

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

**1200 on Tuesday 18 March 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)  
Andrew Walker (Principal Ombudsman)  
Richard Brown (Chief Operating Officer)  
Robbie Allcock (Council Secretary)

### **1 Apologies for Absence**

No apologies were received. The Chairman welcomed Andrew Walker as Principal Ombudsman (Development), who was attending his first meeting of the Council in this role.

### **2 Minutes of the Council Meeting, held on 19 February 2008**

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

### **3 Matters Arising**

- The Council Secretary had circulated OFT guidance on Competition Law to Council members
- tOSI's procedures had been amended to ensure that Member Board Chairmen were now informed if there were any major service failures
- arrangements had also been made for Member Board Chairmen to be informed of any likely high profile media exposure relating to their sector and for reciprocal information to be provided by Member Board Chairman where calls to the Ombudsman's office might result.
- Margaret Doyle provided an update on the energy sector pilot. This action was ongoing. There was concern over the title of this project which was not mediation but a proposed way of responding to complainants who had received no response from the member company regarding their complaint: Pre Enquiry Case Closure (PECC). Feedback from March's figures was awaited before any proposal was made on whether the project should be taken forward.

#### 4 Corporate Strategy & 2008/09 Business Plan

The Corporate Strategy and Business Plan for 2008/09 had already been to each Member Board for approval and no substantial amendments to its content had been received. Some minor drafting amendments were highlighted. The Chair of the Surveyors Ombudsman Service Member Board reported that it had agreed that the projected volume of cases should be reduced from 1000 to 500 – the implications of this would be considered by the Finance Board on 1 April. The Energy Member Board Chairman stressed that the plan should focus on delivering the current KPI targets and any potential change to them could be considered at a later date. The Chairman of the Otelo Member Board took a similar view, expressing the interest of his members in the efficiency target (set at 5%) rather than in any tightening of the time scales in the existing targets. He asked for information on how the saving would be measured. The Council also asked that this target should be underpinned by an Absence Management target.

It was agreed that KPIs should be discussed again after the first quarter.

The Energy Member Board Chairman raised some concern that there was a perception that tOSI Executive were spending too much time attending events and meetings outside the office. The Ombudsman made clear that she saw communication with a wide range of stakeholders as a key part of the role but reassured him that the Executive were in control of the Service in terms of performance management. It was important to note that tOSI now has an Executive team of four Ombudsmen and a Chief Operating Officer in place. The Chairman requested that any Council member with any specific concerns in this regard should report them directly to him.

**Action Point 1: Executive to provide information to the April meeting on how the efficiency saving and absence management targets might be presented for 2008/9**

**Action Point 2: Secretary to include KPIs on the agenda for the July Strategy meeting.**

#### 5 Approval of Surveyors Ombudsman Service under CEARA

The Principal Ombudsman Ian Smith led discussion the draft document prepared for Council. There were some particular governance issues which required formal approval from the Council. The Council agreed that it would amend the wording of Article 87 of the Articles of Association to apply to *any potential service* members and also amend the Articles to remove the exemption from the duty to declare interests of interests below 5%, at the AGM of the company in July.

There was a lengthy discussion surrounding the application and many concerns were raised by Council Members regarding this, in particular, at what point the Council should decide not to pursue the application any further. It was agreed that a letter from the Chairman should be sent with the response to OFT making clear tOSI's position on the application criteria.

The Chief Operating Officer highlighted a discrepancy in our last response to OFT's which indicates all Council subcommittees would have at least twice the number of independent as industry members. It was noted that this did not apply to our Audit Committee; this would need to be explained.

The Ombudsman drew attention to the revised version of OFT Criterion 9 (in relation to Article 6 of the Human Rights Act – oral hearings) issued by OFT. It was also noted that only the Surveyors Ombudsman Service and the OEA remain in the bidding for the estate agency work.

**AP 3: Council members to provide any further comment to Ian Smith by 31 March**

**AP 4: Ian Smith finalise the response and draft a covering letter, to be agreed with RICS and the SOS Member Board Chair, for the Chairman to send to OFT**

## **6 BIOA Governance Consultation**

The Executive were satisfied that this document was not contentious though issues were raised for discussion. There was a concern about the possibility that Services which were already full members of BIOA, may not meet the criteria in future and the potential impact of this. The Ombudsman explained to the Council that this document was prepared by working groups of BIOA members as good practice guidance for voting and non-voting BIOA members. The purpose of the document is to clarify understanding of the role of an Ombudsman.

It was agreed that comment be made on the heading of Appendix 1 and on the split between the Ombudsman and governing body in relation to decisions on a policy framework for casework decisions.

## **7 Chairman's Report**

The Chairman would be meeting Colette Bowe, now a member of the Ofcom Board. He also planned to meet Claudio Pollack in April, once the awaited Ofcom consultation document had been published.

The Chairman had attended a Communications Management Association dinner with Andrew Walker.

The Chairman provided the Council with an update on succession planning. [In confidence additional minute attached].

## **8 Ombudsman's Report**

### **Finance**

The number of cases invoiced during February was 785, split 338 Energy (lower than expected) and 447 for Otelo. The contact ratio across the two services remains 18 contacts to every case accepted for investigation – the split between the services shows this to be 13 to 1 for Energy and 21 to 1 for Otelo.

### **Operations**

The Executive had prepared a paper for the Council setting out the progress being made to deal with the backlog of cases. This led to detailed discussion surrounding the current service delivery levels and the way the backlog was being managed. The Ombudsman confirmed that although the initial Action Plan had slipped, the Executive was confident that the KPI of issuing PCs within 8 weeks would be met by mid April and the KPI for issuing of PCs within 6

weeks be met by 17 June. This plan was based on current expectation of the level of incoming work.

The Executive, had modelled a number of possible scenarios and explained that if the inflow of work reached the expected rate for the year on 1 April, and was sustained, further management action would be needed to keep the plan on target. Close management and early reporting to the Council of any risk to the plan would be maintained.

The close interest of Member Boards in progress against the plan, at this time, was recognised, but the Chairman emphasised that he would not expect information to be provided at less than the monthly intervals it was provided to Council once targets were once more being met.

The Council was encouraged by the positive messages being received from the Executive and wanted to note their thanks to staff for the effort being put in to meet the challenge currently faced.

### **Otelo**

It was noted that:-

- the Ombudsman Dick Sills was interviewed on Sky News on 25 February as part of a piece on slamming within the telecoms sector
- the Ombudsman Liz France was interviewed on 11 March by 3 Counties Radio in relation to the provision of fixed telephone lines.
- a visit was made by Investigations and Enquiries Managers to Eurotel Ltd.

### **Energy Supply Ombudsman**

Ofgem's final response to its 'Approval of redress schemes in the energy sector' had been received. The Energy Member Board Chairman confirmed that although the ERA will not be responding to this in its own right, it will provide input to the application. It was agreed that a draft application would be circulated to the Energy Member Board for comments prior to being submitted to the Council for formal approval at the next meeting. The deadline for application is 25 April. Ofgem's final response to its 'Complaint handling standards consultations' is expected shortly.

It was noted that:

- an open day had been held for the ENA on 12 March in order to facilitate its integration into the Energy [Supply] Ombudsman Service on 1 April.
- staff visited the offices of Western Distribution, Wales & West and National Grid

### **Surveyor Ombudsman**

Following the application to the Office of Fair Trading for approval of the Surveyors Ombudsman Service as an estate agents redress scheme, OFT had now confirmed that its original timetable (planned commencement date 7 April) would have to be delayed. Submission of further information was sought by 10 April.

### **Personnel and Training**

It was reported that all major recruitment was now complete although recruitment to the outworker panel and to posts supporting the Executive and HR teams are still underway. Inductions and training were taking place. This recruitment would give the capacity to handle the volume of work on which the business plan for 2008/9 is based.

Andrew Walker started his post as Principal Ombudsman (Development) on 3 March. While Andrew is being 'coached' he will prepare Otelo cases which will be signed off by one of the other Ombudsmen.

## **ICT**

It was noted that the project to incorporate a HR data base and move payroll from the existing Sage system to Mitrefinch, to ensure that greater efficiencies in processing employee data, has been taking place recently. The Time & Attendance process would also be updated.

## **Communications**

The Executive reported that the Communications Manager was currently providing training to energywatch contact centre staff around the UK.

tOSI exhibited its Services at the Liverpool Property Show, Echo Arena on 15 and 16 March and is also currently exhibiting its Services at the Daily Mail Ideal Home Show, Earls Court, until 6 April.

## **Meetings of interest to Council between 19 February and 17 March:**

- 7 March: Ofcom Consumer Panel event
- 12 March: ENA open day
- 12 March: Communication Manager with energywatch in Bournemouth
- 15-16 March: tOSI exhibiting at Liverpool Property Show, Echo Arena
- 17 March – Ombudsman attended 'Future of Consumer Advocacy' with Ed Mayo, NCC
- 18 March: Communication Manager with energywatch in Birmingham
- 14 March – 6 April: tOSI exhibiting at the Daily Mail Ideal Home Show, Earls Court

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

- 18 March: Communication Manager with energywatch in Glasgow
- 26 March: Principal Ombudsman to attend BERR stakeholder day
- 2 April: Principal Ombudsman to meet with Chris Hamer, Ombudsman for Estate Agents

## **9 Otelo Member Update**

A membership update was given.

## **10 Otelo Member Board Report**

The Otelo Member Board Chairman reported from the last meeting held on 29 February by teleconference. Although there was ongoing concern regarding performance, the Board was content that there was an Action Plan in place and were also content for the Council to oversee this. The Otelo Member Board Chairman noted the updated Action Plan document prepared by the Executive.

Tony Dixon had represented the Board at the Audit Committee meeting.

The Otelo Member Board Chairman updated the Council as to the current status of the constitution of the Board. It was reported that as the proposed Group B nominee's company had since become a Group A member, three elections would now take place for two Group A members and one Group B member. These elections will be undertaken in April once all company TRRRs should have been submitted to Otelo.

The Board adopted a Competition Act guidance document and this will be included in all future Member Packs.

The 'safety net' period of 12 weeks will also be kept on the Agenda for discussion at future meetings so that a view can be formed prior to Ofcom's pending ADR review.

## **11 Energy Member Board Report**

The Energy Member Board Chairman reported that the Board held ongoing discussions about performance, the logging of Ombudsman Discretion cases and the PECC and mediation processes. The Board had agreed on the case fee and subscription levels for its members for 2008/09 (the Council noted that this was different to the charges agreed for Otelo) and also the constitution of the Board. It was reported that, with the introduction of the Energy Networks, the new Board would consist of three Suppliers, one ENA representative, one ERA representative (the current Member Board Chairman who will also represent the three remaining Suppliers) and the independent tOSI Council member. The Chairman of the Board will be elected at the first meeting in April. The importance of the Board understanding the need to have consistency and some longevity in the role of Member Board Representative on the Council was reiterated. The Energy Member Board Chairman also noted that the composition of the Board may change again once approval has been granted from Ofgem to take account of smaller suppliers. He and the Ombudsman will liaise about how to handle the context of this with tOSI's application for approval.

The Member Board Chairman reassured the Council that the Board Members were fully aware of the dual role and responsibilities of becoming a director of tOSI. The Chairman proposed it would be good governance for him to write welcoming any newly elected Industry Council Member, and explaining their fiduciary responsibilities.

**AP 5: The Executive would draft a letter welcoming new Council Members for the Chairman.**

## **12 Surveyors Member Board Report**

The Surveyors Ombudsman Service Member Board Chair reported that it would now hold its meetings in two parts, with part B relating to its role as an advisory board to RICS on matters of redress (tOSI executive and independent Council members would not be present). Liaison

between the communication departments of tOSI and RICS had now been properly established.

The Board had discussed the application to the OFT under CEARA. It also held lengthy discussions about proposed case volumes and the funding of the scheme (for both RICS and non-RICS member firms) for 2008/09.

It was reported that any initial teething problems regarding the remit of the Board had also now been resolved.

### **13 Audit Committee**

The Audit Committee Chair (Julie Meadows) reported on the last meeting, held prior to the Council meeting.

The Committee had discussed Risk Management and in looking at the full risk register produced by the Executive had identified 4 key areas of risk, represented by 5 entries in the register:

1. Impact of changes to work volumes:

- the effects of the closure of energywatch, and other post CEAR Act changes
- taking on additional Services

2. IT failure

3. Changes to regulation and accreditation criteria i.e. potential loss of approval from a regulator

4. Increased staff turnover

The Council accepted the Committee's recommendation that these be included in the Business Plan for 2008/9 and that the Executive provide a report against each as part of the monthly information provided to the Council. It was accepted that the Executive would monitor the full risk register (consisting of 28 identified risks) on a quarterly basis and highlight any changes in risk categorisation to the Council as necessary. The full register should be available on the extranet.

The Committee received an Audit Planning report from Maria Hollows, Beever and Struthers. It was reported that the Auditors would focus this year on materiality and finance, particularly the provision of debtors, the calculation of fees and charges to members and also cost attribution.

The Committee asked the auditors to re-consider reserve levels and to look at the payroll system and the case fee allocation system.

Noting that tOSI already had Investors in People Accreditation, the committee asked for a report to their June meeting on progress made by the Executive on looking at the options which might be pursued in relation to Quality Management; they also expected to see the completed Disaster recovery/Business continuity plan.

As a matter of good governance it was agreed that annually, at its June meeting, the Committee would receive an oral report from the auditors without the Executive in attendance.

#### **AP 6: Full risk register to be placed on Council extranet**

## **14 AOB**

The Energy Member Board Chairman reported that following the last Energy Member Board meeting, the industry Member Board representatives took part in a discussion group as part of the annual Satisfaction Survey. It was noted that this was part of a range of interviews undertaken, which would be reported to the Council by Craigforth, once completed.

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

**13:00** on 15 April 2008 at the offices of tOSI, Wilderspool Park, Greenall's Avenue, Warrington WA4 6HL.