

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

**13:00 on Tuesday 20 October 2008**  
**tOSI Offices, Wilderspool Park, Greenalls Avenue, Warrington**

**Present:**

**Council:** Peter Holland (Chairman)  
Jean Couper  
Margaret Doyle  
Chris Kenny  
Julie Meadows  
Garry Felgate

**In Attendance:** Elizabeth France (Ombudsman)  
Richard Sills (Ombudsman)  
Richard Brown (Chief Operating Officer)  
David Pilling (Regulation Policy Project Manager - RICS)  
Robbie Allcock (Council Secretary)

The meeting was preceded by a presentation from Doug Pemberton, Learning and Development Advisor, on staff training. A copy of the presentation will be uploaded to the Extranet.

**AP1: a copy of the staff training presentation to be uploaded to the Extranet.**

**1 Apologies for Absence**

Apologies were received from Chris Holland, Tony Allen, Andrew Walker and Steven Gould. David Pilling was in attendance as representative for the Surveyors Ombudsman Service.

**2 Minutes of the Council Meeting, held on 16 September 2008**

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

**3 Matters Arising**

A response to the Ofcom consultation was submitted incorporating comments made from Council members. This document has been uploaded to the Extranet.

It was agreed that the Chief Operating Officer should 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.

The proposed changes to the Audit Committee Terms of Reference were circulated and tabled for approval at the meeting. This matter was discussed under Agenda item 6.

- (i) A paper on the recording of remedies had been circulated for discussion. The Ombudsman (Richard Sills) briefed the Council on its content, which was noted. This led to a discussion. The consensus of the Council, on first consideration, was that it was for members to perform their own analysis of award levels based on data they hold rather than creating additional work for the Service, and risking prolonging

the process for the complainant. The Energy Member Board had been keen to see more detailed analysis done and there was also a need to ensure that for Estate Agency cases OFT's requirements were met. However, there was also concern to avoid any suggestion that the value of the services offered should be judged by the level of quantifiable awards. It was agreed that the Energy Member Board Chairman would liaise with the Energy Member Board on this matter. He and other Council members were invited to provide feedback to the tOSI Executive in time for their November Strategy meeting. The Council would then discuss this further as part of their consideration of the 2009/10 Business Plan and Budget.

**AP2: Council members to provide any feedback to the tOSI Executive before 5 November.**

- (ii) A paper on the handling of the stock of Final Decisions had also been circulated for discussion. The Ombudsman (Richard Sills) briefed the Council on its content, which was noted.

**4 Energy sector redress scheme and new arrangements**

Richard Sills reported that an MoU with Ofgem was had now been signed.

An MoU with Consumer Focus will be finalised once agreement has been reached on information to be routinely provided by the Ombudsman Service. Consumer Focus would like the same information the service currently provides to Ofgem. It has never been the practice of the Service to provide company based information other than in response to statutory requests from the relevant regulator. The Council confirmed that this remained its position. The Executive was taking advice on this from Ofgem.

**5 Extension of Surveyors Ombudsman Service under CEARA 2007**

The Chief Ombudsman provided an update on the Surveyors Ombudsman Service.

There had been challenges from two surveyors to decisions taken. The Chief Ombudsman had reminded them of the regulatory requirements placed upon them by the RICS.

The Chief Operating Office had visited RICS' office on Coventry. As a result, consideration will be given to implementing a Microsoft Exchange solution to keeping membership lists up to date. Membership of the scheme is currently [approximately] 4200 members.

60 estate agents not regulated by RICS have joined SOS since 1 October 2008.

Quarterly meetings with the OEA are continuing and information will be shared in line with the MoU.

The SOS Member Board has been invited to discuss the issue of Buy-to-Let cases to help us define where cases fall to the Ombudsman Service and where they should be referred to the RICS Dispute Resolution Services.

**6 Audit Committee Terms of Reference**

The amended terms of reference had been circulated prior to the meeting. The main changes related to Membership, quorum and also the expanded scope of the committee.

**The Council unanimously approved the terms of reference.**

## 7 Chairman's report

The Chairman and the Ombudsman (Richard Sills) had a meeting with E.ON. Future meetings are planned with British Gas and Scottish Power, which will then conclude the series of meetings the Chairman is making with the ERA members.

A new series of visits to Member Companies is to be arranged. It was suggested that this should include some key telecoms member companies

The Chairman would be heavily involved in the recruitment of the Chief Ombudsman and Council Member during December. Progress on the recruitment process was discussed and **it was agreed that the Chairman should have discretion to decide whether the closing date for any of the appointments needed to be extended.**

The Chairman intended to complete one-to-one meetings with both Independent Council members and the Executive team by the end of the year.

The Chairman proposed that the December Council meeting be preceded by dinner, giving the opportunity of a full day on 16 December when meetings with groups of staff would be arranged.

The Chairman expressed his congratulations to the Chief Ombudsman on her new role as Chair designate of the new Office of Legal Complaints.

## 8 Ombudsman's Report

### Volume change

All KPI targets for the issuing of PCs and answering calls were met for both Otelo and Energy. The target for ensuring 95% of written correspondence was responded to within 5 days was missed for Energy, though all correspondence received a substantive response within 10 days, and the target is expected to be achieved in October.

The Executive is to provide the SOS Member Board with a sample of SOS cases which missed the six week KPI so that some analysis can be performed as to the length of time they took to investigate. Feedback will be provided to the Council when this action has been completed and will inform target setting for 2009/2010.

Stock levels have been lower than expected for Energy but remain high for Otelo. It is too early to assess the impact of changes resulting from the implementation of the Consumer and Estate Agents Redress Act (CEARA) on 1 October 2008. [Secretary's note: it has since been highlighted that energy contacts have risen by one third since 1 October].

### Finance

At the half year case numbers are 418 (7.7%) ahead of budget. The sector split shows telecom cases running 1275 (60%) ahead being balanced out by energy cases running at 23% below. Surveyors Ombudsman Service and network cases are 151 behind collectively. For the half year we have spent £2.149m against a budget of £2.021m. The main overspend has been on salaries with some underspends and overspends in the other categories. A full analysis of the half year figures will be presented to the finance board at its November meeting.

Cash remains ahead of budget with £400k on long term deposit. 60 day+ debtors on telecoms have reduced slightly during the month although the figure remains higher than we would normally expect. This balance has now come down to £140.6k of which £122.1k is owed by 3 large members. We are working closely with these companies, escalating where possible, to ensure these debts are cleared.

## **IT**

The new staff intranet is up and running. There is the capacity now within the Communications team to manage this .

The Council agreed it would be beneficial for them to have access to the intranet system. This will be looked into by the Executive.

### **AP3: Executive to look at providing Intranet access to Council members.**

Changes were made to the TK case management system to accommodate the expansion of the Energy scheme to incorporate small business complaints. Complaints categories for the Surveyors Ombudsman Service have been agreed and set up on the system.

Of late there have been some speed issues with TK which, whilst not affecting performance, are frustrating for the users. The final part of the IT refresh will be to virtualise our Manchester based servers. However, before committing to this, the Executive need to be satisfied that the TK issues do not relate to coding inefficiency. Work has been commissioned in conjunction with TK and nViron to look in detail at these speed issues and recommend courses of action.

Orders have been placed for the IT kit required to meet both the energy expansion and to furnish the new accommodation with the requisite infrastructure. In addition, the telephone system is in the process of being upgraded. This upgrade will enable staff to record calls on a more consistent basis and allows for future growth in the area of VoIP and voice to email. The upgrade will be achieved through lease financing.

## **Changes to regulation and accreditation criteria**

All relevant literature and websites were updated for 1 October in accordance with CEARA 2007.

## **Staff turnover**

No staff left during the month.

tOSI is aware of no staff having been called for interview for the Parliamentary and Health Service Ombudsman vacancies in Manchester.

With the prospect of increased workload vacancies were advertised during September for Enquiry and Investigation Officers, a Senior Enquiry Officer, a Senior Investigation Officer and also a part time Credit Control Assistant. This process is ongoing and it is planned to have all positions filled by the end of October.

### **Other points of interest**

- The Chief Ombudsman and Chief Operating Officer met the OEA, Chris Hamer. A regular dialogue was agreed.
- One telecoms member company had been failing to implement remedies and a meeting with the Ombudsman (Andrew Walker) had been held. The situation would be monitored to see whether escalation to the Council was required.
- tOSI exhibited at both the CAB Annual Conference in York and at 'Fab at 50' show in Bournemouth.
- The Ombudsman (Andrew Walker) spoke at a Trading Standard Consumer Forum in Birmingham and at a meeting of FCS in London.
- The Ombudsman (Richard Sills) spoke at the NEC at a meeting of the Utilities Intermediaries Association.

It was queried whether tOSI would be seeking to exhibit its services to small and medium enterprises (SMEs). This will be confirmed by tOSI's Communications Manager.

**AP4: tOSI Communications Manager to confirm how tOSI's would raise the profile of the service it offers with SMEs.**

### **9 tOSI Absence Report**

tOSI's Human Resources Manager reported to the Council the current figures from the last quarter. The Council was content that these were in line with the targets set.

### **10 Otelo Member Board Report**

The Board had held a teleconference on 18 September. The main issues discussed were case volumes, accommodation and recruitment.

### **11 Otelo Member Update**

The membership update was noted. The Council discussed the possible expansion of this agenda item to include services other than Otelo. It was agreed that new members could be admitted without prior consideration by Council with a consolidated list of new members, and those leaving, presented to Council once a quarter. This would continue to meet the requirements of paragraph 28(r). The procedure for removing members should remain unchanged.

**AP5: Executive to circulate new membership list to Council, on a quarterly basis.**

### **12 Energy Member Board Report**

The Board had held a teleconference on 23 September. The Energy Member Board Chairman reported the following:

- he was in discussion with Ofgem about whether the Energy Ombudsman should consider complaints, such as the way insulation is fitted, following the Government's announcement of CERT (Carbon Emissions Reduction Target);
- the Ombudsman (Richard Sills) had completed an analysis of the reasons why the 8 week KPI for energy had been breached over the last few months; and
- although the number of energy cases accepted for investigation was currently under budget, the Board content that it made the correct decision in agreeing to fund recruitment 'ahead of the curve'.

### **13 Surveyors Member Board Report**

The Board had last met on 25 September. The following issues were discussed:

- KPIs – whether they were fit for purpose for the SOS scheme. The Board had agreed to review this issue;
- the Management Information pack had been agreed and will be provided to the Board on a monthly basis;
- the terms of reference had been approved (post CEARA);
- name of the scheme – there was a consensus that while there was little enthusiasm for a change of name, SOS needed some re-presentation for estate agent members of the scheme, this would be given further consideration with tOSI Communications Manager.

David Pilling further reported that the RICS had contacted all its regulated firms who carrying out residential estate agency work to advise them that they are now legally required to belong to an approved redress scheme for such activities.

### **14 AOB**

There was no other business.

#### **Date of Next Meeting**

**13.00 on Tuesday 18 November 2008** at the offices of The Ombudsman Service Limited, Wilderspool Park, Greenall's Avenue, Warrington WA4 6HL