

## **Minutes of the sixty-fifth meeting of the Council of tOSI**

**1300 on Tuesday 19 February 2008**  
**tOSI Offices, Wilderspool Park, Greenall's Avenue, Warrington**

### **Present:**

**Council:** Peter Holland (Chairman)  
Tony Allen  
Jean Couper  
Margaret Doyle  
Chris Holland  
Maggie Jones  
Chris Kenny  
Julie Meadows  
Duncan Sedgwick

**In Attendance:** Elizabeth France (Ombudsman)  
Dick Sills (Principal Ombudsman)  
Ian Smith (Principal Ombudsman)  
Richard Brown (Chief Operating Officer)  
Robbie Allcock (Council Secretary)

The meeting was preceded at 12.30 by a presentation on Energy Networks by Andy Phelps, Energy Networks Association.

### **1 Apologies for Absence**

No apologies were received. The Chairman welcomed Maggie Jones to the Council as the representative of the Surveyors Ombudsman Service Member Board. The Chairman also confirmed the resignation of former Surveyors Ombudsman Service representative James Scott-Lee.

### **2 Minutes of the Council Meeting, held on 15 January 2008**

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

### **3 Matters Arising**

- Chairman to receive draft copy of Disaster Recovery Plan when completed. This action is ongoing.
- The BERR consultation: A consultation on proposals for exercising powers in the Consumers, Estate Agents and Redress Act 2007 and other changes to secondary legislation relating to estate agents, had been sent to the Surveyors Ombudsman Service Member Board for information/comments. A formal response from tOSI has been sent to BERR.
- A meeting between the Chairman, the Ombudsman and the RICS Regulation Department had not been arranged for later in the year as the Chairman had since

had a meeting with the RICS Regulation Department and the Surveyors Ombudsman Services Member Board Chair.

- Information was to be provided relating to Chapters 1 and 2 of Competition Act 1998. It was considered appropriate to circulate the OFT's guidance literature on Competition Law to the Council. The Energy Member Board Chairman also circulated material produced by the Energy Retail Association, simply for information to the Council members. The Energy Member Board Chairman also expressed the view that there should be a procedure in place for responding to any investigatory action under the Act. It was agreed that this was a matter for the Executive. The importance of Council Members and the Executive being aware of the provisions of this legislation was emphasised by the Chairman.
- **AP: Council Secretary to circulate OFT guidance on Competition Law to Council members.**
- The Otelo, Energy and Surveyors Ombudsman Service Member Boards all approved the proposal to extend the Chairman's term to June 2010.

Margaret Doyle and the Chief Operating Officer provided the Council with feedback on a meeting arranged to discuss whether there was any justification for trying to identify and address those energy complaints where minimal or quick action was required and where the complainant had had no contact from the Supplier within the 8 week period. It was reported that of a sample of 76 cases, 18 (24%) were identified as cases where the complainant had claimed to have had no response from the Supplier. It was agreed that the group should do further work to establish the likely extent of the problem, and if it was significant to establish some key guidelines for a pilot exercise. It was agreed that issues to be included were that: a full case fee would remain; the scheme would be wholly 'owned' by the Energy Supply Ombudsman Service; no Complaint Form would be generated and no more than 48 hours should be allowed to deal with the matter. If no resolution were reached at this point, the case would proceed to full investigation.

The Chairman of the Energy Member Board said there had also been some discussion of this proposal at its last meeting but no view had yet been taken as to whether there was merit in taking it forward.

The Chairman made clear that the Council should be kept informed as to whether there were grounds for a pilot, for energy cases only, and would need to give formal approval before any pilot commenced and before any permanent changes arising from such a pilot were implemented.

**AP: Margaret Doyle to report with an update on the mediation pilot at the March meeting.**

- 4 **Draft tOSI response to PostComm consultations: Criteria for the approval of redress schemes in postal services & Complaint handling standards for licensed postal operators.**

Draft responses to the consultations were tabled for consideration. These were discussed in brief and several initial amendments/additions were suggested. It was agreed that any further comments be forwarded to the Council Secretary by the end of February.

The Chairman reiterated to the Council that tOSI's response to these consultations should not in any way indicate that a decision to pursue this work had been taken.

## **5 Succession Planning**

There was a discussion regarding Succession Planning in the absence of the Executive and Secretary.

## **6 Chairman's Report**

The Chairman had had a meeting with Maggie Jones, Steven Gould and David Pilling. Several issues were discussed, including the remit of the Surveyors Ombudsman Service Member Board, Surveyors Ombudsman Service membership on the tOSI Council and Communication.

It was reported that the Surveyors Ombudsman Service Member Board had been set up with dual functions, as it was also an advisory body to RICS on matters of redress. The Chairman confirmed that it was only the tOSI Council which could speak on behalf of tOSI, although there was nothing to prevent the group from making independent comments and/or responses in its advisory role. While the SOS Member Board Chairman thought that agenda items coming under its advisory remit would be infrequent it was agreed that there would be separate agendas for the two meetings and that tOSI executive and independent Council members would leave when Member Board business was complete. For the moment tOSI would provide the secretariat though that would be kept under review.

At the meeting Steven Gould had highlighted that the Ombudsman for Estate Agents (OEA) was actively marketing itself to estate agency firms. The Chairman confirmed that although the application for approval of the Surveyors Ombudsman Service as a redress scheme for estate agents opened the service to non-RICS members, the Council's objective in applying had been to provide a holistic service to existing RICS members who also dealt with estate agency work.

There was also a discussion surrounding the potential for a future Residential Property Ombudsman. The Council agreed that tOSI had no interest in any expansion if it would cause detriment to the existing Services and not add any tangible benefit. It was considered that this particular issue was a matter for RICS to pursue.

It was agreed that the Ombudsman and Steven Gould should meet on a regular basis.

A meeting had been arranged between tOSI and RICS to discuss communications plans.

## **7 Ombudsman's Report**

### **Finance**

January saw a continuation of cases being ahead of budget - Otelo case numbers are 242 cases ahead whilst the Energy Supply Ombudsman is also now over budget by 471 cases. For Enquiries – Otelo contacts are 27678 ahead whilst the Energy Supply Ombudsman contacts are just 932 over budget.

The overall ratio of the number of Enquiry contacts to Investigation cases remains slightly ahead of budget at 18%, of which the Council may wish to note the individual ratios of 21.6% for Otelo and 12.8% for the Energy Supply Ombudsman.

A short discussion about finance followed and it was reported that March's meeting would focus on finance, in particular the Council's final approval of the Business Plan and Budget for 2008/09. However, it was noted that it would be useful for the Finance Board to consider the overall funding model during the coming year and there was a discussion about the RICS debtors balance. It was confirmed that RICS income offset the debtor balance. It was also confirmed that a certain amount of interest is earned on tOSI's current account.

## **Operations**

The majority of KPI targets were not met for January. It should be noted that these figures include the last week of December (when the office was closed). For Otelo, the number of complaint forms returned in December was 224 compared to 521 in January; for the Energy Supply Ombudsman, this was 176 in December compared to 442 in January.

Council Members expressed concern about the service delivery levels but were assured that the Action Plan presented to the Council at January's meeting was in place and should lead to the KPI of issuing PCs within 8 weeks being met by the end of February and the 6 week target by April

On Monday 4 February, a technical problem with the telephone system was experienced resulting in some people not being able to contact any of tOSI's services successfully for a portion of the day. The voicemail server went down at about 11am. Lake, tOSI's phone partner, was contacted and informed of the problem. Tests were carried out in house to try to bring back the service but these were unsuccessful. The phone service was back by the end of the day. The phone service resumed at 9.35 am on Tuesday. The service was therefore lost for about 6.5 hours. As soon as the service was lost, in accordance with procedures, Ofcom, Ofgem, RICS, and Energywatch were informed and a notice was placed on the websites.

No problems have been experienced since.

Lake has been unhappy about the virtualisation of the phone servers, maintaining that the problems were as a result of this move. They will install, at their cost, two standalone physical servers to run the phone system. This, they maintain, will stabilise the phone system.

The Energy Member Board Chairman highlighted his concern not only at the loss of service but also with the actual communication of this to stakeholders, specifically that the Energy Retail Association (ERA) and Energy Suppliers were not notified. The Ombudsman explained that the ERA was not on the current list of bodies to be notified as it did not have a call centre facility. She accepted that there were lessons to be learned particularly in relation to communication between Lake and tOSI staff and tOSI and stakeholders.

There was some discussion about how any future service failure should be handled. It was agreed that the Business Continuity/ Disaster Recovery Plan would take the points raised into account. In the meantime it was agreed that Chairmen of each of the Member Boards should be informed if there were any major service failures.

**AP: Amend procedures to ensure that Member Board Chairmen are added to the list of those to be informed.**

Operations meetings have been held this month with BT (quarterly meeting) and Vodafone.

tOSI had staff visited the offices of the Parliamentary and Health Service Ombudsman.

The Ombudsman reported that the Executive had a useful meeting with Royal Mail about their likely requirements for a redress scheme to meet the approval of Postcomm under the CEAR Act 2007. This led to a brief discussion over Royal Mail's likely expectations and the Chairman made clear that any decision on whether to respond to any invitation to provide a service would be taken once PostComm had issued its final approval criteria.

The Executive also held a useful meeting with the BERR team reviewing Consumer Law.

**Otelo**

Nicole Shinnick of Ofcom visited to discuss the impending publication of its review of complaints handling and ADR. It is expected that this review will be completed in March but any changes would not be in place until March 2009. The Council noted the protracted nature of this exercise with concern given the continued risk of consumer detriment until action was taken.

**Energy Supply Ombudsman**

Ofgem's requirements, following its consideration of responses to consultations on 'Approval of redress schemes in the energy sector' and 'Complaint handling standards consultations' were expected to be received at the end of the month.

Discussions were ongoing with the ERA and the ENA regarding the addition of network services to the Energy [Supply] Ombudsman Service. The project to bring the networks on board is still on target for 1 April. The ENA has already provided staff with some training, and plans have been made for staff to visit the ENA.

A visit was made by Communications Manager and SEO to Utility Warehouse.

The Ombudsman Dick Sills was interviewed on GMTV on 6 February as part of a piece on customer service levels and inaccurate billing within the energy sector. It was agreed that in future the Ombudsman would let Member Board Chairmen know of any likely high profile media exposure relating to their sector [Chairman's request: particularly where calls to the Ombudsman's office might result, reciprocal information should be provided by Member Board Chairmen].

**Surveyor Ombudsman**

Following the application to the Office of Fair Trading for approval of the Surveyors Ombudsman Service as an estate agents redress scheme, there was a meeting with OFT on 18 January for further discussions. The key areas of concern all stemmed from OFT's interpretation of Article 6 of the Human Rights Act 1998. The Ombudsman has since referred OFT to the Financial Ombudsman's lawyers; RICS had also taken legal advice and shared helpful case law with OFT. Further questions in relation to Criterion 7 and the exercise of discretion had also been answered. While it was understood that recommendations for approval were to be made by the end of February, nothing further had been heard

[Secretary's note: further questions were received from OFT on 19 February with no specified deadline for response].

## **Personnel and Training**

Recruitment is currently underway. Interviews have been conducted for Enquiry Officers, Senior Enquiry Officers and Investigation Officers. Senior Investigation Officer assessments will take place before the end of the month.

## **ICT**

The transition from email client Tobit to Microsoft Outlook was successfully completed.

## **Communications**

The Communications Manager met with RICS in Coventry on 4 February.

tOSI exhibited for all three Services at the CAB Annual Conference on 29 January and also at the Your Money Matters exhibition on 2 and 3 February.

tOSI shall be exhibiting our Services at the Liverpool Property Show, Echo Arena on 15 and 16 March and at the Daily Mail Ideal Home Show, Earls Court, 14 March to 6 April.

The Council was assured that tOSI was not taking away any front line staff for these exhibitions. The increasing number of events tOSI attends, to communicate with key stakeholders, due to the number of Services it administered was noted.

## **Meetings of interest to Council between 15 January and 18 February:**

- 16 January: Chris Hamer (Ombudsman for Estate Agents) and Shelley Radice (Removals Ombudsman) visited the Office
- 17 January: Countrywide visited the Office
- 18 January: meeting with Office of Fair Trading officials to discuss the SOS application for approval as a redress scheme for estate agents
- 21 January: The Ombudsman and Policy Officer met with Anne Willcocks, legal adviser, and Martha Goyder who are conducting the BERR review of consumer protection law.
- 23 January: The Executive met with PostComm
- 28 January: Nicole Shinnick, Ofcom, met with the Executive to discuss Ofcom's impending review of ADR
- 29 January: tOSI exhibited at the CAB Annual Conference
- 31 January: esurv visited Offices to provide surveying training to staff
- 2-3 February: tOSL exhibited at the 'Your Money Matters' exhibition
- 4 February: Communications Manager met with RICS in Coventry
- 5 February: Ombudsman spoke at CAB launch of 'Are you being served'
- 11 February: Ombudsman met with Knight Frank
- 13 February: Ombudsman spoke at RICS Conference in Newcastle
- 13 February: Chairman met Baroness Jones, and Steven Gould.

## **Future Meetings of interest to Council:**

- 7 March: Ofcom Consumer Panel event
- 12 March: ENA open day
- 15-16 March: exhibiting at Liverpool Property Show, Echo Arena
- 14 March – 6 April: exhibiting at the Daily Mail Ideal Home Show, Earls Court
- 17 March – Ombudsman to attend 'Future of Consumer Advocacy' with Ed Mayo NCC

## **8 Otelo Member Update**

A membership update was given. It was noted that this update currently applies only to Otelo. In future some information would be provided on membership of the Surveyors Ombudsman Service. The names of some 2,800 firms in membership were being uploaded to tOSI systems shortly.

## **9 Otelo Member Board Report**

The Otelo Member Board Chairman thanked Tony Allen for facilitating the review of Chairmanship of the Board. The Board unanimously agreed that the Chairman retain his position for a further two years and retain his position as Otelo Member Board representative on the tOSI Council for a further two years (subject to any change in circumstances).

The Board welcomed Duncan Laker, Welcome Telecom, as the new Category B representative. The Chairman reported on likely future changes to the Board membership.

The Board had noted the current performance levels and although concerned, were content that the Executive had an Action Plan in place to combat this. The Board were also content with the Council decision that the services should be treated equally.

There had been some preliminary discussion about the potential for offering a redress scheme for the Postal Sector.

The Board had endorsed the Business Plan and had expressed the view that performance for 2008/09 should continue to focus on efficiency and productivity improvements. It had also agreed on the Budget and case/subscription fees for its members for 2008/09, keeping the 80:20 principle. It was noted that both the case fee and subscription would be reduced.

## **10 Energy Member Board Report**

The Energy Member Board Chairman reported that the Board had discussed the issues of networks, performance, the mediation pilot and the budget at the last meeting. The Board had also agreed to keep the principle of a 80:20 a split in terms of case and subscription fees. It was also confirmed that all Members now had the Energy Supply Ombudsman details on the back of their bills.

In discussion it was noted that if there were not to be the same case fees for both services the reasons should be ones which can be clearly and consistently explained.

## **11 Surveyors Member Board Report**

The Surveyors Ombudsman Service Member Board Chair reported that it had discussed forecast case numbers, Communication between RICS and tOSI, membership, training and also the Business Plan and Budget at its last meeting. There had been a concern that RICS

and tOSI had not been communicating effectively in terms of marketing the Service (a meeting to address this has been arranged but Council, in discussion, noted that marketing the service to potential members was a matter for RICS). No formal decision had been reached on the Budget or payment of fees for 2008/09. Ian Smith attended to provide reassurance to the Board of the level of training provided to Surveyors Ombudsman Service staff.

## **12 AOB**

There was no other business.

### **Time & Date of Next Meeting**

**13:00** on 18 March 2008 at the offices of tOSI, Wilderspool Park, Greenall's Avenue, Warrington WA4 6HL. The meeting will focus on approving the Business Plan and Budget for 2008/09.