



Overall Complaint Process

It is expected that BAR Members would operate a robust and structured complaints handling procedure, with defined timescales for responses and a 'final viewpoint letter' being issued by someone in the company with authority to confirm in the letter the firm's final view on the matter. This final viewpoint letter should have a final paragraph detailing the complaint to the Ombudsman. The company's final viewpoint would emphasize the facility of the Ombudsman scheme and detail relevant phone numbers for enquiries etc.

Complainants can contact BAR for industry advice but BAR would not undertake any complaints handling

A BAR Member firm would have **8 weeks** to deal with the Complaint internally. At the end of this process they must issue a 'final viewpoint letter' (FVL) to the Complainant. The FVL must include details of how they can refer their complaint to The Property Ombudsman (TPO).

Complainants would be able to call TPO whereby advice is given on the suitability of the complaint (i.e. whether it can be accepted by TPO under the Ombudsman's Terms of Reference). Where possible, TPO will direct Complainants to the relevant authorities if the complaint falls outside of TPO terms of reference (OTOR). If the complaint is suitable, then a complaint form (CF) will be sent to the Complainant who has **28 days** to return it.

Once the completed CF has been received the case will be passed to an Assessment Resolutions Officer (ARO) who will assess whether the case is suitable for early resolution (ER) or whether it needs to progress to a full case review (CR).

If a resolution cannot be achieved at this stage, the ARO will request the BAR Member's file and a submission letter setting out their side of the dispute. Upon receipt the submission letter will be sent to the Complainant for their comments within **14 days**. Upon receipt of the Complainant's comments or expiry of the **14 days**, the case is passed to a case officer for formal review. There are no time-frames set out for ER or CR but the ADR directive time-frames apply whereby we have **90 days** to issue a proposed decision when we are in possession of the complete complaint file.

The ADR directive also sets out time-frames for which we can consider complaints. If the Complainant is unhappy with the BAR Member's FVL they have 12 months (providing the FVL is dated on or after the 20th July 2015) to refer their complaint to TPO. Complaints where the act or omission giving rise to the complaint first occurred or could reasonably have come to the notice of the Complainant more than twelve months before the Complainant first made the complaint in writing to the BAR Member will not be considered.

FVL – Final Viewpoint Letter

TPO – The Property Ombudsman

ER – Early Resolution

CF – Complaint Form

ARO – Assessment Resolutions Officer

GWO – Goodwill Offer

CR – (Full) Case Review

OTOR – Outside Terms of Reference

WTOR – Within Terms of Reference



Early Resolutions and Closures

Early non-support

Following an initial review by an Assessment Resolutions Officer (ARO) TPO may not support the complaint. If this is the case then a letter will be issued to the Complainant who will be given **14 days** to respond.

If the Complainant doesn't respond within this time-frame then the complaint is closed. If the BAR Member has been contacted by this point then they will also receive a letter advising them that the case is closed.

Goodwill Offers (GWO)

There might be a number of files where the BAR Member has made a fair and reasonable GWO which would unlikely be surpassed at review/complex stage. First the ARO will establish with the BAR Member that the GWO remains open. If this is the case, we will write to Complainant accordingly, enclosing a copy of the acceptance form and give them **14 days** to respond

If the BAR Member has not made a GWO and it is evident that there are elements of the complaint which would be supported at review/complex stage, then there may be the potential to discuss this with the BAR Member to see if they would be willing to make a GWO to save them submitting their company file and submission letter.

Alternatively the BAR Member may make a GWO in their submission letter which would need to be assessed by the ARO. Any new offers **must** be put to the Complainant regardless of the likelihood of the offer being accepted.

GWO - Closure

As soon as the Complainant returns their signed acceptance form, the file can be closed. The BAR Member will be informed and instructed to pay the GWO within **21 days**.

OTOR Decisions

If the complaint is OTOR then the ARO will close the case and issue a relevant letter to the Complainant. If the Member has been contacted then they will also be advised that the complaint is OTOR and the complaint has been closed.

Appeals

If the Complainant then appeals against the OTOR decision, their response will be considered and a formal response provided regardless of the answer. If the Complainant responds again then a final decision on the matter will be issued by the Ombudsman.

If the Complainant provides information which makes the complaint within the terms of reference (WTOR), the case will be re-opened and progressed accordingly and an acknowledgement to this effect will be sent.



Company File requests

If a file is either unsuitable for ER and needs to go to review, or if resolution can only be attempted with the company file, we will request the file and submission letter from the BAR Member.

The company file refers to the complete file the BAR Member has on the Complainant (i.e. quotes, terms and conditions used, signed acceptances, e-mail trails, surveys, claim forms, FVL etc.). If something (i.e. signed acceptance) is not included in this file we will assume that there is not one in this case. If BAR Member or Complainants provide information at a later date (i.e. representation/appeal stages) that could have accompanied earlier submissions this will be considered but any further inconvenience and aggravation as a result of this delay may be considered.

(Full) Case Review

If early resolution has not been achieved, the case can go onto formal review whereby a case officer will review all the information surrounding a case and make a decision in favour of one of the involved parties.

When considering a complaint, the case officer will take into account the following:

- Relevant legal principles
- The BAR Code of Practice/Terms of Reference
- What is fair and reasonable in the circumstances
- The Ombudsman **does not** make a legal determination

Depending on the value of the award, the review will be signed off by either a Senior Case Officer, the Casework Director or the Ombudsman.

The awards made by the Ombudsman are to compensate the Complainant but we will not consider any punitive awards.

Awards of compensation under the TPO Scheme are only made where we are satisfied that actual financial expense or avoidable quantifiable loss has been incurred. Any undue and avoidable aggravation, distress and inconvenience will also be considered.

The size of the total monies paid or profit margin has no bearing on the amount of compensation awarded. In assessing the amount of compensation, any contributory liability that can properly be attributed to the Complainants themselves, or to any third parties, is taken into account.

Representations

Once the proposed decision (review) has been signed off by the appropriate manager, it will be sent to the unsupported party first with a **14 day timescale** to make a representation/appeal the decision. Any representation must show significant error of fact and/or provide new evidence not previously available. Representations against the value of the award or simply constituting a difference of opinion with no further evidence to support that opinion will not be considered.

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The supported party will also be provided with the same time-frame to make any representations.

If representations are received from either party, a formal response will be provided regardless of whether or not the overall decision is affected.

Once both parties have had the opportunity to review and appeal the proposed decision, the decision becomes final and the supported party is given 14 days to accept. If the Complainant is the supported party and they accept, then the BAR Member will be obliged to pay any award or take any action as set out in the formal review. If the Complainant does not accept the decision or if the 14 day time-frame elapses then they are free to progress their complaint through other means such as the Courts.

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