

## Complaints Guidance

Company Members of The Property Institute (TPI) must offer access to one of the two Government approved independent ombudsman schemes (a legal requirement) where unresolved disputes can be addressed, free of charge to consumers. This means complaints are handled independently and leaseholders can be confident that there is no bias.

The approved schemes are: the Property Redress Scheme, and the Property Ombudsman.

If you are dissatisfied with the services provided by a TPI Company Member, then in the first instance this must be dealt with through the redress scheme available then thereafter through TPI Adjudication Scheme.

## Further help and advice

The Leasehold Advisory Service is a government funded body which is able to assist you. It provides free information, initial advice and guidance to members of the public about residential leasehold. It is independent and impartial, and all of its advisers are legally qualified.

Tel: 020 7832 2500 Website: <https://www.lease-advice.org/>

## Ombudsman Complaints

### What kind of complaints will the ombudsman investigate?

- Lack of communication
- Failure to respond to reasonable requests for information
- Not delivering promised action or services
- Disputes over contractual matters between managing agents and their clients
- Issues relating to management handovers
- Accounting matters (excludes challenging service charges/estate charges. These should instead be referred to the First-tier Tribunal (Property Chamber).)
- Clear and proven breaches of the RICS Service Charge Residential Management Code

## The Property Institute

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- If you have been to court about your complaint, or any part of it, the ombudsman will need a copy of the judgement to see if it can do its review. If it can, it will only consider the elements the court didn't cover. For example, if the court case was about an unpaid fee, the ombudsman can still review the service you received from the agent if it was not included in your defence.

### **Are there any issues that the ombudsman won't take on?**

The ombudsman can exercise discretion but usually will not be able to deal with complaints that:

- Relate to managing agents who are not members of their scheme
- Have not exhausted the eight-week period through the member's in-house complaints procedure (and, where appropriate, independent mediation if it has been offered)
- Relate to property owned or controlled by a residents' management company where the member can demonstrate the board of directors are content with its services - although any instructions from this board must have been lawful and proper.
- Require the interpretation of leases where the parties to a lease are in dispute over such interpretation
- Relate to insurance issues that fall under the jurisdiction of the Financial Conduct Authority
- Are sub-judice
- Are subject to the jurisdiction of the Courts or Tribunals on matters of fact, reasonableness, financial recovery or compensation
- Service charges/estate charges/ground rent/administration charges - If your issues relate to any of these matters (including reasonableness of expenses paid from service charges and whether these can be charged to leaseholders) these are usually only suitable for referral to the First-tier Tribunal (Property Chamber). You may find it helpful to visit their website for further information: [www.justice.gov.uk/tribunals/residential-property](http://www.justice.gov.uk/tribunals/residential-property)

### **What if my complaint is not suitable for referral to the ombudsman?**

The Leasehold Advisory Service will be able to assist you with further guidance and advice. Tel: 020 7832 2500.

Website: <https://www.lease-advice.org/>

## **Before you complain**

It is worth confirming who the landlord is and who has overall responsibility for the management of your property. If it is a Residents' Management Company (RMC) or a Right to Manage Company (RTM), then you should take up any issue with the directors of the RMC or RTM first, in most cases. It will help in the long run if you are able to demonstrate that the directors support the complaint.

## **How to make a complaint**

Please note the process covered in Step 1 and Step 2 below refer to Ombudsman complaints only.

Step 1: Follow the member's in-house complaints procedure

If you are not happy with the service you have received from a TPI Company Member then you should first of all ask for a copy of their in-house complaints procedure.

Complaints are then required to be dealt with internally by the member firm, either by their complaints department or a designated individual. How this will be dealt with, and the time scales, will be detailed in their in-house complaints procedure.

TPI Company Members have eight weeks to resolve the complaint under the ombudsman rules. The ombudsman will only investigate complaints which have initially gone through the member's own in-house complaints procedure, so it is important to undertake this in the first instance.

It is a condition of TPI company membership that firms must have a published complaints procedure and make it available when requested. If your managing agent is refusing to provide their complaints procedure, then you should contact TP by emailing us at [info@tpi.org.uk](mailto:info@tpi.org.uk). Alternatively, you may go directly to the relevant ombudsman.

Step 2: Go to the Company Member's ombudsman

If the Company Member fails to address or resolve the issues within the eight-week period, then you should contact their ombudsman.

If the dispute is “deadlocked” (i.e. the Company Member has issued their final decision or confirmed in writing that they will not deal with the matter further) the complaint can be taken directly to the ombudsman at that time, although still within the eight-week period. From receipt of the agent’s final decision/deadlock letter, a period of 12 months is allowed for the dispute to be taken to the ombudsman/redress scheme.

### **How can I find out which ombudsman my managing agent is signed up to?**

This should be made clear on their complaint’s procedure. If not, you can find out by visiting our search for a [Company Member directory](#) and looking up your managing agent. This will detail which ombudsman scheme they are registered with. Company Members may belong to one of two ombudsman schemes detailed below:

The Property Ombudsman Limited (TPO)  
Milford House  
43-55 Milford Street  
Salisbury SP1 2BP  
01722 333306  
admin@tpos.co.uk  
[www.tpos.co.uk](http://www.tpos.co.uk)

Property Redress Scheme (PRS)  
Ground Floor, Kingmaker House  
Station Road  
New Barnet  
Hertfordshire EN5 1NZ  
Tel: 0333 321 9418  
info@theprs.co.uk  
[www.theprs.co.uk](http://www.theprs.co.uk)

### **What action will TPI take?**

The staff of TPI are not able to resolve complaints about Company Members directly and all Complaints about Company Members must be dealt with by The Property Institute Independent Adjudication Service (“the Scheme”).

The Scheme is administered by the Centre for Effective Dispute Resolution (“CEDR”). The Scheme provides an informal and independent way of adjudicating complaints made against Company Members or Company Associates of TPI by a Complainant by way of a non-binding adjudication process. The adjudication will be undertaken by an independent adjudicator appointed by CEDR from its Adjudication Panel.

The appointed Adjudicator will make a decision on the complaint by considering the information received from the Complainant and from the Company Member. This decision will be either to make one or more recommendations that TPI Complaints Committee take action in relation to the Company Member or to make no recommendation. The recommendations the Adjudicator can make are limited to:

- A letter of apology;
- Training to be undertaken by the Company Member;
- That the Company Member is suspended from TPI for a specified period of time;
- That the Company Member is expelled from TPI.

Please note that the Adjudicator’s role is to decide whether or not the Company Member has breached TPI’s Rules, and if so, whether it is appropriate to recommend disciplinary action.

The Adjudicator cannot recommend that you receive any direct remedy such as compensation. Further, the Adjudicator cannot reconsider any decision made by an Ombudsman, the Court, or other dispute resolution procedure.

### **When can a complaint be brought to the Scheme?**

- a) You must have complained formally to the Company Member and attempted to resolve your complaint in accordance with this TPI Complaints Guidance;
- b) Any and all appropriate independent cases and investigations in respect of your complaint, whether or not such cases or investigations have been initiated, must have been exhausted, including any ongoing cases and investigations by:
  - the Ombudsman (The Property Ombudsman or Property Redress Scheme);

- the First-tier Tribunal (Property Chamber);
- the Court;
- the Police; and
- other authorities e.g.: (i) Health & Safety Executive; (ii) Environment Agency; (iii) Local Authorities (e.g., section 21 and 22 LTA compliance); (iv) Information Commissioner's Office; (v) Trading Standards; (vi) Financial Conduct Authority; (vii) Competition and Markets Authority (re. competition issues); or (viii) Local fire services.

If the Company Member you wish to make a complaint about is suspended, any complaint made during the period of suspension may still be referred to the Scheme in accordance with Bye-Law 7.3. This relates to complaints made by another Company Member or by the TPI Board.

### **What types of complaint are not suitable for the Scheme?**

The Scheme cannot be used to adjudicate a complaint that falls into one or more of the following categories:

1. Where you have not attempted to resolve the complaint first as detailed at points a) and b) above;
2. Where the most recent alleged incident to which your complaint relates happened more than 24 months ago;
3. For a Company Member that has recently been granted membership or associate status by TPI, the most recent alleged incident to which your complaint relates happened more than 12 months before the date on which the Company Member was granted Company membership or Company Associate status by TPI;
4. Where the details of the complaint set out in your application form materially differ from the details that you provided when fulfilling points a) and b) above;
5. Complaints that are frivolous and/or vexatious;
6. Where dealing with your complaint would seriously impair the effective operation of CEDR.

### **How do I apply to use the Scheme?**

To apply to use the Scheme, please provide your complaint details to TPI marked clearly as 'TPI Adjudication Scheme'. You should also set out how you have fulfilled points a) and b) above.

You can do this by post to The Property Institute, 3rd Floor, 2-4 St George's Road, Wimbledon, London SW19 4DP or by email to [info@tpi.org.uk](mailto:info@tpi.org.uk).

Your complaint details will be reviewed by TPI to initially assess whether you have complied with the requirements detailed in points a) and b) above. If these requirements have been satisfied then your contact details will be passed to CEDR directly.

An application form will then be provided to you by CEDR, which you will need to complete and send back. If you require any special assistance with your application, you can contact CEDR and reasonable adjustments will be made in line with the CEDR reasonable adjustments policy, which can be found on the CEDR website at [www.cedr.com](http://www.cedr.com).

Your completed application form must include the following:

1. A description of the precise issues that form the nature of your complaint about the Company Member;
2. A description of the precise conduct by the Company Member that you believe to be a breach of the TPI Rules;
3. A copy of the decision or outcome from the appropriate body set out in point b) above;
4. Any supporting documents on which you wish to rely.