

# Voluntary Scheme Disciplinary and Standards Committee (VDSC)

## 1 Disciplinary procedures

- 1.1 The VDSC will comprise two Independent Members of the TPO Council (Council), one of whom will act as Chairman, and one Member of the Board, not party to the matters to be discussed. The Chairman of the Board will be in attendance. Before commencing the consideration of any disciplinary matter, the VDSC will ensure that each of its members has had no involvement in any decisions or issues on which the disciplinary action is based.
- 1.2 The VDSC will follow these procedures when considering any relevant matter referred under its Terms of Reference.
- 1.3 On commencing consideration of a case which may lead to disciplinary action, the VDSC will inform the member agent that the matter is now subject to its consideration and will, in appropriate circumstances, also provide information of the case to the OFT and to other redress schemes approved under the Consumers, Estate Agents and Redress Act 2007 (CEARA).
- 1.4 The VDSC will receive information from the Ombudsman in relation to all instances where the VDSC has indicated that the circumstances require a direct reference. There is nothing to prevent the Ombudsman referring additional cases to the VDSC when the circumstances warrant.
- 1.5 The VDSC will receive reports on other issues of non-compliance from the Board.
- 1.6 The VDSC may seek clarification from the Ombudsman or Board, as appropriate.
- 1.7 The VDSC will prepare a written report setting out the actions that it recommends. Where that report contains no recommendation as to disciplinary action it will inform the member agent of this in writing.
- 1.8 Where the VDSC recommends disciplinary action its report will be sent to the member agent who will be invited to make written and oral representations to the VDSC against its recommendation. Such representations should, unless in exceptional circumstances, be made within 4 weeks of receipt by the member agent of the recommendation.
- 1.9 The VDSC will consider the representations (written or oral) and will prepare a written statement of its decision to the Council as a result of those representations. If the member agent requests a hearing he may present his own case or be assisted by his solicitor or another third party. In these circumstances the VDSC may be assisted by its own legal adviser or another appropriate third party.

- 1.10 The VDSC will prepare a final written report of its decision as a result of those representations. If the decision is to continue to recommend disciplinary action the member agent will be advised that they can appeal to the Council against the decision and that appeal (written or oral) will be considered provided such an appeal is made within 4 weeks of the receipt of the written report from the VDSC.

## 2 Appeals

- 2.1 The Appeals Committee will comprise three Independent members of the Council who have not been involved in the initial consideration of the disciplinary matter.
- 2.2 The Appeals Committee will consider both written and oral representations presented by the member agent. If the member agent requests a hearing before the Committee he may present his own case or be assisted by his solicitor or another third party. In these circumstances the Appeals Committee may be assisted by its own legal adviser or another appropriate third party.

## 3 Disciplinary sanctions

As a result of its consideration, the VDSC can:

- Demand that the member agent apologise
- Levy a fine against the member agent
- Levy a fine against the member agent and publicise the matter
- Issue an informal warning (to be issued by the Ombudsman)
- Issue a formal warning (to be issued by the Chairman of the Council)
- Issue a notice of dismissal from the voluntary scheme (to be issued by the Chairman of the Council)
- Issue a formal warning that will be publicised in the media, to regulatory authorities, other authorised schemes, other redress schemes approved under CEARA and to any professional organisation of which it is a member (applies to voluntary and statutory scheme members)

## 4 Expulsion and re-admittance

- 4.1 Any decision of VDSC to expel a member agent from the scheme will be provided to the member agent by the Council with full written reasons, an explanation of what the member agent must do to regain membership and any applicable timescale for re-admittance. For the avoidance of doubt a member agent against whom the OFT has made a prohibition order will be removed from the TPO scheme with immediate effect.

4.2 Any decision to expel an agent from the scheme will be executed by the Board. The Board's role is solely to confirm the decision of the VDSC and it has no part in reaching the decision to expel.

## **5 Other matters**

5.1 The VDSC may also, when asked, give advice to the Ombudsman or to the Board, on issues concerning the interpretation of the Codes of Practice or the development of Best Practice. Such recommendations would generally be made via the whole Council.

5.2 The VDSC may from time to time review the guidance it gives to the Ombudsman or the Board as to the types of cases to be referred to it for its consideration rather than being handled directly by the Ombudsman or the Board.

5.3 The Ombudsman may seek guidance from the VDSC on whether or not he should refer a complaint he is considering directly to the OFT because it appears to trigger action under section 3 of the Estate Agents Act 1979.