

WATERWAYS OMBUDSMAN COMMITTEE

Minutes of the meeting held on Monday 22 June 2020 at 10:00 a.m.
via Zoom

Present:

Independent Members (voting):

Kevin Fitzgerald (KF)	Chair & Independent Member
Jane Brothwood (JB)	Independent Member
Alan Collins (AC)	Independent Member
Steve Harriott (SH)	Independent Member
Karen McArthur (KM)	Independent Member
Claire Stokes (CS)	Independent Member
Lisa Stallwood (LS)	Independent Member

In attendance:

Navigation Authority Observers (non-voting):

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

User Representative Observer (non-voting):

Stella Ridgeway (SR)	User Representative Observer
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In attendance:

Sarah Daniels (SD)	Ombudsman
Gemma Towns (GT)	Corporate Governance Manager (Minute-taker)
Sarina Young (SY)	Customer Services Co-ordinator (item 4 only)

Action

1. Welcome & Apologies

The Chair welcomed SR, DG, JB and CS their first meeting. The members introduced themselves. The Chair clarified the new members' categories of membership:

- DG: Avon Navigation Trust Representative
- CS and JB: New independent Members
- SR: User Representative Observer.

No apologies had been received.

2. Declarations of interest

The members present confirmed they did not have any relevant interests to declare.

DG's appointment as a representative of the Avon Navigation Trust would be noted on the register.

GT

3. Governance

3.1 Minutes of the Meeting held on 09 March 2020

The minutes of the meeting held on 09 March 2020 were approved as a true record.

3.2 Matters Arising

The Committee noted that the majority of actions were closed or in progress. The following actions were discussed:

From the meeting held on 02 September 2019:

- **Minute 7.1, peer review:** LS and JB would assist with the peer review.

From the meeting held on 11 November 2019:

- **Minute 3.2, bank account:** The Chair provided new members with the background to this action. Further discussions were required with NatWest and the matter remained open;
- **Minute 10.2, Middle Levels Navigation Authority:** A letter had been sent. The matter was marked as closed;
- **Minute 10.3, Scottish Canals:** The Chair confirmed this would remain open and he wished to speak with TD/GT regarding this action.

From the meeting held on 09 March 2020:

- **Minute 10.2, Diligent Boardbooks:** The Trust is undertaking a value for money exercise and will include the Committee in any provider exercise. This action remained open.

The Committee noted the actions report.

4. Canal & River Trust Complaints

SY joined the meeting and delivered her presentation on complaint themes at the Canal & River Trust. The following points were discussed:

- The Committee asked if the working group was part of the Navigation Advisory Group. SY confirmed it was separate and constituted predominantly of internal members. The Committee questioned if

boater representatives or organisations would be consulted; SY agreed to find out.

- The Committee welcomed the breakdown of complaints and requested further detail on the reasons for the decrease in the number of complaints received. SY confirmed that there had been generally a reduction in the number of complaints but the change of customer systems at the beginning of the financial year may have contributed to the decline in complaint numbers. However, the number of level 2 complaints was broadly the same when compared to previous years. The Committee discussed the decline in complaints in and asked for clarification if the decline was due to a reduction in complaints or a reduction in recorded complaints. SY informed the Committee that it was difficult to quantify the gap and in consequence it was difficult to say if the fall in complaints was due to a lack of recording or that customers were generally less dissatisfied. SY advised that customers had not raised any concerns that their complaints had not been responded to, which suggested the decline was not based on a lack of recording.
- In response to a question on quality and consistency checks of responses to complaints, SY confirmed that there was narrow group of staff who responded to complaints. It was confirmed that quality checks were undertaken and SY outlined the process for this.
- The Committee asked if there was an internal complaints procedure covering the way a complaint was handled, for example, regarding a possible delay in responding. SY advised there was no formal process, but complaints were reviewed regularly with senior managers where any potential problems could be flagged up.
- Pre-complaints were discussed. SY highlighted the value of pre-complaints to the Trust as it amplified the customer voice and provided the Trust with opportunities to make improvements.
- The reduction in Trust complaints was echoed by SD who confirmed she had received fewer enquiries. SD commented that the complaints she received about the Trust did not indicate there were any problems with complaints being submitted to the Trust. SD stated that it was clear from the documents that she had received that the standard of letters had improved and the letters were consistent in their response to complaints.

The Committee thanked SY for her presentation. SY left the meeting.

5. Scheme Rules

The Chair provided the new Committee members with the background to the Scheme Rules. The Committee had provided feedback on the draft Scheme Rules in advance of the meeting. The Chair took the Committee through each point of debate, as follows:

- **Paragraph 2, question on maximum membership numbers:** The Committee formed the view that it was important that its independence was preserved. The Committee recognised that should more navigation authorities join the scheme and appoint nominees, there could be an external perception that the Committee was no longer independent. After a lengthy debate, the Committee agreed that the independent members would be the only members of the Committee, with other categories of membership in attendance only. It was agreed that the Canal & River Trust and other navigation authority members would retain the right to appoint observers and receive papers. The Canal & River Trust would retain two appointments, whilst other navigation authorities could appoint one nominee for each organisation.
- **Paragraph 3, terms and chair's appointment:** The Committee contrasted the Scheme Rules with other industry best practices, noting that board members of the Financial Services Ombudsman had a maximum cumulative appointment time of ten years in total. The Committee explored the appropriate time limit for its members and agreed that a member could serve two terms of three years with a maximum of nine years served if appointed as Chair.
- **Para 27(b), the rationale for £1m threshold:** LS identified the inclusion of a threshold in other ombudsman schemes to ensure that large businesses did not use the ombudsman scheme when they had the opportunity to fund legal action. The Committee welcomed the rationale and agreed the principle that the Ombudsman should not be used by big businesses as an alternative to legal action. On this basis, the Committee discussed appropriate thresholds. The Committee agreed that a threshold turnover of £6.5m for charities, £4m for trusts and £2m for microenterprises should be stipulated in the Scheme Rules.
- **Paragraph 31(b), 12 month time limit:** LS questioned if there was any scope for extenuating circumstances, where a complainant - for good reason - had been unable to submit a complaint within the twelve month

timescale. SD confirmed she could exercise discretion in this area but agreed it would be best practice to confirm in the Scheme Rules. It was agreed this point would be included.

The Chair requested the above amendments be made to the Scheme Rules. **GT**

The updated draft would be circulated via email to the Committee for comments, with approval sought via email. **KF**

6. Risk Register

The Chair thanked for KM and SD for their hard work in preparing the risk register.

KM introduced the paper and asked the Committee if all the risks had been captured, appropriately scored and correct mitigations included.

The Committee echoed the Chair's feedback and welcomed the comprehensive risk register. The Committee discussed events that may be high impact but low likelihood and the challenges in categorising such events. After discussion, the Committee reasoned that it was a disproportionate effort to mitigate such risks, but they should be kept under review.

The Committee considered the risk of the Ombudsman being unavailable and debated if there were steps that could be taken to address this risk. The Committee discussed the number of complaints and the mitigations SD had already taken, such as sharing information with the Chair, in case of emergencies. The Committee concluded that this was a proportionate response and the mitigations identified in the risk register were correct.

The Committee discussed how the risk register should be reviewed at future meetings, noting that it sat easily as a standing item on the agenda. The Committee discussed and agreed that whilst it was good practice to review and update the risk register at each meeting, in addition, three high-risk matters should be identified and added to the Committee's workplan for the year. **GT**
KF/KM
/SD

The Committee extended their thanks to KM and SD and approved the risk register.

7. Annual Reports

7.1 Annual Report of the Waterways Ombudsman Committee

The Chair introduced the item, noting that the report, although presented as one document, comprised of two separate reports. The Chair identified that paragraph 2 would be updated following the earlier discussions held on the Scheme Rules. The Committee members had no further feedback on the draft report.

KF

The Committee approved the Annual Report of the Waterways Ombudsman Committee.

7.2 Annual Report of the Waterways Ombudsman

The Chair advised that the Waterways Ombudsman's report was entirely independent and thus did not require approving by the Committee. Whilst comments and feedback could be submitted, the Chair confirmed that SD was under no obligation to include them in her report.

The Committee confirmed it had no comments upon the report.

The Annual Report of the Waterways Ombudsman was noted.

8. Ombudsman's Report

SD presented her report and highlighted the following matters:

- The new chair of the Inland Waterways Association had been contacted with a response awaited;
- The Port of London Authority had been written to and a response was awaited;
- There had been a reduction in casework, but SD had consulted other Ombudsman Schemes and it appeared that the waterways were not the only sector noticing an impact on complaints from Covid-19. SD identified that enquiries had picked up in May and June and she had no concerns regarding the frequency of complaints;
- Two complaints were live at that time;
- Two investigations had been closed, the first where the Trust had auto renewed the complainant's licence and as a result had concluded they could not continue with the proposed eviction. Therefore, SD had treated the complaint as withdrawn. The second complaint relating to a large barge had not been upheld and SD had not heard back from the complainant;
- There had been a low response rate to customer service tracking. SD suggested it may be useful to explore with complainants how they got in touch and what happened to them afterwards. The Committee

supported this approach and suggested this should be trialled and reviewed;

Action
SD

- TD confirmed he would make contact with AINA and share their info with SD. SD and the Chair agreed to make contact with AINA upon receipt of the contact.

TD
SD/KF

The Committee noted the report.

9. Charges for Scheme Membership: Proposals

TD introduced his paper and the rationale for the proposals. The Committee discussed that whilst a transparent charging structure was ideal, this could have the unintended result of being viewed as prohibitive to small organisations expressing an interest to join the scheme.

The Committee agreed that the priority was to encourage more navigation authorities to join the scheme but recognised there needed to be some transparency about the price in which they are buying into the scheme to avoid disparity between small members.

The Committee indicated that out of the three proposals for individual members within the paper, turnover and number of licence holders may be the most promising methods for ascertaining an organisations' size. It was further suggested that another mechanism for charging could be the number of complaints investigated from each navigation authority within the year.

The Committee agreed that SD and the Chair would take the matter offline for discussion and suggest to TD/GT a different focus for the paper, with the matter potentially returning to a future meeting.

SD/KF
TD/GT

10 Committee Chair: Plans for September

The Chair outlined the proposed process:

- Any independent member wishing to put themselves forward to circulate a one-page statement and their CV to the Committee by 20 July 2020;
- In September, each candidate will have 10 minutes to put forward their case to the Committee and a further 20 minutes for Q&A and discussion (maximum of 30 minutes per candidate). Candidates will be excluded from other candidates' interviews;
- In the instances where there are a number of candidates resulting in too few members to vote, SH and the Chair will use a scoring methodology to approach the lowest scoring candidate and suggest they stand down.

This would be repeated for all low scoring candidates until a quorum is reached; and,

- The Committee discussed the possibility of there being no candidates. The Chair requested, with the Committee's agreement, that any interested candidates advise the Chair of their interest via email, so the Committee could be assured there would be at least one candidate. The Chair also welcomed conversations with potential candidates.

The Committee approved the process.

11 Update on Other Waterways Joining the Scheme

It was noted this matter had been discussed in earlier items. The Committee had no further update to provide.

12 Financial Update

The Committee received the financial update.

13 Any Other Business

- (a) Meeting Venues:** GT advised that when Covid-19 restrictions eased, the Committee's size was too great for the Little Venice meeting rooms and consideration to an alternative venue (such as Milton Keynes or Birmingham) would be required. The Committee agreed that September's meeting should be held via Zoom and subsequent meetings be reviewed in line with government advice, with the expectation that face to face meetings were unlikely to occur before 2021.
- (b) Future meetings:** Meetings for 07 December 2020 and 08 February 2021 were agreed. It was noted the February meeting would be the last for the Chair and SH. The Committee noted the opportunity for the meetings to be held via Zoom, should this be required.
- (c) Meeting between the Committee and Canal & River Trust:** TD confirmed the Chair and SD were meeting with the Chief Executive of the Canal & River Trust later that week. TD suggested sharing the annual report in advance of the meeting to help frame discussions, this was supported by the Committee.
- (d) Canal & River Trust Complaints:** TD advised that the Trust's Complaints Policy and Persistent or Unacceptable Contact Policy had been

submitted in the meeting pack. He requested any feedback to be returned by Committee members within seven days.

There being no further business, the Chair closed the meeting at 12:20pm.

Future Meetings

- 14 September 2020 - Zoom
- 07 December 2020 – Zoom
- 08 February 2021 – Venue tbc dependent upon government Covid-19 advice.

Chair of the Waterways Ombudsman Committee