

Section 1: Introduction

About this guide

This guide has everything you need to know about complaining to The Property Ombudsman about your property agent (we'll call them 'the agent' or 'agents' from now on). It gives details of when we can help, how we can help and what you can expect.

The guide covers the whole process, so there will be some sections that are not relevant to you at the moment. But whatever stage you're at, there is information to help you.

About The Property Ombudsman Scheme

The Property Ombudsman Scheme is a free and impartial service that resolves disputes between consumers and agents fairly. Schemes like ours are sometimes called 'redress schemes'. Legally agents have to join one of the available redress schemes, depending upon where they are in the UK and the type of business they perform.

We look at evidence of disputes from both consumers and agents. We use our codes of practice to help us decide whether the agent has acted fairly and in line with our scheme. These codes set the standards we expect from them – you can see them on our website at www.tpos.co.uk or ask the agent for a copy. We also use best practice and common sense to help us come to a fair decision.

We sometimes work to resolve disputes for other types of organisation, such as search providers. For these disputes, different codes may apply. Please call us on 01722 333306 for more information.

Resolution not regulation

We offer you a straightforward way to address poor service from agents. That means we can recommend an agent take specific steps to resolve a dispute – for example paying you compensation if we think it's appropriate.

However, we are not regulators for the property industry. That is the role of Trading Standards and the government. We:

- do not have the authority to fine or punish agents
- cannot take legal action against agents
- are not bound by the same rules that apply in court
- cannot legally force agents to pay compensation
- cannot dictate how agents do business

If agents don't follow our codes of practice and recommendations, we can't make them. However, should a member not follow our codes of practice and recommendations their membership will be revoked and they will also not be allowed to join another redress scheme, if they are not a member of any scheme they would be trading illegally.

Complaints we can help with

We can consider your complaint if the agent is a member of our scheme and has:

- given you poor or incompetent service
- ignored your legal rights
- treated you unfairly
- made mistakes in your paperwork
- not followed our codes of practice or their membership commitments
- not followed their own procedures or rules

Complaints we cannot help with

We cannot consider complaints about solicitors or financial advisers – only agents.

We will not be able to consider your complaint if:

- the agent is not a member of our scheme
- it is about something that happened before the agent joined our scheme
- you have not complained to the agent first
- it has been longer than 12 months since you had the agent's final response to your complaint (their 'final viewpoint letter')
- it's being, or has been, dealt with in court
- it's about alleged criminal activity or negligence claims
- it needs a full legal decision, a penalty or other legal action
- the compensation you ask for is more than £25,000

If the agent isn't a member of TPO

You can contact the scheme they belong to.

If they're not a member of any scheme, this may be illegal. You should contact your local council so they can investigate.

What you need to know before you get started

How long the review takes

If we accept your complaint for review, it can take between three and five months to complete the process. This is because we have to gather all the information we need from you and the agent before we can start.

If your case is going to take longer than 90 calendar days to review from the date we have what we need, we will write to let you know.

You can withdraw your complaint whenever you like

We'll always keep you up to date if there are any delays to your review. If the timescales don't work for you, or you change your mind, you can withdraw your complaint at any time. You just need to let us know if you want to do that.

Section 2: Making sure we're accessible for everyone

We do our best to make sure everyone can use our complaints process easily. Whether that's making our documents accessible or adjusting how we review your complaint.

Offering information in accessible formats

If you need us to communicate with you differently or in a specific format – like Braille or large print for example – please let us know. We can also help you fill in the paperwork you need to pass your complaint to us. For more details, call us on 01722 333306 or email access@tpos.co.uk.

Making our website easier to read

If you want to know how to make our website easier to read on your computer, go to www.tpos.co.uk/accessibility.

Section 3: How to make a complaint

Stage 1 – complain to the agent first

The first thing to do is write to or email your agent, if you haven't already. It's only fair to give them the chance to respond to and resolve any complaints you have about them. Agents are allowed eight weeks to try to resolve your complaint – this is in line with our Terms of Reference (which set out our powers, duties and procedures for dealing with complaints). You can read our Terms of Reference at www.tpos.co.uk.

After that, we can start to help you with your complaint when:

- the agent has taken you through their internal complaints process and sent you a final viewpoint letter – and you are not satisfied with their reply
- the agent has not responded to or resolved your complaint within eight weeks of your original letter or email to them, and you have chased them for a response

What the agent should do

Agents must have an in-house complaints process. They have to make it available in writing and it must explain how you can complain to them and, if you are not satisfied with their response, to us. This may be on their website.

If you complain about their service, all members of our scheme have to:

- acknowledge your complaint within three working days
- investigate and respond to your complaint within 15 working days
- review your complaint again if you tell them you're not satisfied (if they have more than one stage to their complaints process)
- send you a final viewpoint letter or email when they've come to the end of their complaints process

Their final viewpoint letter or email should explain how to escalate your complaint to our scheme. It should also let you know you have 12 months from the date of their letter or email to contact us if you're not satisfied with that response.

Have a look at the following flowchart for more on how it works.

Complaining to the Agent



A few tips for your complaint to the agent

- **Ask the agent for a copy of their complaints process** if they haven't sent it to you already. That way you know what to expect from them. They have to send it to you when you ask.
- **Write to the agent, clearly explaining why you're complaining.** Include specific details about what you believe they have or haven't done, and what you would like them to do to put things right. A template is available on our website at www.tpos.co.uk/consumers/how-to-make-a-complaint.
- **Keep good records.** Follow up any conversations you have with the agent with a letter or email confirming what you spoke about, with who and when. Send any letters by recorded delivery or set a delivery receipt if you email them. Also keep copies of all letters and emails to and from the agent.

How it works

You need to complain within 12 months of the event you want to complain about – or the date you found out about that event.

- Write to the agent, clearly setting out your complaint
- The agent must acknowledge your complaint within three working days
- The agent must investigate your complaint fully
- The agent must write to you about what they found in their investigation within 15 working days
- If you're not satisfied with the agent's response, and there is more than one stage to their complaints process, you need to write back to them explaining why
- The agent must review your complaint again, then send you their final response – their 'final viewpoint letter'
- If it's been eight weeks since you first wrote to the agent and they have not responded to your complaint or chasers, or they have not resolved your complaint
- You can now contact us about your complaint

Get in touch with us within 12 months of the agent's final viewpoint letter or email (if you received one) and attach the relevant documents, including your complaint letters and the agent's responses.

Stage 2 – contact us if the agent doesn't resolve your complaint

If the agent hasn't resolved your complaint to your satisfaction within eight weeks of the date you first wrote to them about it, we may be able to help.

Before you get in touch with us

Check the agent is registered with our scheme. You can:

- check the agent's headed paper, website and other documents for our logo – they have to display it if they're a member of our scheme
- go to www.tpos.co.uk/find-a-member
- call us on 01722 333306 to check

If the agent isn't a member of TPO

You can contact the scheme they belong to. If they're not a member of any scheme, this may be illegal. You should contact your local council so they can investigate.

Time limits for getting in touch

You have 12 months from the date of the agent's final viewpoint letter (if you received one) to contact us about your complaint. If you didn't get a final viewpoint letter, you have 12 months from the date you first wrote to the agent. So it's a good idea to gather all the information you need and send it to us as soon as you can.

We can consider your complaint if you first wrote to the agent within 12 months of the event you have complained about – or the date you could reasonably have found out about it.

When you write to us

Please write to us at The Property Ombudsman, Milford House, 43 – 55 Milford Street, Salisbury, Wiltshire, SP1 2BP.

Or you can email us at admin@tpos.co.uk.

Give all the relevant details about your complaint. Please include copies (not originals) of your complaint letters to the agent and their replies, including their final viewpoint letter (if they sent one). If we need any other documents later on, we will let you know.

When we hear from you, we will confirm whether your complaint has gone through the agent's complaints process, and whether we can help you under our Terms of Reference.

If we can help

You'll need to fill in a Complaints Form.

If you have already sent us enough information, we may be able to complete the form before we send it to you. If we can, we'll ask you to just check the details, sign and return it to us at The Property Ombudsman, Milford House, 43 – 55 Milford Street, Salisbury, Wiltshire, SP1 2BP.

If we can't complete the form for you, we will send you a copy to fill in, sign and return to us.

You'll find some guidance on the form to help you fill it in. Please give as much detail as you can. It's really important you give a clear statement about why you are complaining, and send us all the documents that support your case if you haven't already. Usually we can only look at a complaint if you have written evidence to support it and you have already raised it with the agent.

Sending us your evidence

Please send your complaint letters and emails, and the agent's responses, to us as soon as you can. When you do, please keep the originals and only send copies as we are not responsible if they get lost or delayed in the post. Also, we cannot send your documents back to you. You can email your copies to us at admin@tpos.co.uk if you prefer.

If we do need to see an original document (for example a document with a court stamp) we will let you know.

If you want to send us recordings, please make sure you have written permission from all the parties involved or we won't be able to use them. This is in line with the General Data Protection Regulations 2018.

We will keep you up to date

When we deal with your complaint, we will keep you updated. We will also let you know if we need more information from you or if we have asked the agent or a third party for more details.

If we can't help

If, from the information you give us, we are unable to help with your complaint, we will write to tell you why. We will also let you know what you can do next and the organisations that can help you with your complaint.

If you have any new information that we have not seen, please send it to us as it may mean we can help.

Stage 3 – working together to settle the dispute early

We always encourage consumers and agents to try to come to an agreement. If you haven't been able to do that between you, we will do our best to help.

We will try to negotiate an early resolution

If we think your dispute can be settled without a formal review, we will work with you and the agent and try to find a solution that works for you both.

You do not have to accept the outcome at this stage, and your complaint can still go to a formal review.

If you get a goodwill offer

Sometimes our initial negotiations can bring about a goodwill offer from the agent in an effort to put things right. You don't have to accept the amount they offer you, but as soon as we go to formal review their offer expires.

If you reject their offer and we do a formal review, there is no guarantee our decision will include awarding you compensation. If it does, the offer could be higher than, the same as or less than the agent's previous offer. If we decide we do not support your complaint, the agent doesn't have to make or reinstate any offers.

If you're not sure whether or not to accept a goodwill offer, please call us on 01722 333306. We will be happy to tell you more about your options.

If you can't agree a way forward

If we can't come to an agreement that works for you and the agent, we will do a formal review. There's more about this in Stage 4.

Making a complaint

- Write to the agent within 12 months of the event you want to complain about or the date you found out about it. They have eight weeks to try to resolve the complaint with you.
- If you don't hear from them and you have chased the complaint, or you are not satisfied with the outcome of their investigation, contact us.

The complaints process

- We will assign your complaint to an Evaluation Advisor who will assess the evidence you send us.
- Depending on the information, we will either let you know how to complete the agent's complaint process or pass your complaint to one of our Resolution Advisors. We'll contact you as soon as we have considered all the evidence you have sent us.

Early Resolution

- Your Resolution Advisor will assess your evidence and try to settle the dispute without a formal review.
- If your complaint can't be settled informally, we will do a formal review.
- We will contact you as soon as we have considered all the evidence for this.

Starting the review process

- Your Case Management Officer will write to the agent to ask them for their company file. They will also write to you to let you know.
- The agent has 21 days to send us their file and, if necessary, a 'submission letter' explaining their position. If the agent does provide us with a submission letter they should also send a copy to you. To ensure that you receive this we will write to tell you if one has been provided and to ask that you put in writing any comments that you may have.

Our proposed decision

- Once we have all the information we need, your Adjudicator will let you know their proposed decision within 90 days. If it's going to take longer, we'll let you know.
- We will send a copy of our proposed decision to you and the agent to accept, reject or represent.
- You can represent if you have new evidence or you believe we have made a significant error.

New evidence or errors

- You and the agent can represent against the proposed decision - this could be because you can provide new information or proof that we have made a significant mistake, this needs to be within 14 days of receiving the proposed decision.
- You will be able to comment on any new evidence from the agent if they represent and vice versa, if it could change the decision.

Our final decision

- After any representation we will make our final decision, which you can accept or reject (you can't represent).
- If you do not agree with the final decision, you can reject it and follow up your complaint elsewhere.

Making sure the agent complies

- If we make a financial award, the agent will have 28 days to pay you. If they do not pay, we will pass the case to our Compliance Committee.

Stage 4 – formally reviewing your complaint

If we haven't been able to help you come to an agreement during our initial negotiation, we will do a formal review of your complaint.

If the agent made you an offer during the negotiation, it expires as soon as we start our formal review.

Preparing for the review

We will:

- send your Complaints Form to the agent, with any relevant supporting documents
- ask the agent to send us their file within 21 days, and at the same time ask that if they have anything further to add to their side of the complaint, they send you a submission letter for your comment
- write to let you know when we've asked the agent for their file
- ask you for any extra information we need about your complaint

What you need to do

If the agent provides any further comments in the form of a submission letter, please send us any comments you have within 14 days. We will already have a copy of their letter, so you don't need to send your copy to us. If you don't receive the submission letter and we have confirmed that one has been provided, please let us know.

When we have your comments, and everything else we need to consider your complaint, we will be ready to begin our review and will write to let you know.

Paying the agent's fee

If your agreement with the agent includes you paying their fee, we recommend you pay it – or at least any part of it you accept you need to pay – 'without prejudice'. This means it can't be used against you if your dispute goes to court.

We wouldn't expect an agent to take you to court or add interest to an outstanding fee during a review, but we can't stop them doing that.

If the agent does make a court claim for your payment and the hearing is set for more than three months away, we will carry on with our review. If the hearing is set for less than three months away, we will have to suspend our review.

You could apply to the court for an adjournment on the grounds you want to contact us. However, if the hearing goes ahead and a judgment is made, we will need a copy of it to see if we can carry on with our review. If we can, we will carry on after the court case, but only consider the elements the case didn't cover. For example, if the court case was about an unpaid fee, we can still review the service you received from the agent if it was not included in your defence.

When we have everything we need

We work to a 90-day timescale from the date we have what we need.

As we said on page 3, it can take between three and five months to complete the process. However, for most cases, we work to a 90-day timescale from the date we have received all the information and documents we need to make a decision.

When the review starts and how long it will take depends on various things, including:

- how quickly you and the agent can send us what we need
- how complex the complaint is
- the number of other complaints we're investigating at the time

We will write to let you know when we have what we need to begin, and again if your case is going to take longer than 90 calendar days to review.

We allocate an adjudicator

When we have what we need, we will pass your case to one of our adjudicators. They will review all the documents we have from both you and the agent in line with our timescales.

If they have any questions or need more information or documents, they will get in touch with you or the agent – or any third party (like a surveyor or mortgage broker for example).

Making our recommendations

When the adjudicator has taken everything into account, they will write a review giving their findings and send it to you and your agent. This is the proposed decision.

Stage 5 – our proposed decision and how to represent against it

What is a proposed decision?

Our proposed decision is our adjudicator's review of all the evidence of your complaint. It shows you whether or not we support your complaint and, if we do, what the agent should do to put things right, including paying any compensation.

You can either accept it or represent against it. You can also reject it if you want to take your complaint to another organisation. The agent can also represent against the decision, but they cannot reject it.

When we have made our proposed decision

We will send the proposed decision to you and the agent at the same time, so you can both consider it.

If we support your complaint

If the adjudicator supports your side of the complaint, they may award you compensation or recommend actions for the agent to settle the dispute. What and how much depends on the aggravation, distress and inconvenience the agent has caused you.

If the agent's actions have caused you genuine and measurable financial loss, the adjudicator will take that into account for their review and any compensation they award.

If you want to represent against the decision

If the adjudicator doesn't support your complaint or you disagree with their proposed decision, you can represent by proving we have made a significant mistake – for example if we missed a complaint letter or misinterpreted the facts. You can also send us evidence that wasn't available before if it will affect the decision.

You need to send your explanation about any mistakes and any new, relevant evidence to us within 14 days of the date you receive the proposed decision.

When we receive your representation

If we agree with your representation – or the agent's representation – we will take it into account for our final decision. There's more about this in Stage 6.

If we don't agree with your representation, we will let you know why in writing.

If you don't accept the decision but do not represent

You could try going to court or asking another organisation to look at your case. See Section 5 for other organisations that might be able to help.

Stage 6 – our final decision and awarding compensation

If you and the agent both accept the proposed decision, it will become the final decision. If either of you represent, we will reconsider and write to you both with our final decision.

What is the final decision?

Our final decision is when we look at all the information, including representations, and write to let you know whether we support your complaint. It also includes whether we have awarded you any compensation.

In our final decision, we may also direct the agent to put things right in other ways. For example, making a formal apology or changing their processes to make sure there are no similar problems in the future.

If we award you compensation

If we support your complaint, we may ask the agent to pay you compensation for:

- any financial loss you suffered because of what happened (that you have shown us evidence for)
- any aggravation, distress or inconvenience the agent caused you

Most compensation awards are less than £500. However, the maximum we can award for complaints against one of our member agents is £25,000. If we resolve a dispute for a different body – like a search provider – the compensation limit can vary. We will let you know the maximum amount relevant to the type of organisation when we receive your complaint.

If you accept the final decision and compensation

You need to let us know within 14 days. We will then let the agent know, and tell them they have 28 days to pay.

If you do accept, it will be in full and final settlement of your dispute, and we will ask you to sign an agreement to confirm that. If you want to take your complaint further by going to court, you should not accept the decision or compensation.

If you don't accept the final decision within 14 days

If you do not let us know you accept the final decision within 14 days, it will expire and we will close your case. If there are exceptional circumstances for the delay, let us know. We may be able to extend the time limit.

You don't have to accept our final decision, but you cannot represent against it. If you don't accept it, you can take your complaint to court or find another organisation that may be able to help (see Section 5).

Section 4: What else you need to know

You can withdraw your complaint whenever you like

If you want to withdraw your complaint at any time – whether it's because of the time it's taking or you've just changed your mind – please write and let us know. We'll stop our review as soon as we hear from you.

Someone else can represent you if you prefer

You do not need legal representation during our review process. However, someone else can bring your complaint to us on your behalf, and represent you throughout the process if you like. It can be a legal representative or a family member for example. Whoever you choose, we just need to know their details and why you have asked them to represent you. You can let us know by writing to us at: The Property Ombudsman, Milford House, 43 – 55 Milford Street, Salisbury, Wiltshire, SP1 2BP or by email at admin@tpos.co.uk.

We may use or publish details of your case anonymously

In line with the General Data Protection Regulations 2018 and our privacy policy (see www.tpos.co.uk), we may use a summary of your case, or part of a summary, on our website or in our annual report. We will make it anonymous if we do.

In line with the Consumers, Estate Agents and Redress Act 2007 or other relevant law, we may also share details of your complaint with regulators, for example Trading Standards, and other approved schemes like ours.

We will never give personal or specific case details to anyone outside our organisation without your permission.

You can ask us to consider an oral hearing

Oral hearings are very rare. We will only use them if it will make the process more accessible for you – for example if you have difficulty providing or understanding written evidence. You can find out more at www.tpos.co.uk within the consumer section of our website.

Section 5: If you need more information

If you'd like more information about us and what we do, please go to www.tpos.co.uk or call us on 01722 33 33 06.

You'll also find the answers to some of the most common questions from consumers at <https://www.tpos.co.uk/consumers/faq>

Other organisations that might help you

If we can't help with your complaint, we'll always suggest other organisations you can try. Here are a few examples:

Advice for tenants

Shelter is a housing and homelessness charity that also provides advice for tenants who live in rented accommodation. Each country in the UK has its own website, which is listed below. You will need to select the website for the area that covers the property you live in.

Shelter England: www.England.shelter.org.uk

Live chat is available on the website
Emergency Telephone: 0808 1644 660

Shelter Northern Ireland: www.shelterni.org

Telephone: 028 9024 7752

Shelter Scotland: www.scotland.shelter.org.uk

Live chat is available on the website
Telephone for urgent and immediate help: 0808 800 4444

Shelter Cymru (Wales): www.sheltercymru.org.uk

Telephone: 0345 075 5005

Advice for landlords

Landlord Action (England and Wales) www.landlordaction.co.uk

Telephone: 0330 311 4366

There is a fee for this service.

Landlord Expert www.landlordexpert.co.uk

There is no membership fee.

Advice for freeholders, leaseholders and park home owners

The Leasehold Advisory Service (LEASE) England and Wales

This is a Government-funded, independent scheme.

www.lease-advice.org

www.lease-advice.org/wales-page

Advice for residential sellers and buyers

Home Owner Alliance www.hoa.org.uk

There is a membership fee to pay.

Home Owners Helpline (members only): 033 0088 2050

HOA service enquiries: 033 0088 2051

Advice for newly built or converted properties

Each scheme will consider complaints against their own membership so it's worth checking the membership before contacting them.

Consumer Code for Home Builders (buying a new or newly converted property) www.consumercode.co.uk

Consumer Code for New Homes (buying a new property and some subsequent purchaser cover within limits)

www.consumercodefornewhomes.com

NHBC (building warranties) www.nhbc.co.uk

General consumer or legal advice

Citizens Advice

Citizens Advice is a free service that offers assistance for a wide range of issues. Each country in the UK has its own website, which is listed below. You will need to select the website that covers the area where your problem has happened. For example, if you live in Scotland but have a problem with a used car you bought in England, you would need to visit the English website.

Citizens Advice England:

www.citizensadvice.org.uk

Citizens Advice Northern Ireland:

www.citizensadvice.org.uk/nireland

Citizens Advice Scotland:

www.citizensadvice.org.uk/scotland

Citizens Advice Wales:

www.citizensadvice.org.uk/wales

Citizens Advice consumer helpline: 03454 04 05 06

Textphone: 18001 03454 04 05 06

To contact a Welsh-speaking adviser: 03454 04 05 05

Textphone to contact a Welsh-speaking adviser: 18001 03454 04 05 05

Which? Legal

Which? Legal is an independent consumer champion that can help you resolve your legal problems for a small monthly membership fee.

www.legalservice.which.co.uk

LawWorks

LawWorks is a charity working to connect volunteer lawyers with people in need of legal advice, who are not eligible for legal aid and cannot afford to pay for legal services. The website has a search facility to find a service in your area.

www.lawworks.org.uk

Some universities run limited free legal advice clinics. It may be worth checking their website and searching for "legal advice" or "legal clinic" to see if they can help.

Section 6: If you're unhappy with us

We work hard to make sure we give everyone who contacts us an efficient and helpful service. So we take complaints about our service very seriously.

If you're not satisfied with the way we have handled your complaint, at any point in the process, please let us know. This does not include if you're unhappy with the Property Ombudsman's final decision.

Making a complaint about us

1. If you're not satisfied with our service, firstly tell the person dealing with your case. Usually, they will be able to resolve it for you straight away. If you are not comfortable dealing with the individual concerned you can put your concerns to their Line Manager.
2. If the person dealing with your case and/or their Line Manager has not been able to resolve your complaint you can ask for it to be considered by a Senior Manager. You will need to do so within one month of the date of the closure of the case. Your complaint will usually be considered by either the Deputy Ombudsman or the Director of Operations and they will respond to you within one month of receiving your complaint.
3. If you remain unhappy after receiving a response from the Senior Manager you may refer your complaint to the Independent Reviewer. You will need to do so within one month of the date of receiving the response from the Senior Manager.
4. The Independent Reviewer is appointed by the Board of The Property Ombudsman (TPO) to consider complaints about TPO at the final stage of the service complaint process. Please note that the Independent Reviewer's remit is to consider complaints about our service and not the reasoning of the Ombudsman's decision. The Independent Reviewer's full terms of reference can be found at www.tpos.co.uk/about-us/independent-reviewer. You will receive a response to your complaint within one month of the Independent Reviewer receiving it.

You can write to the Independent Reviewer at:

Claire Evans
Independent Reviewer
PO Box 2957
Romford RM7 1QX