



The Property Ombudsman Annual Report 2016



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Scheme contact information

The Property Ombudsman
Milford House
43–55 Milford Street
Salisbury, Wiltshire SP1 2BP

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

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

 www.tpos.co.uk  [@TP0mb](https://twitter.com/TP0mb)  facebook.com/PropertyOmbudsman

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

Protecting Consumers: TPO's Council

The Ombudsman Association approves the structure of TPO, whose corporate governance arrangements are clearly stated and defined, ensuring that the Ombudsman can act independently and impartially.

The Ombudsman reports to the independent Council. Only the Ombudsman is empowered to decide cases. The Ombudsman's decisions are final and cannot be appealed or overturned by the Council or the Board.

Under the approved corporate governance arrangements the Council appoints the Ombudsman. Its members represent the interests of the consumer, and have the following key responsibilities:

- Reviewing the Ombudsman's Terms of Reference
- Ensuring the Ombudsman's independence
- Considering cases referred by the Ombudsman for disciplinary action against scheme members where there have been flagrant or persistent breaches of the Codes of Practice

TPO Council Members (Dec 2016):



Lord Richard Best has served as Chair since 2009. Chair, House of Lords Select Committee on Communications; Chair, All Party Parliamentary Group on Housing and Care for Older People; Joint Chair, Home Office Landlords' Consultative Panel; Vice-President, Local Government Association and Chartered Trading Standards Institute.



Vivienne Sugar is Vice-Chair of Council and Chair of the TPO Finance and Performance Committee, responsible for performance monitoring. Vivienne is a fellow of the Chartered Institute of Housing and Chair of the Bevan Foundation, which carries out research into poverty and injustice.



Gillian Fleming* was appointed as Chair of the Disciplinary & Standards Committee on 1 November 2016. An accredited mediator and member of the Chartered Institute of Arbitrators, Gillian's career has been focused on resolving professional services disputes in the public and private sector.



Mark McLaren Mark'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.



Victor Olwe is a Leadership Consultant at Winzest Consulting and he holds non-executive positions in a number of organisations, including Non-Executive Director for the CTSL's Consumer Codes Approval Board.



April Stroud is a Senior Lecturer in Law at Solent University, specialising in Land Law and Regulation.

Find out more about the role of TPO's Council:
www.tpos.co.uk/about-us/council

NB: TPO's Board is represented on the Council via Gerry Fitzjohn, Board Chairman, and Michael Stoop, Vice Chair.
*Gillian Fleming joined TPO's Council on 1st November 2016. She was appointed Chair of the DSC (page 20), replacing Hilary Bainbridge

Reflections

by the Chair of the Council

After ten years on the Council and eight in the Chair, this is my last foreword to a TPO Annual Report. So it is a moment to reflect on the changes TPO has seen over this time.

TPO's membership and workload have both more than doubled over the decade. There are two big reasons for this remarkable growth in our activities.

1. The private rental sector

First, there has been the huge expansion of the UK's private rented sector, much of which is supported by managing and Letting Agents. This big change in the UK's housing scene has led to an equally big change for TPO. With its remit covering Lettings disputes as well as sales disputes from 2006, TPO's workload has grown dramatically: it received 99 Lettings disputes in 2007, rising to 1,997 in 2016. Lettings now represent 56% of TPO's workload. Will the growth of the Private Rental Sector, and the consequent pressures on TPO, continue?

There is now widespread disquiet that levels of owner occupation have been in serious decline. The government has pumped billions into various Help-to-Buy schemes but it also recognises that it needs to deter speculative Landlords from outbidding first-time Buyers. A less generous tax regime is being introduced to discourage those who borrow heavily and buy-to-let. The exponential growth of

Landlordism – now with some 1.9m UK Landlords – is over.

The hope is that future growth will come from the new Build to Rent professional Landlords who draw in institutional funds to increase supply rather than pushing up prices for what is already there. My prediction is that the private rental sector – and therefore the role of managing and Letting Agents and consequently the role of TPO – will continue to grow; but at a much slower rate.

2. Consumer Rights

The second big change affecting TPO over recent years can be attributed to the wider concern by both government and society for consumer rights. This has led to an increased awareness of the opportunity to resolve disputes – and obtain redress – that an Ombudsman service can bring. And, even as standards rise – when, in theory, numbers of complaints should fall – the change in consumer perceptions means more referrals to TPO.

Government has played its part in this increased emphasis on the consumer. The introduction of the Consumers, Estate Agents and Redress Act 2007 made it compulsory for residential estate Agents to belong to an approved redress scheme to deal with consumer complaints, while the Enterprise and Regulatory Reform Act ensured all Lettings and managing Agents in England were required to be part of a dispute resolution scheme. These legal obligations were welcomed by the industry, and TPO, the largest of the redress schemes, which had long-campaigned for legal reform to better protect consumers.

More recent regulations have required transparent disclosure of fees and redress membership, a measure which TPO and the Chartered Trading Standards Institute (CTSI) are working on together. Now there is to be compulsory Client Money Protection insurance. And government is due to bring in this year a ban that would prevent Letting Agents charging Tenant fees.



These measures from government both draw upon, and feed into, the scheme's CTSI-approved Codes of Practice. Our Codes represent not only the basis on which the Ombudsman will judge the actions of Agents, but the understanding in the sector of what represents proper behaviour. It is my strong impression that the great majority of Agents – not least the younger ones entering this industry – welcome the self-regulatory framework provided by our Codes and genuinely strive to achieve really good standards.

I do believe TPO's role has been a significant factor in raising standards, and improving public perceptions, of sales Agents. Over time we can expect the same impact for Letting Agents. And consumers and Agents alike benefit from the fact that TPO's Disciplinary and Standards Committee can take the ultimate sanction of expelling a firm and preventing them from trading where they fail to comply with the Ombudsman's findings.

TPO's response

These two changes in the world around us – the explosive growth of the private rented sector and the continuing extension of consumer rights and their expectations to be treated fairly – have greatly magnified the scale and scope of the cases we review. In response, the organisation has been introducing new ways of managing the increased workload and updating its ways of working with consumers and the industry.

Our highly skilled team deal with consumers and Property Agents equally with diplomacy and impartiality despite the work often being stressful. To support our staff in keeping up with the ever-growing volume of cases, we are currently engaged in an extensive upgrade of our IT systems, which will automate much of the case handling process and provide improved services to Agents and consumers.

Leading the changes to ensure TPO acts swiftly and sensitively to all the demands upon us, is our Ombudsman, Katrine Sporle. I leave with special thanks to her – having previously congratulated her predecessor, Christopher Hamer, for his sterling efforts in charge – and I wish Katrine and her tremendous team every success.

I also record my sincere appreciation for the input of our diligent Council Members whose independence and wisdom guides TPO's operations so effectively. Our new Council Chair, Baroness Diana Warwick, will be a terrific asset to TPO and I depart in the knowledge that the organisation is in fine form and will certainly go from strength to strength.

A handwritten signature in black ink, reading 'Richard Best'.

Lord Best OBE, DL
Chair, TPO Council

How the scheme works



As a genuine alternative to the small claims courts, TPO can offer free, fair and impartial redress to consumers who have been unable to resolve a dispute with their agent. TPO is not a regulator but the Ombudsman's powers mean that a member agent can be held to account for their actions, thanks to the scheme's Codes of Practice.

The Codes are crucial when reviewing complaints as they underpin the way each case is investigated to ensure a consistent and fair approach for all parties. The consumer and agent are signposted to the exact section(s) of the Code so there is complete transparency about how each case is reviewed to achieve a fair outcome.

BEFORE CONTACTING TPO

TPO cannot review a complaint if the consumer has not given the agent a chance to resolve the dispute. The consumer needs to put their complaint in writing to the agent.

The agent is required to:

1. Provide the consumer with a copy of their complaints procedure on request.
2. Abide by the timescales set out in TPO's Code of Practice.
3. Produce a final viewpoint letter if they cannot resolve the complaint.

If the consumer is not satisfied with the agent's response, they may have grounds to raise the issue with TPO.



INITIAL CONTACT

The scheme's first priority is to gather the facts and assess if the Ombudsman can help.



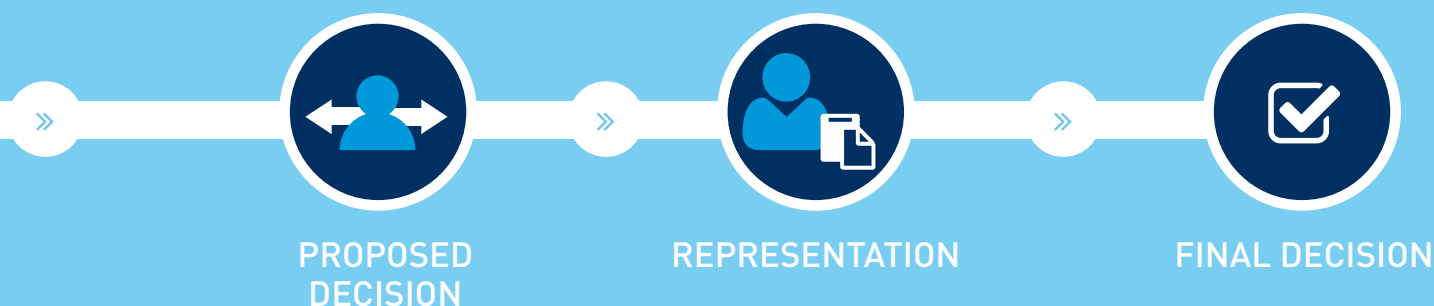
ASSESSMENT AND RESOLUTION

Once the consumer's Complaint Form is received, TPO's mediation expertise is used to assess if a resolution can be achieved without a formal review. The agent is then asked to provide their branch file as evidence, along with copies of their final viewpoint letter and a submission letter. A copy of the agent's submission letter will be sent to the complainant for them to comment on.



FORMAL REVIEW

A full and impartial investigation is carried out and a report is drafted which takes into account evidence provided by both parties and the way the complaint has been managed by the agent. The report will review where any Code breaches have occurred and will recommend whether to support the complaint.



PROPOSED DECISION

If the Ombudsman finds the agent has breached a Code, she will support the complaint (in full or part depending on the issues raised) and may instruct the agent to pay an award. If the agent is found to have acted fairly, the case will not be supported. In any of these scenarios, both parties are then given the opportunity to accept or represent against the decision.



REPRESENTATION

Representation provides the opportunity to present evidence that proves there was a significant error in the decision or provide new evidence that was not previously available that would have a material effect on the Ombudsman's decision.



FINAL DECISION

Following consideration of any new evidence, the Ombudsman will issue her Final Decision. If the complainant accepts the Final Decision and an award has been made, the Case Management Team will check that it has been paid by the agent. Failure to pay is a severe breach of the Code, which is automatically referred to the scheme's Disciplinary & Standards Committee to investigate (p20). If the complainant does not accept the Final Decision, they remain free to pursue the matter elsewhere.



THE OMBUDSMAN CAN CONSIDER COMPLAINTS:

- Made against Agents registered with TPO.
- Which came to the complainant's attention within 12 months of the act arising.
- If the consumer made a complaint but is not satisfied with the agent's response [i.e. the agent's final viewpoint letter issued at the end of their own in-house review].
- Which are referred to TPO within 12 months of the date of the agent's final response.



THE OMBUDSMAN CANNOT CONSIDER COMPLAINTS:

- If the consumer has not raised the complaint with the agent in writing.
- Which are being dealt with by a Court or a regulatory body, unless both parties have agreed to place that action on hold.

Ombudsman's Report



Katrine Sporle, Ombudsman

I am proud of and committed to TPO's heritage as a not for profit, independent redress scheme. My role is to provide timely, fair and impartial advice, guidance and decisions on the 14,218 enquiries we received in 2016.

I am equally proud to lead a skilled team of Customer Service Advisors, Case Management Officers, Dispute Resolution Advisors and Adjudicators. Together with our Corporate staff we strive to provide excellent customer service.

The annual report is an ideal opportunity to take stock of what has been achieved and, importantly, to look forward to what lies ahead.



Jane Erskine, Deputy Ombudsman

TPO invests time and energy to work with the industry and consumers as a whole to Get Things Right in the first place, to Put Things Right when things go wrong and to Set Things Right by providing advice and guidance whenever possible.

■ ■ TPO invests time and energy to work with the industry and consumers as a whole to Get Things Right in the first place, to Put Things Right when things go wrong and to Set Things Right by providing advice and guidance whenever possible. ■ ■

Getting Things Right in 2016:

The Codes of Practice were revised to clarify many of the issues which consumers found confusing or misleading. This resulted in clearer guidance about (i) the need for full disclosure on pre-contract deposits, (ii) the need to quote fees and charges to include VAT and (iii) full disclosure on referencing of Tenants. Included in this report are [case studies](#) which highlight the issues consumers have faced in these areas.

Putting Things Right in 2016:

The number of enquiries decreased during the year, enabling us to catch up and clear a higher number of complex complaints – [a record 3,553](#). The stand out success for me during the year was that we were able to significantly improve our turnaround times from below 50% in 90 days to 74% and 66% for Sales and Lettings.

Setting Things Right in 2016:

Throughout the year I became increasingly alive to the need to continuously increase awareness of good practice, which we were able to do through our regular Case Studies and assured advice. We also worked closely with DCLG, Lease, the Law Commission and the Conveyancing Association on a number of policy issues where additional advice and guidance is needed to ensure that consumers are well informed and empowered before taking important decisions on Sales and Lettings.

Looking ahead to 2017 and beyond:

As I write this annual report I am struck by the old adage of “never count your chickens....” The decrease in enquiries during 2016 has bounced back with a vengeance with a 27% increase in the first quarter of this year. The increase is predominantly from Tenants in the private rented sector - and therein, I believe, lies our biggest workload going forward. As always, TPO will be able to respond swiftly to any changes in the Lettings arena by amending the Code of Practice, which is currently used by 85% of all Lettings Agents.

We will also be working hard on more advice and guidance on the Consumer Protection Regulations. Together with my Deputy, Jane Erskine, we will be holding Masterclasses throughout England, Scotland and Wales; I do hope to meet as many people as possible at those events and to raise awareness of TPO wherever, and whenever possible.



Katrine Sporle
Ombudsman

Case summaries

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

The Ombudsman is not a regulator, but member Agents can be held to account for their actions thanks to the scheme’s approved **Codes of Practice**.

TPO’s Codes provide a framework for Agents to follow that go above and beyond the law to protect consumers from unfair practices and also raise industry standards.

Each case is different, but the way the Ombudsman reviews them is exactly the same. The real-life consumer case summaries in this section provide a snapshot of the varied and complex cases that cross the Ombudsman’s desk. To read the summaries in full, please click the link under each case or visit www.tpos.co.uk >news >case-studies.

WHOSE RESPONSIBILITY IS IT ANYWAY? FREEHOLD VS. LEASEHOLD



This dispute arose after a Buyer expressly told their agent that they wanted to purchase a freehold property. The Buyer found a property, but discovered it was leasehold through their solicitor after their offer was accepted.

The sales particulars made no reference to the tenure and the agent claimed it was not their role to ascertain this information and said they did not ask any questions about properties they marketed.

Find out more about this case and the Ombudsman’s ruling after the agent claimed long leaseholds amounted to ‘the same thing’...

To see the case summary in full, visit



www.tpos.co.uk/news-media-and-press-releases/case-studies/item/annual-report-freehold-vs-leasehold

CHARGING VAT: HOW A HAND-WRITTEN NOTE HELPED THE OMBUDSMAN RULE ON A COMMISSION FEE DISPUTE



The Sellers in this case alleged that their agent had charged them additional VAT on the commission fee.

TPO’s Sales Code of Practice clearly states that all fees and additional costs had to be included in the Agency Agreement. However, the Ombudsman’s investigation revealed conflicts between the fees stated in the Agency Agreement, the market appraisal and emails exchanged between both parties.

Find out more about the impact of a hand-written note and an email by reading the case summary in full...



www.tpos.co.uk/news-media-and-press-releases/case-studies/item/annual-report-charging-vat

A COSTLY MISTAKE: REFERENCING CASE HIGHLIGHTS THE AGENT'S ROLE TO ID TENANTS



This case reviews the actions of an agent that had instructed a third party reference provider to reference the Tenant. Outsourcing a reference request is common practice for many Agents, but the firm failed to fulfil their responsibilities and verify the Tenant's identification.

This crucial and costly mistake could have prevented the tenancy from commencing as well as the court action which ensued when the Tenant failed to pay any rent after their first month.

Read more about this and another fundamental issue missed by the agent, which resulted in the Ombudsman instructing the agent to pay a £21,972 award... (The highest award paid by an Agent in 2016 - see page 15)

To see the case summary in full, visit



[www.tpos.co.uk/news-media-and-press-releases/
case-studies/item/annual-report-tenant-referencing](http://www.tpos.co.uk/news-media-and-press-releases/case-studies/item/annual-report-tenant-referencing)

LETTINGS



SALES



THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE CPRs



A Seller raised a complaint with TPO after their former agent had informed an interested Buyer that the property had subsidence.

The Seller felt the agent should not have divulged the information as they were no longer selling the property.

Regardless of whether the property is a past or present instruction, failing to disclose such information would have affected the consumer's transactional decision.

Find out more about this case and why the agent was right to tell the truth...



[www.tpos.co.uk/news-media-and-press-releases/
case-studies/item/the-truth-and-the-cprs](http://www.tpos.co.uk/news-media-and-press-releases/case-studies/item/the-truth-and-the-cprs)

Case summaries

**THE TRUTH HURTS:
LOST KEYS, DELAYED
REPAIRS AND AN EXPIRED
GAS SAFETY CHECK**



This dispute focused on the actions of an agent who had evaded the truth concerning a lost set of management keys.

Rather than admit the keys had been lost, the agent repeatedly insisted the Tenant had to be present for a gas safety check, which expired as a consequence.

The agent also prolonged a maintenance issue by claiming a contractor had visited the property to fix a hot water issue, when this was not the case.

TPO's investigation unearthed the truth and found the agent had failed to deal with the complaint or advise that the matter could be referred to the Ombudsman.

To see the case summary in full, visit



[www.tpos.co.uk/news-media-and-press-releases/
case-studies/item/annual-report-lost-keys-gas-
safety-check](http://www.tpos.co.uk/news-media-and-press-releases/case-studies/item/annual-report-lost-keys-gas-safety-check)

LETTINGS



SALES



**AGENT'S OMISSION OF THE
TRUTH SHATTERS BUYERS'
SEASIDE DREAM**



This agent was instructed to sell a property in a seaside village, but failed to tell the Buyer that there is a proposal to stop maintenance of the sea wall defence in 40 years' time.

The Buyers discovered the proposal after they had purchased the property and subsequently contacted TPO after they were unable to resolve the dispute with their agent.

The Buyers said they would not have bought had they been aware, as they fear they have bought a depreciating asset which will be hard to sell in the future.

Read more about this case and the Ombudsman's investigation, which found the agent had withheld material information with dire consequences for the Buyers...



[www.tpos.co.uk/news-media-and-press-releases/
case-studies/item/annual-report-omission-of-the-
truth-shatters-buyers-dream](http://www.tpos.co.uk/news-media-and-press-releases/case-studies/item/annual-report-omission-of-the-truth-shatters-buyers-dream)

Case summaries

**PRE-CONTRACT DEPOSITS:
IS A PICTURE WORTH A
THOUSAND WORDS?**



A Buyer contacted TPO to complain that their agent had refused to return a £5,000 pre-contract deposit.

The complainant wanted his £5,000 returned because when he saw the property, he realised it was not at all what he had expected and it did not suit his needs.

TPO's review found the photograph and description in the sales particulars had misled the Buyer.

The root cause of this issue was the agent who was in breach of the law and TPO's Sales Code of Practice by not accurately and clearly describing the property. Find out more about the agent's shortcomings and Ombudsman's decision...

To see the case summary in full, visit



[www.tpos.co.uk/news-media-and-press-releases/
case-studies/item/annual-report-pre-contract-
deposits](http://www.tpos.co.uk/news-media-and-press-releases/case-studies/item/annual-report-pre-contract-deposits)

SALES



LETTINGS



**DEPOSIT DISPUTE:
THE DEVIL IS IN
THE DETAIL**



A Landlord alleged their property had been damaged and claimed the agent had not submitted comprehensive documentation to the tenancy deposit scheme, which meant they were unable to reclaim any money owed from the Tenant's deposit.

While the deposit scheme concerned had already made an adjudication on this particular claim, TPO's remit means it can review disputes concerning the service provided by the agent.

Find out more about the missing documentation that helped the Ombudsman rule on this case...



[www.tpos.co.uk/news-media-and-press-releases/
case-studies/item/annual-report-deposit-dispute](http://www.tpos.co.uk/news-media-and-press-releases/case-studies/item/annual-report-deposit-dispute)

2016 in numbers: Enquiries & complaints

This section provides a visual snapshot to highlight the work we do to help Buyers, Sellers, Landlords and Tenants with their property disputes. The best way for consumers to receive TPO's help in the event of a dispute arising is to always check that the firm is signed up with TPO by using the **'Find a Member'** directory on www.tpos.co.uk



14,218
ENQUIRIES

During 2016 from consumers seeking advice and information about their dispute



3,553
COMPLAINTS

Up by **7.5%**
from last year 

Resolved during 2016
(see below and pages 16/17 for more information)

**SALES
COMPLAINTS**

1,310
↑ 7.3%

**LETTINGS
COMPLAINTS**

1,997
↑ 1.6%

**OTHER JURISDICTIONS
COMPLAINTS**

246
↑ 107%

OTHER JURISDICTIONS

Residential Leasehold Management, Commercial and Business Agents, Buying Agents, Residential Property Buying Companies, Auctions and International Agents. The scheme also works closely with a number of trade bodies and Compliance Boards, including the Property Codes Compliance Board (PCCB), and the British Association of Removers (BAR).

2016 in numbers: Awards

The Property Ombudsman instructed Agents to pay awards worth¹

£1.2 MILLION

Up **51%**  from last year



The highest award paid by an agent²

£21,972

View the case summary:



[www.tpos.co.uk/news-media-and-press-releases/case-studies/
item/annual-report-tenant-referencing](http://www.tpos.co.uk/news-media-and-press-releases/case-studies/item/annual-report-tenant-referencing)



Total Sales awards³

£346,029

Up by **55%**  from last year

The average Sales award⁵

£397



Total Lettings awards⁴

£786,572

Up by **36%**  from last year

The average Lettings award⁶

£531

1. Total number of awards that the Ombudsman instructed Agents to pay in 2016

2. The highest award paid by an agent in 2016

3. Total number of awards that the Ombudsman instructed sales Agents to pay in 2016

4. Total number of awards that the Ombudsman instructed Letting Agents to pay in 2016

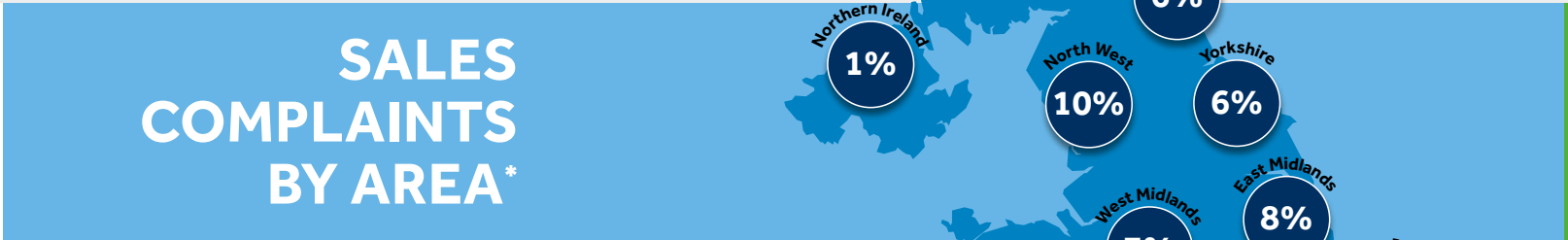
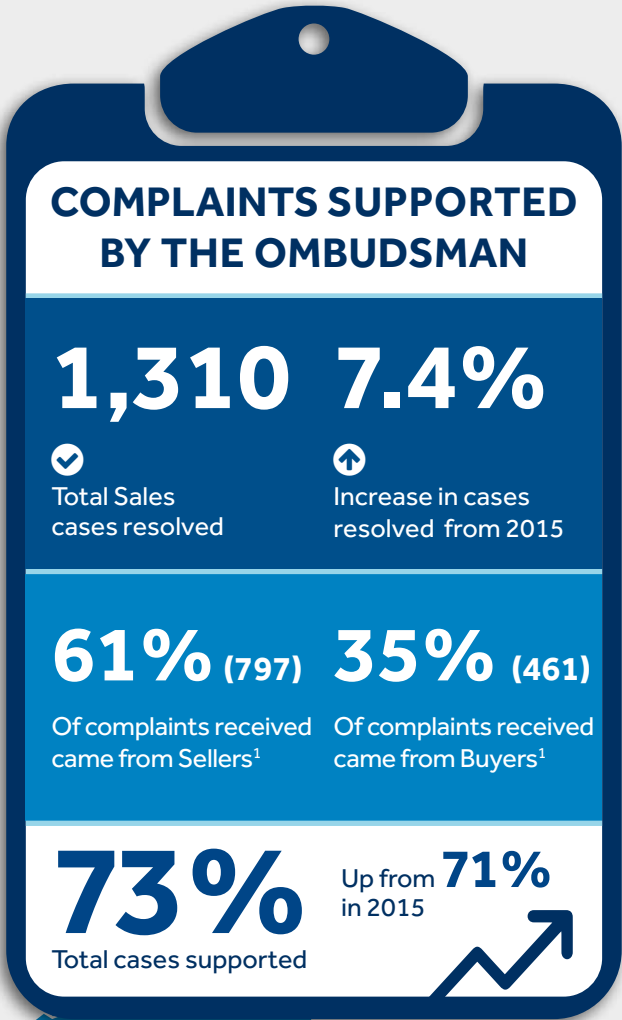
5. Average sales award based on supported closures with and without a monetary amount

6. Average Lettings award based on supported closures with and without a monetary amount

2016 in numbers: SALES

TOP 4 CAUSES OF SALES COMPLAINTS

- 1 COMMUNICATION AND RECORD KEEPING
- 2 MARKETING AND ADVERTISING
- 3 INSTRUCTIONS, TERMS OF BUSINESS, COMMISSION AND TERMINATION
- 4 IN-HOUSE COMPLAINTS HANDLING



DID YOU KNOW?

Every Sales and Lettings Agent is legally required to display their redress membership in their branch windows and on their websites. Any agent that fails to do so risks a fine from Trading Standards, which enforce a civil penalty of up to £5,000 for every branch that breaches the law.



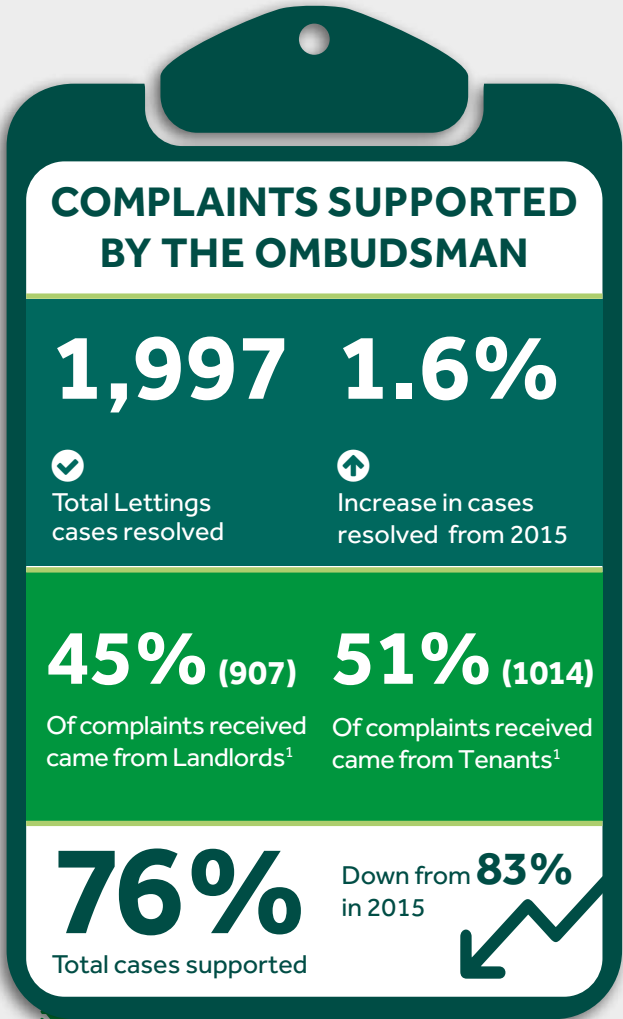
1. TPO can also consider sales complaints from potential Buyers, Sellers, and other third parties affected by the actions of the agent.

*Regional figures (rounded to one decimal place)

2016 in numbers: LETTINGS

TOP 4 CAUSES OF LETTINGS COMPLAINTS

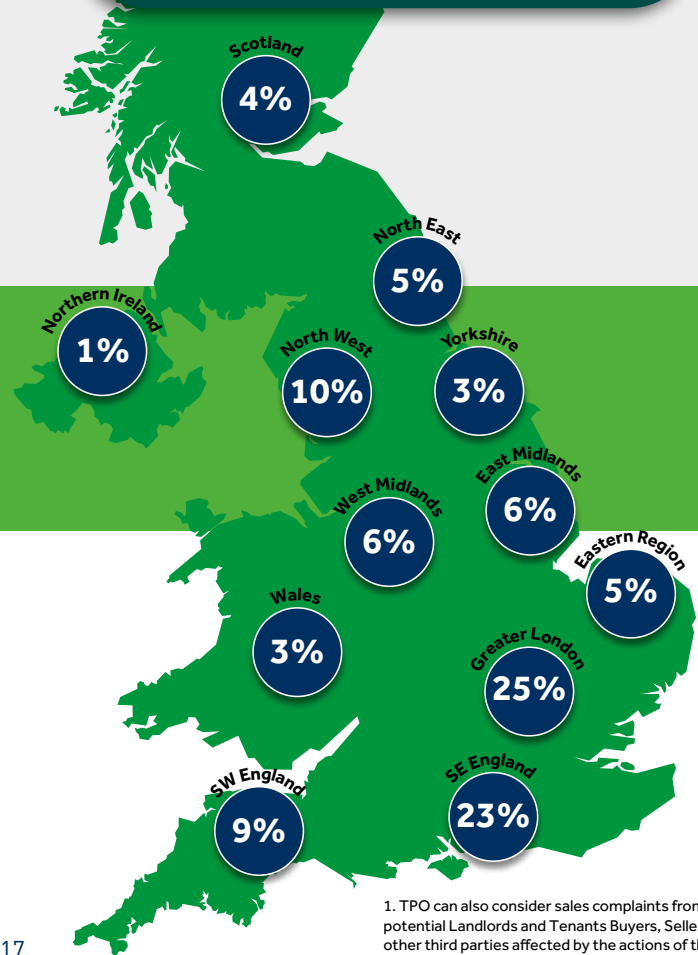
- 1 MANAGEMENT
- 2 COMMUNICATION AND RECORD KEEPING
- 3 IN-HOUSE COMPLAINTS PROCEDURE
- 4 REFERENCING



LETTINGS COMPLAINTS BY AREA *

DID YOU KNOW?

Current legislation requires Letting Agents to display whether they have CMP or not. Trading Standards officers have enforcement powers and can fine Agents up to £5,000 for each office that fails to publish this information in the branch. There may also be a fine of up to £5,000 if the information is not published on an agent's website.



1. TPO can also consider sales complaints from potential Landlords and Tenants Buyers, Sellers, and other third parties affected by the actions of the agent.

*Regional figures (rounded to one decimal place)

TPO Agents and Codes of Practice

The Property Ombudsman (TPO) scheme is the largest Government-approved property redress scheme. More than 95% of Sales Agents and 85% of Letting Agents in the UK are signed up with the scheme and must display their redress membership in accordance with the law.¹



TPO'S CODES OF PRACTICE

TPO is the only property organisation to have its own 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 Code Working Groups include consumer and industry representation 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

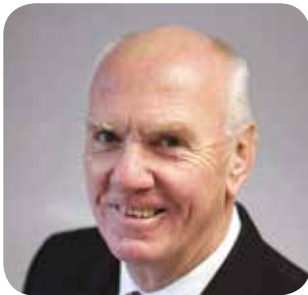


TPO IS APPROVED BY



1. Sales and Letting Agents in England are legally required to display their redress membership in their branches and on their company websites
2. Total number of departments/branches signed up to TPO from all jurisdictions (registration and membership)
3. Total number of sales branches signed up with TPO (membership and registration)
4. Total number of Lettings branches signed up with TPO (membership and registration)

TPO's Board



Gerry Fitzjohn,
Board Chairman



Michael Stoop,
Board Vice Chair

It was a great honour to be appointed Chairman of the Board, and I am delighted to continue the good work that was undertaken so successfully by Bill McClintock, who retired at the end of 2015.

Michael Stoop, who has been a Board Member for many years, was appointed Vice-Chairman at the start of 2016. Michael's support is greatly appreciated - he provides a wealth of property experience and is assisting with the promotion of TPO as the premier property redress scheme.

2016 has been another busy year for the Property Ombudsman and the property industry in general, with many changes proposed and certainly more to come.

The result of wider political changes following the EU referendum has yet to manifest itself fully, and the government's intention to ban Letting Agents from charging fees to Tenants will be subject to a period of consultation in 2017.

Rent Smart Wales came into effect in November and The Property Ombudsman Scotland has been involved in the consultation in relation to Letting Agents' work in Scotland.

The Property Ombudsman's second national conference was held in October, featuring a live housing debate and workshops for both sales and Lettings Agents. The event was a resounding success, with great support from Agents and the property media.

TPO Codes of Practice were updated and approved by CTSI on 1 October to reflect the latest legislation and best practice (including the scheme's separate Codes for Scotland).

TPO's membership continued to grow in 2016, with more than 15,000 sales branches in membership/registration and over 14,500 letting branches in membership/registration. The scheme's income increased in 2016, as a result of the scheme's continued growth, and I am pleased to report a positive surplus once more, more of which is outlined on pages 22 and 23.

I would like to thank the Ombudsman and her staff in all departments for their hard work and dedication during 2016. I also thank those in Accounts, Compliance and Membership for their hard work and support throughout the year.

Gerry Fitzjohn
Board Chair

BOARD MEMBERS

(Dec 2016):

Gerry Fitzjohn, Chair ¹

Michael Stoop, Vice Chair ²

Oliver Blake, LSL Property Services plc

Peter Fuller, Romans

Dorian Gonsalves, Belvoir

Jonathan Hopper, Garrington

Ed Mead, Douglas and Gordon

Michael Robson, Andrews & Partners

Paul Smith, Spicerhaart

Jacqueline Stone, Connells Group

Representatives from Trade Associations:

Mark Hayward, **NFOPP**

Andrew Bulmer and Michael Basquill, **RICS**

Find out more here:

 [www.tpos.co.uk/
about-us/board](http://www.tpos.co.uk/about-us/board)

1. Appointed January 2016, and replaced Bill McClintock

2. Appointed January 2016

Disciplinary & Standards Committee



TPO’s governance structure ensures the scheme operates independently and serves the best interests of consumers. In addition to the scheme’s Council and Board, TPO has a Disciplinary & Standards Committee (DSC) which is completely independent from the industry. A small number of cases each year are referred to the DSC, which can impose various sanctions, including fining Agents or expelling them from TPO.

The vast majority of Agents pay an award on time and comply with other recommendations by the Ombudsman. Many do so when they appreciate that a referral to the DSC will otherwise result.

The Ombudsman reviewed 3,553 complaints in 2016 and referred 61¹ cases to the DSC for Code breaches and failure to pay an award. This equates to 1.7% of all complaints reviewed during 2016. DSC intervention caused 65% of these firms to settle (up from 63% in 2015).

In summary, only 0.5% of all firms registered with TPO were referred to the DSC by the Ombudsman.

Of the 61 cases referred last year, 21% were sales disputes, while 70.5% concerned the actions of Letting Agents.

Consumers and Agents need to know that, when an agent acts unfairly and does not put it right, there may be action against them. Sales and Letting Agents are legally obliged to be registered with an approved redress scheme. If a firm is expelled from TPO for failing to pay an award, there is a memorandum of understanding with other redress schemes, which means an agent cannot join until the award has been paid.

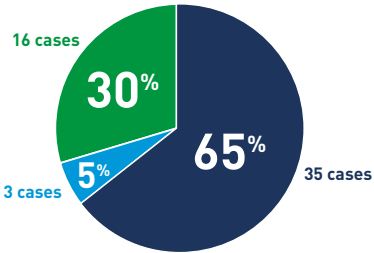
If a firm is expelled for failing to pay an award, they are reported to Trading Standards and if they are found to be trading illegally the firm risks having to pay a fine of up to £5,000.

I only became Chair of the DSC on 1 November 2016 and my predecessor, Hilary Bainbridge, and her colleagues should have the credit for the successes of DSC in 2016. Hilary’s focus and persistence has laid excellent foundations. She will be a hard act to follow.

Gillian Fleming

Gillian Fleming
DSC Chair

DSC cases completed in 2016¹



- Cases Settled / Awards Paid (if applicable)
- Cases Settled / Awards Paid (Late) following Case Closure
- Expelled (or left Scheme or Ceased Trading)

“Only 0.5% of all firms registered with TPO were referred to the DSC”

DSC MEMBERS

Hilary Bainbridge, Chair ²

Gillian Fleming, Chair ²

Mark McLaren

Victor Olowe

Find out more here:

 www.tpos.co.uk/about-us/dsc

1. 61 cases were referred by the Ombudsman to the DSC in 2016, of which 54 were completed (see pie chart above). The remaining cases were completed in 2017.

2. Gillian Fleming was appointed Chair in November 2016

Independent Reviewer's Report 2016



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

2016 complaint workload

I considered three complaints about TPO's service this year, which included 21 individual issues of concern.

In total I supported four individual issues of concern (19%). I am pleased that TPO agreed to all my recommendations for redress where I found that their service had fallen short.

I am also pleased that over the course of 2016 TPO agreed to take action on my recommendations for service improvements.

2016 audit work

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

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

In terms of the resolution cases I reviewed, I am again impressed by the level and detail of explanation provided in the decisions at resolution stage. This year I am also pleased to see more evidence of TPO negotiating a settlement between the parties at this earlier stage. That is to be commended.

In terms of the case reviews I looked at I am pleased that I saw that appropriate explanations, with reference to the code of practice and other legislation, were given for the decisions.

I am particularly pleased to see the reduction in throughput times for case reviews this year. Delays at case review stage were a significant issue for TPO in 2015 and going into 2016. Of the cases I looked at where decisions were issued in the first quarter of this business year only 18% were considered within three months. However, by the last quarter that rose to 83%. That represents a significant improvement.

Conclusion

While I have not upheld the full decision made in the complaints I have seen, overall the decisions and explanations provided at the first two stages of the complaints process are appropriate.

My audit of cases has shown that TPO continues to act within the Terms of Reference and that significant improvements have been made in the throughput times for case reviews.

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

Claire Evans
Independent Reviewer

TPO Accounts:

Finance Report

Extract from the Accounts, The Property Ombudsman - A Company Limited by Guarantee

Profit and Loss Account for the year ended 31 December 2016

	2016	2015
	£	£
Income	3,632,973	3,473,745
Administrative expenses	<u>(3,331,935)</u>	<u>(3,273,234)</u>
Operating surplus	301,038	200,511
Interest receivable and similar income	6,060	1,462
Amounts written off investments	<u>(19,148)</u>	<u>7,092</u>
Surplus before taxation	287,950	209,065
Taxation	<u>-</u>	<u>(292)</u>
Surplus for the financial year	<u>287,950</u>	<u>208,773</u>

Company Registration No. 03339975

These financial statements have been prepared in accordance with the provisions applicable to companies subject to the small companies' regime and the Financial Reporting Standard for Smaller Entities (effective January 2015).

TPO Accounts:

Finance Report

Balance Sheet at 31 December 2016

	2016 £	2015 £
Fixed assets		
Tangible assets	118,796	113,199
Investments	8	9
	<u>118,804</u>	<u>113,208</u>
Current assets		
Stocks		13,828
Debtors	216,658	223,650
Investments		1,040,838
Cash at bank and in hand	3,074,868	1,674,753
	<u>3,291,526</u>	<u>2,953,068</u>
Creditors: amounts falling due within one year		
	<u>(1,620,308)</u>	<u>(1,546,204)</u>
Net current assets	<u>1,671,218</u>	<u>1,388,864</u>
Total assets less current liabilities	<u>1,790,022</u>	<u>1,502,072</u>
Reserves		
Income and expenditure account	<u>1,790,022</u>	<u>1,502,072</u>

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 4 May 2017 and are signed on its behalf by:



Mr G R Fitzjohn
Director

4th May 2017



www.tpos.co.uk

Scheme contact information

The Property Ombudsman
Milford House
43-55 Milford Street
Salisbury, Wiltshire SP1 2BP

Complaint enquiries
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](https://twitter.com/TPOmb)  facebook.com/PropertyOmbudsman



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