

1 WATERWAYS OMBUDSMAN COMMITTEE MEETING

On Monday 13 September 2023 at 10.30am
Cambrian House, 22 King Edwards Rd, Birmingham B1 2AN

MINUTES

Present:

Karen McArthur (KM)	Independent Member (Chair)
Alison Jack (AJ)	Independent Member
Warren Seddon (WS)	Independent Member

Apologies

Alan Collins (AC)	Independent Member
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Navigation Authority Observers

Janet Hogben (JH)	Canal & River Trust Board Representative
Tom Deards (TD)	Canal & River Trust Executive Representative
Geoff Crane (GC)	Avon Navigation Trust Representative

In attendance:

Sarah Daniel (SD)	Ombudsman
Sobia Saleem (SS)	Governance Assistant (minutes)

Action

1. Welcome & Apologies

The Chair opened the meeting, apologies received from AC.

2. Register & Declarations of Interest

The Register of Interests report was noted. No further interests related to the Committee's work were declared.

WS declared a conflict of interest for agenda item 7, Data Protection & Complaints, as part of the ICO. It was noted that this is a general discussion and not in relation to any specific complaints, therefore WS can be a part of the general discussion.

3. Governance

3.1 Minutes of the last Meeting

Minutes of the meeting held on 19 June 2023 were approved as an accurate record.

3.2 Matters Arising

From the meeting held on 19 June 2023

- **Boat Safety Scheme Subsidiary** – The BSS is still in formation with a view to share further information by the end of the year. TD
- **To review if there is an industry body that can offer an affiliated membership for marinas** – The British Marine have declined and suggest that their existing scheme is appropriate.
- **AINA** – SD is awaiting a letter from AINA following discussions. There were negative views surrounding the maximum award. SD
- **Waterway User Observer** – The request for a User Representative Observer will be shared at the September Council meeting and TD to approach potential candidates personally. TD
- **Scheme of Rules** – On agenda to be discussed.

4. Committee Recruitment Update – User Representative Member (Verbal)

TD will inform Council at the Council meeting on 20 September about the vacancy for a URO on the Committee. TD to approach potential candidates for an informal discussion about their interest to join.

5. Succession Planning

The Committee discussed the job descriptions for the Chair and Members and the job advert for the Chair.

It was noted that the job description for the Chair covered all the key areas and to include that the Chair will sign off expenses for the Ombudsman.

The Chair discussed the job advert and informed the Committee that the Canal & River Trust's Recruitment and Resourcing Manager will be approached for guidance. The Committee asked for clarification on whether the Scheme or Ombudsman is a certified alternative dispute resolution entity. The Committee asked for the following changes to the job advert:

- Clarification on whether the Scheme or Ombudsman is the certified alternative dispute resolution entity;
- Clarify the navigation authorities under the Scheme, and;
- Include support from the Chair to expand the Scheme.

It was noted that the current Chair's term may need a short term extension if a suitable candidate is not found. The Committee suggested that Chairing experience career wise is

suitable and it was not necessary for the potential candidate to have experience in an existing NED role.

Action: To make changes to the Chair’s job advert as discussed and develop a timeline of recruitment with the Trust’s Recruitment and Resourcing Manager.

KM

The Committee discussed the job description for new members and emphasised the need to specify in the advert key skills required, such as marketing or commercial. There was discussion surrounding diversity on the Committee and to consider potential candidates looking for a first NED role.

Action: To add the Member job description to the WOC resources section on diligent.

SS

6. Finance

The Finance Report shared ahead of the meeting was taken as read. TD noted that the figures and expenses are consistent with previous years with the addition of legal costs for transparency.

7. Data Protection & Complaints

TD delivered a presentation on legal advice obtained from an external legal firm surrounding data protection when dealing with complaints. The advice indicated that the Trust’s process surrounding data sharing when dealing with complaints is transparent. It was noted that the Trust has to be careful in the type of data that can be shared surrounding complaints and has to follow procedure, which can take time for a complainant to be resolved. There was positive feedback for the fact sheet proposed by the Ombudsman in response to a complaint, which would provide clear guidelines on the information that can be shared with complainants. It was noted that the Trust, local statutory bodies and police have formed a taskforce in the particular area of the concluded complaint that may be useful for all when dealing with complaints.

8. Scheme of Rules

The amended Scheme of Rules was shared with the Committee who proposed the following adjustments:

- To clarify and separate membership information of the navigation authority observers, and;
- Ensure that there is consistency in the scheme with the change from independent to non-aligned members.

Action: To amend the Scheme of Rules with suggestions of the Committee.

SS

9. Ombudsman’s Report

The Ombudsman’s report shared ahead of the meeting was taken as read.

Enquiry numbers were 14 for the period. Of these 6 had not completed the ICP, 4 had not started the ICP, 3 were not about CRT, 1 was OTOR. Three open Trust investigations. Two complaints were regarding inadequate customer facilities. The third complaint was in relation to closure of bridges impacting business.

TD shared that complainants have been approaching the Trust's Chief Executive directly, who answers the complainants and informs them of the Ombudsman. TD was unsure if the Chief Executive needs to ask the complainants to make a formal complaint through the Trust. The Ombudsman noted that a formal complaint in this circumstance was not needed, so long as the Ombudsman was aware that the complainant had discussed the matter the Chief Executive prior to approaching the Ombudsman.

10. Risk Register Review

The Committee reviewed the risk register. It was suggested that once the Boat Safety Scheme has been formalised it should be included in the risk register.

The Ombudsman risks were reviewed. There was suggestion that the Ombudsman is given Trust GDPR training to protect against potential risks. The judicial review would need to be included under Ombudsman's risk.

11. Policy Review

The Committee reviewed the policies shared on the Waterways Ombudsman's website. It was noted that there needs to be a policy on the website for data protection and sharing information with the Trust, separate from privacy and cookies, as well as reasonable adjustments policy.

Action: To produce a data protection policy and reasonable adjustments policy for the website.

SD

WS shared that there will be changes to privacy notices going forward and the privacy notice on the website may need updating in summer 2024.

12. Website Update

The Waterways Ombudsman website was reviewed to check for any potential changes. It was suggested that the website is meeting current requirements and is thus satisfactory. One suggestion was to include an online complaint and feedback form to make it easier for consumers.

13. Annual Report

The Annual report shared ahead of the meeting was taken as read. TD suggested sharing the final version with the Trust's Director of Communications and External Relations so that it can be shared via the Trust's communication channels.

The Committee noted and agreed the Waterways Ombudsman Committee's Annual report for 2022-2023.

14. Judicial Review Update

Following the hearing in July, the case was dismissed with the complainant looking to appeal. The costs have not yet been recovered from the complainant.

There was discussion surrounding the recovery of costs and potential cost implications in the process. It was noted that the complainant has assets that can aid recovery of costs and it is important to set an example. The Committee agreed to pursue recovery of costs and issue a formal letter through solicitors.

Action: SD to contact Bates Wells to start the process of cost recovery.

SD

The Committee agreed to include the outcome of the judicial review in the annual report.

15. Maximum Award

The Committee discussed the Scheme's maximum award (£100,000) amount and the feedback from potential new business that the threat of a maximum award is off putting. There was discussion about replacing the maximum award with a maximum compensation award and an expenses loss award. It was noted that there needs to be clarity about what they can be awarded for through the Scheme.

Action: WS to review the maximum award document for the Scheme.

WS

16. Future Planning – WOC Growth

The Committee discussed the future growth of the Scheme. SD noted that numerous organisations have been contacted with limited interest in joining the Scheme. It was noted that it would be helpful to share the burden of the costs and whether it is viable for the Scheme to continue with the reduction of complaints. The Chair indicated that it has proven difficult to recruit and retain Committee members due to a decrease in the volume of work.

The Trust's observers indicated that the Trust would continue supporting the Scheme and the addition of the Boat Safety Scheme will help with the growth. The Scheme provides credibility for the Trust by having an independent complaints resolution. It also

provides an opportunity for the Trust to improve through learnings of the complaints. TD noted that the logical step would be to persuade AINA & PEEL to join the Scheme. A change in the maximum award may result in a positive response.

There were suggestions that with the upcoming elections it might be useful to drive the campaign of joining the Scheme through local MPs. MPs will have large communities regularly receiving complaints. It was noted that the Ombudsman cannot receive complaints from different organisations as the Trust is the main funding body and it's against the Trust's charitable objectives. An independent subscription Scheme was suggested, with the Trust also obtaining a subscription. However, the volume of subscriptions would need to be substantial to match the current funding.

The Committee agreed to concentrate its efforts on the Boat Safety Scheme, AINA and PEEL following changes to the maximum award. It was also suggested that there are informal conversations with AINA and PEEL to determine what is off putting and if the Scheme can address their concerns. TD suggested discussions between the Ombudsman and the Trust's Director of Communications and External Relations.

Action: SD & TD to discuss with Trust's Director of Communications and External Relations fundraising and political engagement.

11. Close of Meeting

There being no further business, the Chair closed the meeting at 14.30pm.

12. Next Meeting Date

04 December 2023, Teams

These minutes were approved by the Committee as an accurate record:

Chair