



# ‘New TPO codes bring greater protection.

## The Property Ombudsman scheme is introducing new Codes of Practice for member agents from August 1.

**T**he Ombudsman has also published a supplementary guide on the practice known as ‘touting’ or canvassing for business, an area which has been drawing some complaints about the behaviour of rival agents, as well as the Consumer Protection from Unfair Trading Regulations and the drawing up of agency agreements.

The Codes of Practice, covering residential sales and lettings activities, have been pending for some time while awaiting approval from the Office of Fair Trading. Among the major changes is the need for member agents to have separately designated client money accounts to protect money they receive.

“We were delayed because we were waiting for OFT approval for the Sales Code revisions and were hoping to have the Lettings Code included under the OFT’s Consumer Codes Approval Scheme,” explained Bill McClintock, chairman of the TPO operating company, who oversees membership matters.

“But in the end we decided we could not wait any longer as the Codes are intended to improve levels of service and remove confusion for member agents that may arise through recent legislative changes.

“I have been pressing the OFT for almost three years in the case of the Lettings Code approval and for many months for the Sales Code improvements but so far without success.

“Regular meetings with member agents and other industry bodies mean I am familiar with issues that need to be addressed. I am sure the revised Codes will be of great help”

The new Codes are being issued along with guidance notes that were first given to member agents last October to enable

### Clauses of particular note

#### FEE ENTITLEMENT AND CLIENT LIABILITY

**3Q** At the time of accepting instructions from a client, you must point out and explain clearly to that client in your written Terms of Business:

- that you may be entitled to a commission fee if that client terminates your instruction and a buyer that you have introduced goes on to exchange contracts on the property through another agent within 6 months of the date your instruction ended.

If no other estate agent is involved this time limit extends to 2 years.

- and that the client may be liable to pay more than one fee if:

- that seller has previously instructed another agent to sell the same property on a sole agency, joint sole agency or a sole selling rights basis; or

- that seller instructs another agent during or after the period of your sole agency,

joint sole agency or on a sole selling rights basis.

#### FOR SALE BOARDS

**5B** You must not erect any form of estate agency board at a property unless you have been instructed to market that property.

**5C** You can only erect an estate agency board with the specific permission of the client.

**5D** Any board you do erect must be appropriate for the occasion.

**5E** When you put up a board you must by law comply with the Town and Country Planning (Control of Advertisements)

Regulations 2007; or in Scotland, the Town and Country Planning (Control of Advertisement) Regulations 1990. You must accept liability for any claim arising under these Regulations in connection with the board.

**5F** If your board relates to part of a building in multiple occupation, it should indicate

the part of the building to which it relates.

**5G** You must not replace another agent’s board with your own, hide it or remove it from a property, without the client’s permission or without notifying the other agent.

#### ADVERTISING FOR NEW BUSINESS (CANVASSING)

**5L** You must not use unfair methods when seeking new properties for sale by unsolicited approaches. Any canvassing material must be truthful and must fully explain who the message is from, its purposes and how the seller’s interest can be followed up.

**5M** If as a result of an unsolicited approach a seller is interested in using your services, you must draw to their attention and explain before they are committed to another contract the potential of paying fees to more than one agent where another agent has been previously instructed to sell their property.

them to improve their practices.

But until August 1, agents will be governed by the existing Codes and these will apply to all cases reported to the Ombudsman that arise from agents’ actions before that date.

The guidance does not set out specific terms for agency agreements or say what type of agreements should be entered into.

Rather, the emphasis is on clarity when dealing with consumers.

The new Codes of Practice and the guidance notes can be downloaded from the TPO website members’ section at [www.tpos.co.uk](http://www.tpos.co.uk) ☰

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