

Minutes of the sixty-second meeting of the Council of The Ombudsman Service Limited (TOSL)

**13:00 on Tuesday 20 November 2007
TOSL Offices, Wilderspool Park, Greenall's Avenue, Warrington**

Present:

Council:

Peter Holland (Chairman)
Tony Allen
Jean Couper
Margaret Doyle
Chris Holland
Julie Meadows
Duncan Sedgwick

In Attendance:

Elizabeth France (Ombudsman)
Dick Sills (Principal Ombudsman)
Ian Smith (Principal Ombudsman)
Richard Brown (Chief Operating Officer)
Steven Gould (Director of Professional Regulation and Consumer Protection at RICS)
Robbie Allcock (Council Secretary)

The meeting was preceded at 12.30 by a presentation on Local Loop Unbundling (LLU) from Neil Nasralla, Ofcom.

1 Apologies for Absence

Apologies were received from Chris Kenny and James Scott-Lee.

2 Minutes of the Council Meeting, held on 18 September 2007

Subject to minor amendments, the Minutes were approved for publication on the TOSL website.

3 Matters Arising

- Copies of the exchanges between the Ombudsman and the Chief Executive of Energywatch had been uploaded to the Council extranet.
- The definition of 'Independent Council Member' was not copied to the Surveyors Ombudsman Service Terms of Reference as this would not have been consistent with the other Services and the definition is already in the Articles of Association.
- An expanded purpose statement which sets out the approach that the Council has adopted had been published on the TOSL website as a statement from the Chairman.
- The Communications Manager had made contact with local Trading Standards to make them aware of TOSL's service standards leaflet and the procedures it describes.

- A meeting between The Chairman, The Ombudsman, Chris Kenny and the Chairman of the Surveyors Member Board, the RICS Regulatory Board and the RICS Executive had been held in the House of Lords. Follow up meetings were also arranged.

4 Financial forecasts

The Chief Operating Officer presented the Council with TOSL's financial forecasts to 31 March 2008. The forecast specified enquiry and case numbers, income and expenditure and also cash-flow and balanced reserves. It was explained that both the number of enquiries and cases were consistently running ahead of forecast, and although the ratio of the number of enquiry contacts to invoiced cases was much higher for Otelo, the actual number of invoiced cases (when compared to the budgeted amount) was higher for the Energy Supply Ombudsman. There was a discussion regarding step-changes in work volume and also how TOSL would cope with this. It was explained that a recruitment campaign had recently been undertaken with the most recently recruited employees to start soon, including several internal promotions. As TOSL had recruited 'ahead of the curve' it was now in a position to handle larger case numbers and meet the KPIs by the calendar year.

There were further discussions regarding the company reserves, the change of TOSL from a small to a medium size business and also the change to staff working patterns and hours. The Executive have been looking at ways to utilise the current office space to maximum effect.

5 HR update

As part of the presentation cycle for the Council Jane Hannah (HR Manager) and Doug Pemberton (Learning and Development Advisor) were to provide the Council with a HR update. Apologies were received from Jane Hannah due to illness.

Doug Pemberton therefore provided the Council with a report on TOSL's recent re-accreditation as an Investor in People (IiP). It was explained that information was collected from a sample of randomly selected individuals from across the business via one-to-one interviews. The key points of interest from the IiP report were that TOSL had implemented (or was in the process of implementing) all of the previous IiP recommendations and that there were no negative issues. The Chairman congratulated all of TOSL's staff on this re-accreditation.

It was confirmed that outreach workers would be integrated in training programmes as and when required. The main training needs for TOSL were identified as migration and succession plans, NVQ level accreditation for staff working in Ombudsman schemes in the UK and also possible future modern apprenticeship schemes.

AP: The IiP report will be placed on the Council extranet.

6 Draft response to Ofgem Consultation – Approval of Redress Schemes in the Energy Sector

The Council approved the draft response. The Ombudsman also provided the Council with an overview of the consultations currently pending response from TOSL, particularly noting

Ofgem's review of the Energy Supply Ombudsman which was expected before the end of November.

AP: Ofgem's review of the Energy Supply Ombudsman will be placed on the Council extranet once it has been published.

7 Chairman's Report

There had been a meeting with the Managing Director of British Gas. The Chairman reported that British Gas was satisfied with the service it had received from the Energy Supply Ombudsman.

There had been a meeting with Lord Whitty, Chairman of the new National Consumer Council (NCC). The Chairman reported that he was now satisfied that the new NCC had a clearer understanding of the roles of TOSL's Services and it has been arranged for further meetings to take place every two months.

There had been a meeting with the RICS. The Chairman reported that this was an open and constructive meeting which helped to address any confusion between the roles of the Council and the Surveyors Ombudsman Service Member Board. The Chairmen of the Otelo and Energy Member Boards reported their meeting with the Chairman of the Surveyors Ombudsman Service Member Board was constructive too.

The Chairman had chaired a meeting between the Energy Retail Association (ERA) and the Energy Networks Association (ENA). Margaret Doyle attended this meeting as the independent Council representative. It was reported that both the ERA and ENA were pleased with the outcome of this meeting and that there were no apparent obstacles to the ENA becoming members of the Energy Supply Ombudsman. It was confirmed that if the ENA were to join the Energy Supply Ombudsman, the Energy Member Board would be amended to accommodate this change, in line with the likely requirements of the regulator.

The interviews for a new Principal Ombudsman had taken place. Once the post has been successfully filled, an email would be sent to the Council to confirm the appointment made.

The Chairman stressed the importance for the Council to discuss succession planning at the January strategy meeting. He confirmed he would hold bilateral discussions with Council members and members of the Executive.

AP: Inform Council members of the Principal Ombudsman Appointment.

8 Ombudsman's Report

Finance

October has seen a continuation of cases being ahead of budget - Otelo case numbers are 168 cases ahead whilst the Energy Supply Ombudsman is also now ahead of the forecast by 86 cases. The number of forms issued for both Otelo and the Energy Supply Ombudsman increased for October (Otelo saw a sharp increase) and there was also a small increase in the number of returned forms for both Services. For the Surveyors Ombudsman Service, 8 forms were issued and 5 were returned. This suggests that income for November and December will also be higher than was budgeted.

It was noted that the ratio of the number of Enquiry contacts to Investigation cases has increased slightly too. The budgeted ratio is 17% and although the Energy Supply Ombudsman ratio is under budget at 13.5%, Otelo is currently running at 21.5%. This leaves the overall ratio slightly ahead of budget at 17.5%.

Operations

The volume of written correspondence has continued to increase for both Otelo and the Energy Supply Ombudsman. Although the target of 95% correspondence met within 5 working days was missed for all three Services, 100% were dealt with within 10 days. All targets for answering telephone calls were met for all three Services. Both targets of less than 1% of Provisional Conclusions (PCs) completed in more than 8 weeks and 90% of PCs within 6 weeks were missed for both Otelo and the Energy Supply Ombudsman. Again, stock levels have sharply increased over the last two weeks for both Services.

As reported last month, a recent recruitment campaign has been successful in employing Enquiry Officers (EOs) and Investigation Officers (IOs). Some have taken up positions already but it will take time for all new staff to be trained up.

The Business Plan for 2008/09 is to be prepared in draft in December. This will be submitted to the Council for January's meeting. As the risk management workshops will not be held until after January's meeting, this will be added at a later date.

Otelo

The Ombudsman attended the Ofcom Annual Lecture on 16 September, given by its Chief Executive, Ed Richards. The main issue arising was Ofcom's proposal to reduce the timescale for referral to ADR schemes from 12 to 8 weeks, though it has been confirmed that this will be subject to consultation.

It is now expected that Ofcom will publish its findings and begin the consultation process in February/March 2008.

Energy Supply Ombudsman

The Chairman had a meeting with the ENA and ERA over the ENA using the Energy Supply Ombudsman as its ADR scheme. The ENA has since visited TOSL offices and further discussions between both parties are planned.

In addition to Ofgem's consultation on Approval for Redress Schemes in the Energy Sector (a draft response to which is a separate agenda item), Ofgem has also issued a consultation on Complaints Handling standards. A draft response will be prepared for the Council for December's meeting. The necessary papers are available on the extranet.

Ofgem's review of the Energy Supply Ombudsman is expected in the next few days.

There was a discussion surrounding the future closure of Energywatch, in particular the potential for an increase in ITOR cases (inside Terms of Reference), the removal of their details from supplier bills from April 2008 and that it planned to stop taking new cases from June 2008. The Ombudsman reported that the Communications Manager would be liaising

with Energywatch contract staff in Northampton to explain the role of the Energy Supply Ombudsman and also when to refer a consumer to the Service.

There was a more general discussion regarding Energywatch and Consumer Direct staff. Tony Allen reported that he had accepted an invitation to attend a Consumer Direct/Trading Standards Partnership Team Workshop. As this was an open invitation either the Ombudsman or a member of TOSL's staff would also attend.

Surveyor Ombudsman

The Terms of Reference for the Surveyors Ombudsman Service were approved at the last Member Board meeting.

Membership has now increased to over 2700 firms.

On 9 November, the Surveyors Ombudsman Service submitted its application to the Office of Fair Trading (OFT) for approval as a Redress Scheme for Estate Agent Services. This is available on the extranet and all applications are now available for viewing on OFT's website. The OFT also received applications from the Ombudsman for Estate Agents, IDRS Ltd (a wholly owned subsidiary company of the Chartered Institute of Arbitrators) and the RoEA (the Register of Estate Agents).

On 22 October the Ombudsman and Principal Ombudsman (Ian Smith) visited esurve, a major surveying firm. It was reported that esurve had agreed to provide the Surveyors Ombudsman Service with their own training materials to assist the training development of TOSL staff. The Principal Ombudsman and Policy Officer met with the Financial Ombudsman Service to discuss any potential overlap between it and the Surveyors Ombudsman Service, on 30 October. There was also a meeting with Chris Hamer, the Ombudsman for Estate Agents, on 7 November, to discuss and agree a Memorandum of Understanding between both schemes. This is to be finalised shortly and will allow the Surveyors Ombudsman Service and the OEA regularly to exchange complainants' experience, decisions made and information on matters of common interest. This document will be uploaded to the Council extranet when completed.

It was confirmed that the Surveyors Ombudsman Service would look to investigate any estate agency issues from RICS regulated firms who were members of the Surveyors Ombudsman Service.

We have been invited to offer comments on the Carsberg Review of Residential Property, a consultation paper by Sir Bryan Carsberg, commissioned by RICS, the Association of Residential letting Agents (ARLA) and the National Association of Estate Agents (NAEA). It was agreed that, consistent with responses to other consultations, any response would go from TOSL. A draft would be prepared for the Council for December's meeting. This document is available on the extranet for viewing and any comments from Council members would be welcomed.

The Department for Business, Enterprise and Regulatory Reform (DBERR) is also currently consulting on proposals to exercise its powers in the CEAR Act 2007 and other changes to secondary legislation relating to estate agents. Again, a response is currently under consideration and any draft will be prepared for the Council for January's meeting. This document is also available on the extranet for viewing and any comments.

Personnel and Training

TOSL was recently re-accredited as an Investor in People.

A major recruitment campaign has been undertaken (and is still ongoing) at all levels. Some Administration and Enquiry staff have already commenced employment and six IOs are due to start next week (26 November). There have been internal promotions with two EOs having moved to the Investigation team as trainee IOs and two further EOs have also been successful in their application for the same role, to move across on 10 December. Two IOs have also been appointed to the position of Senior IOs and an Assessment Centre for Senior EOs will commence shortly.

The virtualisation project which commenced in September is nearing completion. This has had no adverse effect on service.

The first draft of a Disaster Recovery Plan was under consideration when a major power failure on site allowed us to test an element of it. All power to servers was lost. The Uninterrupted Power Supply immediately took over the running of the servers and an orderly close down of the servers was undertaken by nViron staff. Power was eventually restored and the servers brought back on-line. However, a number of issues impacted on the power up process thereby delaying full service to the business for about 2 hours. These are now understood by nViron and therefore will inform the final version of the plan.

It was confirmed to the Council that the current document was a Resilience Plan which needed a small amount of work to become a Recovery Plan. The Chairman and Jean Couper will review the draft Disaster Recovery Plan on behalf of the Council.

AP: Disaster Recovery plan to be sent to the Chairman and to Jean Couper for consideration.

Communications

On 4 October, the Communications Manager attended a Presentation to North West Citizens Advice 'Essential Services Conference'. 50 people attended this event, mainly Citizens Advice personnel and some debt advisors.

On 30 October the Communications Manager attended a meeting of the British and Irish Ombudsman Association (BIOA) Communications Group on 17 October and then gave a presentation to the Lewisham Consumer Support Network, which is made up of diverse small consumer and advice groups. 75 people attended this event.

The Energy Supply Ombudsman Booklet is being reprinted for a limited run which will take us up to about April. This reprint will include the recent change to include sales and to reduce the deadlock period to eight weeks. These booklets will be used after 1 January.

Meetings of interest to Council between 11 October and 20 November:

- 16 October: Ombudsman attended Ofcom Annual Lecture.
- 17 October: Policy Officer attended British Standards Institute Committee Meeting at Energywatch.
- 22 October: Ombudsman, Principal Ombudsman and Policy Officer visited esurv.
- 30 October: Principal Ombudsman and Policy Officer visited Financial Ombudsman Service.

- 30 October: Chairman and Policy Officer attended meeting between ERA and ENA.
- 1 November: Ombudsman was invited by the Consumer Redress Working Group to provide a presentation of the Energy Supply Ombudsman, at Ofgem's offices.
- 7 November: Principal Ombudsman and Policy Officer met with Ombudsman for Estate Agents.
- 12 November: ENA visited TOSL offices.
- 16 November: Ombudsman met Energywatch Chief Executive.

Future Meetings of interest to Council:

- 20 November: Communications Manager to attend the presentation of the Ofcom annual reports into the consumer experience.
- 21 November: British Gas Managing Director (Call Credit) to visit TOSL.
- 28 November: Presentation to staff by ERA on the Billing Code.
- 29 November: Invitation to a Stakeholder Forum at PhonepayPlus (formerly ICSTIS).
- 10 December: Consumer Action Network meeting at energywatch.

9 Otelo Member Update

A membership update was given.

10 Otelo Member Board Report

The Chairman of the Otelo Member Board provided the Council with an overview of the previous meeting. It was particularly noted that the Board had received oral presentations from the TOSL Council Chairman and Claudio Pollack, Ofcom Director of Consumer Policy. The Board had formally approved the Otelo Terms of Reference and Margaret Doyle had accepted an invitation from the Chairman of the Otelo Member Board to attend at least two Member Board meetings per year, in addition to any 'substitute' appearances

11 Energy Member Board Report

No formal meetings had taken place since the last Council meeting.

12 Surveyors Member Board Report

The Chief Operating Officer gave a report to the Council in the absence of both James Scott-Lee (Surveyors Ombudsman Service Member Board representative) and Chris Kenny (Surveyors Ombudsman Service independent Council representative).

It was reported that the Surveyors Ombudsman Service Member Board had raised concern over the training of TOSL staff regarding the 128 various disciplines which could be potential complaint issues. TOSL staff and the RICS had liaised on this and a report will be presented to the Surveyors Ombudsman Service Member Board at their next meeting.

It was reported that the Development Budget and Running Costs of the Surveyors Ombudsman Service were both currently under budget and that the Surveyors Ombudsman Service Member Board would soon have to start considering funding for the Surveyor Ombudsman Service's second year and also the charging of non-RICS member firms.

Steven Gould reported that approximately 87 - 90% of the surveying firms the RICS had written to had agreed to be regulated by them, of which over 2700 had signed up for redress with the Surveyors Ombudsman Service. It was reported that this number is likely to continue to increase as the RICS receives responses from the remaining firms that had been contacted.

There was a discussion surrounding the issue of firms referring a customer to the Surveyors Ombudsman Service despite not having signed up to it. It was agreed that in such instances, the Surveyors Ombudsman Service would look to accept such cases for investigation and that the firm would also be redirected to the RICS. A contact has been set up between the Surveyors Ombudsman Service and the RICS in this regard.

13 Terms of Reference:

- a) Surveyors Ombudsman Service
- b) Energy
- c) Otelo

The Council gave its formal endorsement for the Terms of Reference for all three Services.

14 AOB

The Chairman reiterated that the draft Business Plan and Strategy will be issued before the Christmas break for discussion at the full day meeting in January.

Julie Meadows welcomed any comments from the Council prior to the workshop meeting she will attend with the internal auditors, along with the Ombudsman and the Chief Operating Officer.

The Chairman confirmed December's meeting would be truncated due to the communications update which Council Members will attend with TOSL staff beforehand. The Chairman emphasised the importance of the Council liaising with TOSL staff.

15. Date of Next Meeting

11 December 2007 at the offices of The Ombudsman Service Limited, Wilderspool Park, Greenall's Avenue, Warrington WA4 6HL. This meeting will be preceded by a TOSL staff communications meeting which the Council will attend over two one-hour sessions from 12pm.