

WATERWAYS OMBUDSMAN COMMITTEE

Draft Minutes of the meeting of the Committee held at
Bentham House, University College London
on Monday 4 December 2006

PRESENT:

Professor Jeffrey Jowell QC (Chairman)
Mrs Anne Davies
Mr Sam Hollis
Mr Nigel Johnson
Mr Michael Reddy
Mr Nigel Stevens
Mr Terry Tricker

IN ATTENDANCE:

Ms Hilary Bainbridge Waterways Ombudsman

1. APOLOGIES

Apologies had been received from Mr Miles Smith.

2. MINUTES OF THE PREVIOUS MEETING

The Committee approved the minutes of the meeting held on 5 July 2006. There were no matters arising not otherwise appearing on the agenda of the meeting.

4. MID-YEAR REPORT BY THE WATERWAYS OMBUDSMAN

The Waterways Ombudsman commented upon her written mid-year Report that had been circulated to members of the Committee.

4.1 Number of cases

Ms Bainbridge advised the Committee that there were early indications of a fall in new investigative work from a peak in 2005-06 (though the level was still considerably above that of 2004-05). It was not possible yet to predict whether this reduction would be sustained or whether, in the light of funding cuts (and possible consequential price rises or service reductions), the downward trend would be reversed. The details were as follows:

	2003-04	2004-05	2005-06	First half 2006-07	Full-year Projection
Enquiries received	32	46	89	53	106
New investigations begun	6	15	29	10	20
Cases decided	5	9	27	15	25

Ms Bainbridge explained the growth in enquiries arose mainly from an increase in the number from people whose concerns were not about British Waterways.

4.2 Productivity

Ms Bainbridge advised the Committee that she had analysed her records of time spent on each case and other chargeable activities to see whether a comparison could be made with other ombudsman schemes on productivity. She explained there is no readily available benchmark data but comparison with the Parliamentary and Health Service Ombudsman and with the Local Government Ombudsman (for each some data is available) indicated that her productivity was at least reasonable, if not good.

Publicity

- 4.3 Ms Bainbridge informed the Committee about progress in setting up a stand-alone Waterways Ombudsman website (www.waterways-ombudsman.org) which she hoped would be launched early in the new year. She acknowledged the support she had had from British Waterways in setting up the website but emphasised that it would be independent from (though with links from and to) the British Waterways website and that she would be in sole control of its content.

The Committee discussed, and made suggestions, on additional steps that could be taken to improve awareness of the Waterways Ombudsman scheme, including contact with print journalists. Ms Bainbridge agreed to give consideration to these.

The Committee further considered whether, as part of the information available on the website about the role and work of the Committee, to publish the minutes of meetings of the Committee. There was unanimous agreement that it should do so. Furthermore it was agreed that draft minutes of meetings should be published, in advance of formal approval at the next meeting. Given that in normal circumstances some 6 months would elapse between meetings, publication after formal approval at the subsequent meeting would result in published minutes being quite stale. It was agreed nevertheless that the draft would be circulated for comments amongst all Committee members prior to publication.

BIOA Membership

- 4.4 Ms Bainbridge reported that she had been admitted to full membership of the British and Irish Ombudsman Association (BIOA). The Committee noted that full membership was only open to ombudsmen whose powers and terms of reference met strict criteria of independence set by the Association and that therefore full membership was the best available external validation of the independence of the Waterways Ombudsman. The Committee agreed this point should be emphasised in any publicity about the Scheme

Change to the Rules of the Scheme

- 4.5 The Committee noted that in connection with the application for BIOA membership, the Association had recommended one minor change to rule 6 of the Scheme, namely an increase of the normal quorum of the Committee from 4 to 5. The Committee further noted that such change had been ratified by the Board of British Waterways (and therefore came into effect) in September.

Contact with Waterway Organisations

- 4.6 Ms Bainbridge advised the Committee that she had
- attended the IWA reception at the National Waterways Festival
 - attended the British Waterways Annual Meeting
 - attended and spoken at the NABO Annual General Meeting
 - attended and spoken at a meeting of the Board of British Waterways
- and that she had been invited to attend a lunch hosted by the British Marine Federation at the London Boat Show in January.

The Committee noted that, on her appointment, it had encouraged her to engage with user organisations, both trade and consumer orientated, since the Committee considered this was an appropriate method to raise awareness and understanding of the Waterways Ombudsman Scheme. The Committee also considered and agreed that it was quite appropriate for her to meet with and speak to the Board of British Waterways in order that she may provide some direct feedback to the Board on the performance of British Waterways from the perspective of her office.

In connection with such activity Ms Bainbridge sought the guidance of the Committee on the issue of hospitality afforded to her on such occasions by both user organisations and British Waterways. The Chairman also advised the Committee that he had received direct correspondence from a person questioning the appropriateness of Ms Bainbridge's attendance at a dinner given by the Board of British Waterways on the evening before its formal meeting when she was due to provide some feedback.

The Committee discussed the issue of hospitality and the risk of appearance of undue influence, either on the part of user organisations or of British Waterways. Equally, it considered it appropriate that, when invited in her official capacity to attend meetings, the Ombudsman should be able to accept hospitality that was reasonable and proportionate in the context of the attendance.

As an example, the Committee noted that when attending to speak at the meeting of the Board of British Waterways, an overnight stay was required (due to travel distances) and that the dinner (with other external guests, including representatives of waterway organisations) was being held by the Board on the prior evening at the same location. The dinner was an appropriate opportunity for informal exchanges with non-executive Board members and other guests additional to her formal meeting with the Board the following morning.

After further debate, the Committee RESOLVED that:

In the light of its expectation that:

(i) the Ombudsman improve awareness of the Scheme amongst waterway users, and

(ii) the Ombudsman provide appropriate feedback to British Waterways,

the Ombudsman was authorised to accept reasonable hospitality from waterway organisations, including British Waterways, provided such hospitality was proportionate and was only incidental to attendance at relevant meetings or events in an official capacity. Subject thereto, the Ombudsman should decline offers of hospitality or any gifts from a person or body that may have an actual or potential interest in the outcome of investigations.

4.7 Customer Satisfaction

Ms Bainbridge informed the Committee about her intentions on seeking feedback from users of the Ombudsman Scheme. The Committee expressed the view that feedback may be more candid if it was routed via the Committee and anonymised before being passed on to Ms Bainbridge for analysis. It was agreed that Ms Bainbridge would work up some proposals together with a member of the Committee.

The Chairman advised the Committee that he had had a letter expressing dissatisfaction with an investigation by the Ombudsman from a person whose complaint had been upheld in part only. He advised the Committee that his reply had explained that decisions by the Ombudsman were final and it was not the role of the Committee to act as an appeal tribunal on the merits of the complaint.

5. **BW COMPLAINTS STATISTICS**

The Committee took note of statistics provided by BW of the number of cases handled under its internal complaints procedure at its two levels and of the proportion that were escalated from the second level to investigations by the Ombudsman.

6. **SCHEME FUNDING**

Ms Bainbridge described the practical arrangements for the funding of the Scheme. She explained that she acted as an independent practitioner, invoicing British Waterways for her time at the rate agreed following her appointment. She worked away from British Waterways premises and invoiced British Waterways for proper disbursements such as cost of travel, third party services etc.

A financial summary prepared by British Waterways was tabled showing the expenditure by British Waterways on the Scheme (inclusive of the incidental costs of Committee meetings).

Ms Bainbridge notified the Committee that British Waterways had met all proper costs of the Scheme to date and that she had not encountered any difficulties over Scheme funding. The Committee noted this with satisfaction.

The Chairman noted that, since appointment, there had been no review of the fee rate paid to Ms Bainbridge since her appointment. The Committee recommended that the Chairman undertake such a review.

7. NEXT MEETING

The Committee agreed to meet next in either the second or third week of May 2007, with the exact date to be arranged nearer to that time.