

Minutes of the 81st meeting of the Council of The Ombudsman Service Limited (tOSI)

9:30am on Tuesday 14 July 2009, at the offices of the RICS,
12 Great George Street, Parliament Square, London. SW1P 3AD

Present:

Council: Peter Holland
Margaret Doyle
Chris Holland
Garry Felgate
Tony Allen
Chris Kenny
Jean Couper
Steven Gould
Julie Meadows
Sheila Button

In Attendance: Lewis Shand Smith (Chief Ombudsman)
Richard Brown (Chief Operating Officer)
Elizabeth France (Ombudsman)
Richard Sills (Ombudsman)
Andrew Walker (Ombudsman)
Gillian Fleming (Ombudsman)

Andrew Bradley (Secretariat)

1 Apologies for Absence

No apologies.

2 Minutes of the Council Meetings, held on 21 April 2009 and 16 June 2009

Approved with minor amendments to drafting.

3 Matters Arising

None.

4 Chairman's Report

A number of potential candidates to succeed the current Council Chairman in 2010 have been identified and these will be considered as part of the wider recruitment exercise that is underway.

5 Executive Report

A quarterly review of the business plan was discussed.

To deal with a 22% increase the service is recruiting new staff. This is moving forward as quickly as possible, but it will be several months before the new people are working to full capacity. It is essential to clear the backlog, to get back to a state where Investigation Officers are not operating at the '11th hour' and improve quality. This requires a short term plan and a longer term strategy.

In the short term, the service is employing two outworkers to cover maternity leave and may also increase the number of cases going to outworkers, ensuring that the quality of their work is carefully managed.

Discussions have taken place with two specialist agencies that can provide trained investigators. Conversations are continuing. The Council was keen to understand the true total cost of such a service. The time taken to manage such a project should not be underestimated.

The two experienced ombudsmen who have been recruited to help with the FD backlog have now begun their task.

The new permanent and temporary staff can be accommodated in the existing office, but not in a way that makes for the efficient running of the business. Additional accommodation will be taken on a short term basis to help with this.

The Service has known increases and backlogs in the past and has recruited when it was clear that a step change had taken place. Increases at the rate we are now receiving are unprecedented and must be managed. The planned response will ensure that we continue to provide a first class service to consumers and members, minimise the stress faced by staff and demonstrate that we are an efficient organisation in which current and potential members can have confidence.

Risk to reputation is a key concern. It is a key priority to carefully manage relationships with regulators. Each lead ombudsman will take responsibility for this. The Chairman and Chief Executive will contact the senior directors at Ofcom and Ofgem to build confidence and to set in context the problems currently being faced.

The Council was keen to understand how the service is supporting its staff through such an intense workload. The Executive provided assurances that morale is good. A well attended summer party had taken place and the action to bring in more staff had been well received. It was stressed that effective communication to staff is essential. The Team was commended for such a positive response to the current situation.

There was a discussion about the business planning and budget setting process. There is a clear need to look at the longer term needs of the business and to reflect this in the budget. The budget setting process has been moved forward this year to allow more time for discussion.

The Chairman reminded members that responsibility for approving the budget sits with Council. The Executive prepares an annual budget for the Council which it then challenges and approves. The agreed budget is passed to the Finance Board which facilitates discussion with the Member Boards on the distribution of costs. If they cannot reach agreement there is a mechanism for the dispute to go to arbitration. The Finance Board may suggest amendments to the budget for consideration by the Council which then will approve the budget for the new financial year. Members concurred with this understanding of the process.

It was stressed that the Council must always be mindful that if any scheme is not delivering a service which meets the approval needs of the regulator, it must be prepared to inform the regulator that this is the case. The quality, integrity and independence of the service must be maintained at all costs.

Performance of IT systems

The new TK virtual environment went live on Sunday 12 July without problem. It will give hugely increased capacity.

Other points of interest

- 17 June: Lewis Shand Smith attended a meeting with the RICS Marketing Liaison Group
- 18-19 June: Executive and Senior Management Team had an away-day to discuss future strategy
- 23 June: Richard Sills attended the Energy Member Board meeting
- 24 June: Quarterly meeting (via teleconference) with Scottish Power
- 29 June: Sue Jackson visited British Gas in Cardiff
- 30 June: Staff forum
- 1 July: Richard Brown, Sue Jackson and Andrew Bradley attended a conference call with PRS for Music
- 3 July: Surveyors Ombudsman Service round table meeting
- 7 July: Assistant Ombudsman attended a meeting of the Consumer Action Network
- 9 July: Lewis Shand Smith was interviewed by the Editor of 'Utility Week'

Lewis Shand Smith had also met with the Association of Scottish Property Managers. This is an association of about 50 companies which is looking to introduce a compulsory dispute resolution service to their members in advance of planned legislation.

6 Otelo Member Board Report

The Otelo Member Board Chairman thanked Tony Allen for his contribution to the Otelo Member Board and welcomed Sheila Button as his replacement.

A note from the Otelo Member Board Chairman, asking for help in anticipating volumes to Otelo, had been circulated to Otelo members.

Feedback from the Audit Committee was given. The Otelo Member Board Chairman thanked Richard Brown for his work on the accounts and congratulated him on an exemplary audit report.

Headline results of the Otelo Customer Satisfaction Survey were given.

Feedback from the Otelo open-day was given.

There is a vacancy on the Otelo member Board. The way forward will be decided once there is certainty about the position of one of the existing Category A members who has recently changed roles within her company.

The Member Board will soon begin to think about the revenue collection model required for the coming year. It will be important to learn from the experience of this year. Though it is a complex issue, there will be discussions about the appropriateness of the Total Relevant Retail Revenue (TRRR) payment recovery method.

The Member Board is keen to avoid any damage to reputation that a poor forecast of complaint numbers can have upon operations. The need for an accurate forecast was stressed.

Amendments to the Terms of Reference to allow the change from 12 to 8 weeks were approved.

Engagement with Category B member companies is difficult. The role of the Member Board as a means of engaging with this group is worthy of greater consideration.

7 Energy Member Board Report

The Energy Member Board Chairman thanked Margaret Doyle for her contribution to the Energy Member Board.

There were concerns over numbers and their effect on KPIs. There is an understanding that the ombudsman service will struggle to achieve KPI's but that this should not be seen as a failure of the service.

The performance report was discussed. There are no simple reasons for the increase in complaints to the service: there may be a delayed effect of the closure of energywatch; there have been significant efforts from the member companies to raise the profile of the ombudsman service with consumers; winter bills could still be having an effect; there has been much political and media pressure which could undermine consumer confidence in the energy industry; the current economic climate could have caused an increased propensity to complain; suppliers are logging more complaints because of the broader definition of what a complaint is within the terms of the Consumers, Estate Agents and Redress Act, 2007, the consumer journey is more clearly explained and understood, complaints about small and medium enterprises are having more of an impact than expected.

Predicting the number of complaints is becoming more and more difficult.

Whether this is a peak or a step change is still to be decided. June was certainly a spike and, while a drop is anticipated, it is not expected that numbers will fall to the budgeted levels. August and September are traditionally quiet months.

Members had been encouraged to give more information to the Member Board about complaint levels so that this intelligence may be passed on to the Executive to help with planning. This information had been received and was discussed.

Members were encouraged to make every effort to resolve simpler complaints within the eight week threshold.

The outcome of the Energy Ombudsman Customer Satisfaction Survey was discussed.

Feedback from the Energy Ombudsman Open-day was given.

8 SOS Member Board Report

No meeting had taken place upon which to report. It was noted that if the Office of Fair Trading (OFT) is soon to decide if the standard contract used in lettings is unfair. If it does, a significant number of complaints about this topic are likely to be raised with the Ombudsman.

9 Finance Board Report

Volumes are significantly over those budgeted for and are increasing. It is likely that the service will have handled in excess of 14,500 complaints by the end of the year. Each Member Board gave a report on possible reasons for the increase.

Given the potential risk to reputation which comes with the increase case-load the Executive are looking at alternative ways to deliver outputs. The philosophy of fully outsourcing some complaints within the investigation process was discussed. The Board expressed its reservations about this outsourced model but It accepted that this was a short term measure that the Executive was deploying in order to process the excess case inflow. Richard Brown provided an explanation of how the outsourced model might work; in particular the issue of cost was discussed. He stated that providing the cost per case of an outsourced solution was less than the case revenue then this would make a net contribution to reserves in year. The Board considered what the output curve might look like over the course of the year and whether this meant that the Service would always be playing catch-up. Richard Brown took the Board through a spreadsheet that considered the capacity of the existing staff (rising over time as new starters came on stream) balanced against the existing stock, differing case inflows and the capacity of external third parties. The Board was content with the explanations. If this project is implemented, the Chairmen of each Member Board and the Chairman of the Council will be involved in communicating the message to the members.

Based on volumes and projections, the company is financially well ahead of budget. Due to a range of uncertainties affecting the remainder of the year, the Finance Board is not proposing any change in fees, up or down, as the risks are too great. It was noted that there is a significant risk to reputation with Otelo member companies if a cash call were to be made on them.

There was a discussion about the future funding of the various services and whether the balance between subscription and case fees was appropriate.

The Finance Board is generally happy with the current funding structure. The weaknesses of the cost attribution model (CAM) were discussed. It was accepted that the CAM could lead to cross subsidisation; however it was considered that the economies of scale benefits derived from having multiple services absorb the fixed costs outweighed the negative aspects of the CAM.

Discussion then moved to a consideration of whether the 80/20 funding structure was relevant. There was agreement that there should be a “minimum” value for the subscription payable by a particular sector. In principle this “minimum” value should be a fair proportion of the “fixed” costs of the business. This then lead onto a discussion as to what constituted “fixed” costs. The Finance Board asked for a detailed breakdown of the cost structure.

The Board then considered whether, in light of the discussion on subscriptions, it was time to de-couple subscription from volume. It was noted that the current approach made it difficult for members to budget. Richard Brown expressed the view that for most members the subscription was a regulatory “tick in the box” (member companies have rarely, if ever, queried the amount of subscription they pay). The industry members concurred that some degree of certainty over the level of subscription would be of benefit to them. Maintaining a degree of certainty would mean that there was only one variable – the case fee – that would be affected by volume discussions.

The Finance Board agreed that this was a direction of travel that was of interest and would be explored at the next meeting.

Richard Brown was thanked for his work in producing valuable discussion papers.

Richard Brown gave the Finance Board a presentation on what the “ideal” reserve level should be based on a number of volume scenarios. In summary it was demonstrated that the company will fall short of its “ideal” reserve level by the end of the financial year. This shortfall arises due to a combination of the need for greater working capital to fund the increased workload and the increase in cash reserves due to the increase in the monthly payroll bill. However, it was recognised that as the company was in a growth phase there was no short term pressure that required the reserves level bringing up. However a strategy for increasing the reserves up to the “ideal” level over the medium term was considered essential.

No cash-flow issues are expected.

There will be a more significant shortfall in reserves as the year progresses. This is a concern. There is a need to increase reserves.

It was noted that there is currently no underpinning funding for business development or investment.

Reserves must be kept under review and will continue as a standing agenda item.

10 PRS Update

A letter of intent had been received. The PRS for Music Code of Practice will be launched on 15 July. 1 August has been set as the date for the launch of the service. The Executive is broadly content with the service agreement. The scheme is expected to generate 20-30 complaints to the ombudsman per year.

11 Changes to Otelco Terms of Reference

There was a discussion about changes to the Otelco Terms of Reference with regard to the reduction in time communications providers have to resolve a complaint. The proposed amendments comply with Ofcom’s requirements. The amendments were approved.

12 AOB

The meeting was followed by a presentation of a report from Roger Jefferies, the Independent Assessor. Many of the recommendations made have already been acted upon and processes improved accordingly.

Time and Date of Next Meeting

1pm, Tuesday 8 September 2009

At the offices of the The Ombudsman Service Limited, Wilderspool Park, Greenall’s Avenue, Warrington. WA4 6HL

The meeting will be preceded by a presentation from Tim Liddell Head of Complaints Prevention & Customer Service Strategy at 12:30.