

Best Practice Guidance on Approach to Resolution

THE PROPERTY OMBUDSMAN

OFT Approved Estate Agents Redress Scheme

STATUTORY REDRESS ARRANGEMENTS

(Consumers, Estate Agents and Redress Act 2007)

Estate agents registered under this redress scheme should note the following guidelines which the Ombudsman will be using when considering complaints.

Registered agents are required to comply with the following obligations:

- Registered agents should comply with all current and relevant legislation, in particular, the duties imposed by The Estate Agents Act 1979, The Estate Agents (Account) Regulations 1981, The Property Misdescriptions Act 1991, The Estate Agents (Undesirable Practices) (No. 2) Order 1991, The Estate Agents (Provision of Information) Regulations 1991, The Property Misdescriptions (Specified Matters Order 1992, The Housing Act 2004, The Consumers, Estate Agents and Redress Act 2007.
- To advise actual and potential buyers and sellers of access to The Property Ombudsman, Estate Agents Redress Scheme.

The Ombudsman has the following expectations of the way in which registered agents will carry out their business and such expectations will be taken into account in the consideration and determination of complaints against the registered agent:

Registered agents are expected:

- To observe high standards of fairness, integrity and good practice.
- To maintain full records of all transactions and in particular should maintain full records of all steps taken in the sale and purchase of residential property.
- Not to harass any person in the manner of obtaining or retaining instructions.
- To have appropriate Terms of Business including clear arrangements as to fees.
- To establish and operate a structured in-house complaints handling procedure including provisions for the time and manner for dealing with complaints.

- To ensure that all members of staff who have dealings of any kind with potential and actual buyers and sellers are conversant with their legal responsibilities and have, where relevant, a good working knowledge of the applicable law.
- To maintain appropriate contact with and provide appropriate progress information to an actual or potential buyer or seller.
- To ensure that confidential information given by a client is not released or misused during the sale and purchase process of a property, without the client's permission or unless legally required to do so.
- To exercise equal treatment regardless of race, religion, gender, sexuality, age, disability or nationality.
- To ensure that no unfair advantage is taken of any consumer who may be vulnerable due to, for example, their age, infirmity, disability, lack of knowledge or linguistic ability or bereavement.

The Ombudsman will also take into account the following additional factors:

- Whether the matter would be more appropriately dealt with by a court or under another independent complaints, conciliation or arbitration procedure.
- What steps, if any, have already been taken to resolve the complaint?
- What is fair and reasonable in all the circumstances?
- The registered agent's general approach to appropriate duties of care and any conflicts of interest.

Agents should note that the general provisions of the TPO Code of Practice are viewed as a guide to how all firms can apply best practice.

