



COMPLAINTS GUIDANCE

Since October 2014, it has been a legal requirement for all firms of managing agents to offer access to a Government-approved independent ombudsman scheme (The TPO and PRS) 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.

Further help and advice

The Leasehold Advisory Service is a government funded body who are able to assist you. They provide free information, initial advice and guidance to members of the public about residential leasehold. They are independent and impartial, and all of their 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 are suitable for instead referral to the First-tier Tribunal (Property Chamber).)
- Clear and proven breaches of the RICS Service Charge Residential Management Code.
- 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 they can do their review. If they can, they will only consider the elements the court didn't cover. For example, if the court case was about an unpaid fee, they 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 their 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 services charges and whether these can be charged to leaseholders are usually only be 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.

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 an ARMA 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 time scales will be detailed on their in-house complaint's procedure.

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 ARMA 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 ARMA by emailing us at info@arma.org.uk. Alternatively, you may go directly to the relevant ombudsman.

STEP 2: Go to the member's ombudsman

If the member fails to address or resolve the issues within the eight-week period, then you should contact the member's ombudsman.

If the dispute is "deadlocked" (i.e. the agent 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 the member's complaints procedure. If not, you can find out by visiting our search for a member page and looking up your managing agent and this will detail which ombudsman scheme they are registered with. 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

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

ARMA REGULATORY PANEL

The Secretariat team of ARMA is not in a position to deal with complaints about members directly and all ARMA Members and Associates are regulated by an independent Regulatory Panel.

The role of the independent Regulatory Panel is to provide independent regulation of the Member and Associates of ARMA and it will then determine whether a member firm has breached ARMA membership rules and our Consumer Charter or Standards. To preserve its independence, no-one on the panel or case officer are connected with ARMA or its members.

The independent Regulatory Panel has a number of sanctions to impose on ARMA members. They will be able to:

- Require the member to undertake training
- Require an apology with acknowledgement of a specific action to be taken to remedy a complaint
- Issue a formal warning by letter
- Impose administration costs and fines
- Suspend a member from membership for a specified period and on conditions
- Expel a member from ARMA.

All disciplinary sanctions will be published on ARMA's website for a period of two years.

How do I raise a complaint to the independent Regulatory Panel?

Firstly, the complaint must have been through the appropriate source of redress listed below:

- Ombudsman (TPO/PRS)
- First-tier Tribunal (Property Chamber)
- Court
- Police investigation leading to criminal prosecution
- Investigation (and potentially prosecution) by other authorities e.g.:
 - Health & Safety Executive
 - Environment Agency
 - Local Authorities (e.g. section 21 and 22 LTA compliance)
 - Information Commissioner's Office
 - Trading Standards
 - Financial Conduct Authority
 - Competition and Markets Authority (re. competition issues)
 - Local fire services.

The independent Regulatory Panel and Case Officer cannot consider or accept complaints until all investigations have been fully concluded and exhausted.

As an example, if you have presented your complaint to the ombudsman and under their review they may advise you that they are unable to deal with your complaint and provide the reasons for this which may be referral to another source of redress such as the First-tier Tribunal (Property Chamber) for service/estate charges then this must be undertaken and fully concluded before referral to the Regulatory Panel.

Please note the independent Regulatory Panel have no jurisdiction over any decision taken by the ombudsman or any of the alternative redress schemes including any final decisions made or any financial settlement.

The independent Regulatory Panel once presented with your complaint and supporting documentation (e.g rulings found by the Tribunal/Courts or Ombudsman decision on accepted cases) will then be able to determine with these documents if a member firm has breached our membership of the ARMA byelaws, Consumer Charter or Standards.

Cases will not normally be accepted where the case relates to a matter that is over 24 months old from the day that alleged incident took place. The only exception to this will be where criminal proceedings have been in progress.

Please provide your complaint in writing clearly marked as '**Regulatory Panel Complaint**' along with supporting documentation by either post to ARMA, 3rd Floor, 2-4 St George's Road, Wimbledon, London SW19 4DP, or email to info@arma.org.uk.

Your complaint and any relevant supporting documentation which you have provided will be passed to the Case Officer of the Regulatory Panel who will contact you directly in relation to your complaint.