

# **Waterways Ombudsman**

## **Peer review 2018**

**Report and conclusions**

**Michael Morgan, TDS Director of Dispute Resolution**

**1<sup>st</sup> October 2018**



# Executive Summary

This peer review was completed following a day's visit to the Waterways Ombudsman, subsequent access to case files and operating procedures, and clarification from the Ombudsman where necessary. As a result this review has identified a well-run scheme which is testament to the fastidious approach of Andrew Walker. I have set out below a summary of areas where future developments may be possible.

## Purpose of the scheme:

- This peer review did not extend to considering the outcome of decisions made in cases dealt with. It may be useful for the scheme to consider a peer review of outcomes by a 'fresh set of eyes' – that said it is noted that dispute volumes are very low and resource constraints may not permit such an exercise.

## Communication from the scheme:

- There are some potential improvements that could be made to the scheme's website.
- Small/simple steps include adding some more cross-references and hyperlinks to the webpage <http://www.waterways-ombudsman.org/complaining/> for ease of explanation and navigation
- The scheme could also consider adding a flowchart/pictogram to explain process flow and timescales in a more visual format.
- More costly changes, which might be considered unnecessary given the size of the scheme or the resources available to it, include seeking Plain Language accreditation for the scheme's principal consumer facing documents <https://www.clearest.co.uk/>.

## Management of the scheme:

- The management of disputes is completed using an Excel spreadsheet. Whilst perfectly serviceable given the size of the scheme and dispute volumes, it does rely largely on manual input. The use of a case management system would be preferable, but perhaps beyond the resources of the scheme itself. This may be an issue to consider when reflecting on Andrew's successor (would an ADR service provider with an established system be an option?)
- The scheme has published service standards for the acknowledgement of initial contacts and for the completion of adjudication decisions within 90 days. Consideration should be given to making these more prominent/easier to find on the website e.g. a dedicated tab, and also extending these to include:
  - deadlines for acknowledgement of all communications;
  - deadlines for substantive response to all communications received;
  - service standards and timescales for the resolution of complaints about the scheme itself.

## Accessing the scheme

- Can more be done to identify where users of the scheme heard about it? Consider whether anything further can be achieved with focus or user groups, and guidance from e.g. the Ombudsman Association First Contact Interest Group.
- Consider the introduction of an online portal to enable parties to raise and respond to disputes online and view each other's evidence. As above this is perhaps beyond the resources of the scheme itself, but may be an issue to consider when reflecting on Andrew's successor.

## Equality of access

I was struck during this review by instances where Andrew reported difficulties in getting responses from the Canal & River Trust. Because this may detriment the complainant:

- consider the introduction of a scheme rule that commits the Trust to a defined response deadline.
- consider taking a more robust approach to compliance with this deadline. Extensions can be agreed where in the interests of justice, but a failure to respond without an agreed extension in place should not delay the progress of the dispute.
- consider the introduction of a scheme rule that enables the Ombudsman to determine that a failure to respond by the Trust may lead to a determination that is in favour of the complainant, and may be highlighted by the Ombudsman both in the decision made and also in his Annual Report.

## Investigation of disputes

Complex cases do not need to be resolved within 90 days. Although the Ombudsman has his own criteria for when a dispute is classified as complex, I could not see that this was defined in the Scheme's rules or published policies and procedures. This is I think something that should be defined.

40% of cases recorded as complex in 2017-18 were completed in less than 90 days. Was it therefore necessary for them all to be treated as complex?

Of the remaining disputes almost 60% took more than 90 days, with 2 taking more than 200. It seems to me that there may be 2 potential issues to consider here. One may be the extent and timeliness with which the Trust engages with the scheme (see above). The other may be the extent to which a dispute can be dealt with in 90 days or less given that the Ombudsman works alone. This too is an issue to be considered when reflecting on Andrew's successor. The appointment of a service provider with more than one available resource may lead to a reduction in overall performance times.

## Conclusion

The scheme's organisation and operation are already compliant with the requirements of the Chartered Trading Standards Institute and the Ombudsman Association. Unsurprisingly therefore there were many examples of good practice seen in this review, leaving a well-deserved impression of an effective and well-organised scheme. I have made suggestions above for factors to be considered for the future – in doing so I note that some will be constrained by the resources available to the scheme itself, but it may be possible to address these when considering succession planning for the Ombudsman.

This review would not be complete without an expression of my gratitude to Andrew for his hospitality, openness, and engaging approach.

**Principle 1:**  
The purpose of the scheme

**Principle 2:**  
Accessing the scheme

**Principle 3:**  
A flexible adjudication  
scheme

**Principle 4:**  
Openness and transparency

**Principle 5:**  
Efficiency of the scheme

# Principle 1

## The purpose of the scheme

### Purpose and remit of the scheme

- 1.1 The remit of the scheme and the manner in which disputes will be dealt with is clearly defined.
- 1.2 The scheme looks into disputes about poor service or unfair treatment in a proportionate and impartial manner.
- 1.3 The scheme brings matters to a fair and reasonable conclusion.
- 1.4 The scheme identifies how its members can improve the way they do things to prevent future similar disputes.

### Clear communication from the scheme

- 1.5 The scheme explains clearly to users the types of complaints that can be considered and how they can be referred.
- 1.6 The scheme's publications explain its role and include step by step guidance for how disputes are addressed.
- 1.7 The scheme's publications and guidance are easy to obtain and simple to read
- 1.8 Parties to disputes, and complainants making complaints about the scheme, are kept informed regularly about progress.

### Effective management of the scheme

- 1.9 The scheme publishes clear customer service standards that are easy to understand.
- 1.10 The scheme judges its service against those standards.
- 1.11 The scheme encourages members to accept findings and implement recommendations made by the Ombudsman.
- 1.12 The scheme has mechanisms to record and monitor the response to its recommendations.
- 1.13 The scheme reviews its service in the light of feedback from users and complainants to ensure it meets changing demands and circumstances.
- 1.14 Business processes are designed to ensure the production of accurate, measurable and comparative data for future use.

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Criteria		Outcome	Evidence	Comment/reason/action required
<b>Purpose of the scheme</b>				
		<b>Score</b>	<b>Definition</b>	
1.1	The remit of the scheme and the manner in which disputes will be dealt with is clearly defined	4	<p>There are solid approaches in place in most instances</p> <p>The remit of the scheme and the way in which disputes will be handled is explained clearly on the scheme’s website at <a href="http://www.waterways-ombudsman.org/complaining/">http://www.waterways-ombudsman.org/complaining/</a></p> <p>The scheme’s FAQ page at <a href="http://www.waterways-ombudsman.org/faqs/">http://www.waterways-ombudsman.org/faqs/</a> also explains:</p> <ul style="list-style-type: none"> <li>• what complaints can be considered</li> <li>• who can complain</li> <li>• when they can complain</li> </ul> <p>Further more detailed explanations are contained in the scheme rules and standards and policies document, all of which are available at <a href="http://www.waterways-ombudsman.org/publications/">http://www.waterways-ombudsman.org/publications/</a></p>	<p>For ease of explanation and navigation through the website, consider adding some more cross-references and hyperlinks to the webpage <a href="http://www.waterways-ombudsman.org/complaining/">http://www.waterways-ombudsman.org/complaining/</a></p> <p>Consider seeking Plain Language accreditation for the scheme’s principal consumer facing documents <a href="https://www.clearest.co.uk/">https://www.clearest.co.uk/</a></p>
1.2	The scheme looks into disputes about poor service or unfair treatment in a proportionate and impartial manner.	4	<p>There are solid approaches in place in most instances</p> <p><b>Proportionality:</b> I was able to see from case files considered for this peer review that the Ombudsman’s approach to investigation varies depending on the issues involved. For example, site visits are made on occasion (but rarely) and in others it was necessary for the Ombudsman to consider new areas of law relevant to a dispute. In some cases the Ombudsman made focused requests for information from the CRT, and in others sought the complete case file.</p> <p><b>Impartiality</b> – governance issues are covered by CTSI and Ombudsman Association criteria and have not been considered as part of this peer review.</p>	

Criteria		Outcome	Evidence	Comment/reason/action required
<b>Purpose of the scheme</b>				
		<b>Score</b>	<b>Definition</b>	
			<p>The Ombudsman did express a concern to me about whether he is “too mean”. To address this he has compared his approach to that taken by the previous post holder and considers they are broadly the same.</p>	
1.3	The scheme brings matters to a fair and reasonable conclusion.	4	<p>There are solid approaches in place in most instances</p> <p>The scheme’s decision-making model uses a draft/proposed decision with 3 weeks for the parties to comment. The opportunity to do so is free-ranging, so the Ombudsman will consider all issues raised in response.</p> <p>As a result of this peer review the Ombudsman has already introduced a new reporting tool to analyse the proportions of cases in which the draft decision is challenged, and the source of the challenge, and the outcome.</p> <p>This shows that most adjudication decisions do not uphold the complaint received, and in most of these cases a challenge is received from the complainant. An analysis of 13 cases dealt with in 2018 showed that 11 resulted in no change to the decision, 1 resulted in an increased award, and 1 resulted in a minor change to the remedy awarded.</p> <p>In 2017-18 the Waterways Ombudsman Committee reviewed three case files selected at random, and was satisfied that the decisions were well written, dealt with the issues and had the appropriate level of thoroughness.</p>	<p>The Committee has already identified that in some cases the key findings and conclusions formed part of a larger general section on the analysis of the complaint, and did not stand out, so in future they should be clearly highlighted with their own heading or in a separate section.</p> <p>This peer review did not extend to considering the outcome of decisions made in case dealt with. It may be useful for the scheme to consider a peer review of outcomes by a ‘fresh set of eyes’ – that said it is noted that dispute volumes are very low and resource constraints may not permit such an exercise.</p>

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<b>Purpose of the scheme</b>					
		<b>Score</b>	<b>Definition</b>		
1.4	The scheme identifies how its members can improve the way they do things to prevent future similar disputes.	4	There are solid approaches in place in most instances	<p>Recommendations are made where appropriate in the Ombudsman's decisions.</p> <p>The Ombudsman's Annual Report also highlights areas where there is a cause for concern.</p> <p>Minutes of the Waterways Ombudsman Committee also show that the Ombudsman raises issues of concern with representatives of the Trust, who are able to in turn feedback to the Trust and seek to facilitate improvement where applicable. Examples have included the efficiency of the Trust's handling of complaints and responses to the Ombudsman, as well as clarity over the continuous cruising policy and the guidance given to consumers.</p> <p>The Committee is also looking into extending the reach of the scheme into other canals and waterways.</p>	

Criteria		Outcome	Evidence	Comment/reason/action required
<b>Clear communication from the scheme</b>				
	<b>Score</b>	<b>Definition</b>		
1.5	4	There are solid approaches in place in most instances	<p>This is explained clearly on the scheme’s website at <a href="http://www.waterways-ombudsman.org/complaining/">http://www.waterways-ombudsman.org/complaining/</a></p> <p>Further explanation is given on the scheme’s FAQ page at <a href="http://www.waterways-ombudsman.org/faqs/">http://www.waterways-ombudsman.org/faqs/</a></p> <p>Further more detailed explanations are contained in the scheme rules and standards and policies document, all of which are available at <a href="http://www.waterways-ombudsman.org/publications/">http://www.waterways-ombudsman.org/publications/</a></p>	<p>For ease of explanation and navigation through the website, consider adding some more cross-references and hyperlinks to the webpage <a href="http://www.waterways-ombudsman.org/complaining/">http://www.waterways-ombudsman.org/complaining/</a></p> <p>Consider seeking Plain Language accreditation for the scheme’s principal consumer facing documents <a href="https://www.clearest.co.uk/">https://www.clearest.co.uk/</a></p> <p>Consider the introduction of an online portal to enable parties to raise and respond to disputes online</p>
1.6	4	There are solid approaches in place in most instances	<p>See response to sections 1.1 and 1.5 above</p> <p>The scheme’s website gives useful case study summaries</p>	<p>Consider adding a flowchart/pictogram to explain process flow and timescales in a more visual format</p>
1.7	4	There are solid approaches in place in most instances	<p>See response to sections 1.1 and 1.5 above</p>	<p>Consider seeking Plain Language accreditation for the scheme’s principal consumer facing documents <a href="https://www.clearest.co.uk/">https://www.clearest.co.uk/</a></p>



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<b>Clear communication from the scheme</b>					
1.8	Parties to disputes, and complainants making complaints about the scheme, are kept informed regularly about progress.	4	There are solid approaches in place in most instances	<p>The low volume of cases enables the Ombudsman to keep a close eye on progress and to keep parties informed.</p> <p>As part of this review, I reviewed a number of case files for 2017-18 and this made it very apparent that there is regular communication from the Ombudsman about the progress of individual cases.</p> <p>Section 4.9 below deals with complaints received during the 2017-18 year – there were few, and these did not relate to complaints about lack of progress or updates.</p>	<p>Consider the introduction of an online portal to give parties the means to check the progress of their dispute online?</p> <p>This could be linked to a case management system which avoids the need for reliance on an Excel spreadsheet?</p> <p>Both of these recommendations are of course dependent on available resource.</p>

Criteria		Outcome	Evidence	Comment/reason/action required	
<b>Effective management of the scheme</b>					
	<b>Score</b>	<b>Definition</b>			
1.9	The scheme publishes clear customer service standards that are easy to understand	3	There are some things in place but they are new, in need of improvement, or only implemented in some areas	<p>These are contained in the scheme's Standards and Policies document <a href="http://www.waterways-ombudsman.org/media/1106/waterways-ombudsman-standards-and-policies.pdf">http://www.waterways-ombudsman.org/media/1106/waterways-ombudsman-standards-and-policies.pdf</a></p> <p>In terms of case management these service standards are limited to:</p> <ul style="list-style-type: none"> <li>acknowledgement or response to initial letter, email or telephone call within a week of contact in 90% of cases;</li> <li>investigations completed within 90 days of the Ombudsman receiving the complete complaint file (except for cases of a highly complex nature).</li> </ul>	<p>Consider making these more prominent/easier to find on the website e.g. dedicated tab</p> <p>Consider extending these to include:</p> <ul style="list-style-type: none"> <li>Deadlines for acknowledgement of all communications</li> <li>Deadlines for substantive response to all communications received</li> </ul>
1.10	The scheme judges its service against those standards.	3	There are some things in place but they are new, in need of improvement, or only implemented in some areas	<p>An assessment of the Scheme's service against the published standards is completed by the Ombudsman on an iterative basis as explained elsewhere in this report.</p> <p>It is also completed for each Committee meeting and also set out in each Annual Report.</p>	See comment above for Section 1.9
1.11	The scheme encourages members to accept findings and implement recommendations made by the Ombudsman.	5	This is done really well, with successful and well established procedures making a major contribution to success	<p>Recommendations or awards made by the Ombudsman are binding on the Trust save in limited circumstances - see paragraphs 39 and 40 of the scheme rules</p> <p><a href="http://www.waterways-ombudsman.org/media/1102/waterways-ombudsman-scheme-rules-19-august-2015-trust.pdf">http://www.waterways-ombudsman.org/media/1102/waterways-ombudsman-scheme-rules-19-august-2015-trust.pdf</a></p>	

Criteria		Outcome	Evidence	Comment/reason/action required
<b>Effective management of the scheme</b>				
	<b>Score</b>	<b>Definition</b>		
1.12	The scheme has mechanisms to record and monitor the response to its recommendations.	4	There are solid approaches in place in most instances	<p>The Trust is required to confirm its compliance, or the steps it is taking to comply, within 20 working days - see paragraphs 39 and 40 of the scheme rules <a href="http://www.waterways-ombudsman.org/media/1102/waterways-ombudsman-scheme-rules-19-august-2015-trust.pdf">http://www.waterways-ombudsman.org/media/1102/waterways-ombudsman-scheme-rules-19-august-2015-trust.pdf</a></p> <p>The scheme rules require the Trust to publicise a refusal to comply with a decision. Should this be extended to cover non-compliance (as opposed to express refusal) or delay in compliance?</p> <p>Consider whether the scheme can introduce sanctions on the Trust where confirmation is not provided within the required deadline.</p> <p>Consider whether the scheme can introduce sanctions on the Trust where compliance is refused or delayed without good reason.</p> <p>Consider seeking verification from the complainant as well as the Trust?</p> <p>Consider introducing a case management system which avoids the need for reliance on an Excel spreadsheet.</p>
1.13	The scheme reviews its service in the light of feedback from users and complainants to ensure it meets changing demands and circumstances.	5	<p>This is done really well, with successful and well established procedures making a major contribution to success</p> <p>The Committee has a responsibility to ensure that the Scheme is effective, which it does by keeping the following under review:</p> <ul style="list-style-type: none"> <li>• The Scheme website and its contents</li> <li>• Compliance with the Scheme service standards</li> <li>• Complainant satisfaction and feedback</li> <li>• Quality of decision making</li> <li>• Accountability</li> <li>• Finances</li> </ul> <p>These measures are assessed with KPI reports for each</p>	<p>The Annual Report shows that very high customer feedback is received from users responding to customer surveys. In a very high proportion of responses, a 10/10 score was received.</p>

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<b>Effective management of the scheme</b>					
	<b>Score</b>	<b>Definition</b>			
			Committee meeting, and annual reviews of remaining items.  The outcome to this review is included in the scheme's annual report.		
1.14	Business processes are designed to ensure the production of accurate, measurable and comparative data for future use.	4	There are solid approaches in place in most instances	The Ombudsman's existing case management tools work well to produce this type of data for the purposes of day to day operation management of the scheme as well as key reporting to the Committee and in the Annual Report.	Consider introducing a case management system which avoids the need for reliance on an Excel spreadsheet.

## Principle 2

### Accessing the scheme

#### Accessing the scheme

- 2.1 People who may need to use the scheme are aware of its existence.
- 2.2 Users are able to contact the scheme using a range of methods, both during and outside business hours.

#### Equality of access

- 2.3 The scheme is accessible to those with differing literacy, language, socio-economic backgrounds and physical or mental disabilities.
- 2.4 Good quality feedback and participation is received from the Canal & River Trust

#### Customer feedback

- 2.5 Regular testing of external publications and internal guidance is carried out to ensure they meet objectives and standards of the scheme
- 2.6 The scheme checks how accessible users find it (e.g. surveys/focus groups).

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Criteria		Outcome	Evidence	Comment/reason/action required
<b>Accessing the scheme</b>				
	<b>Score</b>	<b>Definition</b>		
2.1	3	There are some things in place but they are new, in need of improvement, or only implemented in some areas	<p>The Ombudsman did express some concern to me about this. That said, a number of simple Google searches found details of the complaints process available for the Canal &amp; River Trust, and also those of the Waterways Ombudsman.</p> <p>It was also clear that those complaining to the Canal &amp; River Trust were signposted to the Waterways Ombudsman.</p>	Consider a survey of scheme users to identify how/where they found out about the scheme.
2.2	4	There are solid approaches in place in most instances	<p>The website makes it clear how complaints may be submitted.</p> <p>Complaints can be submitted by email, post or telephone.</p>	Consider the introduction of an online portal to enable parties to raise and respond to disputes online (resource permitting).

Criteria		Outcome		Evidence	Comment/reason/action required
<b>Equality of access</b>					
		<b>Score</b>	<b>Definition</b>		
2.3	The scheme is accessible to those with differing literacy, language, socio-economic backgrounds and physical or mental disabilities.	4	There are solid approaches in place in most instances	<p>The Ombudsman is able to accept complaints in Welsh as well as English.</p> <p>Where necessary, the Ombudsman is able to work with complainants who need particular support by telephone. He will also use next friend representatives if appropriate.</p> <p>No use is currently made of tools like Language Line or Text Relay. Conversely the low volume of disputes is such that Ombudsman could make a personal visit to complainants where necessary.</p>	
2.4	Good quality feedback and participation is received from the Canal & River Trust.	3	There are some things in place but they are new, in need of improvement, or only implemented in some areas	<p>Discussions with the Ombudsman highlighted the following:</p> <ul style="list-style-type: none"> <li>• Sometimes a really poor service is received from the Trust, which can include more senior members of staff</li> <li>• Examples were given of cases where the Ombudsman had to wait more than 6 weeks for a response</li> <li>• The Ombudsman often has to chase responses from the Trust</li> <li>• The Ombudsman often finds that where a deadline is given, the full time to respond is taken. Sometimes the Ombudsman has to agree with the Trust when a response will be made</li> <li>• Where the Trust does respond, a reasonable pack of information is provided</li> </ul>	<p>Consider the introduction of a scheme rule that commits the Trust to a defined response deadline.</p> <p>Consider taking a more robust approach to compliance with this deadline. Extensions can be agreed where in the interests of justice, but a failure to respond without an agreed extension in place should not delay the progress of the dispute.</p> <p>Consider the introduction of a scheme rule that enables the Ombudsman to determine that a failure to respond by the Trust:</p> <ul style="list-style-type: none"> <li>• may lead to a determination that is in favour of the complainant</li> <li>• may be highlighted by the Ombudsman both in the decision made and also in his Annual Report.</li> </ul>

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Criteria		Outcome		Evidence	Comment/reason/action required
<b>Customer feedback</b>					
		<b>Score</b>	<b>Definition</b>		
2.5	Regular testing of external publications and internal guidance is carried out to ensure they meet objectives and standards of the scheme	4	There are solid approaches in place in most instances	<p>There are no internal guidance documents or operating procedures but this is perhaps unsurprising given the size of the scheme and its scope.</p> <p>The quality and effectiveness of the website and its documents are assessed as detailed elsewhere in this review by the Ombudsman, the Committee, and scheme users via the customer satisfaction survey.</p> <p>Issues of note may also be highlighted by complaints received by the Ombudsman from service users.</p>	This review has previously noted the possibility of Plain Language Accreditation for its key consumer facing documents.
2.6	The scheme checks how accessible users find it (e.g. surveys/focus groups).	3	There are some things in place but they are new, in need of improvement, or only implemented in some areas	<p>This is addressed in part by the use of the customer satisfaction survey.</p> <p>No focus or user groups are currently in place.</p>	Consider whether anything further can be achieved with focus or user groups, and guidance from e.g. the Ombudsman Association First Contact Interest Group.



## Principle 3

### A flexible adjudication scheme

#### Flexibility vs. consistency

- 3.1 The scheme has consistent processes for accepting, responding to, and processing complaints
- 3.2 Flexible processes are used where necessary to ensure complainant's specific needs are accommodated.
- 3.3 Flexible arrangements are in place to ensure the scheme can examine or investigate complaints in differing ways, responding appropriately to differing circumstances.
- 3.4 The scheme is flexible enough to cope with complainants' particular needs, as well as complex or unusual cases

#### Investigation of disputes

- 3.5 Evidence is documented, made available to the parties, and considered fairly in reaching adjudication decisions (natural justice principles).
- 3.6 The scheme investigates complaints sufficiently - and proportionately - so that it reaches a clear and reasoned conclusion about the merits of the case.
- 3.7 The member complained against is given an opportunity to provide an explanation and have its evidence listened to.
- 3.8 Feedback, based on analysis of the complaint investigation, is given to the organisation complained against.

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### A flexible adjudication scheme

#### Early resolution of disputes

- 3.9 The scheme encourages its members to have effective complaints procedures that facilitate local resolution wherever possible to achieve timely outcomes.
- 3.10 The scheme has opportunities for early resolution built into its own dispute handling processes.

#### Dispute outcomes

- 3.11 The scheme has the authority to offer a range of redress options (e.g. apologies, remedial action, financial redress).
- 3.12 Adjudication decisions explain the evidence considered, result/outcome, and reasons for this.
- 3.13 Scheme users feel that they have been listened to, their complaint has been understood.
- 3.14 Scheme users are given a clear explanation of the process for dealing with their complaint and what will happen next.
- 3.15 The scheme checks user satisfaction with the dispute resolution process (e.g. surveys/focus groups).

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Criteria		Outcome	Evidence	Comment/reason/action required	
<b>Flexibility vs. consistency</b>					
		<b>Score</b>	<b>Definition</b>		
3.1	The scheme has consistent processes for accepting, responding to, and processing complaints	4	There are solid approaches in place in most instances	It appears from this review that processes for accepting, responding to, and processing complaints are in place.  That said, these are reliant on the use of an Excel spreadsheet and manual intervention.	Consider introducing a case management system which avoids the need for reliance on an Excel spreadsheet.
3.2	Flexible processes are used where necessary to ensure complainant's specific needs are accommodated.	5	This is done really well, with successful and well established procedures making a major contribution to success	It is clear from the Ombudsman's approach to complaints dealt with that the scheme is able to offer a highly bespoke service for addressing complaints.  As well as enabling dialogue with disputants by phone telephone or email, the Ombudsman's approach can also include personal visits and interviews with disputants as well as others parties that may be helpful in a given dispute.	
3.3	Flexible arrangements are in place to ensure the scheme can examine or investigate complaints in differing ways, responding appropriately to differing circumstances.	5	This is done really well, with successful and well established procedures making a major contribution to success	See above	
3.4	The scheme is flexible enough to cope with complainants' particular needs, as well as complex or unusual cases	5	This is done really well, with successful and well established procedures making a major contribution to success	See above	

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<b>Investigation of disputes</b>					
		<b>Score</b>	<b>Definition</b>		
3.5	Evidence is documented, made available to the parties, and considered fairly in reaching adjudication decisions (natural justice principles).	3	There are some things in place but they are new, in need of improvement, or only implemented in some areas	<p>The Ombudsman currently adopts the pragmatic starting point that both parties to the dispute will have seen each other's evidence.</p> <p>Where it is apparent from his analysis of a dispute that one or other party may not have seen evidence this is shared with the party concerned.</p> <p>Matters that relate to opinion or argument expressed by either party are covered in the Ombudsman's decision.</p>	Consider the introduction of an online portal to enable parties to raise and respond to disputes online and view each other's evidence.
3.6	The scheme investigates complaints sufficiently - and proportionately - so that it reaches a clear and reasoned conclusion about the merits of the case.	4	There are solid approaches in place in most instances	<p>It is clear from the adjudicator's decisions and case files that detailed and extensive consideration is given to disputes, to ensure fair, clear and reasoned decisions.</p> <p>2017-18 cases were concluded in an average of 105 days from receipt of the complete case file. The shortest timescale was 20 days and the longest was 266 days (both complex cases). 5 complex cases resolved in under 90 days.</p>	<p>A complex case does not need to be completed within 90 days of the Ombudsman receiving the complete case file.</p> <p>Given the timescales noted for the completion of cases in 2017-18, was it necessary for all these to be classified as complex?</p>
3.7	The member complained against is given an opportunity to provide an explanation and have its evidence listened to.	3	There are some things in place but they are new, in need of improvement, or only implemented in some areas	See response to section 3.5 above	
3.8	Feedback, based on analysis of the complaint	5	This is done really well, with successful and well	It is clear from the adjudicator's decisions and case files that detailed and extensive feedback is given in	

**Principle 1:**  
Purpose of the scheme

**Principle 2:**  
Accessing the scheme

**Principle 3:**  
Flexible adjudication scheme

**Principle 4:**  
Openness and transparency

**Principle 5:**  
Efficiency of the scheme

Criteria		Outcome		Evidence	Comment/reason/action required
<b>Flexibility vs. consistency</b>					
	<b>Score</b>	<b>Definition</b>			
investigation, is given to the organisation complained against.		established procedures making a major contribution to success	the Ombudsman's decisions.  Further feedback is provided in Committee meetings and in the Ombudsman's annual report.		

**Principle 1:**  
Purpose of the scheme

**Principle 2:**  
Accessing the scheme

**Principle 3:**  
Flexible adjudication scheme

**Principle 4:**  
Openness and transparency

**Principle 5:**  
Efficiency of the scheme

Criteria		Outcome	Evidence	Comment/reason/action required
<b>Early resolution of disputes</b>				
		<b>Score</b>	<b>Definition</b>	
3.9	The scheme encourages its members to have effective complaints procedures that facilitate local resolution wherever possible to achieve timely outcomes.	4	There are solid approaches in place in most instances	Does the Ombudsman make any comment on the procedures' effectiveness, or recommendations for the future?
			<p>Rule 29 of the scheme rules allow the Ombudsman to cease to deal with a dispute unless the complainant has completed the final level of the Trust's internal complaints procedure.</p> <p>The 2017-18 annual report shows that 12 complaints received by the Ombudsman were considered premature on this basis.</p> <p>The Ombudsman also comments on the extent to which these complainants return to him and where he opens an investigation. In 2017-18 there were no such instances.</p>	
3.10	The scheme has opportunities for early resolution built into its own dispute handling processes.	4	There are solid approaches in place in most instances	
			<p>This is an issue considered by the Ombudsman as part of his bespoke review of each complaint received.</p> <p>The Ombudsman's experience is that this rarely happens, due to the nature and complexity of complaints received.</p> <p>In 2017-18 all investigations proceeded to decision.</p>	

**Principle 1:**  
Purpose of the scheme

**Principle 2:**  
Accessing the scheme

**Principle 3:**  
Flexible adjudication scheme

**Principle 4:**  
Openness and transparency

**Principle 5:**  
Efficiency of the scheme

Criteria		Outcome	Evidence	Comment/reason/action required
<b>Dispute outcomes</b>				
		<b>Score</b>	<b>Definition</b>	
3.11	The scheme has the authority to offer a range of redress options (e.g. apologies, remedial action, financial redress).	5	This is done really well, with successful and well established procedures making a major contribution to success	The Ombudsman is able to offer all of these redress options, which includes financial redress up to £100,000.
3.12	Adjudication decisions explain the evidence considered, result/outcome, and reasons for this.	4	There are solid approaches in place in most instances	Decisions are reviewed by the Committee on an annual basis. The 2017-18 annual report confirms that the Committee considered decisions to be well written.  It was not clear to me what processes or criteria were followed in making this assessment.
3.13	Scheme users feel that they have been listened to, their complaint has been understood.	4	There are solid approaches in place in most instances	This has been addressed elsewhere in this peer review
3.14	Scheme users are given a clear explanation of the process for dealing with their complaint and what will happen next.	4	There are solid approaches in place in most instances	I have commented elsewhere in this review on the quality of these explanations and guidance on the scheme's website and in its publications.  The correspondence to the parties sent by the Ombudsman includes clear explanations and updates on what is happening with disputes
3.15	The scheme checks user satisfaction with the dispute resolution process (e.g. surveys/focus groups).	4	There are solid approaches in place in most instances	User satisfaction surveys are sent to all complainants before the issue of a draft report. The results of these surveys are reported to each Committee meeting and also published in the scheme's annual report.

## Principle 4

### Openness and transparency

#### **Scheme processes and procedures**

- 4.1 The scheme's rules and associated processes and procedures are clearly set out and published.
- 4.2 Investigations are even-handed, dealing fairly with both the complainant and the organisation complained about.
- 4.3 The scope of complaints is established clearly from their outset.

#### **Relations with the scheme**

- 4.4 Relationships with members, consumer representative bodies and other relevant organisations are developed to raise the scheme's profile and improve its service standards.
- 4.5 Arrangements are in place with scheme members to facilitate liaison and response to disputes/investigations.
- 4.6 The organisation complained against is encouraged to learn lessons from complaints to provide better service.

#### **Complaints about the scheme**

- 4.7 Details of how to challenge scheme decisions or complain about the service provided are made available to users.



## Principle 4

### Openness and transparency

#### **Unacceptable behaviour from complainants**

4.8 A policy on how to respond to unacceptable action by complainants is developed and staff are trained and supported (this includes recording decisions to restrict contact with such complainants)

#### **Learning from complaints**

4.9 Complaints and their outcomes are recorded and analysed.

4.10 Learning from complaints is encouraged to prevent reoccurrence and improve customer service.

#### **Independence and impartiality**

4.11 The scheme is able to show that it is independent (free from management control) of the members over which it has jurisdiction.

4.12 The scheme monitors disputes to assess whether there is any bias in outcomes.

Criteria		Outcome	Evidence	Comment/reason/action required	
<b>Scheme processes and procedures</b>					
		<b>Score</b>	<b>Definition</b>		
4.1	The scheme's rules and associated processes and procedures are clearly set out and published.	4	There are solid approaches in place in most instances	<p>The scheme's rules and associated processes and procedures are explained on the scheme's website at <a href="http://www.waterways-ombudsman.org/complaining/">http://www.waterways-ombudsman.org/complaining/</a></p> <p>The scheme's FAQ page at <a href="http://www.waterways-ombudsman.org/faqs/">http://www.waterways-ombudsman.org/faqs/</a> also give more detail</p> <p>Further more detailed explanations are contained in the scheme rules and standards and policies document, all of which are available at <a href="http://www.waterways-ombudsman.org/publications/">http://www.waterways-ombudsman.org/publications/</a></p>	<p>Consider seeking Plain Language accreditation for the scheme's principal consumer facing documents <a href="https://www.clearest.co.uk/">https://www.clearest.co.uk/</a></p> <p>Consider adding a flowchart/pictogram to explain process flow and timescales in a more visual format</p>
4.2	Investigations are even-handed, dealing fairly with both the complainant and the organisation complained about.	4	There are solid approaches in place in most instances	<p>It is clear from a consideration of the case files for 2017-18 that the Ombudsman's review of cases demonstrates an even-handed approach, with equal consideration shown to both parties.</p>	<p>See comments in Section 4.12 below about the potential for an audit of decision outcomes</p>
4.3	The scope of complaints is established clearly from their outset.	4	There are solid approaches in place in most instances	<p>An examination of case files for 2017-18 confirms that the Ombudsman sends confirmation to both parties when he opens an investigation.</p> <p>This confirmation gives the parties a summary of the scope of the complaint, and a deadline to make any further comment.</p>	

**Principle 1:**  
Purpose of the scheme

**Principle 2:**  
Accessing the scheme

**Principle 3:**  
Flexible adjudication scheme

**Principle 4:**  
Openness and transparency

**Principle 5:**  
Efficiency of the scheme

Criteria		Outcome		Evidence	Comment/reason/action required
<b>Relations with the scheme</b>					
		<b>Score</b>	<b>Definition</b>		
4.4	Relationships with members, consumer representative bodies and other relevant organisations are developed to raise the scheme's profile and improve its service standards.	4	There are solid approaches in place in most instances	The Ombudsman and members of the Committee have established relationships with the Residential Boat Owners' Association Trust as well as the Canal & River Trust.	I have commented elsewhere in this review on whether more can be done with focus or user groups
4.5	Arrangements are in place with scheme members to facilitate liaison and response to disputes/investigations.	4	There are solid approaches in place in most instances	The Ombudsman has arrangements in place to facilitate liaison with the CRT.  Where problems are experience, the Ombudsman is able to escalate these to a senior level within CRT. He is also able to raise these at the Waterways Committee for resolution.	See comments to Section 1.12 above re: what more might be possible to secure further improvements
4.6	The organisation complained against is encouraged to learn lessons from complaints to provide better service.	4	There are solid approaches in place in most instances	Recommendations are made where appropriate in the Ombudsman's decisions. The Ombudsman's Annual Report also highlights areas where there is a cause for concern. Minutes of the Waterways Ombudsman Committee also show that the Ombudsman raises issues of concern with representatives of the Trust, who are able to in turn feedback to the Trust and seek to facilitate improvement where applicable. Examples have included the efficiency of the Trust's handling of complaints and responses to the Ombudsman, as well as clarity over the continuous cruising policy and the guidance given to consumers.	

**Principle 1:**  
Purpose of the scheme

**Principle 2:**  
Accessing the scheme

**Principle 3:**  
Flexible adjudication scheme

**Principle 4:**  
Openness and transparency

**Principle 5:**  
Efficiency of the scheme

Criteria	Outcome	Evidence	Comment/reason/action required	
<b>Complaints about the scheme</b>				
	<b>Score</b>	<b>Definition</b>		
4.7 Details of how to challenge scheme decisions or complain about the service provided are made available to users.	4	<p>There are solid approaches in place in most instances</p>	<p>The availability of a complaints procedure is explained in the scheme's FAQ page on its website <a href="http://www.waterways-ombudsman.org/faqs/">http://www.waterways-ombudsman.org/faqs/</a></p> <p>It is also defined in Section E of the scheme's Standards and Policies document <a href="http://www.waterways-ombudsman.org/media/1106/waterways-ombudsman-standards-and-policies.pdf">http://www.waterways-ombudsman.org/media/1106/waterways-ombudsman-standards-and-policies.pdf</a></p> <p>An analysis of case files shows that when the Ombudsman opens an investigation he sends the complainant the complaint handling and standards and policies documents.</p> <p>Where the Ombudsman thinks that the complainant may be unhappy about anything about the service, or a case outcome, he tells them that they can complain and how to do so.</p> <p>I am advised by the Ombudsman that these documents are also sent to enquirers where he feels it would be beneficial.</p>	<p>It should be noted that as the scheme operates a draft decision model, most concerns/complaints will be addressed through this process.</p>

**Principle 1:**  
Purpose of the scheme

**Principle 2:**  
Accessing the scheme

**Principle 3:**  
Flexible adjudication scheme

**Principle 4:**  
Openness and transparency

**Principle 5:**  
Efficiency of the scheme

Criteria		Outcome		Evidence	Comment/reason/action required
<b>Unacceptable behaviour from complainants</b>					
		<b>Score</b>	<b>Definition</b>		
4.8	A policy on how to respond to unacceptable action by complainants is developed and staff are trained and supported (this includes recording decisions to restrict contact with such complainants).	4	There are solid approaches in place in most instances	<p>This is set out in the scheme’s Standards and Policies statement in Section D <a href="http://www.waterways-ombudsman.org/media/1106/waterways-ombudsman-standards-and-policies.pdf">http://www.waterways-ombudsman.org/media/1106/waterways-ombudsman-standards-and-policies.pdf</a></p> <p>The Ombudsman has only had to restrict access in one dispute. In doing so, he did not say that access as being restricted in line with the above policy, partly because he regards this as the ‘nuclear’ option when something more polite does not work. In the particular case the complainant was right to be concerned and to believe in the merits of his case, but was wrong to continue to argue that the matter falls within the Ombudsman’s jurisdiction.</p> <p>The Ombudsman could not recall any other cases where it has been necessary to tell the complainant that he will no longer respond. He considered that he had not had any inappropriate phone calls, although has inevitably had a few “where the complainant has gone on at great length, bordering on ranting.”</p>	

Criteria		Outcome	Evidence	Comment/reason/action required
<b>Learning from complaints</b>				
		<b>Score</b>	<b>Definition</b>	
4.9	Complaints and their outcomes are recorded and analysed.	4	<p>There are solid approaches in place in most instances</p> <p><b>Challenges to adjudication decisions</b></p> <p>As a result of this peer review the ombudsman has already introduced a new reporting tool to analyse the proportions of cases in which the draft decision is challenged, and the source of the challenge, and the outcome.</p> <p>This shows that most adjudication decisions do not uphold the complaint received, and in most of these cases a challenge is received from the complainant. An analysis of 13 cases dealt with in 2018 showed that 11 resulted in no change to the decision, 1 resulted in an increased award, and 1 resulted in a minor change to the remedy awarded.</p> <p><b>Complaints about service</b></p> <p>An analysis of case files showed that the Ombudsman rarely received a complaint about service (if ever), and had received a handful of complaints in total. All related to dissatisfaction with the adjudication decision</p>	<p>There could be a potential concern about the high proportion of disputes that are not upheld, and the subsequent challenges to decisions that are also not upheld.</p> <p>There could be a concern about the Ombudsman being responsible for responding to complaints about his actions, processes or procedures.</p>
4.10	Learning from complaints is encouraged to prevent reoccurrence and improve customer service.	4	<p>There are solid approaches in place in most instances</p> <p>The low volume of complaints enables the Ombudsman to review each and understand any lessons identified.</p>	

**Principle 1:**  
Purpose of the scheme

**Principle 2:**  
Accessing the scheme

**Principle 3:**  
Flexible adjudication scheme

**Principle 4:**  
Openness and transparency

**Principle 5:**  
Efficiency of the scheme

Criteria		Outcome	Evidence	Comment/reason/action required
<b>Independence and impartiality</b>				
	<b>Score</b>	<b>Definition</b>		
4.11	5	This is done really well, with successful and well established procedures making a major contribution to success	<p>This is explained in the scheme rules.</p> <p>This has also been addressed as part of the scheme's membership of the Ombudsman Association and CTSI accreditation.</p>	
4.12	4	There are solid approaches in place in most instances	<p>The outcome of disputes is monitored in the Ombudsman's case management tool, and also in the Annual Report.</p> <p>Beyond this the Ombudsman has not done anything further due to the very low number of disputes dealt with.</p>	<p>See also the response to section 4.9 above.</p> <p>Given the low volume of disputes, it may be worth considering an annual audit by an independent body to look at dispute outcomes (again, subject to available resources).</p>

## Principle 5

### Efficiency of the scheme

#### Timeliness

- 5.1 Timescales and deadlines have been agreed and are published for the dispute resolution process, and for complaints.
- 5.2 Compliance with time scales and deadlines is monitored.
- 5.3 The scheme is able to monitor compliance with and identify cases which are “at risk” so that remedial action can be taken.
- 5.4 The definition of “complex” cases is defined, easily understood, and reasonable.

#### Quality

- 5.5 Quality standards have been agreed for the dispute resolution process, including adjudication decisions.
- 5.6 There are quality assurance systems in place to measure compliance with these quality standards.
- 5.7 The scheme is able to monitor compliance and identify where remedial action is required.



Criteria		Outcome	Evidence	Comment/reason/action required
<b>Timeliness</b>				
		<b>Score</b>	<b>Definition</b>	
5.1	Timescales and deadlines have been agreed and are published for the dispute resolution process, and for complaints.	3	<p>There are some things in place but they are new, in need of improvement, or only implemented in some areas</p> <p>These are contained in the scheme's Standards and Policies document <a href="http://www.waterways-ombudsman.org/media/1106/waterways-ombudsman-standards-and-policies.pdf">http://www.waterways-ombudsman.org/media/1106/waterways-ombudsman-standards-and-policies.pdf</a></p> <p>In terms of case management these service standards are limited to:</p> <ul style="list-style-type: none"> <li>acknowledgement or response to initial letter, email or telephone call within a week of contact in 90% of cases;</li> <li>investigations completed within 90 days of the Ombudsman receiving the complete complaint file (except for cases of a highly complex nature).</li> </ul> <p>Whilst the Standards and Policies document explained the process for making a complaint about the Waterways Ombudsman, no timescales for resolution or service standards are given.</p>	<p>Consider making these more prominent/easier to find on the website e.g. dedicated tab</p> <p>Consider extending these to include:</p> <ul style="list-style-type: none"> <li>Deadlines for acknowledgement of all communications</li> <li>Deadline for substantive response to all communications received</li> <li>Service standards and timescales for the resolution of complaints</li> </ul>
5.2	Compliance with time scales and deadlines is monitored.	4	<p>There are solid approaches in place in most instances</p> <p>The low volume of cases enables the Ombudsman to keep a close eye on progress and to keep parties informed.</p> <p>As part of this review, I reviewed a number of case files for 2017-18 and this made it very apparent that there is regular communication from the Ombudsman about the progress of individual cases.</p>	<p>Consider the introduction of a case management system which avoids the need for reliance on an Excel spreadsheet?</p> <p>This recommendation is of course dependent on available resource.</p>
5.3	The scheme is able to monitor compliance with	4	<p>There are solid approaches in place in</p> <p>See Section 5.2 above</p>	

**Principle 1:**  
Purpose of the scheme

**Principle 2:**  
Accessing the scheme

**Principle 3:**  
Flexible adjudication scheme

**Principle 4:**  
Openness and transparency

**Principle 5:**  
Efficiency of the scheme

Criteria		Outcome		Evidence	Comment/reason/action required
<b>Timeliness</b>					
		<b>Score</b>	<b>Definition</b>		
	and identify cases which are “at risk” so that remedial action can be taken.		most instances		
5.4	The definition of “complex” cases is defined, easily understood, and reasonable.	2	The need to address a particular area has been recognised, but little has been implemented so far	Although the Ombudsman has his own criteria for when a dispute is classified as complex, I could not see that this was defined the Scheme’s rules or published policies and procedures.	Consider adding definition of ‘complex’ to scheme rules and/or published policies and procedures.

**Principle 1:**  
Purpose of the scheme

**Principle 2:**  
Accessing the scheme

**Principle 3:**  
Flexible adjudication scheme

**Principle 4:**  
Openness and transparency

**Principle 5:**  
Efficiency of the scheme

Criteria		Outcome		Evidence	Comment/reason/action required
<b>Quality</b>					
		<b>Score</b>	<b>Definition</b>		
5.5	Quality standards have been agreed for the dispute resolution process, including adjudication decisions.	4	There are solid approaches in place in most instances	The scheme is subject to, and meets, the requirements of CTSI and the Ombudsman Association for the dispute resolution process.	
5.6	There are quality assurance systems in place to measure compliance with these quality standards.	4	There are solid approaches in place in most instances	<p>The scheme's CTSI and the Ombudsman Association compliance is assessed on a regular basis, I have not considered these for the purposes of this peer review.</p> <p>In addition, the Waterways Ombudsman Committee reviews 3 cases annually, which are selected at random. The Committee has confirmed that they "were satisfied that the decision letters were of the appropriate quality. In every case the Ombudsman had set out in detail the complaint, the investigations he had carried out, his final decision and the reasoning behind this. In all cases the language used was clear."</p>	
5.7	The scheme is able to monitor compliance and identify where remedial action is required.	4	There are solid approaches in place in most instances	See above	