:

- Dates set for monthly meetings between Claudio Pollack and the Chairman (November to March);
- Ombudsman met Dr Susanne Lacey on 6 November and discussed the proposed research and the importance of an early outcome;
- Differences between the schemes are evident from a comparison of the latest figures which has been prepared and can be passed to Ofcom;
- An analysis of the source of information used by non-members in contacting Otelo has been done;
- Ombudsman has spoken to Ed Blades and to Stephen Booth (DTI officials dealing with consumer and telecoms policy respectively). Letters were sent by the Chairman to Ian McCartney and Margaret Hodge. Replies are awaited;
- Andrew Bradley and Margaret Doyle have visited NCC, Citizens Advice and Which during the month;
- A meeting with TSI has been agreed in principle – a date has yet to be agreed;
- CRI lecture given and sent for publication;
- BIOA briefed at Executive meeting on 20 October;
- Richard Sills attended Lord Currie's lecture (used the opportunity to speak to the Chairman of the Ofcom Consumer Panel);
- Ombudsman attended Council on Tribunals Conference;
- Ombudsman spoke at Public Utilities Access Forum and Consumer Action Network meetings;
- Executive and Non-Executive members attended Ofcom 'Consumer Experience' seminar;
- Ombudsman spoke to a group of 'agony aunts';
- Chairman wrote to David Thatcher of TalkTalk on 18 October. Staff visited Warrington, having seen the correspondence, on 2 November;
- Meeting with Pipex/Homecall arranged for Chairman and Ombudsman for 24 November.

Other Meetings

- Allan Asher, energywatch Chief Executive, visited the Office on 10 November. This was a familiarisation visit. Some information about the research being done by energywatch on standards of complaint handling were also provided.

6 Accommodation Update

TOSL can manage predicted case-loads in its current accommodation though facilities would be stretched. As several office spaces on Wilderspool business park are soon to become available and the Executive had been asked to report on the options. These options were discussed in terms of cost and benefit. It was noted in particular that TOSL staff have demonstrated commitment to the Service as it has grown and while they have coped with pressure on common areas better working accommodation is now justified. A revised version of the plan showing possible use of the space on the ground floor/basement had been provided and a request to provide comparative cost figures for this and other similar space on the Business Park had been made to the landlords.

Action Point: The Council asked for a business case for a move in time for its December meeting.

7a Outstanding Remedies

The Council was invited to note that a company, which had previously been reported to the Council for failing to provide remedies prescribed by the Ombudsman, had now paid all outstanding remedies. Another company had not implemented a number of remedies.

7b Outstanding Debts

The same company which had failed to implement remedies also had failed to pay case fees. The Executive will endeavour to resolve this with the company but if this is not possible, the matter will be formally raised with the Council.

Mercury Telecommunications Ltd (referred to below), has challenged the need to pay case fees. The debt escalation process is being followed. .

8 Ofcom statutory request for information under s135 of the Communications Act. Ofcom are taking action against one of Otelo's member companies. Its website shows:

Complainant : Own-initiative investigation, following a complaint from a member of the public

Complaint against: Mercury Telecommunications Ltd ('Mercury')

Case opened: 26 October 2006

Issue: Mercury's compliance with the requirement to implement and comply with a Dispute Resolution Scheme

Relevant instrument: Condition 14.7 of the General Conditions of Entitlement

Ofcom has received a complaint from a member of the public that Mercury has issued an invoice to that customer to recover the case fee incurred as a result of the ADR procedure.

A request for information relating to this company had been received under s135 and had been responded to by the Executive. ..

9 Otelo Member Board Report

Chris Holland had been elected as Chairman of the Otelo Member Board. Due to changes in the commercial environment, Matthew Peake (News Optimus) and Phil Kirby (Vodafone) had both resigned from the Member Board. A proposal had been received that Amanda Chandler, from Vodafone, should complete Phil Kirby's term on the Member Board and this had been agreed. An election would take place for a new minority representative member for the Member Board. Darren Wight will replace Phil Kirby on the Audit Committee. Chris Holland and Darren Wight will represent the Otelo Member Board on the Finance Board. Rosaleen Hubbard will continue to sit on the Member Board until early in the New-Year. At the end of her term, an election will be held and, following this, nominations will be received for the person who will become the new telecoms industry member of the Council. Chris Holland will continue with his position on the Council.

A finance update had been received from the Executive. The Council was asked to approve a rebate of the windfall which came as a result of the energy member companies' entry to the Service. It was agreed that this should be distributed to the current Otelo members who contributed to the start-up costs of the business. Guidance will be taken from the auditors on this matter. Chris Holland and Richard Brown will draft a letter to Otelo's members to notify them of this.

Action Point: A draft of the letter to Otelo members to be circulated to Council members .

It was considered appropriate in this stage of Otelo's development to review the charging structure. A computer model was in place to assist decision taking. Various scenarios had been discussed and the Member Board Secretary had modelled some of these. The Otelo Member Board will examine all options including total cost recovery by case-fee. The importance of considering the need for companies, whatever their size, to have a stake in the service needed to be kept in mind when an option was decided upon. Communication of any changes to Otelo member companies would need to be carefully thought through.

A letter had been received from an Otelo member company which expressed the company's congratulations on the quality of Otelo's staff and service. The company stated its interest in becoming a member of the Otelo Member Board and raised several other issues. Rosaleen Hubbard would reply.

Claudio Pollack had attended the first part of the Member Board meeting. Among other issues, Otelo and CISAS annual reports were discussed. The Member Board was encouraged that Ofcom has begun to step-up its activities in regulating a standard requirement for ADR schemes. Ofcom stated that it has no immediate plans for a new re-approval process but when it does, it will be more encompassing than the previous review. Work will also be done to improve service providers' complaints handling

performance and signposting. The Member Board will meet with Ofcom collectively or individually at least bi-annually.

10 Energy Member Board Report

A report was delivered by the Secretary to the Energy Member Board.

Energywatch backlogs had been noted.

An empowerment process had been implemented which allowed customer service representatives at Energy Member companies to take greater responsibility to resolve complaints.

A Memorandum of Understanding between the Energy Supply Ombudsman and Ofgem was discussed. This was in draft form and was with the regulator for comment.

It was stressed that all companies must offer similar signposting to the Ombudsman.

The possibility of including energy companies which are not members of the Energy Retail Association was given consideration. It was agreed that this would be possible. A proposed charging structure was for discussion but it seemed likely that this would be based on the number of metering points each new member had.

11 Otelo Member Update

Four new members had been admitted, two were re-admitted and one company had withdrawn from membership since the last Council meeting.

12 Communications Report

A review looking back over the communications activities for the year was delivered. A copy of the report was distributed and the Council members were asked to offer thoughts on the future development of the Communications Plan to the Communications Manager.

13 Report on non-member contacts

A report was distributed which demonstrated the source and number of non-member complaints and the companies that were being complained about.

14 Comparison of Otelo and CISAS Members' Complaints

The Council thanked the Principal Ombudsman for a valuable and incisive piece of work. The comparison showed some of the key differences between the two schemes. It was agreed that this report should be passed to Ofcom prior to the Chairman's next meeting with Claudio Pollack and that the Principal Ombudsman should accompany him to explain the document in greater detail, if necessary. Otelo had also been asked to provide information to Ofcom's monthly meetings. The details of what was to be provided were still to be discussed.

15 Draft reply to the British and Irish Ombudsman's Association (BIOA)

BIOA has asked that 'The Energy Supply Ombudsman' apply to become a member of the association in her own name. The application has been redrafted to this effect.

Some minor amendments to the Articles of Association will be required and the Council agreed to consider these at an Extraordinary General Meeting. BIOA has expressed reservations about the current arrangements for managing the potential situation where two Member Boards fail to agree a budget. Further work will need to be done to put in place the appropriate mechanism before further amendments to the Articles of Association can be made.

A draft letter from the Ombudsman to the Chairman of BIOA was approved to be sent.

Action Point: Company Secretary to bring forward amendments to the Articles of Association once the outstanding point has been resolved.

16 AOB

A communications provider had enquired about membership of the Service and questioned if its application could be fast-tracked. It was agreed that if an application is received from this Company, the Council was content for it to be admitted.

Julie Meadows had attended a briefing on the Companies Act 2006 [which gained Royal Assent on 8 November 2006]. The Executive committed to monitoring the implementation of the Act and will arrange for appropriate briefings to be given to the Council. DTI information about this Act will be distributed to Council Members.

Action: Executive to provide basic information about changes in Company law to council members

Time and Date of Next Meeting

09:30 on 12 December 2006 at the Offices of the Ombudsman Service Limited, Wilderspool Park, Greenall's Avenue, Warrington. WA4 6HL. It will be followed by lunch with the staff of the Ombudsman services.