



Christopher Hamer, The Property Ombudsman, offers a useful refresher on the TPO complaints procedure

My role as The Property Ombudsman (TPO) is to reach a resolution on unresolved disputes in full and final settlement whilst, at the same time and importantly in my view, helping to raise standards throughout the sales and lettings agency industry by promoting best practice and eliminating bad practice.

Although I provide consumers with an avenue for independent redress, I must emphasise that I remain completely impartial at all times and will not comment on any dispute or enquiry from a consumer until the agent in question has been given the opportunity to investigate the complaints raised. If no formal resolution of the dispute can be reached between the two parties then the agent is required to direct the complainant to my office (assuming of course that they are members of the TPO scheme). The consumer then chooses to refer the matter to me for an impartial review. I will only make a decision once I am in receipt of written evidence that has been submitted from both agent and complainant. I cannot accept a complaint from an agent, be it against a consumer or another agent.

When I receive a consumer enquiry, the first step is to confirm if the agent is a member of my scheme. The Consumers, Estate Agents and Redress Act 2007 required all estate agents dealing with the selling of residential property to be registered with an approved redress scheme from 1 October 2008. TPO is one of the approved schemes and currently there are around 5000 or so sales firms in membership who have agreed to follow the Sales Code of Practice, thereby showing their commitment to both consumer protection and the raising of standards

‘I cannot accept a complaint from an agent, be it against a consumer or another agent.’

throughout the estate agency industry.

Although the lettings industry has no such requirement to join an approved redress scheme, again around 5000 letting agents are following the Lettings Code of Practice, again showing commitment to improving standards and consistency of approach to customer service.

Included in these figures are 3200 agents who are registered for both my Sales Code of Practice and my Lettings Codes of Practice jointly.

When a consumer contacts my office they are advised that all complaints must be addressed in writing to the agent in an attempt to resolve the dispute. If it is not possible to reach a resolution, then all written details of the complaint should be referred to me for my consideration. I have no power to act unless this route has been followed and if the complaint has not been drawn to the attention of the agent my staff will not make any comment on the merits or otherwise of the matter.

If the stage is reached where the firm has issued its final view on the complaint and the complainant has asked me to look at it, I will examine all relevant paperwork from the consumer to be satisfied that the complaint falls within my Terms of Reference. I will then begin my review procedure. At this stage I write to the agent

to request the branch file relevant to the case and to also request their submission letter (the agent’s opportunity to put their side of the case to me in writing). It is vital to my review that all information I request from the agent is sent to me as soon as possible and if this is not sent in good time, I will review the case based on the information and evidence presented to me by the complainant alone.

However, in my view, I feel that a number of complaints could be resolved without referral to my office if the agent concerned simply dealt with the matter appropriately in the first instance. My Code of Practice for both Sales and Lettings is clear; all complaints raised with an agent must be acknowledged in writing within three working days of receipt and a thorough investigation promptly undertaken. A formal response addressing all issues raised must be sent to the complainant within 15 working days (currently 21 for lettings although this is being aligned at the shorter period) and some form of final resolution reached within eight weeks. If an agent does not investigate the issues raised or persistently ignores the complaint, the situation escalates. My Terms of Reference clearly state an agent’s obligations in this regard and I take any failure of this to be a breach of a member agent’s responsibilities towards a consumer and I can award compensation to reflect this.

Once complete and my Final Decision made and accepted, my case will be closed. This is the end of the matter and the case cannot be re-opened by either party even with the production of new evidence. ☰

 Any comments? www.propertydrum.com/articles/ombudsmannov09