The Property Ombudsman

Annual Report
2019

TPO RAISING MONEY FOR CHARITY

Every month, staff at TPO take part in 'Dress Down Day' by donating to charity. Each month a different charity is selected and in 2019 TPO raised a total of

£1,545

Jan	Great Ormond Street Hospital
Feb	Winston's Wish
Mar	Comic Relief - Red Nose Day
Apr	Harvey Warren Trust
May	Mind
Jun	Stonewell
Jul	Combat Stress
Aug	Weldmar Hospicecare Trust
Sep	Macmillan / Stars Appeal
Oct	Strathcarron Hospice
Nov	Children in Need
Dec	Alabare

TPO also donated £5 for every ticket sold from the TPO 2019 Conference, providing

£1,085

for Agents Giving.

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Foreword by the Chair of the Board

Baroness Diana Warwick

TPO operates in a complex political, professional and consumer environment and within a dynamic external context. As Chair of the Board, I recognise the need for TPO to be seen to be a key contributor to the wider policy debate as well as being focused on improving service standards.

TPO's message remains clear. Consumers must have free access to resolving the problems they encounter with property agents, whilst the sector must continue to strive to provide quality, compliant, value for money services.

During 2019 our impact on developing compliance with best practice was apparent through the significant changes made to the Sales and Lettings Codes of Practice. The published Codes involved the widest collaboration within the sector to date and resulted in:

- 44 organisations and individuals responding to an open consultation process
- 287 external requests for amendments to be made
- 201 internal, evidence-based changes
- Technical consultations with the Ministry of Housing, Communities and Local Government (MHCLG) and National Trading Standards Estate Agency Team (NTSEAT)

The Sales and Lettings Codes are the most up to date of any existing Codes and have been scrutinised and approved by the Chartered Trading Standards Institute (CTSI).

Lord Best, in his role as Chair of the Regulation of Property Agents, was clear that these Codes set the bar high and that there should be no need to reinvent the wheel. As Chair of the Board, I wholeheartedly agree with him.

TPO stands ready, as ever, to work in partnership within the sector and to be clear and confident that what we do has positive impact on people's lives. We make a difference and we do so consistently, fairly, and in the public interest.

The information in this Annual Report is intended to provide insight and analysis to the Property Sector as a whole. The Board and the Executive are ever mindful of the growing expectations of consumers and TPO has yet again increased its productivity levels in response and is also working hard to provide quality services which support, educate, inform and advise consumers.

At the time of producing this report we are experiencing, in common with everyone else, the unprecedented challenges that COVID-19 presents. The Board and the Executive are united in putting staff safety and welfare first. We will do everything possible to continue to provide a service to consumers and agents that is flexible and responsive to the circumstances.

My thanks go to the Ombudsman and her staff for the resilience they show in meeting the ever-growing demands for TPO's services, and to my fellow Board Members for their contribution to the important issues of strategy, governance, financial stability, compliance and performance.

I commend this report to you.

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

TPO BOARD

The Ombudsman reports to the Board. Only the Ombudsman and her adjudicators are empowered to decide cases. The Ombudsman's decisions are final and cannot be appealed or overturned by the Board. Under the approved governance arrangements, the Board appoints the Ombudsman in accordance with the Nolan principles of public life and open competition.

The Board has specific duties to maintain the Ombudsman's independence, ensure financial stability, compliance with payments of awards and directions, good governance and high performance.

Baroness Diana Warwick was appointed as Chair of TPO's independent Council in May 2017, and subsequently as Chair of the new Board in July 2018, to lead the Board and ensure the Ombudsman can act independently and impartially when reviewing property disputes. Diana has an unexpired term until April 2021, which is capable of renewal until 2025. She is the current Chair of the National Housing Federation and is a Non-Executive Board Member of the Pension Protection Fund and of the Financial Services Ombudsman.

Kathryn Cearns was appointed to the Board in January 2019, with an unexpired term to 2023. Amongst her other appointments, Kathryn is a Member of the External Audit Committee to the International Monetary Fund; Non-Executive Director of the UK Supreme Court, Highways England and Crossrail and a Non-Executive Board Member of Companies House.

Gillian Fleming is Chair of the Compliance Committee. An Accredited Mediator and Associate Member of the Chartered Institute of Arbitrators, Gillian's career has been focused on resolving professional services disputes in the public and private sector. She also has extensive regulatory experience in the healthcare, financial and property sectors which includes chairing fitness to practice panels. Gillian was appointed to Council in 2016 and subsequently to the new Board in July 2018, with an unexpired term until October 2020.

Katie Kapernaros was appointed to the Board in January 2019, with an unexpired term to 2023. Katie is also a Non-Executive Director of BPDTS Ltd (Department for Work and Pensions) and Oxford University Hospitals NHS Foundation Trust and is an experienced executive working at international level for IBM Global Technology.

Victor Olowe is a Governance Consultant at Winzest Consulting and he holds non-executive positions in a number of organisations, including Chair of the Quality Assurance Scheme Sub-Committee (Institute and Faculty of Actuaries) and Chair of the Water Adoption Code Panel (Water UK). Victor was appointed to Council in 2013 and subsequently to the new unitary Board in 2018, with an unexpired term until October 2021.

Gerry Fitzjohn began serving on the TPO Executive Board in 2000 and became Chair in 2015. He was subsequently appointed to the new Board in July 2018 and has an unexpired term until 2021. Gerry was previously National Sales Director of Countrywide until he stepped down in 2010.

Mark Hayward previously served on the original TPO Board from 2013 representing NFoPP/ Propertymark and was subsequently appointed to the new Board in July 2018, with an unexpired term until 2021. Mark is well known to the industry and to government in his role as Chief Executive of NAEA Propertymark. Mark was also a Member of the Regulation of Property Agents (RoPA) Working Party chaired by Lord Best. He is also on the Board of the Tenancy Deposit Scheme and the government's Economic Crime Strategic Board.

Mark McLaren's previous role for Which? Consumers' Association saw him directly involved in the work that led to Estate and Letting Agents being required to join an independent redress scheme. Mark was appointed to the Council in 2015 and subsequently to the new Board in July 2018, with an unexpired term until 2023. Mark is Chair of the TPO Consumer Forum.

Michael Stoop previously served as a consultant to the original TPO Board from 2015 and was subsequently appointed to the new Board in July 2018, with an unexpired term until July 2022. Michael is a well-known figure in the sector, as Chairman of Belvoir Group Plc and the recipient of a Lifetime Achievement Award in 2019.

Ombudsman's Report

Katrine Sporle, Ombudsman

I am proud to report on TPO's achievements on behalf of consumers during 2019. 90,000 contacts were made to TPO during the year and I am confident that the 30,356 consumers who raised an initial enquiry with TPO staff would have been given as much support, advice and guidance as possible.

During the course of the year TPO yet again rose to the challenge of rising numbers of complaints – up by 20%. 78% of those complaints were supported, resulting in Ombudsman Awards of £2.20 million.

There were a number of stand-out issues for me during 2019. Firstly, the number and complexity of Residential Leasehold Management complaints from individuals and groups, who present with a high level of frustration - so much so that I have established a collaboration working group across the sector to explore ways in which we might improve education, advice and signposting to leaseholders.

Secondly, the enormous amount of effort TPO put into ensuring that the Sales and Lettings Codes are up to date and relevant to the sector. We also significantly strengthened our guidance on the dual fees issue to support our stance that no consumer should ever be unknowingly placed in a position where two commission fees might be payable.

Thirdly, the focussed work of the Regulation of Property Agents Working Group, chaired by Lord Best. TPO was able to provide an evidence base for many of the recommendations in the report, which we support.

Fourthly, the fundamental review of the TPO fee structure with the express intention of:

- matching resource and workload
- ensuring consistency and transparency
- ensuring fair usage of the Scheme by all Members

I was heartened by the response to the personal briefings my Director of Finance and I gave to many of our Members; who above all understand and appreciate that what TPO is all about is expertise, experience and evidence, resulting in fair, impartial outcomes for consumers and agents alike.

My fifth and final stand-out issue has to be the resilience, dedication and commitment of staff in providing quality outcomes to so many people throughout the year.

As 2019 drew to a close we were able to take stock and give more focus to the areas where TPO believes investment is necessary. We will use our position in the sector, and our membership of the Redress Reform Working Group, to:

- improve and support advice and guidance to consumers with a diagnostic tool, resulting in speedier routes into TPO for complainants.
- improve the advice and signposting to leaseholders in particular by providing better advice and signposting and pursuing improved and integrated pathways to redress
- champion the value of the Sales and Lettings Codes of Practice and work in partnership with the sector to develop a full set of sector specific Codes of Practice.

I would like to take this opportunity to thank the Board, TPO staff and partner organisations as a whole for the enormous efforts that are made to provide the frameworks the sector needs to improve its reputation and to raise standards. May it go from strength to strength.

Katrine Sporle
Ombudsman

Deputy Ombudsman's Report


Jane Erskine, Deputy Ombudsman

We all recognise the importance of a home to our lives and we appreciate the distress that can be caused to both consumers and agents when things go wrong, particularly where there is an ongoing relationship.

As an Ombudsman Scheme, our focus, in addition to resolving consumer disputes, is to actively assist in, and contribute towards, raising standards in the industry by highlighting and promoting best practice. We use our evidence base in combination with horizon scanning in order to identify any areas that are causing significant consumer detriment, seeking to highlight issues in order to support greater access to justice.

In 2019, a particular focus was dual commission fee cases. We noted the rising number of complaints and, having sought the views of our Industry and Consumer Forums, issued guidance supporting our revised Codes of Practice, setting out our approach to such cases (available on our website). All cases are dealt with on the specific facts presented but the guidance, in combination with the Codes, provides clarity to parties, who can proceed knowing how to avoid these situations and how TPO will deal with the matter if a dispute arises. Feedback received, such as the agent who commented "Thank you for your helpful clarification on your position. I absolutely understand your stance" has demonstrated that our clear Guidance has been welcomed and changes the behaviour of agents so that there is pre-compliance. We believe that the only way for consumers to be protected from innocently being faced with two commission fees is for agents to always ask a new client whether the property has been previously marketed with another agent and, if that is the case, to act in accordance with the obligations outlined in the Code.

We continue to engage with the industry on this and other issues which are causing concern and, in 2019, did so by way of case studies, webinars, conferences and training courses (provided through Propertymark). As ever, better agent behaviour built on the foundation of clear Codes and guidance ensures better outcomes for consumers.

The case studies on pages 12 to 15 show how we at TPO investigate complaints and how we apply the TPO Codes of Practice to achieve fair and impartial outcomes that seek to help both parties draw a line under the issues and move on. We aim to ensure that TPO continues to be a purposeful, efficient and effective organisation, ensuring that both consumers and agents have confidence in our expert decision-making within the property sector.

Jane Erskine

Jane Erskine
Deputy Ombudsman

2019 in Numbers:
TPO MEMBER AGENTS

SALES
15,755
8,933 companies plus 6,822 branches

LETTINGS
14,548
9,022 companies plus 5,526 branches

RLM
1,503
894 companies plus 609 branches

OTHER
10,004
8,018 companies plus 1,986 branches

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

30,356 CONSUMER ENQUIRIES

This includes 9,811 enquiries received via the 24/7 online chat service, representing a 7% increase on 2018

+4% from 2018

5,106 COMPLAINTS

+20% from 2018

SALES COMPLAINTS
1,669
↑ 27%

LETTINGS COMPLAINTS
2,518
↑ 2%

RLM COMPLAINTS
780
↑ 123%

OTHER* JURISDICTIONS COMPLAINTS
139
↓ 3%

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.

2019 in Numbers:
AWARDS

The Property Ombudsman instructed Agents to pay awards worth

£2.20 MILLION

The highest award paid by an agent

£20,200 (SALES)

£17,644 (LETTINGS)

£21,439 (RLM)

Total Sales Awards
£735,879

Average Sales Award
£742

Total Lettings Awards
£1,112,910

Average Lettings Award
£635

Total RLM Awards
£114,707

Average RLM Award
£273

Total Awards for Other Jurisdictions
£232,539

Average Award for Other Jurisdictions
£2,703

Due to a large number of awards made in commercial cases

AWARDS BREAKDOWN

Awards made on Early Resolution Cases totalled:

£345,349

On Complex cases, awards are made for Monies Owed, Quantifiable Loss and Compensation.

The 2019 breakdown for this is:

Monies Owed:
£488,924

Quantifiable Loss:
£437,486

Compensation:
£836,925

Fee Direction
(Where TPO directs the agents to withdraw the fee claimed)
£87,351

2019 in Numbers:
SALES & LETTINGS

TOP CAUSES OF SALES COMPLAINTS

- COMMUNICATION AND RECORD KEEPING
- COMPLAINTS HANDLING
- MARKETING AND ADVERTISING
- INSTRUCTIONS, TERMS OF BUSINESS,COMMISSION AND TERMINATION

COMPLAINTS SUPPORTED BY THE OMBUDSMAN

1,540 Sales cases resolved

Complaints received from Sellers	Complaints received from Buyers	Complaints received by Other*
67% (1038)	29% (448)	4% (54)

Total cases supported **63%** (969)

TOP CAUSES OF LETTINGS COMPLAINTS

- MANAGEMENT
- COMMUNICATION AND RECORD KEEPING
- COMPLAINTS HANDLING
- TENANCY AGREEMENTS, INVENTORIES AND DEPOSITS

COMPLAINTS SUPPORTED BY THE OMBUDSMAN

2,516 Lettings cases resolved

Complaints received from Landlords	Complaints received from Tenants	Complaints received by Other*
50% (1260)	48% (1206)	2% (50)

Total cases supported **67%** (1697)

* TPO can also consider sales and lettings complaints from small businesses, charities and third parties affected by the actions of the agent.

2019 in Numbers:
RLM

TOP CAUSES OF RLM COMPLAINTS

- BEST PRACTICE
- COMPLAINTS HANDLING
- MAINTENANCE - MAJOR WORKS
- SERVICE CHARGE - DEMAND /COLLECTION

COMPLAINTS SUPPORTED BY THE OMBUDSMAN

820 RLM cases resolved

Complaints received from Landlords	Complaints received from Tenants	Complaints received by Other*
78% (638)	**14%** (113)	**8%** (69)

Total cases supported **49%** (405)

* 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 Ombudsman 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.

LIMITED ACTION FOR LEASEHOLDER LEAKS

A case that The Property Ombudsman was asked to review came from a leaseholder who stated that the agent had failed to pro-actively manage the water leaks from the flat above.

This complaint was raised by the niece of an elderly gentleman living in a retirement complex. His upstairs neighbour had caused six water leaks through his ceiling (to date) by forgetting to turn off her bathroom taps.

The complainant reported that her uncle was extremely distressed and barely dared to leave the house in case of a serious flood. His efforts to speak to the lady who lived above had been in vain as she either denied it or failed to see the seriousness of the problem. The complex manager had reportedly been made aware on each occasion, but they had not taken any action until the complainant became involved.

The agent said they had spoken to the resident in question and had arranged for flood sensor taps to be installed but essentially said they could do nothing further to assist beyond that. There had been one further leak since the taps were installed.

Could the agent have done anything more? Read the Ombudsman's findings and outcome at:
www.tpos.co.uk/news-media-and-press-releases/case-studies/item/limited-action-for-leaseholder-leaks

BASEMENT BOTHER OR BONUS?

A case that The Property Ombudsman was asked to review came from a buyer who stated that the agent had failed to disclose that there was a basement beneath the property to which unauthorised alterations had been made by the sellers.

The buyer of a ground floor flat said that the agent should have disclosed the existence of the basement, which the sellers had converted into two rooms, running power cables and water pipes into the basement. These alternations were unauthorised. The buyer had discovered the conversion when lifting the lino in the kitchen after moving in; she discovered a trapdoor that led to the conversion.

Based on the information contained in the agent's company file, the Ombudsman was satisfied that they were aware of the converted space beneath the property. The sellers initially appeared to have wanted to advertise this as part of the property for sale. However, it was agreed that mention of this would be removed and would not form part of the sale.

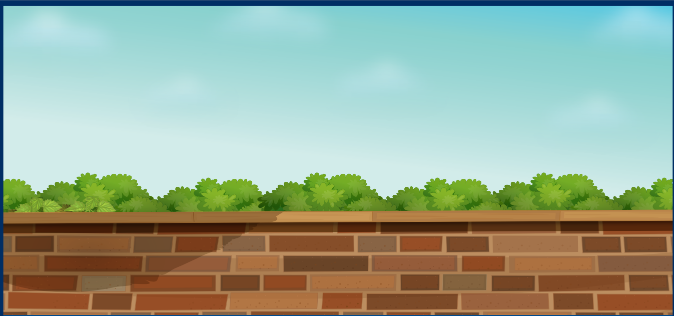
In coming to a judgement on this complaint, the Ombudsman considered the agent's obligations under the TPO Code of Practice and the Consumer Protection from Unfair Trading Regulations 2008 (the CPRs)

Read the full case study and outcome here:
www.tpos.co.uk/news-media-and-press-releases/case-studies/item/basement-bother-or-bonus

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:

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



PROXIMITY PROBLEMS IN PROPERTY SEARCH

A case that The Property Ombudsman was asked to review came from buyers concerning the accuracy of the information within the local authority search compiled by the search provider (SP).

The buyers said that the search contained inaccurate and misleading information about the proximity of a scientific research centre. They calculated that the site was 104 metres away from the property and explained that they were unaware of the proposal to build the research centre until after they had purchased the property.

The buyers explained that they made their decision to purchase the off-plan property based on the information contained within the SP's search report. They believed that the construction of the research centre had a direct impact on the value of the property and were seeking compensation from the SP for omitting to include the planning application in the search. They calculated their losses, in respect of the impact of the site on property prices, to be around £40,000.

The SP did not dispute that the planning application in question was not included in the search, despite the site being located within the 500-metre search radius. However, they said that they could not be held responsible for this omission as they obtain their data from a third-party provider, who record the location of planning applications using grid references listed in the planning application forms which are submitted to the local authority.

Read more on this case and the outcome here:

www.tpos.co.uk/news-media-and-press-releases/case-studies/item/proximity-problems-in-property-search

SOMETHING IN THE WOODWORK?

A case that The Property Ombudsman was asked to review came from a buyer concerning the survey.

The buyer said that the surveyor failed to notify her of the presence of woodworm (active or not). She said that the survey report did not mention evidence of woodworm in the kitchen or hall floorings even though those areas were not carpeted at the time of the survey. She explained that if she had been alerted to this, she could have had any necessary treatment carried out before moving into the property. Instead, this had to be done after, requiring her to vacate the property for three days.

The surveyor said that at the initial inspection, the timber floor was exposed in the hall and kitchen and appeared generally free of defect. There was damp staining in the kitchen and the area was tested with a damp meter which showed the area was dry. In the absence of any further visible defect, they concluded that there was no significant problem to the floor.

The surveyor commented on treatment carried out on behalf of the buyer by a woodworm specialist company. They thought that there was a lack of evidence from the contractor's inspection as the photographs of floorboards showed visible holes on the underside of the floorboards only. They said these would not have been noticeable without the floor being lifted, something the survey report clearly stated would not be done. In addition, the work was carried nine months after their inspection, and they said that conditions could have changed during this time.

Read the Ombudsman's findings and outcome here:

www.tpos.co.uk/news-media-and-press-releases/case-studies/item/something-in-the-woodwork

MANAGING EXPECTATIONS IN A MIXED TENURE ESTATE

The Property Ombudsman was asked to review a case from freeholders concerning the management of the estate by the managing agents.

The complainants, a couple who owned the freehold of their property, complained about the general condition of the development which was managed in its entirety by the agent. The development consisted of 850 properties, comprising around 450 houses, 30 blocks of flats, communal areas and green spaces, woodlands, meadows and balancing ponds. The agent was instructed by the Resident Management Company. The various issues included:

Parking - illegally parked vehicles, despite clear rules for parking. The complainants said that the agent was aware of this but failed to take any action.

Waste Recycling - green waste area hidden by commercial vehicles enabling some residents to dump rubbish in this area. The complainants said the agent had failed to deal with the issue.

Flat obligations - residents in flats were not permitted to keep dogs, but one resident did and some residents of the flats had washing drying on the balconies, which was not permitted. The complainants said that the agent had taken no action about these matters.

Fees - the complainants were dissatisfied that the agent had advised that they would charge for dealing with queries "to the extent they consider reasonable."

The agent had taken some action to address the issues but pointed out that they could only go as far as their client instructed, and although they could not resolve all issues to the complainants' satisfaction, they had taken them seriously and given explanations where possible.

Read the Ombudsman's decision here:

www.tpos.co.uk/news-media-and-press-releases/case-studies/item/managing-expectations-in-a-mixed-tenure-estate

INCENTIVISING LANDLORDS OR LETTING AGENTS?

A case that The Property Ombudsman was asked to review came from landlords about the retention of a £2,500 landlord incentive payment paid by the Borough Council (BC).

In this case, the landlords instructed the agent on a full management basis. Concerned about the length of time it was taking to find tenants, the agent suggested they considered letting to tenants in receipt of housing benefit, explaining that the BC had a scheme. No mention was made of the £2,500 landlord incentive payment that the BC were offering and no disclosure that the agent would retain such a payment.

The landlords considered that the agent's actions in retaining this payment and failing to inform them about the payment was contrary to their obligations under the Consumer Protection from Unfair Trading Regulations 2008 (CPRs), which requires agents to be open, honest and transparent.

The agent said that the agreement was between them and the BC and as such say that they were entitled to keep the entire fee of £2,500 they were paid.

In this case, the Ombudsman had regard to the CPRs, specifically Regulation 6, which is concerned with 'misleading omissions'. This places agents under a duty not to mislead consumers by failing to give them the information they need in order to make an informed decision, where this causes or is likely to cause the average consumer to take a different 'transactional' decision.

Following this case, TPO also sought Primary Authority Assured Advice on this topic - Assured Advice 33.

Read the Ombudsman's findings and outcome of this case at:

www.tpos.co.uk/news-media-and-press-releases/case-studies/item/incentivising-landlords-or-letting-agents

DELIBERATING DEPOSIT REPLACEMENT

The Property Ombudsman was asked to review a case from a tenant in regard to information she was given about the deposit replacement product (DRP) before the tenancy commenced; her attempt to change from the DRP to a regular deposit scheme and the agent's handling of the same; as well as concerns about the arbitration process.

The tenant said that she was not made aware of the Terms of the DRP before she was asked to sign the No Deposit Option (NDO) agreement.

The agent provided a copy of the information they said they sent to the tenant when she applied to rent the property. This was a 25-page document which included a Tenancy schedule as well as the Terms of the NDO agreement. The tenant provided the document she received; this was 13 pages and the Ts & Cs of the NDO agreement were not included. There was some basic information to explain the process of the DRP.

The second element of this complaint concerned the tenant's attempt to cancel the NDO agreement and pay a traditional security deposit instead. The tenant was upset that she was asked to pay an administration fee to do so.

Finally, the tenant was upset about having to pay a fee to challenge the deductions at the end of the tenancy. Having rented before, she had thought that she could approach a tenancy deposit scheme with no charge. In this case, while the Ombudsman had concerns about any consumer being charged to access redress, the NDO clearly stated that there would be a fee of £150 (inclusive of VAT) to access arbitration, allowable as this was not a traditional deposit dispute.

Read this case in full along with the Ombudsman's decision at:

www.tpos.co.uk/news-media-and-press-releases/case-studies/item/deliberating-deposit-replacement

BADGERED BUYERS

A case that The Property Ombudsman was asked to review came from buyers who stated that the agent had failed to provide them with all material information about the property, in this case failing to notify them of badger setts in the garden.

The buyers said that they noticed holes in the garden during one of their viewings and upon querying this with the agent, said that they were informed they were fox holes. In a later conversation with the previous owners, the buyers, now owners of the property, queried the holes. The seller confirmed that they were badger holes, and that he had commissioned a report about the badger setts in the garden which had been supplied to the agent with the instructions that they provide a copy to prospective buyers.

The buyers subsequently contacted the agent and received a copy of the Badger Exclusion and Damage Report the seller had commissioned, which detailed significant costs to install exclusion fences to deal with the extensive badger sett and allow full use of the garden.

A significant selling feature of the property was the large garden and the extent of the tunnels not only caused damage to the shed, and lawn, but meant that the badgers were present in over half of the garden. If the buyers were to enjoy use of the garden, they ran the risk of disturbing badgers in their setts. To avoid the risk of this and to allow the buyers to be able to use and enjoy the garden, it was necessary for works costing around £12,500 to be undertaken.

Find out the Ombudsman's decision here:

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

Compliance Committee

TPO's Codes of Practice are independently approved by the Chartered Trading Standards Institute's (CTSI) Consumer Codes Approval Scheme (CCAS). This is an important approval which underpins the role of TPO's Codes in not only promoting best practice within the sector but also in producing accessible and up to date Codes which can be easily understood by consumers and agents alike.

Gillian Fleming, Chair of Compliance Committee

One of the key criteria of the CCAS approval is for a code sponsor like TPO to operate an independently chaired disciplinary committee, which is why we have a Compliance Committee (CC). The CC reports to Board and 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 the TPO scheme.

TPO's Codes of Practice intentionally simplify the complex legal and contractual landscape to enable TPO agents to clearly understand what is expected of them when dealing with consumers and how to provide a good service. This also means that perceived shortcomings can be easily measured against the Codes, providing consistency in the decisions and awards made by the Ombudsman.

The Ombudsman reviewed 3,731 complex complaints in 2019 and made financial awards to consumers in 2,836 cases. Consumers and 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 2019, 61 new referrals were made to the CC as against 76 in 2018. These related to 38 different agencies including one agent responsible for 8 cases. All were for failure to pay an award and/or carry out a direction imposed on them by the Ombudsman. Only 3 referrals related to an estate agency, while 34 related to letting agencies.

The remaining case concerned a residential leasehold management company.

Action by the CC resulted in 15 cases being successfully settled with consumers receiving what was rightly due to them. However, of the remainder, 10 agents had already ceased trading and 15 related to agents who were no longer members of TPO or any other redress scheme. The other cases were agents who were apparently still trading yet did not comply with the Ombudsman's award. Altogether in 2019, 22 agents were expelled from TPO relating to 44 letting complaint cases and 1 sales complaint case. The remaining cases are ongoing.

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

In 2019 we revised our approach to referrals to promote early settlement and there was a 19% decrease in cases referred to the CC during 2019, compared to 2018. Overall, when considered within the context of 2,775 agents who did pay the awards made against them, the compliance rate was 98% which underlines TPO's effectiveness in ensuring consumers receive the appropriate redress.

Gillian Fleming
CC Chair

QUICK STATS

98%
of awards paid by TPO members

0.1%
of all TPO firms referred to CC

19%
less cases referred to CC

90%
of cases concerned letting agents

41%
had ceased trading or left TPO

Independent Reviewer's Report 2019

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

2019 service complaint workload

I considered five complaints about TPO's service this year. I supported four (out of the 24) individual issues of concern brought to me (16.5%) and I am pleased to report that TPO agreed to all my recommendations for redress where I found that their service had fallen short.

As a result of the service complaints I received I also made three recommendations for service improvements and I am pleased to report that these have been or are being taken forward.

2019 audit work

I looked at a sample of enquiry (1%), resolution (2%) and case review (2%) cases. I am particularly pleased to report that TPO have continued to provide appropriate advice and guidance on enquiries made of them, including complaints that fall outside of their remit.

I am also pleased to see again this year evidence of TPO trying to negotiate settlements earlier in the process and that is working well. I encourage TPO to expand on this work wherever that is possible.

I saw no cases this year where TPO acted outside of their Terms of Reference and through my audit I am satisfied that TPO provided appropriate explanations and reasons for their decisions.

This year saw changes to the case review process in August 2019, in terms of the length of time given to respond to case reviews and a focus on chasing comments on those decisions. I am pleased to report that has worked well.

As a result of the increase in TPO's workload, in particular the increase in complex cases received, this has been a challenging year for TPO. Despite their best efforts this has led to delays in the allocation of complaints for case review. This is an area that TPO are focussing on going forward and developing strategies to address. I welcome their work in this area.

Claire Evans

Claire Evans
Independent Reviewer

Claire Evans,
Independent Reviewer

TPO
Financial Review

Gerry Fitzjohn,
Chair, TPO Finance & Performance Committee

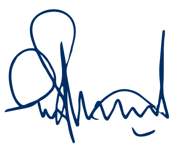
As in previous years, 2019 demonstrated another year of significant demand on the scheme with an overall 20% increase in complaint numbers. The challenge remains matching incoming resources to meet the demand on the service and manage the workload; and to do so in an efficient and cost-effective manner. As explained in my report last year it had become necessary to review the fee structure. Fees had not changed since 2014 however by the end of 2018 complaints had risen by 40% and enquiries by 73%. TPO made a conscious decision to use some of its reserves and the 2019 result shows a planned deficit to continue to invest in its infrastructure first before taking the difficult step of increasing fees to continue on a sustainable platform.

During 2019 the Board instructed a root and branch review of the membership scheme subscription fees versus the actual activities undertaken led by this Committee. Our key aim was that the review and ultimate outcome follow the Ombudsman Association principles of openness and transparency, accountability, integrity, clarity of purpose and effectiveness. The Executive team carried out extensive work that plotted the membership demographic against the complaint profile and activities. Whilst being mindful of the changing landscape and the principles described above, a number of options for the charging basis and the cost of subscription fees were presented. These were carefully considered by the Committee and Board before finally agreeing the way forward.

November saw the launch of the new fee structure, effective from January 2020. We continue with a basic subscription fee per branch which now includes a fair usage policy. Fair usage means that each branch subscription includes up to three Ombudsman supported complaints in each renewal year. The review proved that for the vast majority of agents the introduction of fair usage would see no additional fees incurred. This policy will however provide for agents to use the scheme proportionately and we hope that this approach will act as an incentive to drive better service to consumers and encourage agents to resolve complaints at an earlier stage. We have been encouraged to hear positive feedback from our agents regarding the introduction of the fair usage policy which only supports the data demonstrating the vast majority of TPO members strive to offer the best possible service.

For the first time TPO members will be able to pay their fees by direct debit and the membership team are in the process of rolling this out to members. Not only is this a cost effective method for TPO to collect payment but will also provide seamless renewal so agents can easily fulfil their obligations to be registered with a redress scheme.

TPO will continue to monitor its membership and workload to plan ahead based on known factors whilst having an awareness of the changing landscape. As a not for profit organisation this Committee and Board seeks to ensure its income and resources expended are in equilibrium. The final change in our fee review to introduce inflationary increases as appropriate aims to future proof the ability to raise sufficient income to support TPO's continued work whilst always ensuring an appropriate level of reserves is maintained.



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 2019

	2019	2018
	£	£
Income	3,942,419	3,774,168
Administrative expenses	(4,015,504)	(4,173,228)
Operating deficit	(73,085)	(399,060)
Interest receivable and similar income	10,538	5,672
Deficit before taxation	(62,547)	(393,388)
Tax on deficit	(2,002)	(1,078)
Deficit for the financial year	(64,549)	(394,466)
Retained earnings brought forward	1,404,373	1,798,839
Retained earnings carried forward	1,339,824	1,404,373

Balance Sheet as at 31 December 2019

	2019		2018	
	£	£	£	£
Fixed assets				
Tangible assets		150,799		220,338
Investments		8		8
		150,807		220,346
Current assets				
Debtors	361,537		343,460	
Cash at bank and in hand	2,633,932		2,511,460	
	2,995,469		2,854,920	
Creditors: amounts falling due within one year	(1,806,452)		(1,670,893)	
Net current assets		1,189,017		1,184,027
Total assets less current liabilities		1,339,824		1,404,373
Reserves				
Income and expenditure account		1,339,824		1,404,373

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 1st May 2020 and are signed on its behalf by:

Baroness Warwick of Undercliffe
Director
Company Registration No. 03339975

NB: Whilst this financial report predates the COVID19 pandemic we are sensitive to the far reaching consequences to the industry and to TPO that the pandemic presents. We will work with our auditors to mitigate the long term effects and ensure our financial stability into 2020 and 2021.

71%

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

81%

of respondents state that they had a financial award or resolution made

83%

of complex cases* were supported in whole or in part

*sales, lettings & RLM cases

Tenants (including potential tenants) were the most frequent type of respondent in 2019

Consumer Survey Review 2019

Survey measures on two main factors:
Service and Decision /Resolution Satisfaction

57%

Overall consumer service satisfaction for 2019

48%

Overall consumer decision / resolution satisfaction for 2019

- STAFF ARE HELPFUL
- CLEAR INFORMATION GIVEN ABOUT THE PROCESS
- QUICK RESPONSE TIME
- STAFF ARE KNOWLEDGEABLE
- CONSUMERS ARE KEPT UP TO DATE

- DECISION/RESOLUTION WAS CLEARLY EXPLAINED
- FAIR DECISION/RESOLUTION IN THE CIRCUMSTANCES
- ALL ISSUES DEALT WITH
- BOTH SIDES ARE FULLY CONSIDERED
- REFERENCE TO TPO CODE CLARIFIED

Agent Survey Review 2019

Survey measures on two main factors:
Service and Decision /Resolution Satisfaction

77%

Overall member agent service satisfaction 2019

77%

Overall member agent decision / resolution satisfaction for 2019

- CLEAR INFORMATION GIVEN ABOUT THE PROCESS
- STAFF ARE HELPFUL
- MEMBER AGENT KEPT UP TO DATE
- STAFF ARE KNOWLEDGEABLE
- QUICK RESPONSE TIME

- FAIR DECISION/RESOLUTION IN THE CIRCUMSTANCES
- DECISION/RESOLUTION WAS CLEARLY EXPLAINED
- ALL ISSUES DEALT WITH
- BOTH SIDES ARE FULLY CONSIDERED
- REFERENCE TO TPO CODE CLARIFIED

THE TIMES

Why are some sellers being hit with two bills for selling one house?

The Negotiator

Referral fees must be revealed after June 1st says ombudsman.

THE TIMES

Renting with no deposit: Is it too good to be true?

LettingAgentTODAY

Agents advertising weekly rent should show traditional 'pcm' figure too.

property industry eye

Ombudsman says agents must tell sellers about potential disadvantage of modern meithod of auction.

BBC NEWS

Letting fees ban: Renters confused after change in law.

EstateAgentTODAY

Reservation Agreements to be trailled in the New Year.

move iQ

The Property Ombudsman Talks to Phil Spencer.

PROPERTY WIRE Premier global property news service

Property Ombudsman issues guidance over dual estate agents' fees.

TPO Consumer & Industry Forums

The main purpose of the Industry and Consumer Forums is to raise standards in the sector. We do this by identifying trends/issues which are either giving rise to consumer detriment or have the potential to do so in the future. The forums, which meet three times a year, work side by side to discuss, analyse and recommend steps to take action to mitigate the impacts, whether by amending the TPO Codes of Practice, by education and training or ultimately through dispute resolution.

The current Chair of the Consumer Forum is Mark McLaren, an independent Non-Executive member of TPO's Board.

The current Chair of the Industry Forum is Michael Stoop, an independent Non-Executive member of TPO's Board.

The role of forum members is to give a voice to both consumers and the industry by providing a platform to contribute information, raise issues or provide a sounding board on issues of consumer detriment in property transactions of buying / selling / letting / leasing / auctioning homes.

The issues raised in 2019, some of which received interest from national consumer and industry press, include:

- ✔ **Dual Fees Commission**
- ✔ **Referral Fees**
- ✔ **Weekly Monthly Rent**
- ✔ **Reservation Agreements**
- ✔ **Deposit Replacement Schemes**
- ✔ **Modern Methods of Auction**

The forums welcome submission for discussion topics. If you would like to put forward an idea please complete the form found at the bottom of this page.

www.tpos.co.uk/about-us/consumer-and-industry-forums and email to: forums@tpo.co.uk

On the Road With TPO

January

7th - MHCLG Working Group (Codes)
17th - Guild Property Conference
29th - Roundtable: for Housing Court
29th - Complaints Handling Training Course

February

5th - NAEA Workshop – Durham
11th - Consumer Empowerment Alliance
12th - Law Commission Symposium: Commonhold and Right to Manage
27th - Consumer & Industry Forums (QEII London)

March

8th - Mediation Pilot Launch
12th - RoPA Sub Group: Codes of Practice
12th - Complaints Handling Training Course
14th - Rightmove Webinar

April

17th - Propertymark Webinar

May

8th - Professionalism in Property Conference
20th - RICS Industry Leaders' Forum
22nd - Consumer & Industry Forums (QEII London)
31st - Move iQ Podcast re: Tenant Fee Ban

June

6th - NAEA Regional Conference – Portsmouth
12th - RPSA Conference
13th - IRPM Annual Seminar
27th - Complaints Handling Training

July

10th - TPO Conference
15th - Rent Smart Wales, Cardiff
31st - Propertymark Webinar

August

30th - Move iQ Podcast re: How TPO Handles Complaints

September

6th - Annual Postgraduate Masters Student Conference Institute of Real Estate, Kingston University
12th - Complaints Handling Training Course
25th - Code Sponsors Forums
26th - Women in Residential Property
27th - Redress Reform Working Party

October

3rd - ARHM Conference
8th - First Leasehold Collaboration Meeting

November

12th - Westminster Legal Policy Forum
12th - Rent Smart Wales, Cardiff
13th - Redress Reform Working Group
14th - NAEA Regional Conference – Liverpool
19th - Rightmove Webinar, Milton Keynes
20th - Consumer & Industry Forums (QEII London)
21st - OA Policy Network, Manchester

December

3rd - RLM Workshop in Bristol
5th - Complaints Handling Training
13th - Move iQ Podcast re: Regulation and Compliance

RAISING STANDARDS

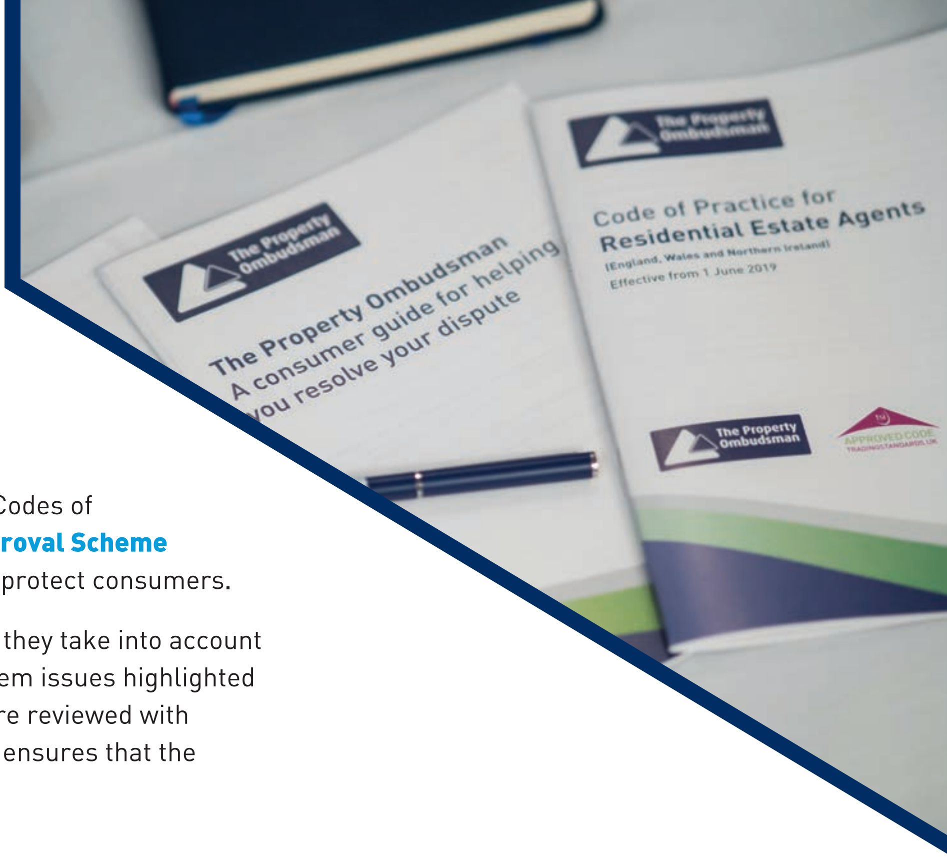
On 10th July 2019, TPO hosted its annual conference ‘Raising Standards’ at the National Conference Centre in Solihull.

Conference facilitator Michael Stoop (Non-Executive Director and Chair of TPO’s Industry Forum) guided delegates through a packed programme opening with Property Ombudsman, Katrine Sporle. The event focussed on the rapidly changing property landscape, its impact on agents and how TPO is adapting to these changes with significant developments to its governance, processes and new Codes of Practice.

Owing to the COVID-19 pandemic, TPO’s 2020 Conference, due to be held on 18th June, will now be replaced by a webinar in which TPO will provide updates, advice and interactive sessions to respond to agents’ questions and concerns.

Tickets already purchased will be credited towards TPO’s Conference in 2021, which will be held at the National Conference Centre in Solihull on 30th June 2021, comprising:

- Double the number of ‘Ombudsman’ workshops with different case studies for each session
- Expanded Agent Advice Area offering one-to-one clinics
- Sector and legislative updates from leading industry professionals
- An expert panel discussing the impact of changes on the sector
- 4 Hours CPD (Continuous Professional Development)



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

APPROVED CODE TRADINGSTANDARDS.UK

Chartered Trading Standards Institute

NATIONAL TRADING STANDARDS Estate and Letting Agency Team Protecting Consumers Safeguarding Businesses

Ministry of Housing, Communities & Local Government

OMBUDSMAN ASSOCIATION

The Property Ombudsman

www.tpos.co.uk

Scheme contact information

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Salisbury, Wiltshire SP1 2BP

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Tel: 01722 333 306
Email: **admin@tpos.co.uk**

Membership enquiries
Tel: 01722 335 458
Email: **membership@tpos.co.uk**

www.tpos.co.uk **@TPOmb** **facebook.com/PropertyOmbudsman**

linkedin.com/company/the-property-ombudsman **instagram.com/thepropertyombudsman**

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

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