

The Property Ombudsman(TPO) (Lettings Code of Practice)

AUDIT DATE: JUNE 2021

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, buying agents 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. As at 2020 audit 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 The Property Redress scheme.

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

Many lettings facilities are part of Sales Agents. (see audit for Residential Sales Code of Practice)

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

Audit Process

The audit was carried out during and having regard to the continuing 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 and supporting invoice/utility bill.

Checks include

- Complete an Expelled TPO Director List Search
- Check status as limited company, sole trader and VAT registration
- Check details on Companies House
- Check insured name on the PI schedule matches Companies House
- Check dates of cover/starting date
- Check Indemnity(at least £1000,000)
- Check the excess(to be no more than £1000)

There were 700 new applicants to the scheme between May 2020 and May 2021, making total number of full members dealing in residential lettings was 12841

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 handing 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. TPO have a 'new member checklist' sheet in the 'Welcome Pack' which gives guidance on procedure and documents needed for the smooth completion of the Compliance Survey. Included within the welcome email to full members, along with TPO and CTSI and 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, nonconformities 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 were working largely from home in the first lockdown, and then were experiencing challenges around staffing. It was agreed that the desktop audit process

implemented in 2020 would be maintained as an alternate way of issuing compliance surveys. The desktop audits focus on information required to be displayed on the agents website and verification of mandatory requirements for CMP/HMRC/ICO.

TPO are currently working with a large corporate agent to monitor their franchisees, data will be included in next years audit.

Since the last audit 1228 audits were completed by the compliance team in the second half of 2020.

Between January 2021 and May 2021, the compliance team have conducted 815 audits on members who were registered for either sales, lettings or sales and lettings.

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.

TPO provide the National Trading Standards Estate and Letting agency team with daily feed in include all members that have been ceased.

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.

1256 full members ceased membership between May 2020 and May 2021 There were 6 active cases in the disciplinary process as of 9th June 2021

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. During covid restrictions photographs are not required but agents check members websites.

Terms and Conditions and other Pre-Contractual Information

TPO no longer check 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 is 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. Top causes of complaint were Management, Communication and Record Keeping, Complaint Handling, Tenancy Agreements, Inventories and Deposits.

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. 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.