

What complaints can the Ombudsman consider?

Both landlords and tenants can ask the Ombudsman to look into a complaint. Your complaint may be considered by the Ombudsman if you believe that the agent has:

- infringed your legal rights; or
- failed to follow the rules and obligations set for agents under the TPO Letting Code of Practice or any internal rules, procedures or statements of practice of the member; or
- treated you unfairly; or
- been guilty of maladministration (including inefficiency or undue delay); in a way that results in you losing money or suffering avoidable aggravation, distress and/or inconvenience.

What complaints cannot be dealt with by the Ombudsman?

Broadly speaking, the Ombudsman cannot deal with your complaint if:

- Your complaint is not against a member agent.
- Your complaint is being, or has been, dealt with by a court or similar body.
- Your complaint refers to something that happened before the agent joined the letting part of the TPO scheme or more than 12 months before you complained in writing to the agent.
- You refer your complaint to the Ombudsman more than 6 months after the date of the agent's final viewpoint letter.

What will the Ombudsman do?

The Ombudsman can receive complaints from landlords and tenants who are customers of a TPO member letting agent. When your complaint is received, the Ombudsman's Office will send you a complaints form with guidance on how best to present your side of the case. At the same time you will receive full information on how we will reach a fair and reasonable decision.

At each stage of the Ombudsman's consideration you will be advised of the next steps that are available to you.

You can accept or reject the Ombudsman's final decision. If you accept his award of financial compensation, you do so in full and final settlement of your dispute with the agent. If you reject his final decision, it and the award will lapse, and you are free to do as you wish, including taking legal action against the agent. Your legal rights will not have been affected by the Ombudsman's decision.

Any request for an oral hearing will be considered by the Ombudsman (or his appointed deputy) by reference to the nature of the issues to be determined and in particular the extent to which the complaint raises issues of credibility or contested facts that cannot be fairly determined by reference to documentary evidence and written submissions. In deciding whether there should be a hearing and, if so, whether it should be in public or private, the Ombudsman will have regard to the provisions of the European Convention on Human Rights. The Ombudsman will give reasons in writing, if he declines to grant a hearing.

Further Information

The TPO is accessible to everyone who has a complaint concerning the service provided by members or registered agents that fall within the Ombudsman's remit. If you have a particular need in the way in which we communicate with you, please tell us and we will do our best to help, depending on your needs. If you are dissatisfied with the way in which we have handled your complaint, you should bring your concerns to the attention of the Ombudsman. If you remain dissatisfied, you may at the end of the process raise your concerns with the Independent Reviewer. His remit is to consider complaints about our service and not about the merits of the Ombudsman's decision. Full details of the Independent Reviewer's remit can be found on our website www.tpos.co.uk or requested from the office.

The Property Ombudsman: A free, fair and independent service for tenants and landlords of residential property in the UK



If you need any more information or advice you should contact:

The Property Ombudsman

Beckett House
4 Bridge Street
Salisbury
Wiltshire
SP1 2LX

Telephone: 01722 333306
Facsimile: 01722 332296
Website: www.tpos.co.uk
E-Mail: admin@tpos.co.uk

IEL01-1



Consumer Guide

Using a TPO member letting agent to rent or let a property

The scheme

The Property Ombudsman (TPO) scheme provides a free, fair and independent service for dealing with unresolved disputes between member agents and tenants or landlords of property in the UK. The TPO is a member of the British and Irish Ombudsman Association and follows the standards and rules of the Association. The Ombudsman is totally independent of TPO member agents and reports directly to the TPO Council, which has a majority of non-industry members.

This leaflet tells you:

- why you should choose a letting agent who is a member of TPO
- what you can expect from a letting agent
- what happens if you have a complaint
- what type of complaints the Ombudsman can deal with
- how to contact the Ombudsman

Why should you choose a letting agent who is a member of the TPO

- Member agents must follow The Property Ombudsman Letting Code of Practice. This sets out the framework within which member agents must operate and the standards of service they must provide for both tenants and landlords.
- The Code is compulsory and is rigorously applied in our complaints handling.
- The agent is required and has agreed to have Professional Indemnity insurance to ensure that any compensation awarded to you can be paid.
- The agent is required and has agreed to have an in-house complaints system with written procedures; inform you how to refer any unresolved dispute to the Ombudsman and co-operate with any investigation by the Ombudsman.
- The agent agrees to pay compensation, in full and final settlement of a complaint, if this is awarded by the Ombudsman and is accepted by you as the complainant. This award must be paid promptly. The maximum that the Ombudsman can award is £25,000.
- In the rare case that an agent fails repeatedly to follow the rules of the scheme, the agent can be reprimanded, fined or expelled from the TPO.

What can tenants and landlords expect from a TPO member letting agent?

The TPO Code of Practice requires agents to meet all their legal obligations when acting as agents, but it goes above and beyond that by requiring agents to adopt and follow 'best practice'. This includes:

Duty of care. An agent must always work in the best interests of the client, that is to say the person who is paying for the letting agency services (usually the landlord). But the agent must also always treat fairly, and with courtesy, all those involved in the proposed renting or letting. If the agent or one of its staff has any personal or business interest in the property, the landlord must be told.

Impartiality. An agent must make sure that no tenants or landlords are disadvantaged because they are unfamiliar with any aspect of the letting process. An agent will offer appropriate explanations and assistance to all, regardless of age, race, religious belief, gender, sexuality, ethnicity or disability.

Access. An agent must keep accurate records of keys held, and inform current tenants of any access required, except in cases of genuine emergency.

What else can tenants expect from a TPO member letting agent?

Offers. When an offer has been accepted but before the tenancy agreement is in force the agent must inform the applicant whether or not marketing is to continue.

Deposits. Any deposit that the tenant may be required to pay at the beginning of a tenancy which is held by the agent must be held in a client's account. The law requires that any deposit taken on an Assured Shorthold Tenancy is transferred within 14 days either to an approved Tenancy Deposit Scheme, or is protected by an insurance based scheme, for which the agent pays a fee to insure against their failure to repay any money due to the tenant.

Tenancy Agreement. Tenants should expect to be supplied with a draft Tenancy Agreement to read before signing, recording the terms of the letting including the rent, deposit or ancillary fees and charges, duration and repair obligations.

Inventory. The agent should ensure that the tenant receives an inventory of furniture, fittings and equipment at the beginning of the tenancy to record the condition of the property and/or contents.

What else can landlords expect from a TPO member letting agent?

Recommended rents. The rental figure given by the agent must represent current market conditions. The agent must be able to support any figure given, and, wherever possible, it must be based on comparisons with similar properties in a similar location.

Terms of business. The agent must provide written Terms of Business that confirm the landlord's requirements and clearly state and explain all fees and charges

Marketing your property. The agent must comply with various requirements about how 'To Let' boards are displayed, how viewings are conducted, and whether marketing should continue after an offer is received.

Viewings. The agent must follow the landlord's instructions on how viewings should be conducted. He will record and pass on to the landlord any feedback from viewings.

References. The agent will take due care in obtaining the references of potential tenants.

How do you tell if a letting agent is a TPO member letting agent?

All agents must display the TPO logo on windows, advertising and stationery. If you need help in finding an agent you can contact the Ombudsman's office or look at the TPO website www.tpos.co.uk

All agents are required to display copies of the TPO Consumer Guide in their office and make copies available, free of charge, on request.

What happens if you have a complaint?

Tell the agent that you have a complaint and ask them to look at it under their internal complaints procedure. The Ombudsman will not consider your complaint unless you have done this first. When the agent has finished considering your complaint he will normally tell you so, and if you are still dissatisfied, you can write to the Ombudsman at the address given at the end of this Guide with brief details of your complaint. Please contact the Ombudsman's office if you are not sure whether he can look at your complaint.

If the agent persistently ignores or fails to address your complaint within a reasonable time, you should refer your complaint to the Ombudsman and we will assist you to progress your complaint.

If the agent has been dealing with your complaint for 8 weeks or more, and it remains unresolved, then you may take it directly to the Ombudsman.