

**WATERWAYS OMBUDSMAN COMMITTEE**  
**Minutes of the meeting held at Canal & River Trust, The Toll House,**  
**Delamere Terrace, Little Venice, London, W2 6ND**  
**On Monday 11 November 2019 at 10:00 a.m.**

**Present:**

Kevin Fitzgerald (KF)	Chair (Independent)
Steve Harriott (SH)	Independent Member
Tom Deards (TD)	Canal & River Trust Representative

**Apologies**

Karen McArthur (KM)	Independent Member
Janet Hogben (JH)	Canal & River Trust Representative

**In attendance:**

Sarah Daniels (SD)	Ombudsman
Yetunde Salami (YS)	Canal & River Trust, Assistant Company Secretary (minutes)

**Action**

**1. Welcome & Apologies**

Apologies noted as above.

It was noted that notice of the meeting had been given to all members entitled to receive it, however the meeting was not quorate as quorum for the meeting is four. Members present agreed to carry on with the meeting and the approval of the absent members would be obtained for any decisions taken.

**2. Declarations of interest**

The register of interests was noted, and no other interests related to the Committee's work were declared.

**3. Minutes of the Meeting held on 2 September 2019**

3.1 Subject to quorum, the members present agreed the minutes of the meeting held on 2 September 2019 as an accurate record of the meeting.

**3.2 Matters Arising**

The actions report was noted and all matters arising were on the agenda or in hand as stated below:

*User Representative* - TD/GT to send reminder to Council members before the end of the year for feedback on user representative consultation.

TD/GT

	<b>Action</b>
<i>Recruitment</i> – Alan Collins (AC) the newly recruited member will attend the Committee’s next meeting. Lisa Stallwood (LS) would attend as an observer and KF to set up mentorship process with Lisa.	KF
<b>Following changes made to the Scheme’s Rules later at this meeting it was agreed that LS would also be appointed as a member of this Committee.</b>	
YS to prepare draft letters of appointment for KF.	YS
KF to work with Kathy Morgan re recruitment of new members.	KF
<i>Update on other Waterways joining our scheme</i> – Avon Navigation Trust’s (ANT) request for a representative on the Committee will be discussed later in this meeting.	
TD to stay in touch with ANT to find out if there was an upcoming event that KF and SD could attend.	TD/GT
SD to meet with ANT’s Complaints Team on 5 December 2019.	SD
<i>Bank Account</i> – Steps to open a funded account in the Scheme’s name are being progressed.	TD

#### **4. The Trust’s Complaints Policy & Unacceptable Actions Policy**

4.1 TD presented the report adding that the policies are work in progress and feedback from the Committee was welcomed.

In discussion the Committee agreed that TD should progress the following:

- the length of the Policies should be reduced into a Statement to be published on the Trust’s website. The other details in the current document should be a separate internal procedure.
- the obligation on the Trust to respond a timely and responsible way should be included in the Policy
- check that there is clarity around the Ombudsman process and legal dispute in the Trust’s website
- the Policy should include a clause that matters to do with legal issues or commercial disputes will not be investigated.

#### **5. WOC Revised Scheme Rules**

5.1 TD presented the revised rules adding that most of the amendments were to reaffirm the Scheme’s independence, in particular the non-voting status of the Trust’s and ANT’s representatives.

Following discussion, the Committee noted that there was a need to review the number of Committee members to avoid lack of quorum in future. It was agreed that the Scheme Rules be revised as follows:

- Membership of the Committee should be increased to 5 voting members with a quorum of 3
- Trust's retains 2 non-voting positions as founding member
- Any new navigation authority member gets one non-voting position
- User representative will be an observer
- References to the Trust should be reduced
- The secretarial service offered by the Trust should be included
- Section 8 should be reworded to reflect that the Chair has the casting vote
- Delete Section 30c as it against ADR regulations.

It was agreed that TD will circulate the revised rules well in advance of the next meeting.

TD

**Post Meeting Note: By email Karen McArthur and Janet Hogben approved the revision to the revised Scheme Rules as stated above.**

## 6. Presentation - Canal & River Trust's legal obligations to maintain navigation on its inland waterways.

- 6.1 TD gave his presentation on the Trust's legal obligations to maintain its inland waterways as a navigation authority.

TD talked through the presentation and explained the categories of the waterways as stated in Schedule 12 of the Transport Act 1968, for commercial and cruising uses. TD stated further that the Trust refers to the dimensions defined in the Act to determine the extent of its obligation.

- 6.2 **Redacted.**

## 7. Ombudsman's Report

- 7.1 SD presented her report on general matters relating to the Scheme and its operation from 28 July 2019 to 31 October 2019. The case summary sheet which gave an update was taken as read.

Highlights noted included that:

- As at 31 October 2019, there were three open investigation, one awaiting responses to the final decision, two awaiting the final decision having received representations and one investigation had been closed. SD stated that the number of enquiries and cases received had reduced.
- As part of the CTSI approval of the Ombudsman scheme, she is scheduled to meet with CTSI officials after this meeting.

	<b>Action</b>
<ul style="list-style-type: none"> <li>The Ombudsman website had been revised, an archive page set up and tabs reduced to make it more user friendly. The retention policy had also been reviewed. SD to get photographs from the Trust’s marketing team to use on the website.</li> </ul>	<b>SD</b>
<p>7.2 Waterways Ombudsman Service Standards – In discussion the Committee noted the need for provision for the visually impaired to access the Ombudsman’s website. SD agreed to investigate this.</p> <p>The Committee agreed that</p> <ul style="list-style-type: none"> <li>references to ‘me’ in the standards should be changed to us/we as appropriate</li> <li>references to the Trust should be changed to the Committee</li> <li>the document should be gender neutral</li> <li>delete ‘opinion’ in the last line of Page 43.</li> </ul> <p>SD to progress all amendments.</p>	<b>SD</b>
<p>7.3 The rest of the report was noted.</p>	
<p><b>8. Discussion on taking a Legal or Ombudsman route to resolution</b></p>	
<p>8.1 SD introduced the discussion on the jurisdiction of the Ombudsman in complaints of alleged Trust legal liability and/or requests for compensation. SD stated that two recent complaints have highlighted the need for the discussion to clarify the extent of the Ombudsman’s jurisdiction.</p>	
<p>8.2 In an extensive discussion, the Committee noted that:</p> <ul style="list-style-type: none"> <li>Compensation request in complaints process is not automatically a step towards legal proceedings. Such cases should be left open within the Trust until the loss adjustors and insurers reach a final position. Consequently, the Ombudsman is left out of the process as it will still be an open complaint. TD would ensure that this was made clear in the Trust’s complaints policy.</li> <li>Once a final position is reached, the Ombudsman has jurisdiction to investigate a complaint but will only review possible maladministration around the handling of the claim process rather than the decision on liability and/or compensation.</li> <li>The complainant would still, of course, have recourse to litigation in the courts to challenge the Trust’s final decision.</li> </ul> <p>There was further discussion on one particular case, where TD agreed to check whether the Trust had informed the user of the final loss adjusters’</p>	<b>TD</b>

	<b>Action</b>
<p>decision and to confirm whether the case is open or closed within the Trust. If the latter, TD agreed that the Trust would carry out a final review of its handling of the claim and to let KF know. KF will write to the complainant to inform him of the approach as agreed above.</p>	<b>KF</b>
<b>9. Update on Customer Service Tracking</b>	
9.1 The report was noted.	
<b>10. Update on other Waterways joining our scheme - verbal</b>	
10.1 <b>Avon Navigation Trust (ANT)</b> – KF will sign the final MOU between the Committee and ANT.	<b>KF</b>
10.2 <b>Middle Levels Navigation Authority</b> – A proposal would be sent to the authority.	<b>TD</b>
10.3 <b>Scottish Canals</b> – It was noted that the Trust’s CEO Richard Parry had responded to a letter from the Scottish Canals on the possibility of the latter joining the Scheme. KF to follow up.	<b>KF</b>
<p>The Committee discussed the need to expand the Scheme by getting more navigation authorities to join. It was agreed that SD will approach the Association of Inland Navigation Authorities (AINA) to find out the possibility of some members joining the Scheme.</p>	<b>SD</b>
<b>11 Financial Update</b>	
11.1 The report was noted.	
<b>12. Any Other Business</b>	
12.1 SD and KF are discussing issues around business continuity and disaster management for the Scheme.	<b>SD/KF</b>
12.2 TD agreed to look into possible attendance of the Committee’s Chair and the Ombudsman at the Trust’s Council Meeting in September 2020.	<b>TD</b>
12.3 It would be preferred if the minutes of this meeting are prepared as soon as possible so that the members not present could agree the decisions made.	<b>YS/TD</b>
<b>13. Close of Meeting</b>	
13.1 There being no further business, the Chair closed the meeting at 12.24p.m.	

**14. Date of Next Meeting**

14.1 9 March 2020, as agreed above.

Chairman