

This document represents the procedure to be followed when a complaint is made to Gardner Surveyors.

The appointed person within Gardner Surveyors who deals with complaints is Andrew Gardner.

The following procedure will be followed:

## **Stage 1: Internal complaints procedure**

1. If a verbal complaint is made, the complainant will be requested to make its complaint in writing.
2. On receipt of a written complaint, the complaint will be acknowledged within 7 days.
3. The complaint will be given full consideration by the appointed person.
4. Every effort will be made to respond fully to the complaint within 28 days. If the complaint cannot be responded to fully, an update will be given.
5. If the complaint cannot be resolved, the complainant will be advised in writing that the internal complaints procedure (Stage 1) has been exhausted. Details of the independent redress mechanism (Stage 2) will be included.

## **Stage 2: Independent redress mechanism**

Where stage 1 has been exhausted and the complaint has not been resolved, provision has been made for the complainant to take its case to an independent redress mechanism should they wish to. To instigate Stage 2, visit the Property Ombudsman website: <https://selfserve.tpos.co.uk> and follow the online instructions.

## About this guide

This guide has everything you need to know about complaining to The Property Ombudsman about your property agent.

The guide covers our process, and gives details of when we can help, how we can help and what you can expect.

## About the Property Ombudsman Scheme

The Property Ombudsman Scheme is a free and impartial ombudsman scheme 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.

We also produce Codes of Practice which are used throughout the property sector. The Codes are approved by the Chartered Trading Standards Institute and set out how property professionals are expected to behave. If the agent is showing the TPO logo, it means they have signed up to follow our Codes of Practice.

Property agents providing estate, letting and property management services must by law join an approved redress scheme.

### Complain to the Agent

## Why you must complain to the agent

**The agent must be a member of TPO:** We can only help if the agent you are complaining about is a member of our scheme. Check their headed paper, website and other documents for our logo – they must display it if they're a member of our scheme. You can also check our 'Find a Member' database on our website [www.tpos.co.uk/find-a-member](http://www.tpos.co.uk/find-a-member)

**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, they may be trading illegally and you should inform your local Trading Standards so they can investigate.

## We can help with your complaint if:

- You have complained to the agent and received their final response (their 'final viewpoint' letter) or more than eight weeks has passed since you made your first complaint.
- You have complained within 12 months of the event you want to complain about, or the date you became aware of it.
- You have referred your complaint to TPO within 12 months of receiving the agent's final response.

## There are some things we cannot do:

- Consider complaints not previously raised with the agent.
- Look at a complaint if it has been considered by a Court.
- Make awards of more than £25,000.
- Fine, punish or take legal action against agents or dictate how they do business. That is the role of Trading Standards.

## How to complain to the agent



If you need help writing to the agent, a complaint letter template is available on our website at [www.tpos.co.uk/consumers/how-to-make-a-complaint](http://www.tpos.co.uk/consumers/how-to-make-a-complaint)

## Tips when complaining to the agent

- Ask the agent for a copy of their complaints process before you complain or look on their website for this. All TPO members must have one, and are required to send it to you when you ask.
- Clearly explain your complaints when you write to the agent. If you have more than one, number the complaints. The clearer you are in your explanation the more likely you are to receive a clear response from the agent.
- Explain how you would like them to put things right.
- Follow up any verbal conversations with an email to the agent, confirming who you spoke to, what was discussed and when the conversation happened. You may need to refer to this at a later date, so keep a copy where you can find it.
- Send any letters by recorded delivery or set a delivery receipt if you email them.
- Keep written records, including copies of all letters and emails to and from the agent.

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

Complaints Enquiries: 01722 333 306

Email: [admin@tpos.co.uk](mailto:admin@tpos.co.uk)

[www.tpos.co.uk](http://www.tpos.co.uk)



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[facebook.com/PropertyOmbudsman](https://facebook.com/PropertyOmbudsman)

Membership Enquiries: 01722 335 458

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## How to complain to us

### STAGE 1 Local Resolution

#### Stage 1: Local Resolution

Resolving complaints early within the agent's own process provides better outcomes for consumers and improves relationships between the parties.

Whilst we cannot investigate complaints until the agent has issued its final response or 8 weeks have passed, we may be able to help by providing general or technical advice to assist you and the agent resolve the problem. This is called local resolution.

Our advice will focus on what is required to resolve the problem. We may explain the agent's obligations under our Codes of Practice or the requirements of the law to help both parties understand what should have happened and how matters can be resolved.

**Remember we are not investigating or determining complaints at this stage.** Our role at the local resolution stage is to use our knowledge and expertise to empower and educate consumers and agents to resolve complaints between themselves.

### STAGE 2 Assessing your Complaint

#### Stage 2: Assessing your Complaint

If you and the agent cannot resolve the dispute, we can assess the complaint to see if we can help further. Before you contact us, check that:

<ul style="list-style-type: none"> <li>You have already written to the agent explaining your complaint.</li> </ul>	<p><b>We cannot help you until you have done this.</b></p>
<ul style="list-style-type: none"> <li>8 weeks have elapsed, but the agent has not responded to your complaint.</li> </ul>	<p><b>We cannot consider a complaint until 8 weeks have elapsed or you have received the agent's final response.</b></p>
<ul style="list-style-type: none"> <li>The agent has sent you their final response in writing and you are not satisfied with their reply.</li> </ul>	<p><b>You must come to us within 12 months of the date of the agent's final response.</b></p>

**If you have checked the above you can send us details of your complaint:**

You'll need to fill in a Complaint Form, sign it and send it to us. **It's important you clearly state your complaints and make sure these are the same issues you raised with the agent.** *Remember we cannot consider complaints you have not previously raised with the agent.* Please include copies of your complaint letters and emails to the agent and their replies, including their final response letter (if they sent one).

When we receive your complaint: We will assess your complaint to determine whether it is a matter we can investigate further in line with our **Terms of Reference**.

**If we can't help:** We will write to tell you why, explain what you can do next and signpost you to other organisations that could help you

The Property Ombudsman Scheme's Terms of Reference explain our powers, duties and procedures for dealing with complaints.

You can see the Terms of Reference in full on our website at: <https://www.tpos.co.uk/corporate-reference-policy-and-procedures>

with your complaint.

**If we can help:** We will write to you explaining what we will do next. We may also ask you for evidence relating to the issues you are complaining about. If you send us your evidence, please keep the originals and only send copies as we cannot send your documents back to you.

If you want to send us recordings, make sure you have written permission from all the parties involved (including the agent) or we won't be able to use them (Data Protection legislation prevents us from considering these unless permission is provided).

We also will let you know if:

- we need any other documents.
- we need to see an original document (for example a document with a Court stamp).

**Throughout the process we will keep you updated.**

#### Stage 3: Early Resolution

### STAGE 3 Early Resolution

After we have determined that your complaint is a matter we can deal with, we will evaluate the dispute and consider whether it could be resolved through our early resolution process.

#### What is the early resolution process?

Early resolution is an alternative and less formal process to our formal investigations.

We will look at the issues and use our experience of resolving complaints to explore the possible options and make a resolution recommendation. If you and the agent agree with our recommendation we will confirm the decision in writing and ensure that any agreed compensation is paid.

#### How long will it take?

On average early resolution can take two months. However, this is dependent on the nature of the complaint and the willingness of you and the agent to reach a mutually agreeable resolution.

## Goodwill Offers

The agent may make a goodwill offer to put things right. If you do not accept this and ask us to formally review your complaint, be aware that:

- the offer expires;
- the agent doesn't have to reinstate it, or make any other offers;
- there is no guarantee our decision will award you compensation;
- if we do make an award, it could be higher, the same as, or lower than the agent's offer.

If you're not sure whether to accept a goodwill offer, please get in touch – we will be happy to tell you more about your options.

## Outstanding Fees

If your agreement with the agent requires you to pay them a fee, we recommend you pay it on a 'without prejudice' basis. Stating you are paying on a 'without prejudice' basis means it can't be used as evidence if your dispute later goes to Court. We wouldn't expect an agent to take you to Court or add interest to an outstanding fee if your complaint is with us, but we can't stop them should they choose to do so. If the agent secures a hearing at a Court which is more than three months away, we will carry on with our process. If the hearing is set for less than three months away, we will have to suspend our review.

You can apply to the Court for an adjournment on the grounds you want us to consider the matter, however, if the hearing goes ahead and a judgment is made, we will need a copy of it to see if we can still deal with your complaint.

We can only consider complaints the Court has not made a judgment on.

### STAGE 4 Formal Review

## Stage 4: Formal Review

If your complaint cannot be resolved through our early resolution process, we will formally review your complaint. This is a longer, more complex process and is dependent on a number of factors such as:

- 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.

In most cases we will complete the process **within 90 working days** from the date we have received all the information and documents we need to reach a decision. **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.

### Before we conduct the review

We will send your Complaint Form to the agent, with any relevant supporting documents.

**Within 21 days** the agent must:

- send us their company file.
- send you a submission letter for your comment, if they have anything further to add to the complaint.

We will write to let you know when we've asked the agent for their file. We may also ask you again for any extra information we need about your complaint.

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

### When we conduct the review

The formal review will be conducted by an Adjudicator.

The Adjudicator will look at the evidence given to us by you and the agent. They will use our Codes of Practice, legal principles, common sense and what is fair and reasonable in the specific circumstances of your case to decide whether the agent has acted fairly.

If the Adjudicator has any questions or needs more information, they will get in touch with you or the agent. If third party information is needed (e.g. surveyor or mortgage broker) they will contact you to seek your authorisation.

After considering all of the evidence the Adjudicator will write a Proposed Decision giving their findings.

Remember we offer an alternative to the Court process and do not make decisions on points of law. The decision the Adjudicator makes may therefore not always be the same as those reached in a Court. The Court system also allows a period of 6 years for matters to be referred. TPO's process will not prevent you from using the Courts should you reject our decision or decide to withdraw from the process at any stage.

### STAGE 4a Proposed Decision

## Stage 4a: Our Proposed Decision

We will send the Proposed Decision to you and the agent at the same time.

This Proposed Decision will explain whether we support your complaint. If we do, it will set out what the agent must do to put things right which may include paying compensation.

If the agent's actions have caused you financial loss, the Adjudicator will take this into account. They may also award compensation for the aggravation, distress and inconvenience the agent has caused you.

Your options	The agent's options
<ul style="list-style-type: none"> <li>• <b>Accept</b> the Proposed Decision</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Accept</b> the Proposed Decision.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Make representations</b> against the Proposed Decision</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Make representations</b> against the Proposed Decision.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Reject</b> the Proposed Decision – you can take your complaint to Court or ask another organisation to look at your case.</li> </ul>	<ul style="list-style-type: none"> <li>• The agent <b>cannot reject</b> the Proposed Decision.</li> </ul>

### If you want to make representations against the decision, you will need to:

- prove that we have made a significant mistake – for example if we missed a complaint letter or misinterpreted the facts; and/or
- send us evidence that wasn't available before, if it will affect the decision.

### You must send us your representations within 14 days of the date you receive the Proposed Decision.

#### STAGE 4b Final Decision

### Stage 4b: Final Decision

If you and the agent accept the Proposed Decision, it will become the Final Decision.

If you or the agent make representations, we will consider these and write to you both with our Final Decision.

### Our Final Decision will:

- confirm whether or not we support your complaint.
- explain if we have awarded you any compensation.
- explain any other direction placed on the agent to put things right in other ways (e.g. making a formal apology).

If we award you compensation this will take into account:

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

Be aware that most compensation awards are less than £500. The maximum we can award for complaints is £25,000.

### If you accept the Final Decision and compensation

You need to tell us **within 14 days**. We will then let the agent know and advise them that they must pay you **within 28 days**. If you would like a bank transfer, please give them your bank account details directly – for data protection reasons we cannot pass these on for you.

**Full and final settlement:** If you do accept, it will be in full and final settlement of all the complaints against the agent we have reached a decision on, and we will ask you to sign an agreement to confirm that. You will not be able to take these complaints further by going to Court.

If there are outstanding fees or invoices you are liable to pay the agent, please pay them **within 15 days** of the date you accept the Final Decision. The agent does not have to pay the compensation in our Final Decision until you have paid what you owe them. Alternatively, the agent can deduct the compensation from the fees due. If the compensation is more than is owed, they can pay you the rest or, if it's lower, they can amend the amount you need to pay them.

### If you don't accept the Final Decision

If you reject our decision or we do not hear from you **within 14 days**, our Final Decision and award of any compensation lapses and we will close your case file. If there are exceptional circumstances for the delay, let us know.

**Remember:** You don't have to accept our Final Decision and you can take your complaint to Court or find another organisation that may be able to help.

### What else you need to know

**You can withdraw your complaint whenever you like:** If you want to withdraw your complaint please write and let us know.

**You do not need legal representation to use our scheme.** However, someone else can bring your complaint to us on your behalf, and act for you throughout the process if you like. If someone is going to act on your behalf, please let us know so we can advise you of the next steps.

**We may use or publish details of your case anonymously:** In line with Data Protection legislation and our privacy policy, we may publish a summary of your case, or part of it to illustrate matters of best practice and to assist in educating consumers and agents. Our scheme approval obligations means 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.

**Cross-border disputes:** Our dispute resolution service can also resolve complaints between member agents established in the United Kingdom and consumers resident in another European Union Member State.

**Keeping things fair and transparent:** Both you and the agent can ask to see the evidence the other party has provided. We will send it to you (in accordance with Data Protection legislation) and allow you time to make any comments in response.

### 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:** We can accept complaints and provide you with our documents and policies in a number of different languages and formats. If you need us to communicate with you differently or in a specific format – braille, large print, digital or hard copy for example – please let us know. We can also help you to complete the paperwork needed to make a complaint.

**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](http://www.tpos.co.uk/accessibility).

**You can ask us to consider an oral hearing:** Oral hearings are very rare. In most cases we will resolve complaints based on the written evidence submitted. We may consider a hearing if the complaint raises issues of credibility or contested facts that cannot be fairly determined by reference to documentary evidence and written submissions. We will facilitate a hearing if it will make the process more accessible for you – for example if you have difficulty providing or understanding written evidence.

## QUICK GUIDE

### Complain to the Agent

- Complain to the agent in writing.
- They have eight weeks to try to resolve the complaint with you.

### STAGE 1 Local Resolution

- We can provide advice to help you and the agent resolve matters between yourselves.
- We will need both parties' willingness to reach an agreement. This is key to a local resolution being achieved.

### STAGE 2 Assessing your Complaint

- If you and the agent cannot reach an agreement, we can assess whether we can accept the case in line with our Terms of Reference.
- If we cannot accept your case, we will advise you of your options.

### STAGE 3 Early Resolution

- We will consider whether the complaint could be resolved without a formal review.
- Our Resolution Officer will assess the case and recommend a resolution.

### STAGE 4 Formal Review

- An Adjudicator will consider all the evidence and provide a formal decision.
- If you agree with our decision, the dispute will be settled.
- If you do not agree with our decision, you can reject it and pursue your complaint elsewhere.

## Contacting us

The Property Ombudsman Ltd Milford House, 43-55 Milford Street, Salisbury, Wiltshire SP1 2BP  
01722 333306 | [www.tpos.co.uk](http://www.tpos.co.uk)