

The **Ombudsman** Service Limited

**A response from the Council
of the Ombudsman Service Ltd
to the consultation paper:**

**Review of Alternative Dispute Resolution and
Complaints Handling Procedures**

The **Ombudsman** Service Limited
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2 October 2008

A response from the Council of the Ombudsman Service Ltd to the consultation paper: Review of Alternative Dispute Resolution and Complaints Handling Procedures

Introduction:

TOSL (The Ombudsman Service Ltd), is a not-for-profit company, the directors of which form its Council. The Company administers three Ombudsman Services: Otelo (the Telecommunications Ombudsman Service), the Energy Ombudsman Service, and the Surveyors Ombudsman Service. The experience gained from running these services provides the basis for the Council's response to this consultation.

Response to Consultation Questions:

1. We note that this definition is taken from BS ISO 10002:2004. We do not have any objection to using this definition, but we are concerned that without additional qualification it may inappropriately capture complaints which would generally be expected to be handled without the need for further action. These may include reporting a line fault, where there is a suspected technical fault, but no prior indication that there may be subsequent failures to repair the fault, or shortfalls in customer service. A strict interpretation of the proposed definition may include all such first contacts.
2. (a and b) TOSL concurs with the view that once complaints reach eight weeks old, they are unlikely to be resolved in the next four weeks, and that this period in practice delays resolution. TOSL also concurs with the view that a shorter delay would mean a better outcome for the consumer.

To reduce the waiting time would be in line with other Ombudsman schemes in regulated industries such as FOS, the Energy Ombudsman and the Surveyors Ombudsman Service. However, although the Ombudsman would usually only accept a complaint if a Communications Provider (CP) had failed to resolve a complaint within the stipulated period or where a deadlock letter had been received, if it is clear that a consumer had made every effort to complete the CP's complaints procedure and the stipulated period has yet to pass, the Ombudsman may exercise discretion and accept the complaint for investigation at that stage.

Although TOSL notes that there may be a disadvantage in that CPs would have to pay case fees for those cases, given that less than ten per cent of cases are resolved between eight and 12 weeks, the additional case fees would be offset to some extent by the reduction in the costs of handling those complaints. TOSL also notes that such a move may encourage CPs to actively try to resolve complaints over eight weeks old if there is a realistic chance of their being resolved without the need to go to ADR.

3. We assume that the question refers to Ofcom's preferred Option 3, rather than 4 as stated in the question. We agree with the proposals outlined at both a and b.

We consider that there is an advantage in consumers being informed early in the course of their complaint that they have an opportunity to use ADR. This may encourage consumers to persevere with a complaint if they are aware that there are other means of resolution, including an opportunity for an independent view. Similarly, it may encourage CPs to make additional efforts, knowing that consumers are aware of their rights. We do share Ofcom's concern that this may create additional financial burdens on CPs, particularly as any costs will inevitably be passed on to the consumer, but it is not clear that costs would be certain to rise.

We think that consumers should also be informed when they can go to ADR, i.e. at deadlock or eight weeks after they have raised the complaint. From the consumers' point of view this will give them the opportunity to decide whether to carry on trying to resolve the complaint if they think there is a realistic chance of resolution. From Otelo's point of view this may give us a clearer idea of the stage the complaint has reached, and better enable us to manage consumer expectations as well as helping us to process cases.

While there is a role for general signposting, we do not consider that it can be relied on, and must be supported by the provision of specific information. While providing information on the backs of bills, for example, may help some consumers, the increasing use of e-billing renders this less effective. In any case, imposing regulatory requirements on CPs, where these are not unduly burdensome, reduces the onus on ADR providers to ensure that their members comply with their guidance, and also means that consumers using different CPs are not relatively disadvantaged by those which provide less formal guidance.

We consider that it would be good practice for all CPs to inform their customers of the existence of independent redress as part of the general service description.

4. (a to e) Yes – we believe that all such actions would assist ADR services in investigating complaints. In particular, reference numbers would be of benefit when analysing CPs' log notes and comparing them with that of a complainant's information. Also, we believe that summarising when a consumer has the right to go to ADR and also the role of the ADR scheme will not only reduce the level of early/incorrect contacts with the ADR schemes but also manage the complainant's expectations as to what they can expect from those schemes. This should also, inevitably, lead to fewer complaints about the ADR process itself, both to the schemes and Ofcom.

We agree that written notice to a customer about ADR should include details of the ADR scheme. This will enable customers to obtain information about the service even if they are unable at that stage to refer the dispute to ADR. Such information may include advice to the consumer on how best to manage the complaint, and appropriate timescales for referring disputes.

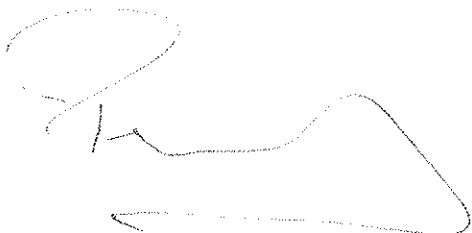
5. We welcome the emphasis that Ofcom has placed on ensuring that mechanisms are in place to ensure all eligible consumers are able to access the services of that ADR with sufficient ease, in particular, the bullet points highlighted under section 3.107 of the consultation. We consider that Otelo already meets these criteria, and we look forward to working with Ofcom to ensure all approval criteria are met.

There are two other aspects of accessibility which Ofcom may wish to consider in its list of approval criteria. These are allowing direct and unhindered access to the ADR scheme, and providing support and assistance on signposting to other options for redress (where these may be more appropriate) and on compiling evidence.

6. Yes. We concur with Ofcom's views that there should be a single Ofcom Approved Complaints Code of Practice which sets out **high level** mandatory standards for complaints handling. Any current lack of consistency is unhelpful in providing a common form of guidance across all CPs. From an ADR perspective (and as you have indicated) this would ensure fundamental minimum standards and allow for a measurement to be made against how CPs have adhered to that code, when investigating complaints. Furthermore, as it would be a minimum standard, it does not restrict any CP from implementing its own policy.

7. Yes. Again, such records would assist greatly when investigating complaints. Lack of information about the complaint is a fairly frequent event. Although we would generally take in good faith what the consumer tells us, it is always more helpful to have contemporaneous records. This not only helps us to achieve a more rapid resolution, but for CPs may avoid the situation where, in the absence of more detailed information, we are unable to take into account information which may support the CP's arguments. We would welcome more focus on the description of the complaint and the actions taken at every contact. We do not believe that a complainant's personal details etc ought to be taken at every contact, only at the first point of contact.

8. In specific relation to reducing the current time for a consumer to bring a complaint to Otelo, from 12 to 8 weeks, our experience with the Energy Ombudsman service tells us that a three month time frame for implementing that change would be reasonable. This would be likely to help consumers and ADR schemes. While we are willing to work closely with our members in order to ensure this transaction runs as smoothly as possible, we note that it is ultimately the role of the regulator to set timescales, taking into account the ability of the CPs to implement the requirements.

A handwritten signature in black ink, appearing to read 'Peter Holland', written over a faint dotted line.

Peter Holland CBE DL
Chairman
The Ombudsman Service Ltd

2 October 2008