

WATERWAYS OMBUDSMAN COMMITTEE

Minutes of the meeting held on Monday 21 June 2021 at 11am – 1pm
via Zoom

Present:

Independent Members (voting):

Karen McArthur (KM)	Independent Member (Chair)
Jane Brothwood (JB)	Independent Member
Claire Stokes (CS)	Independent Member
Lisa Stallwood (LS)	Independent Member
Alan Collins (AC)	Independent Member (from 11 am onwards)

In attendance:

Navigation Authority Observers (non-voting):

Janet Hogben (JH)	Canal & River Trust Board Representative
Tom Deards (TD)	Canal & River Trust Executive Representative
David Greer (DG)	Avon Navigation Trust Representative

In attendance:

Sarah Daniel (SD)	Ombudsman
Gemma Towns (GT)	Corporate Governance Manager (Minute-taker)

User Representative Member

Stella Ridgway (SR)	User Representative Member (until part way through minute 10)
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Action

1. Welcome & Apologies

The Chair welcomed attendees to the meeting. No apologies had been received.

2. Declarations of Interest

The declaration of interest report was noted. The members present confirmed they did not have any relevant interests to declare.

3. Governance

3.1 Minutes of the Meeting held on 08 February 2021

The minutes of the meeting held on 08 February 2021 were approved as a true record.

3.2 Matters Arising

The Committee noted the updated action log. An update was provided on the following actions from 08 February 2021 meeting:

- **Minute 3.4, D&O Insurance:** This matter appeared on the agenda;

- **Minute 4, Company Status:** SD confirmed this action had been addressed in her Ombudsman's report;
- **Minute 4, Peer Review:** SD confirmed this action had been closed.
- **Minute 4, Risk Register:** The matter appeared on the agenda;
- **Minute 7, Ombudsman's Report, Boat Safety Scheme:** Will be picked up later in year;

Updates on other matters arising were provided:

- **AINA:** The Chair confirmed that AINA was not interested in pursuing scheme membership at that time;
- **Subject Leads:** Committee subject leads had been established. The Chair thanked independent members for volunteering their services. It was noted that communications should be designated as stakeholder engagement instead;
- **User Representative Observer:** GT confirmed one expression of interest from an eligible Canal & River Trust Council member had been received in advance of the 30 June 2021 deadline.

The Committee noted the action log.

4 Risk Register

CS presented the risk register paper and reminded the Committee that the register had been reviewed a year earlier. CS had since reviewed the risk register with SD. CS proposed that the risk register was split into two parts, namely those risks SD was responsible for as part of her role, and those risks the Committee had responsibility for. CS suggested that the risk register continued to be reviewed annually but suggested she and SD reviewed SD's risks in each October (reporting to the December meeting), and a meeting later in the financial year to review the Committee's risks. CS invited feedback on the proposal.

The Committee was supportive of the proposal. The following feedback was given:

- When completing the review, the wording of each risk and the mitigating actions should be considered. The Committee suggested that the ongoing viability of the scheme should be included in the review, for example, in the event there was a small number of cases, how this would impact the scheme's viability. The Committee discussed black swan type of events and how these could be dealt with. When reviewing the risk register, CS agreed to consult each subject matter lead relating to their relevant risks, for their input;
- The wording of each risk would be reviewed, to ensure there was not repetition. The Committee reviewed the amber relating of the risk relating to poor decision-making. The Committee reflected upon the actions completed to date (such as refining the scheme rules, completing a peer review) and agreed that the risk should be rated green;
- The Committee discussed the safety aspects of the Ombudsman's singleton post, referencing the recent death of a Canal & River Trust colleague whilst on duty. It was noted that SD may be required to travel to sites as part of her investigation. SD suggested that she completed a dynamic risk assessment before undertaking a

	visit. TD agreed to share the Canal & River Trust’s template risk assessment form with SD. CS and SD agreed to include reference to personal safety and the accompanying risk assessment in their review of the risk register.	Action
	CS suggested that a deep dive be held at the September meeting. As the highest rated risk (the Ombudsman being a singleton post) had been discussed in 2020, the next two highest rated risks on the register were considered, namely the Ombudsman being inundated with cases and if the Committee’s membership of the Ombudsman Association was not approved. Due to the impact of Covid-19 upon workloads, CS suggested that the Ombudsman Association risk was reviewed by the Committee in September. The Committee agreed with this proposal and directed that the matter be placed on the agenda.	TD CS/SD GT
5	Avon Navigation Trust Presentation	
	DG delivered a presentation about the Avon Navigation Trust (“ANT”). The Committee requested the slides were circulated.	GT
	The Committee welcomed the presentation and asked how the ANT planned to raise the £30m funds required for the extension project. DG confirmed that the plans were at an early stage and had reached the consultation stage before Covid-19 had begun.	
	The Committee asked about the ANT’s opportunities to control or commercialise parts of the waterways. DG confirmed that the ANT did have some commercial moorings that were run in partnership with third parties and generated some income for the ANT.	
	The Committee discussed the management structure of the ANT and thanked DG for his informative and interesting presentation.	
6	Annual Report	
	The Committee had received the draft annual report by email and had sent feedback directly to SD. The Committee thanked SD for her hard work and commented that the report read well. The Committee discussed the publication and communication of the annual report, noting SD’s intention to publish by 30 June 2021. After discussion, the Committee agreed its preference for an electronic publication, rather than a paper publication. The Committee were supportive of the annual report, subject to the feedback submitted to SD by email, with a target publication date of 30 June 2021.	
	The Committee discussed the steady decline in complaint numbers received by both SD and the Canal & River Trust. The Committee discussed possible reasons for the decline in complaint numbers. TD suggested that the Canal & River Trust may have received a higher number of complaints some five years earlier due to the Trust’s boat licensing and enforcement approaches at that time. SD agreed to raise at her next quarterly meeting with the Canal & River Trust’s complaints teams the reduction in the number of complaints to gain their views on why this may have occurred.	SD
7	Code of Conduct	

The Chair introduced the Code of Conduct paper and requested feedback from the Committee. It was suggested that the paragraph relating to independence and outside interests should be amended to reference any conflicts of interest relating to waterways only. It was further suggested that the reference to “my comments” in the penultimate confidentiality paragraph be amended to “any comments”. Subject to those amendments, the Committee approved and adopted the Code of Conduct, with immediate effect.

The Chair confirmed that the Code of Conduct would be issued to new and re-appointed members alongside their letter of appointment.

8 Ombudsman’s Report

SD introduced her report. There had been an increase in the number of enquiries received in March 2021 but many of those enquiries had yet to complete the Canal & River Trust’s internal complaints process. SD commented that she was still receiving several complaints relating to non-scheme members.

SD provided an overview of her open and closed investigations. The Committee discussed case 1153, relating to the Trust’s equality policy. The Committee discussed in general terms, the application of the Equality Act 2010 to boaters, with TD suggesting that it may be useful for this matter to feature on a future agenda, including reference to SD’s role. SR suggested this could be shared with the other boating representatives on the Canal & River Trust’s Council. TD agreed to mention this at the upcoming boater Council reps meeting.

TD

SD informed the Committee that any complaints about her were received by the general enquiries’ inbox. The Committee agreed that this was both proportionate and appropriate, given the size of the Scheme. The Committee suggested that in any responses to complaints about SD, the Chair could reference the evidence she had reviewed in coming to her decision, to confirm that she had reviewed all available documentation. The Committee was clear that SD’s decision on cases was final and there was no appeal route.

SD sought the Committee’s feedback on the complaints documentation she intended to publish on the website and send to customers. The Committee suggested that the point relating to reimbursement should be amended to “...we will not...” and suggested some minor grammatical changes. LS agreed to review the document and email SD directly of any suggested amendments.

Subject to those changes, the Committee confirmed its support.

9 Chair’s Update: D&O Insurance

The Committee had received by email a quote from an insurance broker; the quote had been circulated to Committee members. The Committee held a lengthy discussion around insurance requirements. The Committee noted its unincorporated status and that it did not own any assets or process data. The Committee outsourced work to SD and had a Service

Level Agreement in place with the Canal & River Trust who in turn, indemnified the Committee. In view of these points, the Chair questioned what it was trying to insure and formed the view that traditional D&O insurance was unsuitable for the Committee. The types of risk facing the Committee were discussed. The Committee noted that it had safeguards in place to ensure its decision-making did not exceed its authority. The Committee concluded that the indemnity arrangement with the Canal & River Trust was satisfactory and further D&O insurance was not required.

The Committee agreed that it was important SD had in place appropriate insurance in her role as the Ombudsman. SD had an insurance policy in place that provided adequate cover and it was agreed this should be renewed and maintained.

The Committee considered the remote possibility of a judicial review action being taken and was of the view that the indemnity from the Canal & River Trust would cover that action. However, the position of the Canal & River Trust funding a judicial review case for the Committee where SD had ruled against the Trust, or the Avon Navigation Trust (or another future Scheme Member) was the subject of the action, was unclear, although the likelihood of a judicial review action was considered to be a low risk.

The Committee concluded that the indemnity arrangements with the Canal & River Trust were appropriate and SD's insurance arrangements should continue. The Committee suggested that SD considered adding a disclaimer to her correspondence with customers; AC and SD agreed to draft such a disclaimer.

The Chair thanked the Committee for their discussions.

AC &
SD

JB left the meeting.

10 Finance

- (a) **Waterways Ombudsman Committee Expenses Policy:** CS provided an overview of the draft expenses policy and outlined the approval process for expenses. CS highlighted the possibility of SD instructing an expert and the proposed process for how this would be processed. The Committee supported the inclusion of instruction of experts. The Committee approved the Expenses Policy, with immediate effect. The Expenses Policy and flowcharts showing the approval process would be placed in Diligent Resources.

GT

SR left the meeting.

- (b) **Finance Update:** TD presented the finance update. It was noted that the monthly expenses had increased due to the one-off payment to the Ombudsman Association. The update was noted.

11 Any Other Business

The Chair sought feedback on the meeting. The Committee once again thanked DG for his interesting and informative presentation on the Avon Navigation Trust.

There being no further items of business, the Chair declared the meeting closed at 1pm.

Future Meetings

- 13 September 2021, 11am – 1.30pm, Zoom
- 06 December 2021, 11am – 1.30 pm in person (location tbc)
- 07 February 2022, 9.15am – 11am, Zoom
- 20 June 2022, 11am – 1.30pm, in person (location tbc)
- 12 September 2022, 9.15am – 11am, Zoom
- 05 December 2022, 11am – 1.30pm, in person (location tbc)

Chair of the Waterways Ombudsman Committee