

The Property Ombudsman (TPO) (Residential Sales Code of Practice)

AUDIT DATE: JUNE 2020

Background information

The Ombudsman for Estate Agents (OEA) scheme was established 1st January 1990. The Property Ombudsman (TPO) operates multiple codes of practice covering residential sales, residential lettings, residential leasehold management, auction and chattels, buying agents, property buying and property buying companies.

The name "The Property Ombudsman" came into being on 24th April 2009 the name change was made to reflect the broader jurisdiction in relation to complaints TPO deal with.

The Property Ombudsman has approval as an estate agency redress scheme under the Consumers, Estate Agents and Redress Act 2007. At May 2019 for sales there were 15,755 member agents of which 8,933 were companies and 6,833 branches, for lettings there were 14,548 letting agents of which there were 9,022 companies and 5,526 branches.

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 Ombudsman Services Property and The Property Redress scheme.

TPO is authorised by CTSI(Chartered Trading Standards Institute) as an ADR(Alternative dispute resolution) provider.

The majority of Sales members also provide lettings facilities. (see audit for Lettings Code of Practice)

Both Codes have been reviewed amended and updated and have been approved by CTSI.

Audit Process

The audit was carried out during and having regard to the restrictions of the Covid-19 global pandemic.

A qualified Chartered Trading Standards Practitioner from the Chartered Trading Standards Institute(CTSI) completed an 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

Member Application Process/New members

A small number of new applicant's documentation was 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.

There were 1320 new applicants to the scheme between 01/05/19 and 31/05/20

TPO provide online training modules for members through the virtual college on the Consumer Protection from Unfair Trading regulations 2008 there is also an interactive complaint handling course and complaint handling toolkits at a nominal charge. These courses are marketed to members.

The current 'Welcome Pack' includes copies of Consumer guides and Codes of practice. These are also on the website. Included within the welcome email to full members, along with TPO & CCAS logos.

Existing Member Inspections/Audit

Under normal circumstances 180-200 members are selected randomly on a 9 monthly basis(excepting Easter, Summer and Christmas Holidays) providing a yearly total of approximately 1620, the only criteria is that they must have been in the scheme for at least 6 months. The selection is done at random via a data pull and manually adding in 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 which must 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 1 week before deadline, deadline passed is 2 weeks after the deadline, final letter (ahead of Trading Standards [TS] referral) 2 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.

Due to Covid-19 TPO agents are working from home, 150 audits were conducted on sales and/or letting. It was considered that an alternative way of conducting compliance surveys should be able to provide an affective audit programme. The process was amended to a desk-top only that focused on information required to be displayed on the agents website for the TPO and CTSI logo and sending them the logos to display where did not show them.

A further 150 audits were completed in May 2020. It is intended that the usual summer and Christmas breaks will not be taken with a view to catching up on the audit programme which will stay under review during the Covid-19 pandemic.

Membership Withdrawal and Sanctions for Non-Compliant Member Businesses

There are various sanctions for non-compliance ranging from warnings to expulsion. There is an automated email sent to members who fail to renew their subscription detailing what must be done in relation removal of logos etc and how to reinstate membership. It is expected that the disciplinary process may include, if relevant a requirement to undergo the on line training modules.

Members who had cancelled their membership, ceased trading or not paid their renewal fees are removed from the TPO website, and their records amended accordingly. The renewal process included a series of standard e-mails or letters that included reference to enforcement action by Trading Standards.

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.

1707 full members ceased membership between 31/05/19 and 31/05/20

There were 4 active cases in the disciplinary process as of 9th June 2020

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.

Members 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 showing the correct use of logos

Terms and Conditions and other Pre-Contractual Information

These are examined as part the monitoring process but not as part of new members applications and the monitoring process. TPO no longer checks this.

Customer Service Provisions

TPO operates a comprehensive customer service system with emphasis on resolving complaints by assisting complainants on an 'informal' basis. There are clear systems and procedures. As TPO runs the Ombudsman scheme there is organisational focus on customer care. It was reported that consumers are at the heart of the organisation

TPO provides leaflets in multiple languages and formats and provides assistance to consumers that need help with completing forms or understanding the complaints process.

There are no premium rate numbers and TPO will take complaints in writing electronically and by telephone.

Consumer Complaints Process

There was a four-stage process now streamlined into a more efficient 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

As an Ombudsman and ADR provider there is a relatively high number of enquiries reported in the 2019 Annual report, there 30,356 enquiries of which 5,106 were moved to the complaint process (an increase of 20%), of which 1,169 were sales complaints(an increase of 27%), 2,518 were for lettings(an increase of 2%) and 780 for Residential Leasehold Management (an increase of 123%) and 139 (a decrease of 3%) for other jurisdictions.

The average award given for successful sales complaints was £742. Top causes of complaint were Communication and record keeping, marketing and advertising, Instructions, terms of business commission and termination and in-house complaints handling.

The complaints process is free and comprehensive with trained experienced staff as complaint handlers. The number of complaint handlers is under constant review to ensure there is sufficient resource to deal with the volume. There is a career progression scheme for adjudicators based on experience and competency, with the most experienced able to make the highest awards

The process is clearly explained on the TPO website and appears to operate very efficiently.

Customer Satisfaction and Feedback

Members are encouraged to get their customers to leave feedback via various routes including My local Services and also via the TPO website. Responses are reviewed as part of the process of regular code review. The 2019 Consumer review showed an overall satisfaction of 57% which was an increase from 48% reported the previous year. They obtain customer satisfaction feedback by conducting their own surveys and publish the results in their annual report. TPO obtain customer satisfaction feedback by conducting our own surveys and publish the results in our annual report.

Conclusions

This is a long established and well-run code. It has taken reasonable and effective steps to continue to operate during the covid-19 pandemic.

The TPO continues to fulfil its obligations as a code sponsor and its members are compliant with the CCAS core criteria and the Property Ombudsman(Residential Sales Code of Practice).

The code is under constant review and ongoing improvements initiated to make full compliance with the code as easy as possible for members.