



The Property
Ombudsman

Annual Report 2018



TPO RAISING MONEY FOR CHARITY

Every month, staff at TPO can take part in 'Dress Down Day' by donating to charity. Each month a different charity is selected and in 2018 TPO raised a total of

£1301

Jan	The Silver Line
Feb	Wiltshire Wildlife Hospital
Mar	Andovertwenty1
Apr	Child.org
May	AsthmaUK
Jun	Teenage Wilderness Trust
Jul	Centrepont
Aug	Bloodwise
Sep	Macmillan
Oct	Niemann-Pick Disease
Nov	Children in Need
Dec	Crisis

TPO is also a corporate sponsor of The Big Issue, donating

£250

TPO staff also made

2

food donations to the Trussell Trust in 2018.



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Search for registered Agents: www.tpos.co.uk/find-a-member



Foreword by the Chair of the Board

Baroness Diana Warwick



Baroness Diana Warwick
Chair of TPO Board

2018 has been an enormously challenging, busy and auspicious year for TPO. Challenging because of ever increasing demands for our services. Busy because we were determined to modernise on all fronts – governance, systems, skills and services. Auspicious because the future looks bright as we have successfully navigated the transition from Council & Board to a single Unitary Board (page 5), with a more defined external focus. We have introduced new systems which enabled us to streamline the process and speed up decision making on complex casework.

A major challenge was to do everything possible to understand, respond to and prepare for changes in the policy landscape. There were eight Government consultations and calls for evidence which we responded to this year. TPO has fully engaged with the government's agenda, providing evidence and the Property Ombudsman's voice to the need for the industry to stand up and be counted on regulation, service excellence and specifically on closing redress gaps.

During the year we took a long, hard look at our own governance structures. The Council & Board were unanimous that modernisation was necessary, and a smooth transition to a Unitary Board was achieved in July 2018. The new Board structure includes the newly constituted, external facing Consumer Forum and its counterpart, the Industry Forum. I am optimistic that this innovation will allow TPO to lead the way in overcoming consumer detriment in the industry.

Throughout all of this, the Ombudsman and her expert team have continued to focus on the "day job", playing a crucial role in providing consumer redress when things go wrong. We responded to record levels of enquiries – nearly 30,000 people contacted us by phone, email, letter and online, reinforcing the Ombudsman's objectives of providing accessible, efficient, transparent and independent services.

My own experience of TPO during 2018 is one of robustness and resilience. We modernised, we improved, we absorbed new work from other organisations. That is the name of the game for TPO. We stand for universal access by consumers to consistent, high quality alternate dispute resolution and want to make sure it continues in the changing policy landscape.

TPO will continue to respond to those challenges in the year ahead, and I commend this report.

Diana Warwick,
The Baroness Warwick of Undercliffe,
Chair of TPO Board

Council & Board replaced by one Unitary Board

Replacing TPO's former Council & Board with one Unitary Board enables the Board to be more externally facing, focussing on awareness and key issues. This means pressing issues no longer have to be approved by two parties and therefore decisions can be made more quickly. The Board retains a majority of independent members and is chaired by Baroness Diana Warwick.

The changes mean that Gerry Fitzjohn, former Chairman of the Board, and Michael Stoop, former Vice Chairman of the Board have taken up the positions of

Non-Executive Directors on the new Unitary Board. Michael Stoop has also taken on the role of Chair of the Industry Forum (page 18) which will feed back industry matters and concerns. A separate Consumer Forum is chaired by Mark McLaren, an independent Board Member. Each forum will discuss issues where existing harm to consumers can be identified and, wherever possible, eliminated through best practice and/or changes to the Codes of Practice (page 18).

New Unitary Board



Baroness Diana Warwick
Chair of TPO Board

Independent Board Members



Mark McLaren
Chair, Consumer Forum



Gillian Fleming
Chair, Compliance Committee



Victor Olowe
Non-Executive Director

Non-executive vacancy – Position filled in January 2019

Non-executive vacancy – Position filled in January 2019

Industry Board Members



Gerry Fitzjohn
Chair, Finance & Performance Committee



Michael Stoop
Chair, Industry Forum



Mark Hayward
Non-Executive Director

Our sincere thanks for all their hard work and commitment goes to our former Council & Board members:

Former TPO Council Members

- **Baroness Diana Warwick**, Chair of TPO's Independent Council
- **Vivienne Sugar**, Vice-Chair of Council and Chair of the TPO Finance & Performance Committee
- **Gillian Fleming**, Chair of the Disciplinary & Standards Committee
- **Mark McLaren**, Council Member
- **Victor Olowe**, Council Member
- **April Stroud**, Council Member

Former TPO Board Members

- **Gerry Fitzjohn**, Chair
 - **Michael Stoop**, Vice Chair
 - **Paul Smith**, Spicerhaart
 - **Ed Mead**, Douglas and Gordon
 - **Dorian Gonsalves**, Belvoir
 - **Oliver Blake**, LSL Property Services plc
 - **Jonathan Hopper**, Garrington
 - **Jacqueline Stone**, Connells Group
 - **Peter Fuller**, Romans
 - **David Westgate**, Andrews
- Representatives from Trade Associations:**
- **Mark Hayward**, NAEA Propertymark
 - **Michael Basquill**, RICS

Ombudsman's Report

As we look back over 2018, I am proud to say that TPO has gone from strength to strength. Everything grew and improved. The outcome was a better, faster service to customers.

Key outcomes were:

- Over £2m returned to consumers in awards
- 97% of awards were paid
- 92% of complex cases were resolved within 3 months by year end
- 100% of local resolutions were processed within 10 days

These outcomes were achieved despite another year of increased workload. We offer a 24/7 online chat service to our customers and we provided an expert advice service to more than 19,000 enquiries received by phone, email and post. During the course of this year there has been a significant increase in the number of Residential Leasehold Management (RLM) members (following the withdrawal of Ombudsman Services: Property) with a resultant increase in the number of enquiries and complaints handled, so much so that this Annual Report will feature RLM outcomes in the same way as for Sales and Lettings.

A key objective of any Ombudsman Scheme is to identify trends in consumer detriment. During 2018 we were particularly concerned at the rising number of complaints from consumers faced with demands to pay two commission fees following the sale of their homes.

Despite producing a 'hot topic' note and publishing case reviews, the number of complaints continues to rise. The Consumer and Industry Forums, featured on page 18, were set up specifically to enable wider stakeholder discussions to take place to highlight issues like these, with a view to reducing consumer detriment. As a result, action is being taken to produce more guidance, tighten up best practice in the Codes of Practice and ensure that

consumers are properly advised on the risks they take when appointing two agents.

In what has been another action-packed year, my Deputy and I have continued to make ourselves available at conferences and masterclasses up and down the country (see page 17) and we have continued to invest in staff training. The fact that our consumer satisfaction levels remain high (see page 16) and that the Independent Reviewer (see page 20) has also reported on rising standards is a tribute to the expert staff and the team approach here at TPO. Their professionalism, commitment, knowledge and expertise is also reflected in the specific comments received from both consumers and scheme members.

Looking ahead to 2019, I am confident that TPO will continue to raise standards and to meet whatever challenges we face. We were delighted to achieve RICS approval for surveying services – both because we are able to offer a one-stop shop to members and because it reinforces our expert role in the industry. We continue to believe that our role can be further extended to cover other gaps in redress, notably New Homes.

The beginning of 2019 will see us working in close collaboration and partnership with consumer groups, the industry, stakeholders and government to update the Sales and Lettings Codes of Practice to reflect new legislation and best practice.

My thanks go, as always, to our staff for their dedication, commitment and resilience in providing quality outcomes to so many people throughout the year.



Katrine Sporle
Ombudsman



Deputy Ombudsman's Report



The case studies on pages 12 to 15 show how we have made a difference for consumers over the past year. The studies show how we investigate complaints and how we apply the TPO Codes of Practice to achieve fair and impartial outcomes. The case studies also demonstrate the awards that we can make if a complaint is supported. Awards are for actual financial loss and, where appropriate, for the aggravation, distress and inconvenience caused to the consumer by the agent's actions.

Actual financial loss is generally straightforward to determine. The compensatory element, however, is based on the seriousness of what has taken place. We will make moderate awards up to £300 for evident upset, distress and inconvenience. Whilst recognising peoples' upset, we do not make awards for what might have gone wrong but didn't. We will make a more significant award, between £300 and £750, for aggravation, distress and inconvenience over a more prolonged period.

Where there has been a serious impact on living conditions or arrangements, or severe worry and stress for the consumer and family, and significant and avoidable disruption for an unnecessary amount of time, we will make awards of £1,000. We decide each case upon its own merits and there may be cases where, due to exceptional circumstances, the award may be higher.

Our homes are the most important investment that we make. I have chosen case studies which represent daily life, rather than the more extreme but unusual cases that we see.

Jane Erskine

Jane Erskine
Deputy Ombudsman



2018 in Numbers: TPO MEMBER AGENTS

The Property Ombudsman (TPO) scheme is the largest Government-approved property Ombudsman scheme.
Search for registered Agents: www.tpos.co.uk/find-a-member



ENQUIRIES & COMPLAINTS



**29,023 CONSUMER
ENQUIRIES**

This includes 9,153 enquiries received via the 24/7 online chat service

+22%
from 2017 



4,246 COMPLAINTS

+16%
from 2017 

**SALES
COMPLAINTS**

1,304
 **12%**

**LETTINGS
COMPLAINTS**

2,450
 **13%**

**RLM
COMPLAINTS**

349
 **175%**

**OTHER* JURISDICTIONS
COMPLAINTS**

143
 **29%**

TPO'S OTHER JURISDICTIONS

*Commercial and Business Agents, Buying Agents, Residential Property Buying Companies, Auctions, International Agents, Building Warranties, Removals and Search Providers. RLM complaints were included in Other Jurisdictions prior to OS:P withdrawal. From 1st Jan 2019, TPO is approved by the RICS to provide Alternative Dispute Resolution (ADR) on all surveying services

The Property Ombudsman instructed Agents to pay awards worth

£2.17 MILLION



The highest award paid by an agent



£25,000
(SALES)



£16,291
(LETTINGS)



£12,753
(RLM)

Total Sales Awards

£518,981

Average Sales Award

£608

Total Lettings Awards

£1,543,848

Average Lettings Award

£845

Total RLM Awards

£49,163

Average RLM Award

£497

Total Awards for Other
Jurisdictions

£57,381

Average Award for Other
Jurisdictions

£395

AWARDS BREAKDOWN

£540,804

Awards were made on
Early Resolution cases

TPO dealt with

16%

more complex complaints
during 2018



On Complex cases, Awards
are made for Monies Owed,
Quantifiable Loss and
Aggravation, Distress
and Inconvenience

Monies Owed:

£686,441

Quantifiable Loss and Aggravation:

£307,932

Distress and Inconvenience:

£634,822

2018 in Numbers: SALES & LETTINGS

TOP CAUSES OF SALES COMPLAINTS

COMMUNICATION AND
RECORD KEEPING

MARKETING AND ADVERTISING

INSTRUCTIONS, TERMS OF BUSINESS,
COMMISSION AND TERMINATION

COMPLAINT HANDLING

TOP CAUSES OF LETTINGS COMPLAINTS

COMMUNICATION AND
RECORD KEEPING

MANAGEMENT

TENANCY AGREEMENTS, INVENTORIES
AND DEPOSITS

COMPLAINT HANDLING

COMPLAINTS SUPPORTED BY THE OMBUDSMAN

✓ **1,465** Sales cases resolved

Complaints received from Sellers	Complaints received from Buyers	Complaints received by Other*
60% (883)	34% (500)	6% (82)

Total cases supported **58%** (854)

Area	Sales complaints by area
SE England	16%
Greater London	11%
North West	9%
SW England	8%
Eastern Region	7%
East Midlands	7%
West Midlands	6%
North East	6%
Wales	4%
Yorkshire	4%
Scotland	3%
Northern Ireland	0.4%

COMPLAINTS SUPPORTED BY THE OMBUDSMAN

✓ **2,757** Lettings cases resolved

Complaints received from Landlords	Complaints received from Tenants	Complaints received by Other*
54% (1493)	42% (1159)	4% (105)

Total cases supported **66%** (1828)

Area	Lettings complaints by area
Greater London	20%
SE England	17%
North West	11%
East Midlands	6%
SW England	6%
West Midlands	5%
Eastern Region	5%
North East	4%
Wales	3%
Yorkshire	2%
Scotland	2%
Northern Ireland	0.3%

2018 in Numbers:

RLM

TOP CAUSES OF RLM COMPLAINTS

BEST PRACTICE

COMPLAINT HANDLING

SERVICE CHARGE STATEMENTS

MAINTENANCE MAJOR WORKS

COMPLAINTS SUPPORTED BY THE OMBUDSMAN



200

RLM cases resolved

Complaints received from Leaseholders

71%
(143)

Complaints received from Freeholders

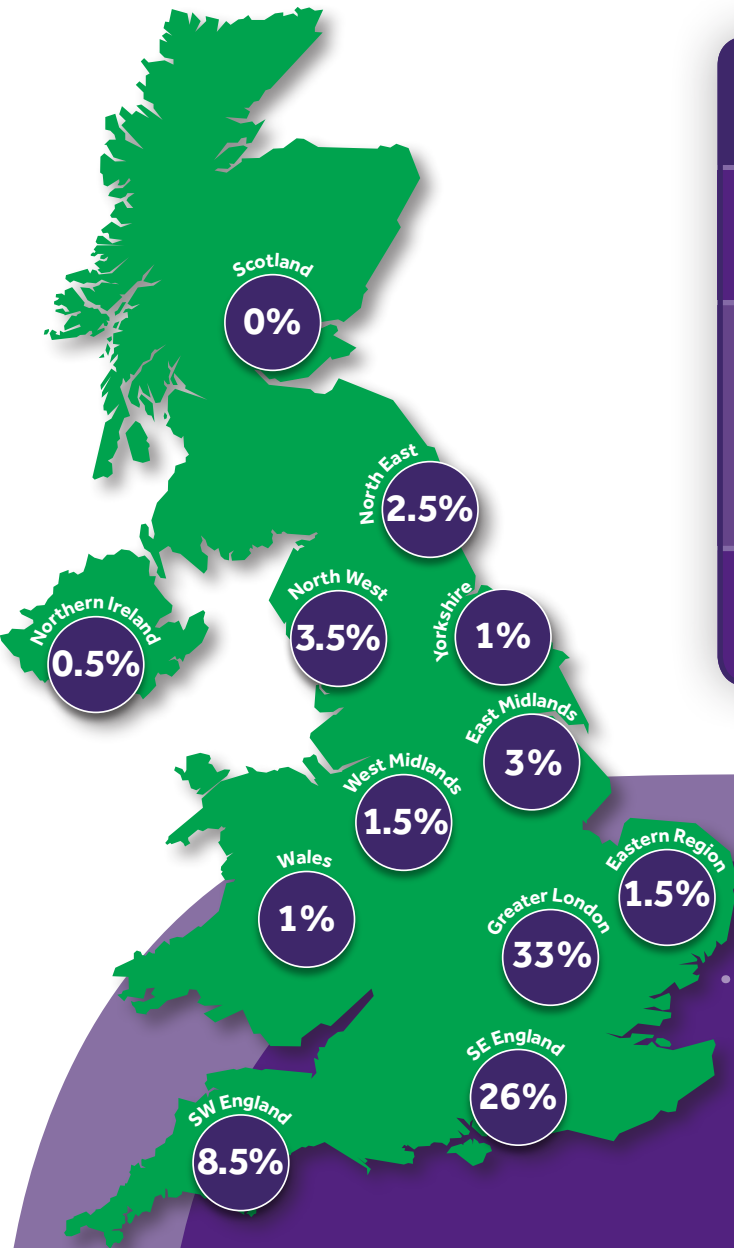
9%
(18)

Complaints received by Other*

20%
(39)

Total cases supported

50%
(100)



RLM COMPLAINTS BY AREA

* TPO also considers RLM complaints from potential Freeholders and Leaseholders, and other third parties affected by the actions of the agent.

Case summaries

TPO's free, fair and impartial service is a genuine alternative to the small claims courts.

The Ombudsman is not a regulator, but TPO agents can be held to account for their actions against the best practice obligations set out in the scheme's approved **Codes of Practice**.

TPO's Codes set standards for agents that go above and beyond the law to protect consumers from unfair practices and raise industry standards.

Each case is different, but all cases are reviewed against the obligations set out in the relevant Code

of Practice and the extent to which there has been consumer detriment. The real-life consumer case summaries in this section provide a snapshot of the varied and complex cases that TPO deals with on a daily basis. To read the summaries in full, please click the link under each case or visit:

www.tpos.co.uk/news-media-and-press-releases/case-studies



THE WINNING BID! BUT AT WHAT COST?

TPO was asked to review a case from buyers who believed the agent misrepresented the property they purchased at auction as they failed to make them aware that the property was tenanted or that there was only 55 years remaining on the lease. The buyers were seeking the return of the £3,000 reservation fee they paid which the agent had transferred to the seller following their withdrawal from the purchase.

In considering this complaint, the Ombudsman had particular regard for two paragraphs of the TPO Code of Practice for Residential Estate Agents; one relating to compliance with CPRs (7i) and the other relating to basic information agents should provide in regard to leasehold properties (7k).

The marketing details stated that the tenure of the property was leasehold, however the agent did not provide the length of the lease, which was 55 years. In addition, the marketing details produced by the agent made no reference to there being an ongoing tenancy.

To find out what this meant for the buyers and whether this complaint was upheld visit:



www.tpos.co.uk/news-media-and-press-releases/case-studies/item/the-winning-bid-but-at-what-cost



COMMUNICATION CONUNDRUM

A case that The Property Ombudsman was asked to review came from a leaseholder. The agent was instructed by the freeholder to provide a management service in respect of the block in which the property was situated.

The leaseholder complained that the agent did not consult her about the installation of communal water meters, saying that the agent did not provide clear responses in a timely manner to her queries about the installation of the meters and the effect this would have on her water bill.

The agent said that the installation of water meters was undertaken by another company who had been instructed directly by the freeholder, rather than by themselves. They say that this company notified all the leaseholders that water meters would be installed. The agent said that they had responded to queries raised.

The leaseholder also complained that service charge and ground rent demands incorrectly stated the name of the freeholder on the reverse and that the agent had delayed billing her for ground rent. The agent acknowledged that service charge demands were sent out with the freeholder's name incorrectly stated, which they say was due to an administrative error. They apologised for this.

Find out more about this case and the Ombudsman's decision at:



www.tpos.co.uk/news-media-and-press-releases/case-studies/item/communication-conundrum



CHECK, CHECK AND CHECK AGAIN... FOR FRAUDULENT REFERENCES

A landlord made a complaint to TPO concerning the referencing that was undertaken by the agent on her tenants.

The landlord explained that she was assured by the agent, before she agreed to the tenancy, that the tenants (Ms A and Mr B) had passed referencing checks. After the tenancy commenced, the landlord stated that the tenants paid no further rent, that Mr B became threatening, and that the tenants harassed the occupant of the flat above, the landlord's sister.

The landlord requested referencing documentation from the agent, and, having received this information, identified a number of anomalies that she considered indicated that the references provided were fraudulent. The landlord alleged that the agent failed to thoroughly reference the tenants, and that had the agent done so, the tenancy would not have gone ahead.

The agent maintained that the tenants were fully referenced by a third-party referencing provider and passed those checks.

The agent was obligated to obtain proof of identity and proof of address for each of the tenants. The agent obtained proof of identity, in the form of passports, from both tenants. Proof of address was given for Ms A. and no adverse credit history was identified. However, no proof of address, was obtained for Mr B. No steps were taken to verify Mr B's address, and as a consequence no credit check was possible.

The agent advised the referencing provider that the rent was to be paid in full in advance which circumvented the income and employment checks that would normally be conducted. The rent was not paid in full in advance, nor was there any evidence that this was ever intended. The agent provided no explanation for this point.

In addition to the landlord's reference obtained by the referencing provider, Ms A supplied the agent with a written reference purportedly from her current landlord stating that Ms A had lived at her current address for three years and had paid the rent on time. It was clear from information the landlord subsequently obtained that this reference was not provided by the previous landlord and had been faked by the tenants.

Read this case and the Ombudsman's decision at:



www.tpos.co.uk/news-media-and-press-releases/case-studies/item/check-check-and-check-again-for-fraudulent-references



CLADDING: A CAUSE FOR COMPLAINT

The buyer in this case stated that the agent misrepresented the property purchased as they failed to make them aware that concerns had been raised as to the type of cladding at the property, following the Grenfell fire.

Central to this case was the fact that the same company was both managing the block, via their block management company, and instructed by the sellers of the flat for sale.

In July 2017, the block management company had provided residents and owners with an update on fire safety at the development in light of recent events at Grenfell Tower. It stated test samples of the cladding at the block had been submitted and confirmed that the cladding was made of Aluminium Composite Material (ACM).

The letter included the information that it was by then known that certain types of ACM cladding had not met expected performance standards in terms of external fire spread. This material appeared to have been widely used across the construction industry including in some form on more than 190 Blocks in central London. In light of the recent large-scale tests on cladding systems undertaken, MHCLG had advised that the majority of these systems were no longer compliant with current building standards and presented a higher risk in respect of fire safety. However, unlike Grenfell, this block was built with and still had full and proper fire precautions with fire doors, fire stopping, fire alarms, smoke extract systems and no gas in the apartments and a full sprinkler system throughout.

The buyer viewed the property in August 2017 and made an offer which was accepted.

The buyer alleged that he had been mis-sold the property, there having been evidence that the company knew of the ACM cladding issue in August 2017 but "allowed" the sale to proceed.

Read this detailed case with the Ombudsman's view and outcome here:



www.tpos.co.uk/news-media-and-press-releases/case-studies/item/cladding-a-cause-for-complaint



DUAL FEE DISPUTE

The Property Ombudsman was asked to review a case from a seller who was facing commission fee claims from two agents.

This was a dual fee dispute, with the seller having paid a commission fee to the second Agent (Agent 2) for the sale of the property and later being pursued for a commission fee by the first Agent (Agent 1) which had not been paid.

Agent 1 was initially instructed on a sole agency basis. Agent 1 arranged a viewing with the buyers. The buyers' feedback from the viewing was that they really liked the property and were considering an offer but would decide after seeing a mortgage advisor.

A week later, a sale of the property was agreed to another party. Two months later the sale to that party fell through and on the same day Agent 1 contacted previously interested parties, including the buyers. Knowing the buyers' previous interest, Agent 1 contacted them again a week later about the property's availability. In the meantime, the sellers had instructed Agent 2 on a multi-agency basis. Agent 1 confirmed the change to their contract.

Shortly after receiving Agent 1's second email, the buyers knocked on the door of the property and the sellers conducted a viewing with them. The buyers made an offer for the property the following day through Agent 2. The sale progressed through Agent 2.

Agent 2 stated that after a break from any involvement with Agent 1, the buyers chose to re-establish their interest in the property through Agent 2. Agent 2 said, that had contact been maintained with the buyers by Agent 1, it was reasonable to assume the buyers would have directed their attention to Agent 1. Agent 2 believed that they were the effective cause of the sale of the property, in receiving the offer, processing and progressing the sale.

The decision in this dispute reflected what was fair and reasonable in the circumstances particular to the case in question and taking into account the obligations set out in the TPO Code of Practice.

What do you think? Read the whole case and outcome here:



www.tpos.co.uk/news-media-and-press-releases/case-studies/item/dual-fee-dispute



SURVEYOR SQUABBLES

A case that The Property Ombudsman was asked to review came from a buyer about two issues raised in the survey.

The buyer instructed the surveyor to carry out the Building Survey report. Two issues were the subject of the complaint; the roof and the flooring.

The buyer said that, following his purchase, two roofing contractors inspected the roof (two months after the date of the survey) and advised that it required completely replacing at a cost of around £7,000. He also said that he found condensation in the loft and there was felt missing in the back corner. The buyer said that the survey had not highlighted these issues as he considered it should have done and he wanted the surveyor to cover the costs of a new roof.

The survey reported 'some degree of staining to the rafters' but stated that there was no evidence of leaks and the roof timber was dry on inspection. The survey noted that internal inspection was restricted due to access but there was no evidence of roof failure that required significant remedial action. Externally, the survey noted the roof was generally intact and serviceable, but repairs were evident as illustrated by the survey. It concluded by stating that when buying a property of this age, maintenance work would be required to sustain its condition but at present no significant or immediate action was required.

The buyer also said that the surveyor verbally advised him all floors appeared level and that there was no evidence of movement. However, since moving in to the property, the buyer said it was evident that the floors in the former garage, the kitchen and first floor bathroom were sloping.

The buyer said that he would have expected these issues to have been detailed in the survey and, had they been, he would have significantly reduced his offer or not offered on the property.

Do you agree or not? Read the full review and outcome at:



www.tpos.co.uk/news-media-and-press-releases/case-studies/item/surveyor-squabbles



THE TRUE COST OF GUARANTEED RENT

A case that The Property Ombudsman was asked to review came from landlords about non-payment of rent and damage to the property.

The landlords let the property to the agent as a tenant under a three-year agreement, giving the agent the authority to sub-let the property in return for a guaranteed rent. The complaints concerned events at the end of that agreement, including rent for a period when a sub-tenant's belongings remained in the property, and damage to the property and contents that was found when the landlords regained possession.

It is the Ombudsman's view that such arrangements between landlords and agents act as a mechanism by which property management services are provided, and consequently fall within her Terms of Reference. In this case, there was no management agreement detailing the terms of the guaranteed rent arrangement. The agent's obligations towards the landlords were determined in accordance with the terms of the tenancy agreement between them.

The tenancy was due to end in November 2017, but the agent had indicated that it had been terminated early by mutual consent. As such, they did not consider that there were rent arrears, but the landlords disputed this.

Having examined the tenancy agreement between the landlords and the agent and requested supporting evidence from the agent to determine the condition of the property at the start of the tenancy, find out who the Ombudsman held liable for the rent and damages.

Do you agree or not? Read the full review and outcome at:



www.tpos.co.uk/news-media-and-press-releases/case-studies/item/the-true-cost-of-guaranteed-rent



MORE HASTE, LESS HIGH SPEED 2!

Buyers who were concerned about the accuracy of the information within the local authority search compiled by the search provider (SP) contacted The Property Ombudsman to have their case reviewed.

The buyers said that the search contained inaccurate and misleading information about the proximity of a proposed high-speed railway to the property. The search recorded that the property was not within 200 metres of the centreline of a proposed railway, tramway, light railway, or monorail. However, after purchasing the property, HS2 notified the buyers that phase 2 of a high-speed railway route between West Midlands and Leeds had been confirmed and was within 200 metres of their property. The buyers said that this information should have been included in the search as they say that the route was proposed by HS2 some years before the search was compiled.

The buyers said that they would not have purchased the property if they had known about the proposed HS2 railway route.

The Ombudsman was critical of SP's failure to meet their obligations under Paragraph 2 of the Search Code by ensuring that they accurately reported the most up-to-date available information.

To find out what award the Ombudsman made in this case visit:



www.tpos.co.uk/news-media-and-press-releases/case-studies/item/more-haste-less-high-speed

In 2018, TPO sent out

30,000

consumer guides to
agents to hand out
to customers

65%

of consumers would use
TPO membership as a factor
when choosing a future
property agent

79%

of respondents stated they
had a financial award or
resolution made

57%

of complex cases* were
supported in whole or in part

*sales, lettings & RLM cases



Landlords were the
most frequent type of
respondent in 2018

One complainant who took the time to provide feedback about TPO's service said that he had never heard of TPO before but had been recommended to try the service. Following a phone call with a TPO adjudicator he said he had been very pleased with how he has been kept informed at every step of the process and not once felt that he had to chase for answers. He said that it was rare this happens with organisations and wanted to share the positive feedback. He advised that whatever happened with the outcome of the review, that he had been dealt with very well.



Consumer Survey Review 2018

Survey measures on two main factors:

Service and Decision /Resolution Satisfaction

60%

Overall consumer service
satisfaction for 2018

51%

Overall consumer decision /
resolution satisfaction for 2018

CLEAR INFORMATION GIVEN
ABOUT THE PROCESS



DECISION/RESOLUTION WAS
CLEARLY EXPLAINED

STAFF ARE HELPFUL



FAIR DECISION/RESOLUTION
IN THE CIRCUMSTANCES

STAFF ARE KNOWLEDGEABLE



ALL ISSUES DEALT WITH

CONSUMER KEPT UP TO DATE



BOTH SIDES ARE FULLY
CONSIDERED

QUICK RESPONSE TIME



REFERENCE TO TPO CODE
CLARIFIED



Agent Survey Review 2018

Survey measures on two main factors:

Service and Decision /Resolution Satisfaction

75%

Overall member agent
service satisfaction 2018

82%

Overall member agent decision /
resolution satisfaction for 2018

CLEAR INFORMATION GIVEN
ABOUT THE PROCESS



FAIR DECISION/RESOLUTION
IN THE CIRCUMSTANCES

QUICK RESPONSE TIME



DECISION/RESOLUTION WAS
CLEARLY EXPLAINED

STAFF ARE HELPFUL



ALL ISSUES DEALT WITH

STAFF ARE KNOWLEDGEABLE



BOTH SIDES ARE FULLY
CONSIDERED

MEMBER AGENT KEPT UP TO DATE



REFERENCE TO TPO CODE
CLARIFIED



On the Road With TPO

January

31st - NAEA Regional Conference, Yorkshire

February

15th - Rightmove Webinar
28th - NAEA Propertymark National Conference

March

6^h - Gave Evidence to APPGEBE (New Homes)
15th - ARLA Scotland, National Conference (Edinburgh)

May

9th - Professionalism in Property Conference
16th - NAEA Regional Conference, Bristol
- Rightmove Webinar
23rd - The Institute of Residential Property Management (IRPM) Annual Seminar, London
24th - Ombudsman Association Conference, -25th Edinburgh

April

11th - ARLA Rightmove Webinar
17th - ARLA Propertymark Conference, London
24th - Residential Landlord's Association Conference, Manchester

June

4-6th - CTSI Conference, Nottingham
13th - TPO Conference, Solihull
21st - NAEA Regional Conference, Surrey
26th - TPO Consumer Forum
27th - APPG for Excellence in the Built Environment
28th - TPO Industry Forum

August

July

4th - London Assembly - Property Guardian Conference
17th - Gave Evidence to APPG (ADR), London
31st - Rightmove Webinar

September

6th - NAEA Masterclass, Telford
13th - Residential Landlords Association (RLA) Future Renting Conference, London
18th - UK National Construction Exhibition, Milton Keynes
25th - ARLA Masterclass, Fareham
26th - Propertymark Training Course, London
27th - NAEA Regional Conference, Exeter

December

5th - Propertymark Training Course, London
12th - NAEA Masterclass, Leeds

November

15th - NAEA Regional Conference, Essex
21st - Rightmove Webinar

October

2nd - NAEA Masterclass, Leicester
10th - NAEA Masterclass, London
11th - Citizens Advice Conference, -12th Manchester
18th - Consumer & Industry Forums

Protecting Consumers:

TPO Consumer & Industry Forums

TPO speaks with one voice when it comes to raising standards. As part of its review of governance, the Board decided to create a more external facing, open and transparent way of raising and discussing issues which are either giving rise to consumer detriment, or have the potential to do so in the future. The result is that TPO has established Consumer and Industry Forums to work side by side to discuss, analyse and recommend steps to reduce problem areas for consumers and clarify standards of practice.

In just two meetings we have made early progress. Here are two of the issues raised:

Weekly vs Monthly Rent

Mark McLaren, Chair of the Consumer Forum, took up the issue raised by Westminster Trading



Mark McLaren,
Chair of the Consumer
Forum

Standards of the potential for tenants to be misled by rent being advertised per week. In most cases rent is payable per calendar month, however, when advertised weekly consumers would naturally multiply the weekly rent by four, which would inevitably lead to a shortfall between what they thought was due and what was actually due. Primary Authority Assured

Advice*, applicable to all TPO member agents, was obtained from Warwickshire County Council which clarified that any advertisement displaying a property for rent should include all relevant material information to enable a potential tenant to make an informed decision. This means that while rent can be advertised weekly, where rent is due monthly, the monthly amount should also be stated in adverts. The assured advice (number 24) can be found on TPO's website at: www.tpos.co.uk/members/assured-advice.

**Primary Authority Advice is assured, which means that provided TPO agents abide by the advice given, they are protected against the risk of enforcement action from authorities that have different views on what constitutes compliance.*

Dual Commission Fees

Michael Stoop, Chair of the Industry Forum, has been spearheading the need for consumers to be protected



Michael Stoop,
Chair of the Industry
Forum

from the risk of being charged two commission fees when they sell their property. The situation can occur when one agent conducts viewings and is then dis-instructed. Where the seller instructs a second agent who receives an offer from a viewer who previously viewed with the first agent, the seller could be faced with being liable to pay commission fees to both agents claiming to

be the effective cause of the introduction. The Industry Forum supported TPO's long held view that no seller should unknowingly be placed in such a position and agreed to work with TPO to find a solution. As a result, the TPO Code of Practice for estate agents will become more explicit to prevent agents placing sellers at risk and guidance for both consumers and agents will be produced to assist in avoiding the scenarios under which two commission fees could become due.

Both Forums meet consecutively on the same day, three times a year and have an informal and voluntary membership base. Technical and administrative support is provided by Peter Habert and Amber Pemberton, respectively TPO's Director of Policy and Policy Researcher, who can be contacted regarding suggested agenda issues and Forum membership requests. Please contact: Forums@tpos.co.uk

Compliance Committee

As part of TPO's new governance structure, and in accordance with the Chartered Trading Standards Institute's (CTSI) approval of TPO's Codes of Practice, TPO has a Compliance Committee (CC) which reports to the Board. It is mainly tasked with securing the implementation of decisions made by the Ombudsman on the relatively few occasions where a property business does not comply. The CC can impose various sanctions, including issuing warnings, fining agents and expelling them from TPO.



Gillian Fleming,
Chair of Compliance
Committee

TPO's Codes of Practice set out clearly what a consumer should expect from a TPO agent and simplify a complex legal and contractual landscape to the benefit of all.

That means agents with TPO know what should be

done for clients and, where there have been shortcomings, will pay an award on time and comply with other recommendations made by the Ombudsman.

The Ombudsman supported 2782 complaints in 2018, of which 2381 required a financial award to be paid. Consumers and especially agents need to know that, when an agent has been judged to have acted unfairly and does not put it right, there will be action against them. In 2018, 76 new referrals were made to the CC (as against 55 in 2017). These related to 41 different agencies (one agent being responsible for 14 cases). All were for failure to pay an award and/or carry out a direction imposed on them by the Ombudsman. Only 4 cases concerned property sales, while 70 related to the actions of letting agents. The remaining two cases concerned a residential leasehold management company and an auctioneer.

Action by the CC resulted in 13 cases being successfully settled with consumers receiving what was rightly due to them.

However, of the remaining cases, 4 agents had already ceased trading and 21 related to agents who were no longer members of TPO or any other redress scheme. The other cases related to agents who were apparently still trading yet did not comply with the Ombudsman's award. Altogether in 2018, 24 agents were expelled from TPO relating to 39 lettings cases and 3 sales cases. The remaining cases are ongoing.

Where expulsion occurred; the Memorandum of Understanding with other schemes also ensures that those agents could not register for redress at a later date unless those consumer awards are paid. Every case was reported to Trading Standards who can fine agents £5,000 if they are found to be trading illegally without redress registration.

Overall, 76 cases of non-payment of an Ombudsman's award by 41 agents were considered by the CC during 2018. This represents an increase over 2017 of 21 cases and 11 agents. The final outcome of cases where the Ombudsman's award was paid was 97%, demonstrating TPO's effectiveness in ensuring consumers receive appropriate redress.

A handwritten signature in black ink that reads 'Gillian Fleming'.

Gillian Fleming

Chair, Compliance Committee

QUICK STATS

97%

of awards paid by
TPO members

0.1%

of all TPO firms
referred to CC

92%

of cases concerned
letting agents

33%

of agents referred
had ceased trading
or left TPO

"The aim of the NTS Estate Agency Team is to raise standards within the industry. The Property Ombudsman Scheme provides intelligence to the team regarding agents that have been expelled or where there are concerns with compliance matters. This information is fundamental for investigations, providing crucial evidence for the team to pursue either a prosecution or to issue a warning or banning order. Effective communication between the team and the redress schemes is crucial in our work to protect consumers and safeguard honest businesses". NTSEAT

Independent Reviewer's Report 2018



Claire Evans,
Independent Reviewer

I represent the last stage in TPO's service complaints procedure and I also undertake an audit of cases completed by TPO.

2018 service complaint workload

I saw a sharp decline in the number of service complaints referred to me this year from nine last year to only one this year.

In the one case I reviewed, it was pleasing to see that to a large extent TPO had already accepted, apologised and offered appropriate redress for the service issues raised by the complaint. Having said that, I identified a further three service issues and recommended that the Ombudsman took action to remedy those, which she did.

I am particularly pleased to report that TPO have acted on and implemented the recommendations I made to them last year about changes to the service complaints process. The new two-stage approach has the customer at the heart of the service complaints process. It is less formal and rightly puts the responsibility for responding to complaints to staff members responsible for delivering the service. I look forward to seeing the impact of this over 2019.

2018 audit work

I looked at a sample of enquiry (1%), resolution (3%) and case review (2%) cases. I am pleased to report that I saw no cases where TPO acted outside of their Terms of Reference.

In terms of enquiry cases I am again pleased to see evidence of TPO staff providing advice and support to enquirers regardless of whether their complaint was within TPO's remit.

In terms of resolution cases I am again impressed by the detail of explanation provided in the resolution decisions. I am also pleased to see again evidence of TPO negotiating a settlement between the parties at this earlier stage. However, I would encourage TPO to use the telephone more in this work.

In terms of case reviews, I am pleased that I saw that appropriate explanations, with reference to the Codes of Practice and other legislation, given for the decisions and that the tone and content of the decisions has continued to improve.

My audit of case reviews also showed improvement during the second half of the year in terms of throughput times and I am particularly pleased to report on the positive impact sharing case decisions simultaneously has had in this area.

I was, however, disappointed not to see more use of the telephone at case review stage and through my report I encourage TPO to embed the use of telephone contact as part of their casework process. That can lead to further improvements in terms of the customer experience, the decision-making process and in throughput times.

Conclusion

I am very pleased about the changes TPO have implemented to the service complaints process and to report that my audit of cases has shown overwhelmingly that TPO continues to act within its Terms of Reference. I encourage TPO to look for further improvements to its casework process by utilising telephone contact with the parties.

A handwritten signature in blue ink that reads 'Claire Evans'.

Claire Evans
Independent Reviewer

TPO Financial Review



Gerry Fitzjohn,
Chair, TPO Finance &
Performance Committee

TPO started 2018 with the separation of roles between Council & Board which the Articles of Association, created 28 years previously, stipulated. Following an independent review, the Board unanimously voted for a new, modern governance structure, which integrated Council & Board into a single Unitary Board. It is my privilege and pleasure to thank all the Board

members for their previous support and to welcome their engagement in the new externally facing Industry Forum which is focused on improving standards.

It now falls to me as a Non-Executive Director and Chair of the Finance & Performance Committee to ensure that there is an integrated and sustainable approach to TPO's finances in the future. I do so with my colleagues in the face of the challenges that year on year increases in demand present to TPO, and in the sure knowledge that cost savings, efficiency gains and modest increases in headcount alone will not allow TPO to continue to deliver the level of service we provide.

Considerable progress has been made to invest in systems, skills and training internally, as well as investments in member training and in conferences to raise standards and operate in an efficient manner. To do this, TPO has incurred an in-year deficit and drawn down on reserves. This demonstrates that TPO has provided good value for money and the resultant improvement in efficiency has kept pace with demand. However, it is clear that the current level of income is not sufficient to sustainably support the demand on the service. Our income for the year increased by 3%, however, this has been outstripped by the increase in casework by 16%

which requires continuous investment in the workforce and systems.

We will develop this strong base into year on year increased performance which keeps us at the forefront of service excellence. Inevitably, this will mean reviewing our business models and subscription fees, which have stayed the same since 2014. We seek to ensure our membership scheme is fair, transparent, and reflects workload. Despite a changing landscape our business planning will seek to ensure that TPO is financially sustainable, robust enough to cope with changes in our service and continues to be supported by a sensible reserves policy that is reviewed annually.

Gerry Fitzjohn
Chair, TPO Finance
& Performance Committee

TPO Accounts:

Finance Report

THE PROPERTY OMBUDSMAN LIMITED (A COMPANY LIMITED BY GUARANTEE)

Income and Expenditure Account for the Year Ended 31 December 2018

	2018	2017
	£	£
Income	3,774,168	3,657,445
Administrative expenses	<u>(4,173,228)</u>	<u>(3,667,548)</u>
Operating deficit	(399,060)	(10,103)
Interest receivable and similar income	<u>5,672</u>	<u>20,250</u>
(Deficit)/surplus before taxation	(393,388)	10,147
Tax on (deficit)/surplus	<u>(1,078)</u>	<u>(1,330)</u>
(Deficit)/surplus for the financial year	<u><u>(394,466)</u></u>	<u><u>8,817</u></u>

TPO Accounts: Finance Report

THE PROPERTY OMBUDSMAN LIMITED (A COMPANY LIMITED BY GUARANTEE)

Balance Sheet as at 31 December 2018

	2018		2017	
	£	£	£	£
Fixed assets				
Tangible assets		220,338		206,990
Investments		8		8
		<u>220,346</u>		<u>206,998</u>
Current assets				
Debtors	343,460		283,771	
Cash at bank and in hand	<u>2,511,460</u>		<u>2,922,821</u>	
	2,854,920		3,206,592	
Creditors: amounts falling due within one year	<u>(1,670,893)</u>		<u>(1,614,751)</u>	
Net current assets		<u>1,184,027</u>		<u>1,591,841</u>
Total assets less current liabilities		<u>1,404,373</u>		<u>1,798,839</u>
Reserves				
Income and expenditure account		1,404,373		1,798,839

These financial statements have been prepared in accordance with the provisions applicable to companies subject to the small companies regime.

The financial statements were approved by the board of directors and authorised for issue on 25th April 2019 and are signed on its behalf by:



Baroness Warwick of Undercliffe
Director

Company Registration No. 03339975

TPO'S CODES OF PRACTICE

TPO is the only property organisation to have Codes of Practice approved by the **Consumer Code Approval Scheme (CCAS)**, which go above and beyond the law to protect consumers.

TPO's Codes are reviewed regularly to ensure they take into account legislative changes, emerging trends and system issues highlighted through the Ombudsman's work. The Codes are reviewed with consumer and industry representatives which ensures that the Codes always remain fit for purpose.

Find out more about TPO's Codes here:
www.tpos.co.uk/members/codes-guidance



www.tpos.co.uk

Scheme contact information

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www.tpos.co.uk [@TPOmb](https://twitter.com/TPOmb) facebook.com/PropertyOmbudsman
linkedin.com/company/the-property-ombudsman



Search for registered Agents: www.tpos.co.uk/find-a-member

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