
The Property Ombudsman Residential Sales Consumer Code of Practice Desktop Audit August 2023

Background information

The Ombudsman for Estate Agents (OEA) scheme was established 1 January 1990. The Property Ombudsman (TPO) operates multiple codes of practice covering residential sales, residential lettings, buying agents and property buying companies. The name "The Property Ombudsman" has been used since April 2009. The name was changed to reflect the broader jurisdiction in relation to complaints that TPO deal with.

The Property Ombudsman has approval as an Estate Agency Redress Scheme under the Consumers, Estate Agents and Redress Act 2007. The Enterprise and Regulatory Reform Act 2013 requires all residential lettings agents to belong to an approved redress scheme. TPO has achieved approval of its scheme along with The Property Redress Scheme.

TPO is authorised by the Chartered Trading Standards Institute (CTSI) as an ADR Alternative Dispute Resolution (ADR) provider. TPO is also approved as an Ombudsman by the Ombudsman Association.

The majority of Sales members of TPO also provide lettings facilities. See separate audit report for Lettings Consumer Code of Practice. Both Codes have been reviewed, amended and updated and have been approved by CTSI.

Audit Process

A qualified Chartered Trading Standards Practitioner from the Chartered Trading Standards Institute (CTSI) completed the desk-top audit.

The audit focused on the following areas:

- Advice to members, including general compliance and staff training
- Customer service provisions
- Consumer complaints process, including ADR
- Customer satisfaction and how this information is used to develop and improve the code
- Sanctions against members for non-compliance with the code

Audit Summary

At the date of the audit there were 13,915 members in sales of which there are 8684 organisations in total with a total of 5231 branches (in Lettings there were 12,029 members of which there were 7821 companies with 4208 branches).

Member Application Process/New members

A small number of new applications were examined. The process focuses on ensuring that prospective members understand their obligations and that they have all the necessary indemnities and insurances in place. There is also a photographic ID check and supporting invoice /utility bill.

Checks include:-

- Complete an Expelled TPO Director List Search
- Complete a postcode search on the database (ACT) to check if they are already on the system
- Check status as limited company/sole trader, any VAT registration
- Check details on Companies House and if the company number matches that provided on the form
- Check insured name on the PI schedule matches Companies House
- Check dates of cover/starting date
- Check indemnity insurance is at least £1,000,000 with the excess to be no more than £1,000
- Check Google reviews

There were 1,188 new applicants to the scheme in the previous 12 months, making total number of full members dealing in sales 13,915.

Since August 2022, TPO have been calling businesses who fail the membership application criteria. The shortcomings are discussed to see if the business can rectify this e.g., by increasing their PI insurance cover to increase consumer protection and qualify for membership.

The current 'Welcome Pack' includes copies of Consumer Guidelines and Codes of practice along with the TPO, CTSI and CCAS logos and is emailed to members upon joining.

A 'New Member Checklist' is also included in the Welcome Pack, which gives guidance on procedure and the documents needed for the smooth completion of the Compliance Survey.

Existing Member Inspections/Audit

In the year to date, there have been a total of 1812 audits of members who were registered for either sales, lettings or both.

The selection of which members to audit is made at random via a data pull, manually adding any agents that have been brought to the attention of the Compliance Department in relation to a suspected non-compliance issue.

Agents are sent a detailed questionnaire to be completed within 21 days and returned with all supporting documentation, including photographs of shop fronts and displays of required certificates.

Reminders issued: deadline approaching one week before deadline; deadline passed; two weeks after the deadline with the final letter two weeks after this. A spreadsheet is maintained of received audits to enable reports to be run and to highlight non-compliance issues and to provide statistics for the Board of Directors.

A detailed review of the questionnaire and documentation is carried out, non-conformities are graded, and colour coded and the agent is required to make corrective actions and provide evidence that corrective actions have been carried out within 28 days.

During the Covid-19 pandemic, TPO agents were working largely from home and completed the audits on-line. It was subsequently agreed that the desktop audit process adopted in 2020 would be retained as the method for completing compliance surveys. The desktop audits focus on information required to be displayed on the agent's website and verification of mandatory requirements for CMP/HMRC/ICO.

Membership Withdrawal and Sanctions for Non-Compliant Member Businesses

An automated email is sent to members who fail to renew their subscription detailing what must be done in relation to the removal of logos, etc. and how to reinstate membership.

In instances of non-compliance, sanctions are available ranging from warnings to expulsion. A letter is sent detailing actions required, which may direct the member to pay an amount to a consumer that has been awarded during a complaint adjudication. If the amount is not settled or no response received, a second letter is sent. If the matter is still not resolved, the member is expelled.

TPO provide the National Trading Standards Estate and Lettings Agency Team with a daily feed that includes details of all members that have ceased membership, a press release is published regarding the expulsion and Zoopla are informed.

A number of termination letters sent to members were examined. The terminations were for non-payment, resignations and failure to pay an award following a complaint.

Between August 2022 and August 2023, 1,379 full members ceased membership.

As of August 2023, there are six cases in the TPO disciplinary process, none of these in Sales.

Marketing and Advertising by Member Businesses

TPO issues comprehensive branding guidelines to all their members, and all new members receive a pack of marketing and branding materials when they join the code. TPO and CTSI Logos are supplied, with window stickers sent by post.

Member's websites are checked as part of the monitoring process, marketing and advertising is checked as part of the random compliance audit process with shop front photographs checked for the correct use of logos.

Terms and Conditions and other Pre-Contractual Information

TPO no longer check this.

Customer Service Provisions

TPO complaints handling tool kits were developed after working with an industry working group, led by TPO, examining trends in complaint handling performance. The toolkits, for Complaint Handling – England, Wales & Northern Ireland, Complaint Handling – Scotland and Complaint Handling – Residential Leasehold are available to download on the TPO website.

TPO has a dashboard for bigger corporate members to review their complaints, which are listed according to complaint type and branch.

The TPO has introduced training on consumer vulnerability for its staff. It is considering launching the training for members.

Consumer Complaints Process

There is a two-stage process.

1. Initial enquiry and advice and/or evaluation to see if there has been a potential breach of the code.
2. Passed to the early resolution team for settlement and escalated where necessary for adjudication.

The number of consumer enquires received has remained steady. Changes to the scheme's Terms of Reference having a positive impact. At the start of the process, a greater emphasis is placed on ensuring that fully completed complaint forms are received. This has seen the number of disputes accepted for investigation drop by 30%. This self-service portal has become the most popular channel to seek advice and contact TPO since its launch in February 2020. However, over a quarter of

consumers still needed to speak to a member of the Enquiries Team to talk through the complexities of the issues they are facing.

Customer Satisfaction and Feedback

Feedback on the services provided by TPO is captured via consumer surveys. The surveys are issued at various stages of TPO's processes.

- Stage 1- consumer enquiry
- Stage 2- early resolution (consumer & agent)
- Stage 3- complex complaint (consumer & agent)

Feedback for the services provided by TPO members who follow the approved codes is captured via platforms, such as Trustpilot, along with their social media channels.

Responses are reviewed as part of the process of regular code review.

TPO obtain customer satisfaction feedback of its own services by conducting surveys and provide the results to their board in their quarterly reviews. Consumers and members are asked about their experience after an enquiry or a resolution or final decision has been achieved. The responses help identify any service improvements.

In total 488 consumers and members responded to the surveys.

15.5% of consumers that used the Consumer Enquiry service said the advice and guidance provided resolved their issue.

43.1% of consumers stated TPO membership would be a contributing factor when choosing their next agent.

78.8% of respondents stated the dispute had been supported in whole or in part.

Conclusions

This is a long established and well-run code and continues to fulfil its obligations as a code sponsor.

TPO is very active in the property sector Consumer and Industry Forums, which is particularly important currently due to the Rental Reforms White Paper and the development of the National Home Quality Board.