



# Advice for Advisors



*“TPO has been providing an Ombudsman service to consumers for over 20 years. The scheme’s success is based on its truly independent foundations and is reflected in its ever widening jurisdictions. Consumers who use TPO can be confident of receiving a free, impartial and, above all, independent service”*

*Christopher J Hamer, The Property Ombudsman*



**THE PROPERTY OMBUDSMAN**  
OFT Approved Estate Agents Redress Scheme



## What is TPO?

TPO provides consumers with a free, impartial and independent alternative dispute resolution (ADR) service regarding complaints against a registered firm (TPO scheme members). ADR is recognized by the courts as an established alternative method of settling disputes between consumers and registered firms.

## Redress not Regulation

The Ombudsman provides redress to consumers whose complaints are considered on a case by case basis. Redress is intended to put the consumer back into the position they were before the complaint arose. The Ombudsman is not a regulator and does not have the authority to take regulatory or legal action against a registered firm.

## Independent

Whilst the scheme charges its members an annual subscription, the Ombudsman reports to TPO Council, the majority of which is made up of non-industry members. It is the Council who appoints the Ombudsman and sets his Terms of Reference, i.e. how the complaint process operates. The Ombudsman is required to report to the Council on a regular basis. TPO is a member of the British and Irish Ombudsman Association (BIOA).

## Sales

TPO is able to consider disputes between the public and estate agents who are members of TPO or who have registered with TPO under the Office of Fair Trading (OFT) Approved Estate Agents Redress Scheme. Registered firms are obliged to act in accordance with ***TPO Code of Practice for Residential Sales***.



## Lettings

TPO can consider disputes referred by landlords or tenants which relate to lettings and management agents who are members of the Scheme. Registered firms are obliged to act in accordance with ***TPO Code of Practice for Letting Agents***.



## Commercial

TPO's jurisdiction covers disputes concerning small commercial enterprises and charities who are members of the scheme. Registered firms are obliged to act in accordance with ***TPO Code of Practice for Commercial and Business Agents***.



## Residential Leasehold Management

TPO can also consider disputes referred by leaseholders or lessees of managed blocks areas against member agents. Registered firms are required to follow the ***TPO Residential Leasehold Management General Membership Obligations***.



## Auctions/Chattels

TPO's jurisdiction also extends to disputes concerning the actions of valuers and auctioneers who are members of the scheme and which relate to sales and transactions under the relevant Auctions legislation. Registered firms are required to follow the ***Valuers and Auctioneers General Membership Obligations*** and the ***NAVA Rules of Conduct***.



## What can TPO consider?

- TPO can only consider complaints made against firms registered with TPO.
- TPO can only consider complaints where the issue giving rise to the dispute occurred within 12 months of a written complaint being issued to the registered firm.
- Following completion of the registered firm's in-house complaints process, complaints must be referred to TPO within 6 months of the date of the registered firm's final response.
- TPO will only consider matters which have previously been presented to the registered firm as a formal written complaint.
- TPO cannot consider disputes which are being considered by a Court or a regulatory body, unless both parties agreed to place that action on hold.

## How it works

1. Once the complainant has completed the registered firm's in-house complaint process, if he remains dissatisfied with the final response, he may refer the complaint to TPO. Provided a written complaint has been submitted to the registered firm, if the firm does not respond within 8 weeks, the complaint can be referred to TPO at that point. Our Initial Enquiries Team will then guide the complainant through the process.
2. Upon referral to TPO, our Initial Enquiries Team will establish whether the complaint falls within the Ombudsman's Terms of Reference i.e. whether the complaint can be progressed with TPO. If the complaint cannot be considered, our Initial Enquiries Team will advise the complainant whether there are any alternative organisations or public bodies who could deal with the matter.
3. Once the complaint is accepted, our Case Management Team will obtain the appropriate company file from the registered firm. When received, the matter will be passed to a Case Officer. The Case Officer will consider all of the submissions provided by the complainant and the registered firm. It is vital for the complainant to ensure that all relevant documentation is provided to TPO, to enable a thorough review to be undertaken.
4. The Case Officer will then recommend a decision to the Ombudsman. Following the Ombudsman's approval, the Review of the complaint, including the proposed decision, will be issued. The complainant and the registered firm will then be provided with the opportunity to appeal (represent) against the Ombudsman's proposed decision before a final decision is issued.
5. If the complainant disagrees with the Ombudsman's decision, he is free to pursue the matter elsewhere (such as in a court). The complainant can withdraw his complaint at any point in this process. However, the registered firm is bound by the Ombudsman's decision.
6. The time taken for this process is generally 16-20 weeks, although TPO will aim to reduce this timescale where possible.

A detailed description of the complaint process, frequently asked questions and further advice can be found at [www.tpos.co.uk/faqs.htm](http://www.tpos.co.uk/faqs.htm)

## Further Information

**Registered Firms** – As at August 2011, over 11,500 branches of Estate Agents and 8,130 branches of Lettings Agents were members of TPO. To check whether a company is a member of the scheme, visit [www.tpos.co.uk](http://www.tpos.co.uk) and select the 'Find a Member' tab from the top menu or contact our Membership Team on [membership@tpos.co.uk](mailto:membership@tpos.co.uk) or 01722 333306.

**Initial (Complaint) Enquiries** – To check whether a complaint can be accepted by TPO, contact our Initial Enquiries Team on [admin@tpos.co.uk](mailto:admin@tpos.co.uk) or 01722 333306.

**Awards** – The Ombudsman's awards are compensatory and are not punitive. Awards are made where the Ombudsman considers that a complainant has been disadvantaged or inconvenienced or has suffered proven financial loss as a direct result of the actions or inactions of a registered firm. The Ombudsman can also direct registered firms to take other actions e.g. issuing a letter of apology.

**Fees/Contract Disputes** - The Ombudsman cannot prevent a registered firm from taking legal action against a complainant if they owe them money. Most firms will put the matter on hold until the Ombudsman has reviewed the complaint. However, if they do not, then it is advisable to pay the fee, making clear that the complainant is doing so on a 'without prejudice' basis (this means that they continue to dispute that it is fair to do so). The Ombudsman's Terms of Reference do not empower him to rewrite contract terms or abrogate (cancel/nullify) them because of a complaint. He cannot make judgements on points of law. If a complainant wishes to contest a matter in legal terms then he should take legal advice with an aim of proceeding to Court.

**Tenancy Deposits** - Tenancy deposit disputes are Landlord/Tenant matters and should be referred to the relevant Tenancy Deposit Scheme (TDS). However, TPO can consider complaints concerning a registered firm's actions during the deposit process.

### TPO Contacts:

**Membership** - [membership@tpos.co.uk](mailto:membership@tpos.co.uk)

**Initial Enquiries** – [admin@tpos.co.uk](mailto:admin@tpos.co.uk)

**Case Management** – [casesupport@tpos.co.uk](mailto:casesupport@tpos.co.uk)

**Media Enquiries and Communications** – [peter.habert@tpos.co.uk](mailto:peter.habert@tpos.co.uk)

**The Ombudsman** – [ombudsman@tpos.co.uk](mailto:ombudsman@tpos.co.uk)

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