

# Guidance note for registered agents

## **THE PROPERTY OMBUDSMAN**

### **OFT Approved Estate Agents Redress Scheme**

- 1 TPO Council (the Council) has made specific arrangements for when it becomes necessary to discipline those estate agents who opt to register with the TPO under its OFT Approved Estate Agents Redress Scheme (EARS), established by the Consumers, Estate Agents and Redress Act 2007 (CEARA).
- 2 Existing members of the TPO who voluntarily joined the TPO before 1 October 2008 will continue to be dealt with under existing procedures established to monitor breaches of the TPO Code of Practice. Initial disciplinary action for agents registered under CEARA will be the responsibility of the TPO EARS Disciplinary Committee (EARS-DC). The EARS-DC and the TPO existing disciplinary and standards committee (VDSC) for its wider scheme, will form a single unit. Wider scheme members, by virtue of their existing membership automatically, meet the requirements of EARS.
- 3 CEARA does not permit registered agents to be required to comply with a code of practice whereas the TPO scheme does. The OFT approval of the scheme's existing Code of Practice allows consumers to identify member agents who have signed up to the Code of Practice as "better businesses" and encourages agents to raise their standards of customer service. The voluntary TPO scheme requires member agents to comply with its Code of Practice approved under the OFT's Consumer Codes Approval Scheme.
- 4 The effect of this two tier membership could potentially mean expulsion or suspension from the TPO scheme by the VDSC, thereby losing the right to display the OFT approved code logo and publicise its scheme membership, while retaining registration under EARS, which sets expulsion from EARS as a last resort. The VDSC would, however, always need to consider whether the conduct is such that the EARS-DC should also take action in respect of EARS registration.
- 5 The EARS-DC has been established by the Council to assist and advise the Council in dealing with disciplinary issues. It has power to put in place a range of sanctions. In the most serious cases it also has power to expel an agent from EARS.
- 6 The decision to expel an estate agent registered under EARS will be taken by the Council in accordance with the recommendation of the EARS-DC.
- 7 It may be appropriate in certain circumstances for the decision to expel an agent to be delayed pending the outcome of a connected OFT investigation.
- 8 The decision to expel will be executed by the Board of the TPO. If an agent is expelled from EARS and continues to conduct estate agency business without being a member of a redress scheme and so is in breach of the statutory requirement to belong to a redress scheme approved under CEARA, the OFT has power, under an amendment to Section 3 of the Estate Agents Act 1979, to make a Prohibition Order.