

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

June 2018

Background information

The Ombudsman for Estate Agents (OEA) scheme was established 1st January 1998. 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 1st May 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. Membership of TPO includes around 95% of sales agents and approximately 70% of lettings agents UK wide. At May 2018 there were 18,910 residential sales branches of which 11,135 were sales and lettings, 3059 were sales only, 2414 lettings only and and 1232 were sales, lettings and other jurisdictions, all members of TPO Ltd.

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)

Audit Process

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.

Marketing and advertising by member businesses- Terms and conditions and contracts including cancellation rights, deposits delivery times, guarantees and warranties.

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 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 approximately 2300 new members to the scheme since the audit in 2017.

TPO are currently working with CTSI on online training modules for members through the virtual college, training on the Consumer Protection from Unfair Trading regulations 2008 is now live but with a low take up so far. Complaint handling is being worked on and expected shortly. It was reported that consideration is to be given to marketing the courses to members, this would be supported.

The current 'Welcome Pack' includes copies of Consumer guides and Codes of practice. These are also on the website. TPO has added a 'new member checklist' sheet to the 'Welcome Pack' which gives guidance on procedure and documents needed for the smooth completion of the Compliance Survey.

Existing Member Inspections/Audit

180-200 members are selected randomly on a 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 by a random number generator 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 28 days and returned with all supporting documentation including photographs of shop fronts and displays of required certificates. Reminders are sent by email 7 days after the expiry of the 28 days.

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.

If an agent fails to respond they are sent a letter advising that a site visit will be made by a TPO representative.

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 online 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.

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 new members applications and the monitoring process.

Observation: Consideration should be given if appropriate and practical to examine terms and conditions and pre contractual documentation as part of the new member application process.

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 a four stage process.

1. Initial enquiry and advice.
2. Evaluation to see if there has been a potential breach of the code.
3. Passed to the early resolution team for settlement.
4. Moved from stage 3 to Case Management for adjudication.

As an Ombudsman and ADR provider there is a relatively high number of enquiries reported in the 2017 Annual report, 23,841 enquiries of which 3,658 were moved to the complaint process, of which 1,165 were sales complaints, 2,165 were for lettings and 328 for other jurisdictions. The average award given for successful sales complaints was £532. With the highest award being £25,000 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. It was reported that TPO are in consultation with 'helphound' to further strengthen getting feedback. A close closed survey had been carried out.

Conclusions

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.

Best Practice: The new 'getting it right first time' is helping the efficiency of the new member application process and monitoring process is comprehensive and very well managed. It covers all essential parts of the code and provide a high level of confidence that the scheme is operating well for the benefit of consumers. It also provides information for ongoing improvements.