

# EARS Disciplinary Committee (EARS-DC)

## **THE PROPERTY OMBUDSMAN**

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

#### **Terms of Reference**

- 1 The EARS-DC will consider all matters referred to it, seeking such additional information as it needs to formulate a view of the case, including seeking representations (written and oral) from the EARS agent on its proposed recommendation.
- 2 If the EARS-DC decides to take disciplinary action against the EARS agent, the EARS agent has the right to appeal against that recommendation and make further written and/or oral representations to a group of independent members of the TPO Council (the Council) that are not also members of the EARS-DC.
- 3 The EARS-DC will consider instances where the EARS agent has:
  - Failed to meet both common law or statutory obligations;
  - Failed to publicise EARS to buyers and sellers;
  - Failed to comply with the rules of EARS;
  - Failed to operate an effective internal complaints procedure; and
  - Failed to pay awards or comply with other sanctions imposed by the Ombudsman.
- 4 The EARS- DC will also consider those cases where it appears to the Ombudsman that EARS Agents have not had regard to “principles of law and good practice including the principles of good administration. The Ombudsman may take into account such factors as he considers relevant in accordance with such practice including but not limited to any inequitable conduct or maladministration.” There is nothing to prevent the Ombudsman referring additional cases to the EARS-DC when, in his opinion, the circumstances so warrant.
- 5 In assessing the severity of the non-compliance, the EARS-DC will have regard to:
  - Persistence in failing to comply with the rules of EARS and decisions of the Ombudsman;
  - Single but serious breaches;
  - Non-compliance where the consequences were foreseeable or deliberate and/or to the advantage of the EARS agent.