

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

**13:00 on Tuesday 21 April 2009
tOSI Offices, Wilderspool Park, Greenall's Avenue, Warrington**

Present:

Council: Peter Holland
Margaret Doyle
Chris Holland
Julie Meadows
Garry Felgate
Tony Allen
Chris Kenny

In Attendance: Elizabeth France (Chief Ombudsman)
Lewis Shand Smith (Chief Ombudsman Designate)
Richard Brown (Chief Operating Officer)
Richard Sills (Ombudsman)
Andrew Walker (Ombudsman)
Vicky Couch (Council Secretary)
David Pilling (RICS)

1 Apologies for Absence

Apologies were received from Jean Couper¹ and Steven Gould. David Pilling attended as an observer on behalf of RICS.

2 Minutes of the Council Meeting, held on 17 March 2009

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

3 Matters Arising

Previous AP1: HR had now arranged for the unsuccessful shortlisted candidates for the post of Council Member to be removed from the intranet.

4 Ombudsman Roles

Three Trainee Assistant Ombudsmen had been appointed; two internally. The third successful applicant is a surveyor with a background in complaints handling. He will spend 20% of his time providing advice to the SOS/Property team. These are not Council appointments as the post holders would not exercise the decision taking functions of an Ombudsman.

However, an additional Ombudsman role, with lead responsibility for SOS work, had been agreed in principle but delayed both because of recruitment difficulties and to

¹ While Jean Couper had given her apologies, she had sent comments on several agenda items to the Chairman who read these in full as each item was considered.

assist in budget management. It was agreed that one candidate, recommended by the recruitment consultants and interviewed by the Executive, would be interviewed as soon as possible by the Council with a view to offering a part time contract to the end of the calendar year and, assuming satisfactory performance, a full-time contract thereafter. Julie Meadows and Tony Allen would form the interview panel with Lewis Shand Smith and a representative from RICS attending as observers.

5 Chairman's Report

Lewis Shand Smith and Peter Holland met with Lord Mogg and Sarah Harrison at Ofgem. The meeting was positive and further meetings would be held from time to time. Lord Mogg had indicated that Ofgem's "probe" on a high level Code of Practice would be released on 15 April.

The timing of the appointment of the new Council Member, Sheila Button, was then discussed and it was agreed that while she would replace Margaret Doyle in July she should be invited to attend Council meetings from May. In terms of her responsibilities she could simply take over from Margaret Doyle as the Independent member on the Energy Member Board or the opportunity could be taken for change. There was some discussion about the importance of continuity on the Member Boards for the benefit of both parties, but also the value of Council members gaining experience of more than one sector.

AP1: It was agreed that Council members would reflect on this and that it should be an agenda item for the May meeting

Peter Holland reminded members that his term as Chairman and Council Member would end in June 2010. He had spoken, as requested, to Council Members about the appointment of his successor as Chair, and recommended that external applicants, be considered. The Council agreed.

It was further agreed not to use a recruitment company, but to use the tOSI HR team and have an independent person to monitor the process.

It was recognised that, given one of the key responsibilities of the Chair is to protect the independence of the Ombudsman it should therefore be for the Independent Members to make the appointment. Nonetheless it was seen to be important that the voice of the Member Companies was heard. The Council therefore decided that one of the Member Company Representatives should be included in the process, with observer status.

It was agreed that Peter Holland should take the lead in this process.

6 Executive Report

Volume Change

Volumes in all areas were high for the month. Contacts in total were the highest ever for both Otelo and energy. The number of energy forms returned was also higher than previous months.

The KPI targets for the issuing of PCs (both within 6 and 8 weeks) were met for Energy. The KPI target for the issuing of PCs within 6 weeks was met for Otelo although 1.9% issued were more than 8 weeks old.

It was also noted that, while KPIs in the Enquiry Department are being met overall, it is only just. Correspondence is high and there have been days when record numbers of telephone calls have been received. There is an increase in the number of contacts being received by e-mail. Overtime has been used, but it is not sufficient to reduce the backlog. It seems likely that case volumes are likely to remain high. Temporary staff are being employed to cover long term absences. It is considered necessary to employ extra staff in Enquiries on temporary 12 month contracts to manage the current workload. It takes about six weeks training and induction for a new EO to be effective in one sector and it is therefore not cost efficient to give them a contract for less than a 12 month period.

It was confirmed that temporary administration staff would be recruited to deal with the scanning backlog.

Richard Brown noted an increase in complaints about the quality of service. This could be due to the increased pressure on staff to complete the increased volume of work within deadlines.

The Chairman asked that an update be presented to the next meeting for the Council's consideration when more information on volume trend would be available.

The issue relating to the non-return of complaints forms had previously been identified. tOSI has commissioned the team carrying out the Satisfaction Survey to research the reasons behind this.

The Council wished to have a KPI to show the efficiency of the service. Deciding an appropriate and useful KPI had been considered previously but an appropriate format had not been found. It was agreed that the Executive would revisit this.

AP2: An efficiency KPI to be prepared by Richard Brown for discussion by the Executive and the Council.

Finance

This year finished with over 12.000 cases invoiced, an uplift of over 50% on last year. The balance sheet is ahead of the forecast The current account remained positive at the end of the year without breaking the deposit.

IT

The work to upgrade the TK servers is now well advanced; the testing of the new environment was scheduled to start week commencing 20 April with the go-live date set for the weekend of 25 April.

On Good Friday the tOSI systems were inaccessible. The Information Support Officer, in line with the Disaster Recovery plan, initiated a call with the IT support company who investigated the issue. Service was restored on the Saturday. The support company attended site when the office reopened on Tuesday to ensure users could access the systems. The business suffered a minimal amount of downtime.

Subsequent investigation has traced the source of the system failure to a change of the Administrator password that occurred on the previous evening. Further investigative work is underway.

The Council praised the work of the Information Support Officer, and asked that their thanks be passed on. They also noted that the Disaster Recovery Plan had been

effective but requested assurance that lessons learned be reported back to them, including advice on monitoring of the administrator account out of hours.

AP3: Richard Brown to report back on the investigation and lessons learned to the May Council.

Changes to regulation and accreditation criteria

Ofgem's 'high level code or practice' was released for consultation on 15 April.

Ofcom is in the process of consulting on the proposal to reduce the time limit before a case may pass to ADR from 12 weeks to 8 weeks. They plan to publish the next paper in July. They are now consulting with tOSI and CISAS on the practicalities of the change.

OFT has contacted SOS to ensure that we are ready to comply with the single point of electronic contact.

Staff turnover

In light of the agreed budget, the Executive has reviewed the Ombudsman Team and Investigation Department. It was decided to re-focus the resources to enable tOSI to fill three Trainee Ombudsman posts. Management of the Investigation Team has been restructured to ensure effectiveness whilst maintaining the budget.

One of the three people appointed will include 20% of their time providing expert advice to the Surveyors Team in place of the current contractual agreement with Value Nation. This is an external appointment and is subject to the receipt of satisfactory references.

Cases are currently being sent to the Outworker panel where appropriate.

Other points of interest

The European Energy Ombudsman annual conference is due to be held on 27, 28 and 29 April. Dick Sills has been involved with arrangements. The delegates will be visiting Heysham Power Station as part of the conference.

L Shand Smith met with Claudio Pollack at Ofcom on 18 March and with Kalliani Lyle, Chief Executive of Citizen's Advice of Scotland on 20 March.

LSS attended the National Energy Action annual reception on 31 March. This was held to highlight the work undertaken by the NEA during 2008/2009.

LSS has also had the opportunity to meet with several of the independent council members.

Andrew Bradley attended the New Start Scotland exhibition from 27 to 29 March.

7 Otelo Member Board Report

The Otelo Member Board Chairman reported that the next meeting was planned for 27 April. One of the items for discussion is the non/late compliance of remedies. The election of two Members to sit on the Board would also be discussed in light of Tony Dixon's resignation and Amanda Chandler's promotion within Vodafone group.

The Member Board Chairman had written to all Otelo members to reassure them that the Executive would work hard to ensure that there would be no increase in the case fee during the year but that in the current climate nothing could be ruled in or out.

8 Energy Member Board Report

The Energy Member Board Chairman reported that a meeting had been held on 24 March. The following points were discussed:

- An update was provided regarding the fee structure
- It was confirmed that the March case numbers were high
- Andy Nash of Opus Energy would be sitting on the Board from May as a representative for the small suppliers. Trevor Saunders from Ecotricity is acting as Deputy.
- There had been a change from EDF Energy to Scottish and Southern Energy being members of the Board.

9 SOS Member Board Report.

David Pilling reported that a Member Board meeting had been held on 26 March. The following issues were discussed:

- A possible change in the KPI for issuing PCs was discussed to reflect the complexity of these cases. The Board felt that more evidence was needed before making a decision. This will be looked at again at a later stage when the backlog had been cleared.
- It was decided that it was too early to change the case fee as it had only been introduced in January.
- Jon Lenton had visited RICs in Coventry. It had been agreed that forensic surveyors would visit tOSI to provide further training. The feedback from this meeting was extremely positive
- Additional expert help had been offered to provide technical advice

10 New Business

A paper had been circulated prior to the meeting containing details of a bid made to offer Ombudsman services in a new service area.

An issue regarding the governance of such an arrangement had been identified by Lewis Shand Smith. He apologised that, because of the timescale, this had not been circulated to the Council prior to the bid being made and suggested that the Council may wish to withdraw because of this. The Council agreed that, should something like this occur in the future, the Ombudsman would seek the guidance of the Chairman. It was also suggested that, as there had been a fundamental change regarding our approach to new business, a scheme of delegation might be necessary.

The Council questioned the benefits this particular bid would offer to the business. It was noted that in itself these were likely to be marginal, but could pave the way for future new business and also send the signal that tOSI would consider providing a service to different sectors.

After discussion the Council decided that the PRS bid should proceed.

The Council commented that new work should have no strategic risk and perhaps tOSI could look at some criteria for what type of work would be taken on, and any other possibilities there were currently in the market.

In the past, the active initial pursuit of new business had been considered the responsibility of the Council with the Executive team following up with the detailed presentation of any bid. Given the changed emphasis of the new strategic plan, it was agreed that, for the period to the end of the 2009, Elizabeth France should act on behalf of the Council identifying new business and holding initial meetings. Where the Council agreed to pursue the work identified, this would become a matter for the Executive with Lewis Shand Smith deciding what resources should be used...

AP3: Elizabeth France to prepare a paper on potential new business for the May meeting

The Council agreed that a review of the governance structures and the impact new work might have on them should be discussed at the next meeting.

The Executive had recently met with NHBC. It appeared that NHBC had not yet fully considered what redress it wished to offer. It was confirmed that the insurance side of any complaints would be dealt with by the Financial Ombudsman Service. While the general customer service complaints would be something tOSI could bid for, the NHBC wished to charge complainants making a complaint. If this remained the case, it would not be appropriate for tOSI to become involved.

11 AOB

Concern was raised by the Energy Member Board Chairman that several calls had been received at the ERA offices incorrectly referred by the Energy Ombudsman. Details would be sent to Richard Brown.

12 Date of Next Meeting

13:00 on Tuesday 19 May at the offices of the Ombudsman Service Limited, Wilderspool Park, Greenall's Avenue, Warrington, WA4 6HL.