

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

**13:00 on Tuesday 18 November 2008  
tOSI Offices, Wilderspool Park, Greenalls Avenue, Warrington**

**Present:**

**Council:** Tony Allen  
Margaret Doyle  
Chris Kenny – in the Chair  
Julie Meadows  
Garry Felgate  
Steven Gould

**In Attendance:** Elizabeth France (Ombudsman)  
Richard Sills (Ombudsman)  
Andrew Walker (Ombudsman)  
Richard Brown (Chief Operating Officer)  
Robbie Allcock (Council Secretary)

The meeting was preceded by a long-listing meeting for the Chief Ombudsman appointment, attended by Council members with the recruitment consultants.

## **1 Apologies for Absence**

Apologies were received from the Chairman Peter Holland and Chris Holland. Jean Couper attended the later part of the meeting.

The Council noted that the post of Policy Officer (which comprises of Council Secretary) was being advertised as the current secondment period had ended. The Council expressed its thanks to the Council Secretary for the support he had provided.

## **2 Minutes of the Council Meeting, held on 20 October 2008**

The Minutes were approved for publication on the tOSI website.

## **3 Matters Arising**

A copy of the staff training presentation had been uploaded to the Extranet.

Council members had an opportunity to provide any feedback to the tOSI Executive before 5 November (in relation to the Executive strategy meeting). A summary of the achievements made against the Business Plan for 2008/09 will be circulated to Council once completed.

The necessary work had been completed to enable Council members to have access to the staff Intranet.

tOSI's Communications Manager had identified a number of exhibitions which Energy Ombudsman representatives will be attending with a view to raising the profile of the service it offers with SMEs. These will be included within the Executive report, where applicable.

The first new style Membership report will be provide to Council at its January (2009) meeting. This will continue as a standard Agenda item.

**AP1: Away Day note to be circulated to Council with the draft business plan.**

#### **4 Mediation and Pre-Investigation Case Closure (PICC) process**

A paper on both Mediation and PICC processes had been circulated prior to the meeting, for discussion. The Chief Ombudsman briefed Council members on its content, which was noted. A small team of four/five staff, led by one Senior Investigation Officer (SIO), has been setup to focus on this area; they have all been provided with mediation training. The Council considered it beneficial to receive some initial feedback on this work in the next few months. It was agreed that Steve Cartwright (the lead SIO) would prepare a presentation for both Council and the Otelo and Energy Member Boards at their April meetings, to provide this feedback. It was highlighted that this feedback should also include information on the number of cases which could not be resolved via either Mediation or PICC and progressed to full investigation. It was further noted that this could lead to debate about differential case fees and it was also suggested that customers who had experience of both processes be included within the samples for the Customer Satisfaction Survey.[Secretary's note: energy companies as well as telecommunications companies have expressed interest in being involved]

**AP2: Steve Cartwright to prepare a presentation for both Council and the Member Boards at their April meetings, to provide initial feedback on the Mediation and PICC processes.**

#### **5 Chairman's report**

The Chairman and the Chief Ombudsman had a valuable meeting with Scottish Power. A future (planned) meeting with British Gas will then conclude the series of meetings the Chairman is making with the ERA members.

It was suggested that the Chairman should now take the opportunity to visit Tiscali and also consider meetings with the larger SOS firms, throughout 2009.

It was reported that the Council had agreed a long-list of candidates for the post of the Chief Ombudsman. The recruitment consultants had been given key areas to pursue in the interviews.

**AP3: Meetings to be arranged for Peter Holland.**

#### **6 Ombudsman's Report**

##### **Volume change**

The KPI targets for the issuing of PCs (both within 6 and 8 weeks) were met for Energy but, disappointingly, they were both missed for Otelo. The 6 week target was missed when some 10 cases completed on time were not checked by the SIO until 43/44 days, just missing the target. It appears that the alerts generated by the system were not picked up. Checks are

being carried out to see how this occurred and what lessons can be learned. The comparatively high number of cases over 8 weeks old is the result of staff clearing a handful of old and complex cases. It is expected that the targets will be met in November.

For the Surveyors Ombudsman Service 35 PCs were issued in October, compared to the previous 'record' of 18, set in September. This reflects the increased resource to the SOS team (including expert surveyor, Ann Hind) and will be useful for the SOS Member Board and Council when reviewing the KPIs for this sector.

Stock levels on energy cases are slowly increasing so planning for the Christmas break is now underway to make sure the KPIs are met over the holiday period.

A paper on the Mediation and PICC processes, as well as an Advice Note for member companies, has been prepared for discussion by the Council.

Council has been apprised of the work being done to reduce the stock of cases awaiting consideration of representations before a Final Decision can be issued. It is evident from the graphs attached that the total number of Final Decisions issued for all services is at the highest level for a year. 'Category 1' assessed representations are now up to date. Categorised 2 and 3 cases are being worked off and the overall stock of cases with representations has been reduced. Energy stock has been reduced from 383 to 311 and Otelo from 711 to 693.

Richard Sills reported that he was liaising with Consumer Focus with a view to finalising an MoU with it. It was confirmed to Council that Consumer Focus has statutory powers to request information from the Energy Ombudsman service, similar to the information the service provides to Ofgem.

## **Finance**

Case numbers rose across all sectors in the month. Energy case numbers are still lower than budget but, significantly, contacts jumped by 31% to over 7300. This might be a precursor to a rise in case numbers in subsequent months. This rise in contacts has impacted on the contact ratio which has now risen to 16:1 in both the telecoms and energy sectors.

In telecoms the debt outstanding for more than 60 days has dropped significantly as a result of the escalated action taken during October. A part-time Finance Assistant has been recruited whose primary remit is sales ledger work. Their work should start to have an impact on the overdue debts over the course of the next couple of months.

## **IT**

The work being carried out on the SQL server to establish the reasons behind the TK speed issues has now been completed. The analysis of the results will take place over the course of the next couple of weeks.

The new large printer is now in service providing resilience to the printing capability out of TK. A new scanner has also been ordered – again to provide resilience to the existing single scanner.

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

Work is continuing with the OFT in relation to monitoring and reviewing the SOS scheme. An agreement has been made to provide it with quarterly data from October (first report to be provided in January 2009).

There was extensive discussion on the Ofgem advice that the MOU with Consumer Focus should be the same in substance as that agreed with them. This meant information by company would be provided, but conditions on future use would apply. While it was recognised that following the Hunt Review FOS might decide to start publishing information by firm complained against this had not been the tOSI practice to date. The Ombudsman, strongly supported by the Council, had so far taken the view that such publication could be unhelpful, discouraging proactive referral of complaints. tOSI had made such information available so far, only to the relevant regulator. **It was agreed** that any shift to publication should be carefully considered and not entered into as a consequence of required disclosure beyond the relevant regulator. The disclosure required by Ofgem to Consumer Focus should be one with a clear statement of the purpose of the disclosure and restriction on further use. A statement on Intellectual Property might be appropriate; legal advice should be taken.

Several bids have been tendered to undertake our customer satisfaction surveys, these are now being evaluated. All of the sector regulators have expressed an interest in the questions to be asked and will be invited to comments on the design, though it shall be made clear that this is a piece of work for tOSI. If there is additional work needed for their purposes they will need to undertake this separately. [Secretary note: DJS Research, a firm based in Whalley Bridge: [www.djsresearch.com](http://www.djsresearch.com), has now been appointed to carry out the customer satisfaction surveys].

**AP4: Executive to seek legal advice on appropriate wording to ensure IP rights over the data to be disclosed.**

## **Staff turnover**

Recruitment of the Ombudsman and Chief Ombudsman is proceeding.

All of the other recently advertised vacancies have now been filled, with internal and external appointments.

There have been three resignations during the month (2 Enquiry Officers and 1 Admin assistant).

## **Other points of interest**

- The Chief Ombudsman and the Ombudsman (Andrew Walker) met Claudio Pollack (Ofcom Director of Consumer Affairs);
- Meetings had been held with 3, and npower;
- The Chairman and the Chief Ombudsman had met with Scottish Power;
- BizzEnergy and E4B, both independent energy suppliers, went into administration. Their customer bases have been transferred to British Gas Business.

## 7 Otelo Member Board Report

The Board had held a teleconference on 24 October. The main issue discussed was the customer satisfaction survey. The Board were asked if they considered it beneficial for Otelo to undertake member research next year, as part of the Otelo annual customer satisfaction survey. Following a discussion, the Board agreed not to undertake any such research for this financial year's Annual Report (2008/09). This led to a Council discussion where the view was that, although the Board's input would be noted, it was not a decision for it to make. It was noted that Board members could always 'opt-out' of taking part, should they not wish to participate. It was the view of the Council that it was beneficial for member research to be undertaken by all relevant Member Boards. It was agreed that Council members would be provided with the proposals for the next customer satisfaction survey and that any questions/ideas they might have should be feedback directly to tOSI.

It was also understood that some significant concerns had been raised with Ofcom by communications companies over its review of complaints handling.

**AP5: tOSI Communications Manager (Andrew Bradley) to compile a framework for the proposals for the customer satisfaction survey for January's Council meeting. Council members will then have the opportunity to comment on or suggest questions.**

## 8 Energy Member Board Report

The Board had held a meeting on 28 October. The Energy Member Board Chairman reported the following:

- the consistency of remedy reporting. The general consensus of the Member Board was that companies do have the necessary access to the required data in order to perform their own individual analysis. It was also noted that this process was more complex for the Energy Ombudsman service to undertake, than originally thought;
- a discussion regarding the KPI for responding to written correspondence within five days. The Board agreed that this particular KPI was appropriate for the sector;
- discrepancies within the KPIs; and
- 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. The paper concluded that the Energy Ombudsman service should seek to administer cases more efficiently and also that companies should respond to requests from the service more proactively. As a result, the Ombudsman will now issue a formal instruction and timetable to Member Companies on how this process should work.

## 9 Surveyors Member Board Report

There had been no meeting of the SOS Board since the last Council meeting. The next meeting is due to take place on 27 November.

Steven Gould reported on the following issues:

- BERR had asked RICS if it would like to meet with it, CLG and the OFT in relation to CEARA 2007;
- RICS currently has a survey out asking its members who are members of the Ombudsman for Estate Agents (OEA) why they are members of the OEA and not the SOS. This led to further discussion about the OEA and its finances;

- the SOS Board may wish to explore the idea of a common redress setup for related professional services; and
- RICS is starting to look at differential case fees.

## 10 Otelo Member Update

The membership update was noted. The new membership list will be first reported to Council at its January (2009) meeting.

## 11 Finance Board Report

The Board had held a meeting prior to the Council meeting. Julie Meadows reported the following:

- The Chief Operating Officer had presented two papers summarising tOSI's financial performance for the first six months (of the financial year 2008/09). The Financial Report demonstrated that whilst case numbers were ahead of budget, the mix between Otelo and Energy cases was different from the budget expectation. The Review of expenditure paper analysed the actual spend against budget by cost category. The Board had considered the financial out turn to March 2009. The out turn forecast demonstrated that tOSI would show a deficit for the year which would have an impact both on reserves and cash. The Energy Member Board Chairman had confirmed that the energy companies would indemnify tOSI against expenditure that was not recovered from case fees. As a result of the Board deciding to review the cash position again in January in the light of actual case numbers, the Chief Operating Officer was asked to present the numbers to the Energy Member Board at its December meeting;
- The Board had considered the question: what was the appropriate level of reserves that tOSI should carry. The Board considered that it was necessary to carry a minimum level of liquidity that was at least equal to one month's payroll – currently circa £300k;
- The Board confirmed that the current investment strategy of using a mix of a longer term investment of funds on the money market and short term surpluses on deposit through HSBC remained appropriate;
- The Board noted the contents and test results for the Disaster Recovery exercise which had been recently completed; and
- The Board had agreed that the issue of supplier failure, particularly in IT, should be more closely monitored.

The Board will hold a conference call in January to consider cash requirements in the final quarter. A subsequent meeting will then take place in March to consider the Business Plan 2009/10.

**AP6: Finance Board issues to be tabled as an Agenda item for February's Council meeting as part of the business planning round, a timetable for which will be circulated.**

**AP7: Finance Board minutes to be circulated to Council Members when completed.**

## 12 AOB

Council members were briefed on the arrangements for December's meeting.

It was also noted that work to provide audit services to tOSI has been put out to tender. Several firms will present to a sub-panel of the Audit Committee on 15 December.

**Date of Next Meeting**

**0930 on Tuesday 16 December 2008** at the offices of The Ombudsman Service Limited, Wilderspool Park, Greenall's Avenue, Warrington WA4 6HL, after which Council members will join all staff for a buffet lunch and Communications meeting.

Council members have been invited to dinner the evening before. Accommodation will be arranged.