

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 TPO member agent.
- Your complaint is being, or has been, dealt with by a Court or similar body.
- Your complaint is about a survey and/or a formal valuation of the property.
- Your complaint is about obtaining a mortgage or about the work of a solicitor.
- Your complaint refers to something that happened before the estate agent was registered with the TPO or more than 12 months before you complained in writing to the agent.
- You refer your complaint to the Ombudsman more than six months after the date of the agent's final viewpoint letter.

What will the Ombudsman do?

The Ombudsman can consider complaints about a TPO member agent from actual or potential buyers and sellers of residential property. The Ombudsman's office will send you a complaints form with guidance on how you may present your side of the case to the Ombudsman. At the same time you will receive full information about how the Ombudsman will try to resolve the dispute between you and the agent or, if this is unsuccessful, how he will reach a fair and reasonable decision.

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.

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

The Property Ombudsman

Milford House
43-55 Milford Street
Salisbury
Wiltshire
SP1 2BP

Telephone: 01722 333306
Facsimile: 01722 332296
Website: www.tpos.co.uk
Email: admin@tpos.co.uk

The Property Ombudsman:

A free, fair and independent service for buyers and sellers of property



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Consumer Guide

Using a TPO member Estate Agent to buy or sell your home.

All estate agents are required to register with an Estate Agents Redress Scheme that has been approved by the Office of Fair Trading (OFT) and which investigates complaints against estate agents. The Property Ombudsman (TPO) is one of the schemes approved by the OFT.

Many estate agents have in addition voluntarily agreed to follow The Property Ombudsman Code of Practice for Residential Estate Agents, approved by the OFT under its Consumer Codes Approval Scheme. Estate agents signing up to this Code of Practice are required to provide additional consumer protection that goes beyond that required by law. They can be recognised by the joint TPO/OFT approved code logos which they display. Registered agents, who do not voluntarily accept the Code of Practice obligations of the TPO scheme, are not entitled to show the OFT approved code logo.

What does the The Property Ombudsman do?

The Property Ombudsman provides a free, fair and independent service for dealing with unresolved disputes between TPO registered agents and those who are buying or selling or potentially buying or selling residential property in the UK. The Ombudsman 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 estate agents and reports directly to the TPO Council, which has a majority of non-industry members.

This leaflet tells you

- What happens if you have a complaint.
- What type of complaints the Ombudsman can deal with.
- How to contact the Ombudsman.

What has a TPO member agent agreed to do?

- An agent is required to have Professional Indemnity Insurance to ensure that any compensation awarded to you can be paid.
- An agent is required 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.
- An 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. In the case of expulsion, local media, the OFT and other organisations will be informed.

What rules must a registered agent follow?

Estate agents must meet all their legal obligations when conducting their business. These include:

Making financial checks. An estate agent must ask you, if you are the seller of a property, to provide proof of identity, as required by the Money Laundering Regulations 2007. The estate agent may also ask buyers for similar information to ensure that their records are complete and especially if they are providing the buyer with another service, for example, help in arranging a mortgage.

Duty of care. An estate agent must always work in the best interests of the client, that is to say the person who is paying for the estate agency services (usually the seller). An estate agent should also treat fairly, and with courtesy, all those involved in the proposed sale or purchase. If the estate agent or one of his staff, has any personal or business interest in the property, you, as buyer or seller, must be told as soon as possible in writing.

Impartial advice. An estate agent will offer appropriate advice, explanations and assistance to all regardless of age, race, religious belief, gender, sexuality, ethnicity, or disability.

Terms of business. All estate agents must give you written Terms of Business with an explanation of terms used. The estate agent must also explain all fees and charges and tell you if any fee will be payable if you withdraw your instructions to sell the property.

Fees and charges. An estate agent must inform you in writing, before you agree to use his service, what fee (including VAT) is payable and when the fee is due. It must be stated clearly whether the fee is a fixed price regardless of the achieved selling price or whether it is calculated as a percentage based on that achieved selling price.

Marketing your property. The estate agent must describe the property as accurately as possible and not misrepresent the details.

Energy Performance Certificate. The estate agent will advise you about your obligations to commission an energy performance certificate.

For Sale' Boards. Boards must not be displayed in areas where this is not permitted. The estate agent must also ask if the seller wants a 'For Sale' board to be displayed and ensure that only one board of the correct size is displayed for each property.

Access. If the estate agent holds the keys, staff from the agency must accompany those who are viewing and anyone else requiring access on behalf of the buyer, unless the seller gives authorisation to the contrary.

Viewings. The estate agent must follow the seller's instructions on how viewings should be conducted.

Offers. The estate agent must record all offers received and pass a written copy of the offer promptly to the seller. The estate agent must not conceal or misrepresent offers made on the property to the seller and where relevant to prospective buyers.

Services to buyers. If the estate agent offers services to the buyer, he must inform the seller in writing of those services.

How do you tell if an Estate Agent is a member of the TPO?

An estate agent must tell you that he is registered with the TPO as soon as possible and before you agree to use his services. They can also be recognised by the OFT approved code logo or TPO logo that are displayed. They are required to display copies of the TPO Consumer Guide in their office and make copies available, free of charge, on request. In addition, the agent will send copies of the Consumer Guide to you at various stages of the sale and purchase process.

What happens if you have a complaint?

Tell the agent that you have a complaint and want 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, under his internal complaints procedure, he should inform you in writing of the outcome. If you remain dissatisfied, you can refer your complaint to the Ombudsman, at the address given at the end of this guide. 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.

What complaints can the Ombudsman consider?

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 any code of practice to which they may subscribe; 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.