TPO has been providing an Ombudsman service to consumers for over 27 years. The scheme’s success is based on its independent foundations and extensive knowledge of the property sector. Consumers using TPO agents can be confident of receiving a free, impartial, expert and, above all, independent service.

Katrine Sporle, The Property Ombudsman

What is The Property Ombudsman (TPO) scheme?

TPO provides consumers with a free, impartial, expert and independent dispute resolution service for complaints made against registered agents (TPO scheme members).

Redress not Regulation

The Ombudsman provides redress to consumers which is intended to put the consumer back into the position they were before the complaint arose. The Ombudsman is not an industry regulator and does not have the authority to fine or take regulatory or legal action against an agent.

Independent

The TPO Board charges agents an annual subscription, however the Ombudsman reports to the independent TPO Council, the majority of which is made up of non-industry members. It is the Council who appoints the Ombudsman and sets her Terms of Reference (i.e. how the complaint process operates). TPO is a full member of the Ombudsman Association and operates in accordance with its principles of independence; openness; accountability; integrity; clarity of purpose; effectiveness.

Sales

TPO is approved by the Chartered Trading Standards Institute and National Trading Standards Estate Agency Team to consider disputes between consumers and estate agents (including buying agents). Agents are obliged to act in accordance with the TPO Code of Practice for Residential Estate Agents, the TPO Code of Practice for Residential Estate Agents in Scotland or the TPO Code of Practice for Residential Buying Agents.

Lettings

TPO is approved by the Department for Communities and Local Government, the Chartered Trading Standards Institute and the National Trading Standards Estate Agency Team to consider disputes by consumers against letting and management agents. Registered agents are obliged to act in accordance with the TPO Code of Practice for Residential Letting Agents or the TPO Code of Best Practice for Residential Letting Agents in Scotland.

Commercial

TPO’s jurisdiction covers disputes from small commercial enterprises and charities against commercial and business agents registered with the scheme. Agents are obliged to act in accordance with the TPO Code of Practice for Commercial and Business Agents.

Residential Leasehold Management

TPO is approved by the Department for Communities and Local Government to consider disputes referred by leaseholders or lessees of managed residential buildings against managing agents. Agents are required to follow the TPO General Membership Obligations.

Auctions/Chattels

TPO’s jurisdiction also covers the actions of valuers and auctioneers which relate to sales and transactions under the relevant auctions legislation. Agents and auctioneers are required to follow the TPO General Membership Obligations.

International

TPO can consider disputes between UK resident buyers/sellers of international property and UK registered international agents who are members of TPO. Disputes are considered under current UK legislation and the TPO General Membership Obligations.

Property Buying Companies

TPO can also consider complaints from sellers against property buying companies who are members of the National Association of Property Buyers. These businesses are required to act in accordance with the TPO Code of Practice for Residential Property Buying Companies.

Search Providers

TPO can also consider complaints relating to providers of searches commissioned during the sales process.
What can TPO consider?

- TPO can only consider complaints made against agents registered with TPO.
- TPO can consider complaints where the issue giving rise to the dispute occurred within 12 months of a complaint being made to the agent.
- The complainant must complete the agent’s in-house complaints process and refer their dispute to TPO within 12 months of the date of the agent’s final response.
- TPO can only consider matters which have previously been presented to the agent as a formal complaint. It is only fair to give the agent the opportunity to resolve the situation before the matter is escalated.
- TPO cannot consider disputes which are being dealt with by a court or a regulatory body, unless both parties have agreed to place that action on hold.

TPO’s process

1. Once the agent’s in-house complaint procedure has been completed, if the consumer remains dissatisfied, they may refer the complaint to TPO. Provided a complaint has been submitted to the agent, if the agent does not respond within 8 weeks, the complaint can be referred to TPO at that point.
2. Upon referral, TPO will establish whether the complaint falls within the Ombudsman’s Terms of Reference (i.e. whether the complaint can be progressed with TPO) and if the dispute could be resolved quickly without the need for a formal review. If the complaint cannot be considered by TPO, we will signpost the consumer towards alternative organisations or public bodies who could deal with the matter.
3. Once the complaint is accepted TPO will request the appropriate company file from the agent. When all the documents required for the investigation are received (the complete complaint file), the case will be allocated to a Case Officer who will consider all of the submissions provided by the parties. It is vital for the complainant to ensure that all relevant documentation is provided to TPO to enable a thorough review to be undertaken.
4. An Adjudicator will consider all of the submissions, request additional information where appropriate and produce a proposed decision. The complainant and the agent will then be provided with the opportunity to represent against the proposed decision before a final decision is issued.
5. If the complainant disagrees with the final decision, they are free to pursue the matter elsewhere (such as in a court). The complainant can also withdraw the complaint at any point in this process. However, the agent is legally bound by the Ombudsman’s decision.

A detailed description of the complaint process, frequently asked questions, TPO’s Codes of Practice and further advice can be found at www.tpos.co.uk

Further Information

Membership – At the end of October 2017, TPO membership covered 19,055 branches covering a range of jurisdictions; this is estimated to be 95% of all estate agents. To check whether an agent is registered with TPO visit www.tpos.co.uk or contact our Membership Team on membership@tpos.co.uk or 01722 335458.

Complaint Enquiries – To check whether a complaint can be accepted by TPO visit www.tpos.co.uk or email admin@tpos.co.uk or contact us on 01722 333306.

Awards – The Ombudsman’s awards are compensatory and are not punitive. Awards are made where the Ombudsman considers that a complainant has been disadvantaged or inconvenienced or has suffered proven financial loss as a direct result of the actions or inactions of an agent. The Ombudsman can also direct agents to take other actions e.g. issuing a letter of apology.

Fees/Contract Disputes – The Ombudsman cannot prevent an agent from taking legal action against a complainant if it is claimed that money is owed. Most agents will put the matter on hold until the Ombudsman has reviewed the complaint. However, if they do not, it is advisable for consumers to pay the fee, making clear that they are doing so on a ‘without prejudice’ basis (this means that they continue to dispute that it is fair to do so). The Ombudsman’s Terms of Reference do not empower her to rewrite contract terms or cancel them because of a complaint; however she can make decisions based on what she considers to be fair and reasonable in the circumstances presented to her. She cannot make judgements on points of law. That is the role of the courts. If a complainant wishes to contest a matter in legal terms then they should take legal advice with an aim of proceeding to court.

Repair and Maintenance Disputes – The responsibilities for repair and maintenance issues belong to the landlord and the tenant, and are set out in the tenancy agreement. The agent is not party to that agreement and the Ombudsman will not make awards based on alleged financial loss resulting from the landlord or tenant’s failure to act in accordance with the tenancy agreement. However, the Ombudsman can consider the conduct of the agent and whether they communicated issues to the parties and acted promptly on instructions received.

Tenancy Deposits – Tenancy deposit disputes are Landlord/Tenant matters and should be referred to the relevant tenancy deposit scheme. However, TPO can consider complaints relating to an agent’s actions or inactions during the deposit process.