

**Minutes of the fifty-fifth meeting of the Council of The Ombudsman Service
Limited (TOSL)**

1pm on Monday 19 February 2007

TOSL Offices, Wilderspool Park, Greenalls Avenue, Warrington

Present:

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

In Attendance: Elizabeth France (Ombudsman)
Richard Brown (Chief Operating Officer)
Richard Sills (Principal Ombudsman)
Andrew Bradley (Council Secretary)

1 Apologies for Absence

Apologies were received from Tony Allen.

2 Minutes of the Council Meeting, held on 16 January 2007

Minor amendments were made to drafting and the Minutes were approved for publication on the website.

3 Matters Arising

The Chairman had written to the Rt. Hon Margaret Hodge MP, Minister of State for Industry and the Regions, to ask if she had received a reply to a letter she had sent to Ofcom. Her reply included a copy of the correspondence.

The Council Secretary will distribute a copy of the reply to all Council Members.

Four matters were carried forward:

There was a discussion about the admission of companies which have been removed from membership of either Otelo or CISAS for failing to abide by the rules of the scheme. It was agreed that the current informal agreement should be developed into a formal protocol. The Chief Operating Officer will be asked to look at this with TOSL's solicitors.

To allow greater year on year comparison, the Executive agreed that future reports will show 13 months not 12.

The Executive will provide the Council with the number of non-member contacts received by the Service and a description of the protocol for handling these contacts

It had previously been agreed that a financial cap for the cost of the move will be given to the Council. This will be provided to the Chairman as soon as it is available and submitted to the Council at the February meeting.

4 Chairman's Report

The Chairman reported on three meetings:

He had been to BT to meet Michael Pollard, Director of Complaints with BT Retail who was very supportive of the role played by Otelo.

He had been present when David Thatcher, Managing Director of CPW Telecoms visited Warrington. He had given an overview of how TalkTalk is handling complaints. There was close contact with the company by the Executive at various levels, which it was agreed was valuable at this stage.

Margaret Doyle accompanied the Chairman to his regular meeting with Claudio Pollack, Head of Consumer Policy at Ofcom. Dr Susanne Lace, Head of Consumer Affairs at Ofcom, was also present. This meeting focussed on consumer perceptions of Alternative Dispute Resolution (ADR). Ofcom has commissioned research by Dr Richard Carter to look at the effect of competition in ADR services on consumers. Concern was expressed by Council members at the lead in time to any action by Ofcom, who intend to run a consultation exercise after the research findings have been considered.

The Consumer's, Estate Agents and Redress Bill, while not dealing with the Telecom sector, gave a good indication of current ministerial thinking about ADR schemes. While falling short of requiring a single scheme for any sector Lord Truscott had made clear in his responses to Lord Newton that regulators should have regard to best practice such as the guidance published by the British and Irish Ombudsman's Association (BIOA). An extract of the Lords' Hansard for the third Reading of the Bill was later sent from the Executive to Ofcom.

Duncan Sedgwick agreed to accompany the Chairman to his next meeting with Claudio Pollack.

The Chairman asked the Council to move the date of the July Council meeting to coincide with the date for the launch of the Ombudsman's Annual Reports on 24 July. **This was agreed.**

5 Ombudsman's Report

Finance

Invoiced cases were higher than the budget forecast.

Attempts were being made to hold a meeting with a company which is no longer a member of Otelo, at Ofcom's request. Two planned meetings had already been cancelled by the company. Formal action to pursue remedies from this company has been postponed until this meeting has been held.

Section 135 of the Communications Act 2003:

A formal request for information had been received from Ofcom, to assist with an 'own initiative investigation' into one of Otelo's members. This has been met and the member had been informed.

Operations

The target for responding to 100% of correspondence within 10 days was missed for both services, by a very small margin. There were significant ill-health absences early in January and high volumes of work to process after the Christmas break. The team did well to exceed the 5-day target and just to miss the 10-day target.

The target for Provisional Conclusions issued after more eight weeks by Otelo was also just missed. However, at the end of the period there was a stock of just two such cases

While the number of forms issued by Otelo (indicating likely future work), and the numbers of Final Decisions were the highest for 12 months the Executive was confident that there was no evidence of an upward trend.

Calls and written contacts to the Energy Supply Ombudsman Service had continued to climb. There was a discussion about potential future numbers of complaints but because of the small numbers received so far, no reliable analysis was possible.

Accommodation

The landlord had produced a draft building specification which was out to tender. The Executive were not yet in a position to put financial estimates to the Council. The landlord had been made aware that the move cannot proceed without approval for expenditure. The time being taken makes it clear that there will be no move before the late May bank holiday.

Personnel and Training

An advertisement for a Council member was placed in the Sunday Times on 11 February. It is also on the Public Appointments website and the websites of Otelco and the Energy Supply Ombudsman. This had been agreed with the Chairman. The text in the pack and on the websites makes clear that the preferred background for this particular vacancy is a strong knowledge of dispute resolution and legal expertise but goes on to invite applications for possible future vacancies with a wider range of experience.

BIOA is to issue guidance for best practice in complaint handling. TOSL intends to be one of the first to use the training tool-kit which accompanies this guidance.

Communications

Work is in hand for a consumer advice sector seminar to be held during the Spring.

The Annual Reports of both services will be launched, following the company AGM, in the House of Commons (the Macmillan Room). The host, as last year, will be John Robertson MP. The date fixed is 24 July and the time offered 5.30 to 7.30pm. Arrangements are being made to invite speakers. Lord Alf Dubbs (who chairs the Energy Retail Association's Billing Code Panel), is kindly looking ahead to book the House of Lords for 2008.

Ministers

The Rt. Hon. Ian McCartney, Minister of State for Trade, Investment and Foreign Affairs has re-scheduled the Chairman's meeting with him for 13 March.

Consumers, Estate Agents and Redress Bill

Extracts of the Hansard report of Third Reading held on 30 January, and in-particular an intervention by Lord Newton of Braintree, had been circulated to Council members earlier in the month.

The Bill has completed passage through the House of Lords with no substantive amendments of interest to the Service. There is no date yet for second reading in the House of Commons.

Information Communication Technology (ICT)

Following an exercise to shortlist companies to manage TOSL's ICT services, conducted by an independent consultant and Richard Brown, the Executive interviewed two companies. Following this, the contract was awarded to nViron. There will be an opportunity for the Council to discuss this and other ICT issues at the March meeting.

Meetings

- On 17 January, the Ombudsman met Ed Humpherson of the National Audit office, to update him on progress in establishing the Energy Supply Ombudsman Service; she discussed with Ofgem the issues which concern the Service about the DTI Bill; and spoke at a seminar hosted by Ofgem: Powering the energy debate.

- Dr Susanne Lace of Ofcom had been caught in the travel chaos caused by the recent storms and will reschedule her visit to Otelo.
- Howard Webber and his colleagues from Postwatch visited on 1 February. There was a discussion about the ways in which Postwatch was winding down its services.
- Rickard Granberg, Head of Regulatory Affairs at Carphone Warehouse visited and there was a discussion which focussed on relationships within the group.

Future Meetings

- 22 February: Richard Brown and the Ombudsman to visit ABTA.
- 2 March: Michael Pollard, Director of Complaints, BT Retail, to visit Otelo.
- 14 March: Ombudsman to attend National Energy Action annual reception.
- 14 March: Ombudsman to meet the Independent Energy Supplier Forum.

6 Otelo Member Board Report

No meetings had taken place since the previous Council meeting. The Council was notified that Tony Dixon from Daisy Communications Ltd had been elected as a representative for the Minority group and will take his place at the next meeting. An election process for an intermediate group member of the Board is planned to begin on 20 February.

The Chairman of the Council was invited to attend a future meeting.

7 Energy Member Board Report

The Board had discussed issues surrounding the further development of relationships with Energywatch and the need to differentiate the role that the Ombudsman Service has to that of Energywatch.

The Ombudsman was encouraged to seek every opportunity to speak on the role of the Ombudsman Service and in-particular to give greater clarity about when a complaint can be accepted for investigation.

The Board expressed concerns that it is difficult to develop the scheme in the preferred way while there is a confused message to consumers about where to take a complaint to. Work needs to be done to improve communication to consumers and consumer groups in this area.

There had been a discussion about widening the scope of the scheme to include other suppliers which are not members of the Energy Retail Association. Consideration had also been given to issues relating to deadlock and the maximum timescale companies should be allowed to resolve complaints before the complaint comes within the scope of the Ombudsman.

There is work to be done with Energy Member Companies to change the perception that a complaint which goes to the Ombudsman is a failure.

A full-scale 12-month review of the Energy Supply Ombudsman is planned meanwhile a less formal internal review, has begun.

7a Finance Board Report

The first meeting of the Board had taken place on 6 February. Representatives from each Member Board attended under the independent chairmanship of Roger Jefferies. The Finance Board Chairman had been impressed that all Member Board representatives came in a constructive and cooperative frame of mind which set a climate for agreement.

There was discussion of those elements which fall within the narrow remit of the Board. This concentrated on predictions on case volumes and how an unplanned shortfall in case volumes would be financially handled. It had been agreed that the planned arrangements would set no precedent for future years.

Council remuneration was discussed and it was agreed that there would be an increase of £1,000 per annum for Council Members. There was also an increase awarded to the Chairman. Remuneration for Council Members will be reviewed annually.

As Roger Jefferies retires from the Council in June, this was his first and final meeting as Chairman of the Finance Board. The Independent Members of the Council joined the Industry members in thanking him for his Chairmanship. The protocol for the nomination of the next Chairman was discussed by the Council. As a guiding principle it was suggested that the Chairman of the Finance Board should sit on neither industry Member Board.

8 Member Update

A membership update was given.

9 Outline Criteria for Future Business Development

It was recognised that the TOSL governance model is strong and that the service offered is capable of application to other sectors. Before any future development is considered there must be a quantifiable benefit to the existing members. Considerable care must also be taken that the identity of individual schemes is not diluted in the eye of the consumer.

This item will be discussed in depth in the Council strategy discussion now planned to follow the July Council Meeting.

10 Draft Business Plan 2007-8

This was the second consideration of the business plan which now incorporated comments received from Council Members.

The Council discussion focussed on the Key Performance Indicators, the Risk Analysis and the budget.

While it was agreed that the output measures and associated targets would remain unchanged there was agreement that there should now be evidence of improved

efficiency. An appropriate measure was discussed. Recognising the nature of the business, the extent of fixed costs and the assumption that there would be an increase in pay levels (pay accounts for some 70% of the budget), it was agreed that a 5% target would be reasonable. The Executive was asked to show, for the March meeting, how this might be measured.

The Executive will return to the Council with proposals on how to demonstrate productivity improvement.

Risk workshops had taken place with all staff and the Executive. The top five strategic risks, which merit the attention of the Council, were identified for the Council to consider.

Discussion of the budget allowed Council members to question the proposals which had been considered by the Finance Board.

It was agreed that after minor amendments, the draft business plan should be sent formally to the Member Boards for comment and should be tabled for final approval at the March meeting.

11 Date of Next Meeting

1pm on Tuesday 20 March 2007 at the offices of The Ombudsman Service Limited, Wilderspool Park, Greenall's Avenue, Warrington. WA4 6HL.