

## Minutes of the 84th meeting of the Council of The Ombudsman Service Limited

2:15pm on Tuesday 15 December 2009 at the offices of  
Ombudsman Services, Wilderspool Park, Warrington

### Present:

**Council:** Peter Holland (Chairman)

Shelia Button  
Jean Couper  
Garry Felgate  
Steven Gould  
Chris Holland  
Julie Meadows

**In Attendance:** Lewis Shand Smith (Chief Ombudsman)  
Richard Brown (Director of Corporate Services)  
Gillian Fleming (Ombudsman)  
Richard Sills (Ombudsman)  
Andrew Walker (Ombudsman)  
  
Andrew Bradley (Secretariat)

### 1. Apologies for Absence

- Tony Allen
- Chris Kenny

### 2. Minutes of the Council Meeting held on 3 November 2009

Approved subject to minor amendments to drafting and a major re-write of the finance board report.

### 3. Matters Arising

**Action Point 1:** A meeting has been arranged with Ofgem for February.

**Action Point 2:** Elizabeth France has accepted an invitation to attend the Christmas Dinner.

**Action Point 3:** An Update on the introduction of the Mutually Acceptable Settlement process will be given at item 10.

**Action Point 4:** First in, First out as an operational model has been adopted for Otelo Final Decisions and will be considered as part of the process review.

**Action Point 5:** A paper on the IT was included for information at item 12 on the agenda. The main point is that the changeover is now complete and working well, and the Firewall replaced.

**Action Point 6:** Included as item 11 on the agenda.

**Action Point 7:** Background data was included behind the AHT report at the previous Council meeting. This was due to "human error". The appropriate members of staff have been made aware of the risks that this error caused. The graph will be converted to a small table as requested by the Council for future meetings.

#### **4. Chairman's Report**

- 4.1 An update on the recruitment process for the selection of a new Council Chairman was given. The selection panel had met prior to this meeting and agreed upon a short-list of six candidates who will be invited for interview at the end of January. Dianne Hayter has agreed to act as an independent assessor for this process. Dianne Hayter is a board member of a number of organisations including the Financial Reporting Council's Board of Actuarial Standards, the Determinations Panel of The Pensions Regulator, the and the Insolvency Practices Council. She is Chair of the Consumer Panel of the Bar Standards Board. She was formerly Vice Chairman of the Financial Services Authority Consumer Panel.
- 4.2 It was agreed that Council meetings for the coming year should continue to be set for the third Tuesday of each month.

**AP1:** Secretary to circulate the Council meeting dates for 2010.

#### **5. Executive Report**

##### **Volumes and Reputation**

- 5.1 A presentation on volumes was delivered.
- 5.2 Receipts for Energy are low in comparison with the same period in the previous year but this does not shift the trend line appreciably.
- 5.3 Effective resource management must be the key priority for the service.

##### **Cynergie**

- 5.4 The Chief Ombudsman updated the Council on the Cynergie contract. All but one of their complaint handlers has reached the required standard.
- 5.5 We have learned useful lessons from the way in which the Cynergie complaint handlers have been trained and the quality control and assurance mechanisms that have been put in place. We plan to develop these further for use in-house.

##### **Stage 2 and remedy chasing**

- 5.6 The new processes for handling alerts, using a team of administrators, is working well and is allowing investigators more time to handle complaints.

##### **Update on issues affecting the processing of Provisional Conclusions, Final Decisions and Financial Awards (see item 11)**

- 5.7 The Executive has reviewed the latest up-dates of Provisional Conclusion (PC) and Final Decision (FD) processing, which indicated that, on current knowledge of arisings and processing rates, the PC Key Performance Indicators (KPIs) were on-track to be met in the January/February time-frame. FDs too were on-track for a similar achievement of a six-week turn-around.
- 5.8 The Chief Executive noted that there had been some concern over the apparent increases in the levels of recent awards, especially in telecoms where the average

award had increased from about £90 in April 2009 to about £115 by November. However, it was reported that, in fact, awards had actually declined over the last two years, the longer-term average for both telecoms and energy having reduced from about £120 in April 2008 to £100 now.

### **Accommodation**

5.9 No issues.

### **Human Resources**

5.10 To show that Ombudsman Services is committed to investing in its employees, the HR team have been actively promoting staff training and events.

5.11 Between 23 and 27 November, the company held a Health and Wellbeing Week.

5.12 Doug Pemberton, Learning and Development Advisor, has arranged Plain English and Samaritans training for January. The last module of the 12 month Institute for Leadership and Management (ILM) programme, which has been teaching delegates leadership skills, is due in December.

5.13 The staff Christmas Party took place on Friday 11 December at Mere Country Club.

### **Performance of IT systems**

5.14 The final stage of the move to a virtual hosted environment is now complete and working well.

### **Membership**

5.15 The Chief Ombudsman reported that a large communications provider has expressed an interest in becoming a member of Otelo. This company had been a member of Otelo in the past and had generated a significant workload but moved to CISAS. It has become part of a much larger group. The other communications providers in the group are all members of Otelo and the parent company has informed us that it plans to have all its companies use Otelo. It is required to give CISAS three months notice.

5.16 The Council noted the risks involved in the increased case volume such a company could bring, and, based on previous experience, shared concerns about the impact the company would have on our operations.

5.17 The Chief Ombudsman explained that complaints handling is now the responsibility of a department within the larger group and that we have an excellent relationship with its team and team manager.

**AP2:** The Executive to bring forward to the next Council a report on the effect that this company is likely to have on complaint numbers received, together with the financial implications, the risks involved and plans to mitigate for these.

5.18 The Council agreed that in similar circumstances in the future, before any prospective new member was given an entry date to the scheme the Executive should present the Council with financial models showing the effect that the firm/company would have on complaint receipt numbers. The Executive should also present the risks and state how it planned to mitigate them. The Council needed to be satisfied that the service was adequately prepared, before a firm/company was given an entry date.

## **Meetings/Presentations/Visits**

- Meeting with Property Ombudsman
- Attended Property Ombudsman Reception
- Attended BIOA seminar on 'Accessibility'
- Meeting with Property Managers Association Scotland
- LSS Meeting with Diane Hayter – Chairman, Property Standards Board
- Overview meeting with Electricity North West
- Attended National Landlords Association Annual Conference
- Attended AJTC Annual Conference
- EDF Networks – Visit to Ipswich SJ and RS
- Npower business – quarterly review
- Post Office Telecoms – AW and LSS
- ARMA training
- BT quarterly review meeting
- Spark Energy – overview meeting
- EDF Supply – presentations to Customer Service Directors
- Consumer Focus – publication of statistics (SJ)
- On-site training – Ofgem probe
- Visit from Ofcom advisory team
- Presentation on Local Loop Unbundling from Talk Talk
- Presentation to Ofcom Consumer Panel
- Attended Ofcom Consumer Focus Forum

## **6. Finance Board Report**

6.1 The draft minutes of the meeting which took place on 2 December were circulated.

Key issues:

6.2 The Member Board Chairmen will require a rationale explaining why costs are higher in 2010/11 than in 2009/10.

6.3 The risk of linking the case-fee to incoming volumes was considered.

6.4 There are no short-term concerns over the levels of reserves though over time they must be topped-up. This area will be given further consideration when the re-engineering of the process is complete.

6.5 Strategic financing was discussed. Investment in the IT infrastructure is fundamental and must have adequate financial resource available. A replacement complaint handling system must be re-financed in budgets after the 2010/11 period. This will require careful planning.

6.6 The cost of entry was discussed. A policy for this is preferred. This will give the Executive Team a starting point when beginning to discuss entry requirements. The Council will retain some discretion. A paper is being produced which will outline the

preferred principles. It will be formally proposed to the Council. There was strong endorsement from the Council Chairman for this approach.

## **7. Otelo Member Board**

7.1 A meeting had taken place on 13 November. The bulk of the meeting was given over to a presentation from the Executive on the new process. A funding update was also given. The Member Board was content with the direction of travel but there was discontent at the numbers of complaints currently taking more than six weeks to resolve. There were no adverse reactions to the recent discussions of the Finance Board.

7.2 No nomination for the Category B election had been received. The Member Board took the decision to leave the post vacant until such a time that interest can be generated. Plans are being put in place to raise the profile of the Member Board across the sector.

7.3 Two providers had expressed interest in the Category A vacancy. The date for receipt of nominations had been extended to 18 December.

7.4 In the longer term there must be consideration of representation in the telecoms sector. Other options may need to be considered.

7.5 There was a discussion and concern about Ofcom's approach to the expulsion of a company from Otelo.

**AP3:** The Council delegated the Council Chairman to discuss this issue with the Chairman of Ofcom. An aide-mémoire will be provided for the Chairman before this meeting.

## **8. Energy Member Board Report**

8.1 A meeting had taken place on 24 November. Changes to the structure and processes were discussed and welcomed. The Ofgem letter was discussed at length. There is real concern at how quickly the service can get back to the achievement of key performance indicators. There is confidence that the action being taken by the Executive will be effective in achieving positive results. Forecasting was discussed. A revised forecast has been made and is being considered. Forecasting will be an item for the agenda of each meeting. If a divergent fluctuation is seen, the Council will be notified immediately. The Member Board Chairman will take the final decision over the predicted forecast for Energy and provide this to the Executive and Council. The Executive will continue to provide data to the Member Board on a regular basis (every two months). Members are committed to ensuring that the ombudsman process works as well as possible.

8.2 The Member Board is keen to demonstrate to the regulator that appropriate action is being taken to meet performance standards. Letters to Ofgem from the Chairman of the Member Board and the Council Chairman will be sent in the new-year detailing what achievements have been made.

8.3 The Member Board is keen to see that everything possible is being done to clear backlogs.

## **9. SOS Member Board Report**

9.1 A meeting had taken place on 3 December. There was a very positive response to the work done by the Executive to clear the backlog. The Board is considering what the KPIs should be and what Management Information will be required.

9.2 The Board was happy with proposals put forward on the relationship between fixed and variable costs and how they should be apportioned.

9.3 The definition of, 'Consumer', was discussed. The Board was content with the view that the Ombudsman should exercise discretion within the broad principles proposed.

9.4 The recruitment of other property organisations to the Surveyors Ombudsman service was discussed. It was agreed that, going forward, financial, organisational and investment issues must be addressed. It was recognised that ARMA had benefited from the investment in SOS made by RICS, but that some of the companies were already members.

9.5 The Board had considered proposals for changing the name of the scheme and agreed on "Ombudsman Services: Property". The Council accepted this change.

## **10. Update on the introduction of Mutually Acceptable Settlement (MAS) process**

10.1 Productivity in this area has significantly improved. 301 complaints were resolved using this method in November compared to 111 in August. These resolutions can be broadly split across Otelo and Energy. This method is not being used for the Surveyors Ombudsman Service.<sup>1</sup> So far consumers are receptive to this method and member companies are largely supportive.

**AP4:** Key Performance Indicators for different parts of the process will be considered as part of the Process Review and reported to Council.

## **11. Update on issues affecting the processing of Provisional Conclusions, Final Decisions and Financial Awards**

11.1 Discussed during the presentation given at Item 5.

## **12. IT issues**

12.1 A report was circulated and observations were given. It was agreed that IT reporting protocols should be firmer. Reports should be made when there is any divergence from what is planned and should detail the progress of recovery from significant periods of down-time.

**AP5:** The Executive to provide a report detailing the IT back-up and recovery facilities currently in place when the risk register for 2010/11 is presented.

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<sup>1</sup> In fact there is one mediation ongoing in the SOS

### **13. First Draft of the Budget for 2010-11**

The Council discussed the Draft Budget paper presented by the Executive. The substance of this discussion was recorded in a confidential annexe.

### **14. Budget Setting Process**

- 14.1 A paper from Tony Allen was circulated. It was agreed that this should be substantively discussed when he is present and after consideration by the Finance Board.

**AP8:** The Chairman of the Finance Board will ask Tony Allen to talk to his paper at a future meeting of the Board.

- 14.2 The Chairman made it clear that consideration of the paper and any subsequent changes agreed should not affect the budget process currently underway.

### **Time and Date of next meeting**

1pm, 26 January 2010 at the offices of Ombudsman Services, Warrington.