

**Minutes of the fifth meeting of the Member Board of the
Surveying Ombudsman Service Ltd**

**Thursday 24 January 2008
RICS offices, London**

Present:

Member Board

**Maggie Jones - Chairman
Patrick Bligh-Cheesman
Rosemary Carter
Steven Gould
Dianne Hayter
Chris Kenny
Christopher Lloyd
Jane Pridgeon**

Secretariat

Robbie Allcock

In attendance

**Richard Brown
David Pilling
Ian Smith**

1. Apologies for absence

Apologies were received from James Scott-Lee.

2. Minutes of the Member Board meeting held on 29 November 2007

The Minutes were approved.

3. Matters Arising from the Minutes

Publishing of the Surveyors Ombudsman Service Member Board meeting minutes to both member firms and the general public, from January onwards. It was confirmed that all minutes from this meeting onwards would be placed on the Surveyors Ombudsman Service website (once approved).

Secretary to email Board Members to see who would like a hard copy of the approved Surveyors Ombudsman Service Terms of Reference. This action had been completed.

Teresa Graham to be invited to attend January meeting. Apologies were received from Teresa Graham but it was confirmed she would be keen to attend a future meeting, where possible.

Steven Gould to set up meeting with TOSL Chairman and report at January's meeting. Although no meeting had taken place since the last meeting, Steven Gould confirmed that one is planned. The Board expressed its disappointment that the formal

response from TOSL (signed by the TOSL Chairman) had been sent without any further liaison with the Board or directly with the Chair. Chris Kenny offered apologies on behalf of the TOSL Council for this. There was also a discussion regarding the different roles of the Board in relation to both TOSL and RICS. The point was made that the Surveyors Ombudsman Board had been set up to run the Surveyors Ombudsman Service with TOSL as its sub-contractor. Richard Brown confirmed the remit of the Board in line with the terms of reference (in relation to TOSL) and Steven Gould confirmed the Board had been set-up also to provide advice to RICS on matters of redress. The idea of a separate sub-committee meeting for this purpose, to be held prior to/after Board meetings, was discussed.

AP: Steven Gould to arrange meeting with TOSL Chairman prior to February meeting.

AP: Copy of TOSL response to Carsberg Review to be circulated to Member Board members.

Ian Smith to be invited to attend January's meeting. This invitation was accepted (see Agenda item 9: TOSL staff training for the Surveyors Ombudsman Service).

Andrew Bradley and Tim Noble to liaise further re Communication Strategies and provide an update at January's meeting. Tim Noble to be invited to attend January's meeting (see Agenda item 10: Communication Plan of the Surveyors Ombudsman Service).

Chair to look further at the meeting schedule for 2008. The Chair had circulated the proposed meeting dates for 2008 to all Board members (see Agenda item 12: Any other business).

Secretary to send email to all Board members regarding photographs for the Surveyors Ombudsman Service website – the Secretariat confirmed he was waiting on a photograph and a biography from Rosemary Carter and Steven Gould. Rosemary Carter to send on.

Although it was noted that a previous request for specific finance data to be provided to the Board had not been reflected in the minutes of the previous meeting, the requested data was produced for this meeting anyway (see Agenda item 6: Business Plan and Budget).

4. Council/Performance Report

Chris Kenny reported that the Council meeting was followed by a Strategy meeting in order to discuss the 2008/09 Business Plan and Budget.

The Council held a lengthy discussion regarding the current performance levels and the failure to meet KPIs. It was confirmed that the TOSL Services had recently come under pressure largely due to the Energy sector, for various reasons. Chris Kenny reported that the TOSL Executive had a plan in place with a view to meeting the 8 week target by February and the 6 week target by April. It was also reported that TOSL had recently recruited staff who were now in place (although not necessarily up to speed) and further recruitment is currently underway.

Several representatives of TOSL had met with the Office of Fair Trading (OFT) in relation to the Surveyors Ombudsman Service's recent application to it for approval of providing redress for estate agents (see Agenda item 8: Draft response to BERR consultation).

In relation to the Strategy meeting it was reported that the Council discussed the expansion of the scheme, in particular Postal services. It was stressed that the Council would not agree to any expansion if this added any detriment to the already existing Services.

The Council also reviewed the draft Business Plan and it was confirmed that approval was also required from each separate Member Board (see Agenda item 6: Business Plan and Budget).

In relation to the performance of the Surveyors Ombudsman Service it was noted that there was currently little activity. Richard Brown provided the Board with an explanation of the various stats and sign-posting was also discussed (in relation to non-member calls). The Board agreed to discuss enhancing current sign-posting at a future meeting.

The Board noted that, in contrast to both Otelo and the Energy Supply Ombudsman, the majority of cases accepted for investigation to date were due to a deadlock situation having been reached between both parties. Possible reasons for this were discussed in brief, for example, cost and size of business. The Board agreed it would be beneficial to continue to receive such information but agreed to receive the 'growth of service' statistics only once every six months. **Note to Secretariat – growth statistics only to be circulated to Board bi-annually.**

5 Update on Membership

Of the 10,000 surveying firms RICS have written to regarding their regulation, 9733 have signed up to be regulated by RICS and of this 2883 firms have chosen to use the Surveyors Ombudsman Service as their redress mechanism.

The Board requested further information in relation to what redress mechanisms firms regulated by RICS were using if they were not using the SOS, and the kind of work those firms undertake. Steven Gould confirmed to the Board that RICS was currently in the process of asking all firms regulated by RICS to complete an annual return. This process will provide a range of information, including firms having to list the top five areas of surveying activities they are involved in and what redress mechanism the firm is using. All firms will have completed an annual return by November 2008. However, RICS can provide sample data from the information that firms who have completed their annual return have provided, for example, by mid-February approximately 2,500 firms should have completed their annual return.

It was also highlighted that firms regulated by RICS vary in size. The majority are sole practitioners but there are a number of very large firms as well. The Board agreed that the variation in the size of firms will need to be considered when discussing costs and fees.

AP: David Pilling to provide information to Board members.

6 Business Plan & Budget

The draft Business Plan and Budget had been circulated to the Board prior to the meeting. It was confirmed that the papers had already been sent to the TOSL Council for review. Richard Brown explained that approval of the Business Plan and Budget was required from each Member Board prior to TOSL Council and then the Finance Board approving the final versions. The Board was directed to direct any substantive comments to the Secretariat.

Richard Brown provided the Board with a detailed explanation of the proposed Budget and current finances, via a presentation. The budget for the projected 1,000 Surveyors

Ombudsman Service cases was £335k, with an overall budget of approximately £4 million. Richard Brown provided the Board with various cost attribution models in order to meet the cost of the Service for 2008/09. This led to various discussions, in particular the ratio of subscriptions to case-fees, non-RICS members and also the costs to members of other similar ADR services such as the Ombudsman for Estate Agents (OEA).

No formal decision was made on the Budget and the Board agreed to discuss this matter further at February's meeting.

AP: RICS to provide Board members with data from OEA re membership fees.

AP: Richard Brown to circulate relevant Budget/Finance spreadsheet to Member Board.

7 Surveyors Ombudsman Service representatives: TOSL Council, Finance Board and Audit Committee.

TOSL Council: The Board approved the proposal for the Chair to replace James Scott-Lee as the Member Board 'industry' representative for the Surveyors Ombudsman Service.

Finance Board: The Board approved the proposal for Steven Gould and Jane Pridgeon to represent the Surveyors Ombudsman Service Member Board on the TOSL Finance Board.

AP: Jane Pridgeon to confirm acceptance to the Chair.

Audit Committee: The Board approved the proposal for the Chair to represent the Surveyors Ombudsman Service Member Board on the Audit Committee.

8 Draft response to BERR consultation: A consultation on proposals for exercising powers in the Consumers, Estate Agents and Redress Act 2007 and other changes to secondary legislation relating to estate agents.

Chris Kenny and David Pilling reported on a meeting between TOSL representatives and the OFT in relation to the Surveyors Ombudsman Service's recent application for approval as a redress scheme for estate agents. TOSL Council has a clear view that it is not an alternative *form* of court but an alternative *to* court and that it had approved this application in order to provide a holistic service to current RICS members (where applicable). It was explained to the Board that there was some discrepancy over the interpretation of Article 6 of the Human Rights Acts, particularly in relation to specific issues such as oral hearings on demand and the full disclosure of information to both parties. Steven Gould confirmed he and David Pilling were also due to meet with Gordon Ashworth (Deputy Director of Consumer Policy for OFT).

In relation to TOSL's draft response to this consultation no amendments were made (although any further comments were to be forwarded to the Secretariat as soon as possible).

9 TOSL staff training for the Surveyors Ombudsman Service

At the previous meeting some concerns were raised over the training document which had been prepared by the Surveyors Ombudsman Ian Smith, in particular the issue of professional negligence. Ian Smith therefore attended the meeting and provided the Board with a more detailed explanation in this regard and also answered other queries from the Board. Ian Smith explained to the Board that as Ombudsman (and using his

experience of the Scottish Pilot scheme) he would investigate service failure (e.g. poor customer service) and confirmed that the same methodology would apply when training staff using the following principles: what was the requested service, what was the service delivered, where there any errors and, if so, what impact did this have on the consumer. Ian Smith confirmed that third party expert advice could be sought if required but that any issues purely related to professional negligence would be referred to the courts.

There was a concern that the Ombudsman had invited a representative of one of the largest firms of Estate Agents to train the Surveyors Ombudsman Service staff and that this may be biased and unfair against the quantity of firms in the country which were small, and, therefore, may potentially mislead staff into thinking that the large conglomerates operation was the only way to do things. Ian Smith explained that visits were made to larger firms but that smaller firms were also accessed via a wider network at various different events.

The Chair thanked Ian Smith for his attendance and further explanation.

10 Communication Plan of the Surveyors Ombudsman Service

Apologies were received from Tim Noble. It was also reported to the Board that no real progress had been made on this issue since the last meeting. The consensus of the Board was that TOSL and RICS should work together in formulating their respective Communications Strategies. Richard Brown explained the objectives of the Board as set out in the company Memorandum and Articles of Association (Mem and Arts) but it was highlighted that the Board also has a responsibility to RICS to ensure the RICS Communications Strategy is working. There was a discussion surrounding this and it was agreed that further contact should be made between TOSL and RICS in this regard. The Board stressed the importance of solving this issue with TOSL and RICS communicating with each other.

AP: Richard Brown to arrange for TOSL and RICS to liaise on this matter and report at next meeting.

11 Extension of TOSL Chairman's term to 2010

Richard Brown reported that the Council had unanimously agreed to seek the agreement of the Member Boards to the exceptional extension of the Chairman's term to June 2010 (in accordance with Article 26 of the Mem and Arts). The Member Board approved this extension.

12 Any other business

The Chair proposed an amendment to the date of the April Board meeting from Thursday 24 April to Monday 28 April. This amendment was approved.

Date of next meeting

11.00 on 28 February at RICS offices, 12 Great George Street, London.

These minutes were approved at the Member Board meeting held on

Signed (on behalf of the Member Board)
Baroness Maggie Jones
Chairman of Member Board