



The Property
Ombudsman

Consumer Guide

Dispute resolution for block and estate management





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Approved by:

OMBUDSMAN
ASSOCIATION



Ministry of Housing,
Communities &
Local Government

**NATIONAL
TRADING
STANDARDS**
Estate and Letting
Agency Team



Chartered Trading
Standards Institute

1. Disputes about leasehold and estate management

There are different avenues for resolving complaints about leasehold and estate management and it's not always easy to know where to go. This guide, prepared by The Property Ombudsman with assistance from the First-Tier Tribunal, should help give an overview of the issues that could be considered through each of the different avenues available.

For complaints about the actions of a **property managing agent**, you might need to approach a redress scheme (see section 2). For complaints about leasehold **service charges** and the **quality of services** you pay towards, you will need to consider an application to the First-Tier Tribunal (see section 3).

Some issues will need to go to Court, for example **legal issues** involving accusations of professional negligence, or breach of contract (see section 4).

There are also some other options that can be explored if the parties involved are willing (see section 5).

2. Redress schemes

A redress scheme may be able to help where your block/estate is managed by one of their members. Agents that undertake leasehold, estate, commonhold or other property management must by law join an approved redress scheme so that consumers can have an independent review of their complaints.

Whether a redress scheme can deal with a complaint will depend on:

- Who you are (a landlord, a residents management company, or an individual resident).
- What your complaint is about and who is responsible (the landlord or the agent).
- The type of resolution or outcome you are seeking.
- Whether there is another organisation with specific responsibility for your type of complaint (for example, redress schemes do not have jurisdiction over service charge disputes).

A redress scheme can examine the records available and decide whether an agent has treated a customer fairly and propose a resolution that accounts for any detriment or disadvantage caused by shortcomings in service.

A resolution could be any one or all of the following: an award of compensation for aggravation, distress and inconvenience (awards are compensatory, they are not fines); compensation for proven financial loss; or providing you with information that may resolve the problem.

The redress schemes operating for the property sector are:

- **The Property Ombudsman** is a free and impartial ombudsman service that resolves disputes between consumers and agents, it is approved and authorised by the Ministry of Housing, Communities and Local Government, the National Trading Standards Estate and Letting Agency Team, the Chartered Trading Standards Institute and the Ombudsman Association.
- **Property Redress Scheme** – approved by the government since 2014, providing an impartial service that considers consumer complaints about a variety of property related issues.
- **The Housing Ombudsman** – can resolve disputes involving the tenants and leaseholders of social landlords (housing associations and local authorities) and voluntary members.
- **New Homes Ombudsman** – can resolve issues with new homes, which the Registered Developer has been unable or unwilling to fix.

The Property Ombudsman redress scheme can consider complaints about the agent's actions in these key areas:

Landlords	Tenants
Clear terms of engagement and fee structures	Transparency on financial matters
Communication and advice	Contact and availability for matters relating to where you live
Responding to resident requests for information or advising where the landlord should respond directly	Requests for information, either where you have a right to see the information or it is reasonable for you to do so
Planning for long term maintenance and organising works & repairs issues as they arise	Communication about repairs, such as the likely timescales for a remedy or whether an insurance claim is needed
Accounting for service charge funds and handling arrears, including formal arrears recovery procedures where instructed	Communication about arrears, for example letting you know if you are late or what to do if you can't afford to pay on time
Relaying requests or concerns from residents	Relaying requests or concerns to your landlord
Giving advice on statutory obligations such as the Section 20 consultation process	Giving advice about day-to-day problems, such as disputes with your neighbours
Providing information to solicitors acting in a sale or purchase of a unit at the premises	Providing information to solicitors acting in your sale or purchase
Handovers between managers	Letting you know when the manager is changing and who will deal with your account
Acting on health and safety concerns	Acting on health and safety concerns
Handling complaints	Handling complaints

This is not an exhaustive list, there may be other areas a redress scheme can help with. Each scheme will have their own Terms of Reference that set out the rules for accepting a complaint, for example usually you cannot complain about issues dating back more than 12 months before you formally complained.

Before you set out your complaint, you may wish to research the obligations in place between agents, their clients, and the residents:

- For leasehold managers in England and Wales: **The RICS Service Charge Residential Management Code**
- For members of The Property Institute (ARMA/IRPM): **Consumer Charter**
- For retirement housing managers: **ARHM Code of Practice** and **ARCO Consumer Code**

3. First-Tier Tribunal (Property Chamber)

The Tribunal is a type of court that deals with property issues. It is independent of government and will listen to both sides of the argument before making a decision.

The Tribunal has numerous functions relating to property, including:

Market rents: determination of rents under powers of Housing Act 1988 in respect of Assured (and Assured shorthold) Tenancies

Leasehold enfranchisement: the Tribunal has the power both in respect of freehold purchases and lease extensions to determine the premium payable and terms of the acquisition including landlord costs

Fair rents: determination of Rent Act tenancies

Right to Manage (RTM): wide powers to consider whether or not an RTM can proceed, amounts of uncommitted charges, Landlord costs etc

Section 27A Landlord and Tenant Act 1985: **determination of liability to pay and reasonableness of service charges.** Applications may be made by landlord or tenant

Rent Repayment Orders: Applications by tenants to recover rent when certain specified housing offences have been committed

Section 20ZA Landlord and Tenant Act 1985: **application for dispensation from requirements to consult leaseholders** in respect of major works (i.e. costing more than £250) or qualifying long term agreements (i.e. costing more than £100 in any 12-month period)

Civil Financial Penalties: appeals by landlords or agents who have been made subject to a civil financial penalty where the local authority is satisfied that certain housing offences have been committed;

Appointment of a manager: where a party to a lease, typically a leaseholder, can prove the property has not been properly managed they can apply for the Tribunal to appoint a manager who is answerable to the Tribunal

Appeals against Improvement notices, Prohibition Orders and decisions in relation to House of Multiple Occupation (HMO) Licences

Variation of a lease: in certain circumstances, any party to a lease may be able to apply to the tribunal to vary the terms of the lease if they are defective

Banning Orders: applications by local authorities to prohibit named persons from letting of property and property management

Mobile home disputes

Challenges under Right to Buy Legislation

A full list of the application forms

You will need to pay a fee on application to the Tribunal, but you may not need to pay for a full hearing as the Tribunal may be able to decide on your case by considering written arguments and evidence from all involved.

The Tribunal may invite you to engage in mediation if that seems a better means of resolving the dispute.

At present, only leaseholders and their landlords have an automatic right to have their case heard by the Tribunal, but if you own your individual property freehold and have a dispute about the charges you pay towards estate management, you can ask the County Court to consider whether the charges are payable.

4. County Court

In certain areas the Tribunal and the County Court both have powers to make legal decisions (jurisdiction). The County Court can transfer matters to the Tribunal and a Tribunal Judge can sit as a Judge of the County Court to resolve all matters:

Joint jurisdiction with the First-Tier Tribunal:

- Determination of liability and reasonableness of service charges;
- Determination of liability and reasonableness of administration charges;
- Ability to determine a set off against service charges;

County Court sole jurisdiction:

- Determination of contractual costs;
- Liability for payment of ground rent and interest on monies owing;
- Any form of counterclaim;
- Order for specific performance or injunction;
- Order for an account to be taken re monies paid and allocation of funds.

5. Other options

Your local council can help with health and safety concerns, and if Private Housing, Environmental Health or Building Inspection officers find serious hazards they can serve an order for improvement works.

Housing Disrepair Protocol – this describes the conduct that the court will expect the parties to follow in a housing disrepair claim prior to the start of legal proceedings, and it is intended that the steps may help bring about a resolution without the need for referral to the court.

Mediation – an attempt to reach a mutually satisfactory agreement between the parties, guided by a qualified mediator with knowledge of the subject in dispute.

Early neutral evaluation – a process at the early stages of a dispute where a neutral party is asked to provide an assessment of the dispute. The outcome is not binding on the parties.

Independent Expert Determination – the parties agree that an independent expert, usually a specialist in the subject of the dispute, can make a decision that will be binding on both sides.

Arbitration – a more formal process where an arbitrator is appointed. It may be that this is set out in the terms of a lease or deeds as a requirement for dispute resolution. The arbitrator will make a decision based on the evidence provided to them.

RICS dispute resolution service - covers service charges, dilapidations and ground rent

Building safety - qualifying leaseholders in relevant buildings are protected by the Building Safety Act 2022 in relation to the cost of replacing unsafe cladding or other relevant defects. You can check [the GOV.uk website](https://www.gov.uk) if you need to pay towards costs.

6. Resources and contacts

- A-Z glossary of terms
- GOV.UK guide to leasehold
- GOV.UK building safety leaseholder protections
- LEASE pre-purchase guidance
- Royal Institution of Chartered Surveyors (RICS) Service Charge Residential Management Code (3rd edition, 2016)
- Leasehold Advisory Service
- The Property Institute (formerly Association of Residential Managing Agents and Institute of Residential Property Management)
- Association of Retirement Housing Managers
- Flat Management Companies

First-Tier Tribunal

Residential property: London

10 Alfred Place
London
WC1E 7LR

London.Rap@justice.gov.uk
Telephone: 0207 446 7700

Residential property: Northern

1st Floor, Piccadilly Exchange
2 Piccadilly Plaza
Manchester M1 4AH

rpnorthern@justice.gov.uk
Telephone: 0161 237 9491

Residential property: Eastern

Cambridge County Court
197 East Road
Cambridge CB1 1BA

rpeastern@justice.gov.uk
Telephone: 01223 841 524

Residential property: Southern

Residential Property Tribunal
Havant Justice Centre
The Court House
Elmleigh Road
Havant PO9 2AL

rpsouthern@justice.gov.uk
Telephone: 01243 779 394

Residential property: Midlands

Residential Property Tribunal
Centre City Tower
5-7 Hill Street
Birmingham B5 4UU

rpmidland@justice.gov.uk
Telephone: 0121 600 7888

Residential property: Wales

Residential Property Tribunal
Wales
Oak House, Cleppa Park
Celtic Springs
Newport NP10 8BD

rpt@gov.wales
Telephone: 03000 252 777