

Guidance for In-House Complaints Handling



Section 1

Commitment to Customer Satisfaction

- 1a. In order to maintain a high level of service to customers, to ensure compliance with certain legal requirements, and to comply with the conditions of membership of the TPO, the following guidance for the in-house handling of complaints is recommended for adoption by all agents.
- 1b. It is a condition of membership of the TPO that all complaints should be referred through the agent's own in-house complaints handling procedures. This provides a mechanism to try and initially resolve complaints before they are referred to the Ombudsman.
- 1c. It is a requirement that all agents make customers aware of their membership of the TPO. The Ombudsman recommends that this be done as early in the transaction process as is practicable and in any event at the point of instruction. The relevant TPO logo must be displayed on the window of all offices and you are strongly encouraged to put it on your sales particulars, on all property advertisements and on letterheads. Note, that unless you have voluntarily agreed to follow the TPO Code of Practice, you are not entitled to show the OFT approved code logo.

Section 2

Model In-House Complaints Handling Procedures

- 2a. It is a requirement of the TPO for an agent to have a written in-house complaints procedure in place.
- 2b. To comply, the complaints procedure must, as a minimum, include the criteria shown below.

Agents must maintain and operate an in-house complaints procedure. Such a procedure must be in writing and readily available for inspection by both the Ombudsman and The Property Ombudsman Limited.

All complaints both verbal and written, must be recorded at the time they are made. It is recommended that all complaints should have a written reply.

All written complaints must be acknowledged promptly within 24 hours, but no later than 3 working days, together with a commitment to send a formal written outcome of the complaint investigation to the complainant within 15 working days of receipt of the complaint.

In the event that the complainant remains dissatisfied, information must be given as to how the complainant can take his or her complaint further internally. This should provide the opportunity for a speedy, separate and detached review of the complaint. In the case of a single-office agency, a member of staff not directly involved in the transaction should deal with the complaint.

Following the conclusion of the in-house review, a final written statement (the final viewpoint letter), expressing your view and including any offer made should be sent to the complainant. This letter should include

These Guidelines are issued to all agents applying to join The Property Ombudsman (TPO). It is strongly recommended that they be adopted by all agents as a demonstration of best practice in dealing with customer disputes.

information as to how the matter can be referred to the Ombudsman and inform the complainant that referral to the Ombudsman must be made within six months of the date of the final viewpoint letter.

Agents must agree to deal with any properly appointed representative of a complainant who acts on behalf of that consumer.

- 2c. It should be borne in mind that complainants will be able to refer the matter to the Ombudsman if the agent has failed to conclude their investigations within eight weeks from the time when the complaint was first received. If you are unable, for practical reasons, to complete your consideration of the complaint within the timescale, you should advise the complainant and provide an estimate of when you expect to be able to complete your consideration.

Section 3

Complaints Handling "In-House"

- 3a. Local level complaints would be those which arise from, or are the result of, the day-to-day activities of the agent and which can be most effectively dealt with in accordance with procedures outlined in Section 4 "How to Handle Complaints".
- 3b. It should always be the aim to deal with such complaints to the satisfaction of the complainant and without detriment to the subsequent stages of the transaction.
- 3c. The process for handling complaints will vary according to the size of your firm and should be adopted for all areas of your business. This should include those specialist areas which do not ultimately come within the scope of the Ombudsman (e.g. professional services etc).
- 3d. Agents should attempt to resolve complaints internally before they are referred to the Ombudsman. The process should incorporate the facility for an impartial review of the complaint, where the original manager involved in the complaint is unable to deal with the matter "on the spot" to the satisfaction of the complainant.
- 3e. As an example, in a multi-site firm, this may be satisfied by the complainant being dealt with by the local Manager/Partner/Area Director at the initial stage. If the complaint is not resolved, there should be the opportunity to finally settle it by reference to the Managing Director or Senior Partner or Principal, who is based at another office. Such person should have had no previous involvement in the handling of the complaint. This internal procedure is an essential aspect of the agent's in-house complaints handling process.
- 3f. In the case of a sole practitioner firm, it is recommended that the Sole Practitioner should investigate all complaints. Where the Sole Practitioner has not been personally involved in the transaction, there will be a degree of impartiality in the in-house review. Where the Sole Practitioner has been directly involved, this must be clearly stated to the complainant in writing and subsequently (if necessary), to the Ombudsman.

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Section 4

How to Handle Complaints

4a. Initially, a complaint may be dealt with by the person in charge of the office. Alternatively, in a multi-site firm, internal policy may determine that the complaint should be referred to an Area Director or Regional Manager. Wherever possible, arrangements for a “detached” review should be made as soon as possible. The initial stages should be taken as follows:

4b. Complaint received by telephone

Listen. Allow the complainant to explain without interruption.

Record the detail of the conversation but request that the complainant sets out the matter in writing. Tell the complainant the name of the individual to whom the complaint should be addressed in the firm. Explain that this is necessary to assist with the matter being investigated within the branch.

Explain to the complainant that upon receipt of the written complaint, it will be acknowledged in writing within 24 hours but no longer than three working days. You should send a written statement of your firm’s complaints procedure. Explain that a full response will be sent to the complainant within 15 days with the outcome of your investigation of their complaint.

4c. Complaint received by letter

Acknowledge receipt of the complaint within 24 hours but no longer than 3 working days, together with a copy of your firm’s complaints procedure. If the letter is the first indication you have had of a complaint, ensure your reply incorporates an apology for the fact that they have found it necessary to complain.

You may consider that an offer to visit the complainant to discuss the complaint may assist in its resolution. Alternatively, invite them to meet with you in your office.

It is important that you follow your procedures and ensure that a full and honest appraisal of the complaint, with reference to those members of staff who may have been involved, is carried out.

Respond to the complainant in writing with your findings and advise any actions that you intend to take, or offer of compensation you intend to make. Ask the complainant to confirm whether they are satisfied with your actions. Ensure that if the complainant accepts your offer of compensation, they do so in full and final settlement of their claims against you.

If the complainant remains dissatisfied, put into place the next stage of your internal procedures. This second stage of the process should be investigated and signed off by the Managing Director (or equivalent). Make sure you explain that this is the final outcome of your in-house review. Again, ask the complainant to confirm whether he is satisfied with your actions. (Not required in the case of Sole Practitioners.)

If the complainant remains dissatisfied, explain that his next course of action is to refer the matter to the Ombudsman, details of which you should have already made available. Inform the complainant that he has 6 months to refer the complaint to the Ombudsman, from the date of your final viewpoint letter.

Section 5

Referral To The Ombudsman

5a. A complainant who has been unable to receive satisfaction from the firm, can refer his complaint to the Ombudsman. The Ombudsman will then carry out an independent and impartial case review and decide for or against the complainant.

5b. Referring a complainant to the Ombudsman does not affect the complainant’s legal rights, and should be considered complementary to any legislation governing the practice or business e.g. the Estate Agents Act 1979, the Property Misdescriptions Act 1991, the Financial Services and Markets Act 2000, the Data Protection Act 1998, the Consumer Credit Act 2006, the Housing Act 2004 and the Consumer, Estate Agents Redress Act 2007, whose regulations and guidelines are to be fully complied with at all times.

Section 6

Professional Indemnity Insurance

6. Any complaints which might subsequently be referred to the Ombudsman should at the earliest opportunity, be notified to your PI Insurers, as there may well be a potential claim in line with the extension to the policy required to deal with any future award that may be made against you.

Appendix

Proposed format for an “In-House” complaints leaflet

1. [The Firm], [a Member of The Property Ombudsman] or [who is registered with The Property Ombudsman Redress Scheme], aims to provide the highest standards of service to all our customers. To ensure that your interests are safeguarded, a complaints procedure has been introduced. This provides for the matter to be dealt with internally by [Mr/Mrs/Miss XXX] and in the event that we are not able to deal with the issue to our mutual satisfaction, by reference to The Property Ombudsman.

2. If you believe you have a complaint, please write in the first instance to the Principal, Senior Partner or Director at the address as below:

[Name and Address of person to whom the complaint should be referred.]

3. Your complaint will be acknowledged within 24 hours but no longer than 3 working days, investigated thoroughly in accordance with established in-house procedures and a formal reply will be sent to you within 15 working days of receipt of your complaint.

4. If you are not satisfied with the outcome of our initial investigation, you are provided with a further opportunity to have the complaint reviewed by our Managing Director, Senior Partner etc at the address given below: (Not required in the case of Sole Practitioners.)

[Address of person to whom the complaint should be referred.]

5. In the event that the final review as detailed above still fails to satisfy your complaint, then you are at liberty to have the matter referred to the The Property Ombudsman. We will submit our file to the Ombudsman on request. You are also entitled to have your complaint referred to the Ombudsman should we fail to deal with matters promptly or do not comply with our in-house complaints procedure within 8 weeks from the date we receive your written notification

Guidance Notes

It is recommended that all agents should endeavour to provide the above information on their own letter heading. Staff should be instructed to send to a customer, a copy of the “in-house” complaints procedures as outlined above, if the customer wishes to make a formal complaint.

