

Minutes of the seventy-first meeting of the Council of The Ombudsman Service Limited (tOSI)

13:00 on Tuesday 16 September 2008
tOSI Offices, Wilderspool Park, Greenall's Avenue, Warrington

Present:

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

In Attendance: Elizabeth France (Ombudsman)
Richard Sills (Ombudsman)
Andrew Walker (Ombudsman)
Richard Brown (Chief Operating Officer)
Steven Gould (Director of Professional Regulation and Consumer Protection at RICS)
Garry Felgate (Chairman of Energy Member Board)

1 Apologies for Absence

Apologies were received from Chris Holland.

2 Minutes of the Council Meeting, held on 15 July 2008

With amendments, the Minutes were approved for publication on the tOSI website.

3 Matters Arising

Previous AP1: A draft response to the consultation was presented to the Council, and would be made available on the Extranet after the meeting. Members were asked to submit any comments to Andrew Walker by Friday 26 September.

Previous AP2: It was agreed for the Chief Operating Officer to draft a model on reserve levels and produce a formal recommendation to Council at its next meeting. The Chairman had agreed prior to the meeting that this would be rescheduled for November.

Previous Action Point 3: The proposed changes to the Audit Committee Terms of Reference were to be circulated and tabled for approval at the September Council meeting. The Chairman had agreed prior to the meeting that this would be rescheduled for November.

Previous AP 4: A set of graphs showing awards for the year to date was circulated at the meeting. Elizabeth France explained that these redisplayed existing information rather than providing new information. There was no evidence of upward drift in the level of awards, but this didn't fully address the wider question of whether awards were being recorded in the same way across all sectors. For example, under the way awards are currently measured, any refund due under the Back Billing Code would not be recorded in the value of the award.

ACTION POINT 1: The Executive would consider recording practice and make recommendations, for the October Council meeting.

4 Energy sector redress scheme and new arrangements

Richard Sills reported that an MoU with Ofgem was being drafted and, once complete, would inform one to be drawn up with and Consumer Focus.

We are working with Consumer Focus to understand what information they want from the Ombudsman service rather than directly from member companies.

5 Approval of Surveyors Ombudsman Service under CEARA 2007

The Surveyors Ombudsman Service was approved by the OFT in August. The OFT then provided a draft MoU intended to indicate when the ombudsman should report estate agents to have them for regulatory action. This MOU has now been signed by the Ombudsman and the OFT.

The OFT is content to receive the performance information seen by the Council but would like the opportunity to comment on and proposed changes to the tOSI's Customer Survey questions before the survey is carried out, **this was agreed.**

Enquiries were now being received from non-RICS estate agents though none had yet joined. The first Provisional Conclusion for an estate agency case relating to a RICS regulated member had been issued.

6 Accommodation

Richard Brown distributed a paper setting out costs for additional accommodation. He explained that the initial costs for half of the fourth floor space, which the Council had already agreed we should take, would be about £30k with about £70k of annual costs. A decision to take the remaining part of the available area should be based on medium to long term considerations, such as the development SOS. Without the additional space there would be little or no room for growth beyond the current business plans. To take the rest of the available area would cost about a further £65k annually, bringing the total annual cost up to about £135k.

During the discussion, it was accepted that additional space was needed anyway, and although there were risks (such as splitting parts of the organisation between floors), this was unavoidable. While a reduction in case volumes was possible, it did not seem likely, and the additional overhead costs of the second phase would represent a very small risk for members.

The Executive would obtain further detailed information about costs and lease and the **Council agreed to give the Chairman authority to make the decision on whether to take the additional space.**

7 Confirmation of Ombudsman appointment

The Council unanimously approved the appointment of Andrew Walker as Ombudsman.

6 Chairman's report

The Chairman and the Ombudsman (Richard Sills) had a meeting with EDF. This was one of a series of meetings the Chairman was making. The Chairman had met, Nigel Stagg of BT, who had stressed that BT was committed to supporting the Ombudsman Service.

The recruitment consultant Gatenby Sanderson had been chosen to look for a Chief Executive/Chief Ombudsman, following a selection process. Representatives had visited tOSI's office to talk to staff. It was now proposed that the company be invited to assist with the recruitment of Ombudsman to the current vacancy and a Council Member for the place which would be vacant in June. A combined advertisement was planned for Sunday 28 September

The interviewing panel had been established. All Council members would be invited to comment on the long list and Steven Gould would ensure that our commitment to involve the SOS Member Board was met.

ACTION POINT 2: The draft advertisement would be circulated to Council Members for comment by Friday 19 September.

9 Ombudsman's Report

Volume change

Four out of five KPI targets were now being met for both Otelo and for Energy, thanks to the hard work of staff. The target for ensuring only 1% or less of cases was being dealt with in more than 8 weeks had still to be met. It was agreed that this was a stretching target and was only being missed by a few cases. These were likely to be cases where there was either particular complexity or some delay in providing information. The Council asked that its congratulations be passed to staff for the way the stock had been reduced over the summer.

SOS cases were taking longer to complete. Work was being done to see whether this was due to inherent complexity or would change as staff became more experienced. A Chartered Surveyor recommended by RICS, was to join the team for two days a week for six months to transfer sector knowledge, assist in writing internal advice notes and train new Investigation Officers. More evidence on case types and complexity would be available in time to inform targets for the 2009/10 business plan.

The Energy Member Board had revised its view of the expected incoming workload from 500 to 650 cases per month from 1 October. Recruitment had begun on the basis that the energy companies would underwrite any gap if this was an overestimate.

The large volume of cases flowing through the system meant that the number of representations, and therefore Final Decisions, had increased. This was exacerbated by an increase in the proportion of cases where one or other party submitted a further representation. It was not clear why the proportion of further representations had increased, and further work would be needed in this area, but the result was that the Ombudsman team was now the bottleneck, and cases were coming in faster than they could be cleared.

While the longer term issues were being addressed primarily by the recruitment of a new Ombudsman, there was a short term problem to manage, and a triage programme had been developed to handle the short term needs. This would help the Ombudsman team deal more

quickly with cases in which no points of substance had been raised, or where there were no complex issues.

ACTION POINT 3: The Executive would make a presentation to the October Council meeting on the findings.

Finance

August saw a 20% drop in contacts and cases invoiced, in line with that experienced in previous years. The loss of business time for a major IT upgrade may have exacerbated the overall reduction.

Cash remained ahead of budget, with £400k currently on long term deposit. Action against a small number of non-payers was being considered, while about 15 small companies had yet to pay.

IT

A major software upgrade was carried out in August to the document management software, which took longer than expected. Although the system was unavailable for the duration of the upgrade stakeholders were kept informed and no adverse comments were received.

Changes to regulation and accreditation criteria

BERR had issued the necessary Orders in relation to energy and Ofgem's formal approval was awaited [Secretary's note: this was received on 19 September].

The work being done by the BERR Consumer Law Review team could have long term implications. The team is currently seeking information following completion of the consultation.

Staff turnover

The Parliamentary and Health Service Ombudsman was currently advertising posts in Manchester, with significantly higher salaries and a Civil Service pension. The impact of this was being monitored.

Other points of interest

- meetings had been held with the 'small business' customer services teams of all energy member companies, and with some new small members;
- there had been meetings with some new and potential SOS members;
- meetings had been held with Consumer Focus and Consumer Direct. The knowledge base to be developed by Consumer Focus would in due course be extended to cover communications and would be available to all our staff.

The Member Board met on 24 July. It endorsed the Council's strategic view on development of the company.

There was no expectation that the current high case volumes would decrease in the foreseeable future.

In light of the Ofcom consultation on ADR, the Member Board discussed the eight week period for consideration of complaints. It considered whether there might be any change ahead of an Ofcom requirement. The Member Board considered Ofcom's preferred solution, that Communications Providers comply with a single approved Code of Practice setting out **high level** mandatory standards for complaints handling; while each member would make its own response the Board would be invited to comment on that to be sent by tOSI.

The Member Board was content with the Financial Protocol issued by the Finance Board, although it was potentially concerned that if some member companies were late in paying subscriptions at the start of the financial year there might be a short term cash flow problem. Richard Brown suggested that in such an instance it may be necessary to use the tOSI's reserves on a short-term basis.

The Chairman proposed that this matter be raised when reserves were considered at the November Council meeting.

11 Otelo Member Update

The membership update was noted.

12 Energy Member Board Report

The Energy Member Board elected Garry Felgate as its chairman when it met on 2 September.

The extension of the service to cover SME customers, and the requirement to remind customers of their right to go to ADR after 8 weeks were likely to lead to increased case volumes. The energy companies would underwrite any increase in resourcing in the event that the rise in complaints failed to materialise.

The Member Board discussed the current KPIs. It was accepted that these were for the Council to set and would only be changed when the business plan for 2009/10 was considered, but any evidence of the need for change would be collected and provided to the Council as part of the business planning process.

13 Surveyors Member Board Report

Steven Gould was now a full Council Member and represented the SOS Member Board. He reported on the membership of the SOS member board and on the progress in identifying which firms had joined the scheme through its annual survey, which could also be used in future as part of our customer/member satisfaction survey.

14 AOB

Business Continuity Plan

Tests were in progress to demonstrate that data recovery could be successfully achieved.

Date of Next Meeting

13.00 on Monday 20 October September 2008 at the offices of The Ombudsman Service Limited, Wilderspool Park, Greenall's Avenue, Warrington WA4 6HL