



Christopher Hamer, The Property Ombudsman discusses touting for business and unsolicited approaches

I can only assume that the current housing market situation has brought about a surge in the number of firms making unsolicited approaches or 'touting' to gain new listings and new customers. This is a commercial decision made by agents and it is not for me to comment on the policy of this approach. However over the past year or so I have received an increasing number of letters relating to the various approaches made by agents to seek new business. Some of these letters have been from the public and are of a general nature rather than bringing forward a specific complaint, from agents directly (expressing dissatisfaction with another agents approach) or from agents contacting us on behalf of their clients who feel harassed by such practices.

I am aware from some of the larger agents who are TPO members that any 'flyer' they use has to be in a corporate style and incorporating the essential wording as required under the TPO Code of Practice paragraph 4m about the potential for dual fees where another agent is currently or has previously been instructed. Not all agents have this structured approach and their flyers will vary in quality and format.

A very common approach that is referred to me relates to leaflets put through the doors of homeowners with a plea that the homeowner contacts an individual at the agency. Quite why an agent would want themselves to be represented by a scruffy compliments slip with bad hand writing on it, escapes me. Nonetheless in one of my previous Quarterly Reports I commented on how this sort of message was not an acceptable approach and how the Code of Practice requires member agents not to directly or indirectly harass any person to gain



'The Code of Practice requires member agents not to harass any person to gain instructions.'

instructions. The receipt of such a flyer by an elderly and or vulnerable person could be worrying to them. Receipt by someone who has been struggling to sell their house over a long period of time could lead to false expectations.

A recent case that formally came before me involved an agent who had previously been instructed to market a property, decided to use the details as an example of a sold property in the area where he was seeking new business. The complaint arose when the owner of the property concerned received a flyer through his door clearly describing his property along with a photograph as an example of what the agent had recently sold in the area.

The complainant was unhappy on two counts. Firstly the property was still on the market and had not been sold. Secondly he had not given such permission for the agent to use his property details. The aggravation and distress caused to the complainant was considered, as well as the failure to adhere to the Code when producing marketing material and I was able to propose an award of compensation.

Under the TPO Code of Practice paragraph 4m, mentioned above, the possibility of a dual fee liability should be noted on any flyer. This is so that the seller or potential client is advised of their potential liability at the earliest opportunity, although we are currently considering whether the Code of Practice could be amended to show a more focused point at which the seller or potential client is advised of the possibility of paying two commission fees.

I cannot examine all of the complaints relating to touting as often they fall outside my Terms of Reference, because they come from one agent who is complaining against another. Often, I have to say, these are competitors competing but where it is relevant I will write to the offending firms reminding them of their obligations under the Code of Practice. Due to the increase in the number of such referrals I have also now raised this matter with the Board of The Property Ombudsman which has written to all TPO members reminding them of their obligation under the Code.

I would hope that in the spirit of the Scheme and as a matter of good practice that agents will review their methods of seeking new business in this way. ≡