

# Procedures

## 1 Disciplinary procedures

- 1.1 The Disciplinary and Standards Committee (DSC) will comprise two Independent Members of The Property Ombudsman Council (Council), one of whom will act as Chairman, and one Member of the Board, not party to the matters to be discussed. The Chairman of the Board may be in attendance. Before commencing the consideration of any disciplinary matter, the DSC will ensure that each of its members has had no involvement in any decisions or issues on which the disciplinary action is based.
- 1.2 The DSC will follow these procedures when considering disciplinary matters referred by the Ombudsman or when other relevant issues have been raised concerning the agent's failure to meet his obligations.
- 1.3 On commencing consideration of a case which may lead to disciplinary action, the DSC will inform the agent that the matter is now subject to its consideration and may, in appropriate circumstances, also provide information on the case to the OFT and to other redress schemes approved by the OFT under the Consumers, Estate Agents and Redress Act 2007 (CEARA).
- 1.4 The DSC will consider all the cases referred to it. The DSC will receive information from the Ombudsman and may seek clarification from the Ombudsman, as appropriate.
- 1.5 The DSC will also receive reports on other issues of non-compliance from the Board, in respect of Member Agents of The Property Ombudsman (TPO).
- 1.6 The DSC will prepare a written report setting out the actions that it recommends. Where the report of the DSC contains no recommendation as to disciplinary action it will inform the agent of this in writing.
- 1.7 Where the report of the DSC recommends disciplinary action its report will be sent to the agent who will be invited to make written and/or oral representations against the recommendation. Such representations should, unless in exceptional circumstances, be made within four weeks of receipt by the agent of the recommendation.
- 1.8 The DSC will meet to consider both written and/or oral representations presented by the agent. If the agent requests a hearing he may present his own case or be assisted by his solicitor or another third party. In these circumstances the DSC may be assisted by its own legal adviser or another appropriate third party.
- 1.9 The DSC will prepare a final written report of its decision as a result of any representations. If the DSC continues to recommend disciplinary action the agent will be informed of this in writing and will further be advised in writing that they can appeal the decision to the Council. The appeal (written or oral) should, unless in exceptional circumstances, be made within four weeks of receipt of the final written report from the DSC.

## 2 Appeals

- 2.1 The Appeals Committee will comprise three independent members of the Council who have not been involved in the initial consideration of the disciplinary matter.
- 2.2 The Appeals Committee will consider both written and oral representations presented by the agent. If the agent requests a hearing

before the Appeals Committee he may present his own case or be assisted by his solicitor or another third party. In these circumstances the Appeals Committee may be assisted by its own legal adviser or another appropriate third party.

## 3 Disciplinary sanctions

As a result of its consideration, the DSC can:

- Demand that the agent apologise.
- Demand that the agent change its procedures or documentation, or comply with a direction from the Ombudsman.
- Levy a fine against the agent.
- Levy a fine against the agent and publicise the matter.
- Issue an informal warning (to be issued by the Ombudsman).
- Issue a formal warning (to be issued by the Chairman of the Council).
- Issue a formal warning that will be publicised in the media, to regulatory authorities, other authorised schemes, other OFT Approved Redress Schemes and to any professional organisation of which the agent is a member.
- Issue a TPO Member Agent with a notice of dismissal from the TPO scheme.
- Expel sales agents who are registered only under the OFT Approved Redress Scheme (subject to any on-going OFT investigation under Section 3 of the Estate Agents Act 1979).

## 4 Expulsion and re-admittance

- 4.1 Any decision of DSC to expel an agent from the TPO and/or the OFT Approved Redress Scheme will be provided to the agent by the DSC with full written reasons; an explanation of what the agent must do to regain admittance; and any applicable timescale for re-admittance. For the avoidance of doubt a sales agent against whom the OFT has made a prohibition order will be removed from both the Voluntary TPO and OFT Approved Redress Schemes.
- 4.2 Any decision to expel an agent from TPO will be executed by the Board. The Board's role is solely to confirm the decision of the DSC and it has no part in reaching the decision to expel.

## 5 Other Matters

- 5.1 The DSC may from time to time review the guidance it gives to the Ombudsman or the Board as to the types of cases to be referred to it for its consideration.
- 5.2 The Ombudsman may seek guidance from the DSC on whether or not he should refer a complaint he is considering directly to the OFT because it appears to trigger action under Section 3 of the Estate Agents Act 1979.
- 5.3 During the referral or consideration of any disciplinary action against sales agents, both the DSC and the Ombudsman have a duty to consider whether the matter is one which raises the fitness of a sales agent registered only under the OFT Approved Redress Scheme to continue engaging in estate agency work and accordingly whether it should be reported directly to the OFT because it appears to trigger action under Section 3 of the Estate Agents Act 1979.