

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

9:30 am on Tuesday 24 July 2007

TOSL Offices, Wilderspool Park, Greenall's Avenue, Warrington

Present:

Council: Peter Holland (Chairman)
Tony Allen
Jean Couper
Margaret Doyle
Chris Holland
Roger Jefferies
Chris Kenny
Julie Meadows
Duncan Sedgwick

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

1 Apologies for Absence

There were no apologies

2 Minutes of the Council Meeting, held on 19 June 2007

The Minutes were approved for publication on the TOSL website.

3 Matters Arising

None.

4 Chairman's Report

The Chairman and the Chief Executive had a meeting with the Chairman and Chief Executive of energywatch. There was a discussion about our respective roles and the importance of the new NCC having a clear understanding about what could and could not be expected of the Ombudsman service.

AP: A copy of the Chairman's follow up letter to Ed Gallagher will be uploaded to the Council extranet.

In the light of the meeting the Council considered it appropriate for the Executive to arrange a meeting with Lord Whitty, the Chairman of the New National Consumer Council.

AP: Meeting between Lord Whitty and the Chairman to be arranged.

One to One meetings with independent Council Members were complete and roles and responsibilities had been decided:

- Jean Couper will Chair the Council in the absence of the Chairman;
- Julie Meadows is the Chairman of the Audit Committee;
- Margaret Doyle has a primary role to represent the Council on the Energy Member Board and will deputise on the Otelo Member Board;
- Tony Allen has a primary role to represent the Council on the Otelo Member Board and will deputise on the Surveyors Member Board;
- Chris Kenny has a primary role to represent the Council on the Surveyors Member Board and will deputise on the Energy Member Board

In addition the Chairman recommended Jean Couper to become the Chairman of the Finance Board. The Chairmen of the Otelo and Energy Member Boards agreed to take this recommendation to their members for consideration.

A meeting had taken place with Claudio Pollack, Director of Consumer Policy, Ofcom, to discuss the key findings of research conducted for Ofcom by Dr Richard Carter to look at complaints handling. Ofcom recognised that differences in the approaches of companies and of ADR schemes did present some potential unfairness to consumers, which it was considering how to address. The maximum time that companies should be allowed to resolve a complaint before it could be considered by an ADR scheme was also being considered. Ofcom was encouraged to speak with Ofgem on this matter as they are also looking at this issue. A consultation paper based on the research was likely to be published in October.

5 Ombudsman's Report

Finance

The Finance report had been changed in format. Income and Expenditure was now shown at a TOSL level only; the cost attribution being of interest to the Member Board's only. In addition a table had been included that showed the percentage distribution between the sectors of the enquiry and investigation cost buckets. This was explained and discussed. It was agreed that changes might need to be made to the model if other schemes were included in the future

AP: The Council asked to include the budgeted cash-flow figure to the report on a quarterly basis.

AP: The Council asked for a note to be circulated to them after the meeting which gives the budgeted cash-flow figure.

The Finance Board will review the report in detail during its March meeting. It was agreed that a series of options which examines possible future funding alternatives would be beneficial for the Finance Board.

AP: A funding options paper will be prepared for the Finance Board which examines possible future possibilities.

Operations

The target of 95% responses to correspondence within 5 working days was missed for Otelo and for Energy Supply Ombudsman, but 100% replies were achieved within 10 days. Evidence is being gathered on this target, with a view to proposing that it be differently expressed next year.

AP: The Executive will propose a change to the way this KPI is expressed in its Draft Business Plan for 2008/9.

Volumes of work for both services were very similar to those for the previous month.

During the period operations staff met representatives of: Pipex, BT, 3, Scottish Power and The Halifax.

Otelo

An approach had been received from Claudio Pollack asking if the Ombudsman would be prepared to take complaints from corporate customers in relation to the new EU regulations relating to the Mobile Eurotariff. EU drafting refers to all "end users" having a right to ADR. It is understood that this has now been raised with the mobile companies by the regulator. A minor amendment to paragraph 1.1 of the Otelo terms of reference would be needed (this is a separate agenda item).

Energy Supply Ombudsman

A request for information had been received from Ofgem. A response is required by 10 August. This is to inform the review of the Service.

The Executive had been alerted to the publication of a consultation exercise by the Department for Business, Enterprise & Regulatory Reform (BERR) on the scope of redress schemes under the CEAR Act. The closing date is 27 September.

AP: a draft response to the BERR consultation will be prepared for the next Council meeting.

Surveyor Ombudsman

Very few calls have been received. One of the reasons for the slow build-up has been the delay by the Royal Institution of Chartered Surveyors (RICS) in notifying firms of the criteria for their eligibility for regulation and, hence, for joining the service.

On 29 June Chris Hamer, the Ombudsman for Estate Agents, visited the office. A demonstration of the case management system was given and there was a discussion about future relationships between offices. After the meeting a draft MOU and Strategy statement were drafted for consideration and agreement. A separate MoU with the Financial Ombudsman Service will also be pursued.

AP: MoU with Estate Agents Ombudsman to be placed on the Council Extranet when it has been agreed.

AP: MoU with Financial Ombudsman Service to be established.

On 18 July the Executive was notified that the Service had been approved by the Department for Business, Enterprise & Regulatory Reform (BERR) for the purposes of Home Information Packs (HIPs), due to come into effect as from 1 August.

Personnel and Training

The timetable for recruiting a Principal Ombudsman was placed on the extranet. This shows a total elapsed time between advertising and recruitment of 26 weeks, assuming a substantial notice period. Advertisements for our website and the public appointments website are being prepared now with press advertising proposed for early September.

TOSL will be re-assessed for Investors in People on 26 September.

Information Communication Technology (ICT)

At the March meeting it was agreed that a new disaster recovery plan would be in place and tested with a target date of September. The plan will be revised and tested after new servers have been installed, the date will therefore be dependent on completion of this work. This is estimated to be the end of October.

AP: Revised Disaster Recovery Plan to be in place and tested by end of October.

AP: Disaster recovery to be included within the risk management functions of the Audit Committee. Peter Holland to help with this.

Communications

Attendance at the Trading Standards Conference proved valuable.

The annual reports were completed and arrangements for the launch day, including the attendance of Stephen Timms, Minister of State at BERR, completed.

Member company comments on the customer satisfaction survey are being addressed – a positive meeting with one of those who had some critical comments took place during the month.

Meetings of interest to Council between 19 June and 18 July:

- 20 June: Ombudsman commented on review of Consumer Panel
- 27 June: Ombudsman and Chairman met Claudio Pollack to hear about outcome of research
- 27 June: Ombudsman joined panel for a 'Utility Week' workshop
- 28 June: Ombudsman invited to Public Administration Committee seminar on the regulation of standards in public life
- 29 June: Chris Hamer Ombudsman for Estate Agents visited
- 6 July : Ofgem fact finding visit
- 10 July: Mike Lambert a Chartered Surveyor from the Halifax visited to brief staff
- 17 July Chairman and Ombudsman met energywatch

Future Meetings of interest to Council:

- 24 July: Launch of Annual reports
- 26 July: Ofgem seminar on ADR

- 30 July: first SOS Member Board
- 1 August: Legal Services Ombudsman to visit
- 6 August: Ombudsman to speak at a seminar in Poland (part of an FCO twinning project) on mobile phone complaints.

6 Otelo Member Board Report

A conference call had taken place.

Due to the resignation of Darren Wight there is a vacancy on the Finance Board. The Council will be advised when this vacancy is filled.

There had been a discussion about the possible use of substitute Member Board representation on the Council. The Council agreed that this is a possibility though substitutes would only be able to attend meetings with observer status and would not be entitled to a proxy vote.

It was noted that Member Board communications to members had improved and that members had demonstrated little demand for any further improvement.

Nine Otelo member companies had sought a response to comments made during the customer satisfaction survey. The Member Board and the Executive were working together to provide responses.

Growth of the Service had been discussed. It was stressed that the size and manageability of the Service should not lead to any detrimental impact to Otelo's performance. A reactive rather than proactive approach to expansion was preferred.

The TOSL Chairman will be given a date to attend a future meeting of the Otelo Member Board.

7 Energy Member Board Report

The Consumers, Estate Agents and Redress Act received Royal Assent on 19 July. A transition group is operating within BERR and a dialogue with this group had begun. A Chief Executive will be appointed to head the group in the Autumn and the transition will follow. The Energy Member Board and TOSL will need to track this process at every stage. It will be vital for both to take every opportunity to promote the role and benefits of the Energy Supply Ombudsman Service.

There had been a discussion with Officials at BERR about the requirements for the implementation of the Act. Concerns were raised that the Postal Industry had taken insufficient action to ensure dispute resolution would be in place for its customers. It was stressed that this must not delay the full implementation of the Act for Energy Consumers.

The potential expansion of the scheme had been discussed with network operators.

The Board noted that the Ofgem review of the Energy Supply Ombudsman was underway.

8 Surveyors Ombudsman Service (SOS)

The final status report for the project to acquire and launch the SOS was submitted. Henceforth, the relevant data will be reported normally in the Executive's monthly package. In addition, the Surveyors Ombudsman will report, as appropriate, about specific items of interest.

The Council raised its concerns that the pace of development demonstrated by RICS had the potential to damage TOSL's reputation.

It was confirmed to the Council that all costs related to the Surveyors Ombudsman Service were ring-fenced during the start-up period.

The inaugural Surveyors Ombudsman Member Board meeting will take place on 30 July. The TOSL Chairman, a Council representative, the Surveyors Ombudsman and a representative from the Executive had been invited to attend.

AP: Ian Smith was asked to provide the Chairman with a briefing for the inaugural Surveyors Ombudsman Member Board meeting.

9 Otelo Member Update

A membership update was given.

Proceedings had been issued against a member for non-payment.

10 Terms of Reference

Changes to the terms of reference for the Surveyors Ombudsman Service were shown to the Council for its agreement for submission to the SOS Member Board. It was agreed that these should be passed on for Member Board approval.

AP: The Council asked for a definition of an 'Independent Council Member' to be added to the 'interpretation' section.

Areas for change to the terms of reference for the Energy Supply Ombudsman Service were indicated to the Council for its agreement for submission to the Energy Member Board. It was agreed that these should be passed on for approval.

Areas for change to the terms of reference for Otelo were shown to the Council for its agreement for submission to the Otelo Member Board. It was agreed by the Council that it was prepared to take complaints from corporate customers in relation to the new EU regulations relating to the Mobile Eurotariff if that was the wish of the Member Board. Changes to the terms of reference for Otelo would also need to be amended to allow for this. It was agreed that this change and the other proposed changes should be passed on for approval.

11 Replacement of servers

Following Julian Sharp's presentation to the Council in March, it was agreed that the Executive should proceed to prepare a business case for the replacement of servers, using the concept of 'virtualisation'. A paper prepared by TOSL's ICT provider, Nviron, was provided.

Two options were given; a like-for-like update or a move to virtualisation.

The Council expressed concern at the lack of detail in the paper and, in particular, that no assurance on guarantees, timescales and costs were given. Agreement in principle to proceed with virtualisation was given, on the condition that the Executive can provide assurance that it has a proper understanding of the exact costs and all claims are substantiated.

[Secretary's note: since the meeting the Chairman has agreed that the Executive enter into a fixed price contract for this work. The first deliverable will be a detailed project plan]

12 AOB

TOSL is being taken to the Civil Courts by a complainant seeking 'compensation'. This is a case which was fully escalated internally, and seen by the Chairman. While the Executive and our solicitors are satisfied that there is no case to answer, the Executive had taken the decision to ask our solicitors to defend the case.

11 Date of Next Meeting

1pm on 18 September 2007 at the offices of The Ombudsman Service Limited, Wilderspool Park, Greenall's Avenue, Warrington WA4 6HL.

Please note: There is no meeting in August. Papers will be made available on the Council Extranet on 21 August.