

Conditions of Complaints



3rd edition valid
from 4th April 2022



PRS Members
and Consumers

Contents

Contents		2
Introduction		3
Information for those making a complaint		4
Section A	Who can raise a complaint with us?	5
Section B	Do I have reasons to make a formal complaint?	6
Section C	What do I need to do before raising a complaint with you?	7
Section D	Why might we be unable to accept your complaint?	8
Section E	Raising the complaint	9
Section F	Evidence	10
Section G	Initial assessment	11
Section H	Early resolution	12
Section I	Default decision process	13
Section J	The proposed decision	14
Section K	Review requests	15
Section L	Final decisions	16
Section M	Awards	17
Section N	Members' complying with decisions	18

Introduction

This document sets out:

- when we can investigate a complaint against one of our members
- the responsibilities of both parties once a complaint has been received by us
- the reasons why the complaint may be declined

Please note this document should be read together with the Property Redress Scheme's (PRS) Terms of Reference (ToR).

- When making a decision we will consider any terms of business agreed by both parties, all relevant laws and, where appropriate, any code of practice the member has agreed to.
- We are not a regulator or an enforcement agency. This means that we are not authorised to take enforcement action or make decisions on potential breaches of the law. Where potential breaches or criminal activity are found we will report these to the appropriate authority, including Trading Standards.



Information for those making a complaint

How do I check if an agent is a PRS member?

You can check if your agent is our member by using our online checker.

You can also call us to check, or ask for general guidance, on 0333 321 9418.

If you are thinking about making a complaint against one of our members, Section A, B, C and D are for you.

If you are raising a complaint about a leasehold residential management matter then we ask that you read the guide in consumer resources section of our website which explains our remit and how we deal with these type of complaints.

From Section E, after the complaint has been raised, this document relates to both parties.

If an agent is not a member of the PRS then we recommend a consumer checks whether they are a member of any other authorised redress scheme.

If an agent is not a member of an authorised redress scheme then the consumer should contact Trading Standards who will investigate.



Section A: Who can raise a complaint with us?

- A1. To raise a complaint, you must be a consumer or directly impacted by the actions of one of our members
- A2. You will be considered as a consumer of the member if you are a small business, charity or trust, as long as your annual turnover (for small businesses), annual income (for charities) or net asset value (for trusts) is less than £3 million
- A3. In relation to leasehold management complaints an individual leaseholder can make a complaint against a managing agent although we will look at who is giving instructions to the managing agent to decide how we can assist in the matter
- A4. Where a member undertakes multiple types of work only some of it may be covered by a legislative requirement to offer redress. The types of work members are required to offer redress for are covered on the 'Who Must Join' page of our website
- A5. We would expect a member to co-operate with our complaints process for all types of work however for work not legally mandated for redress, a member is only required to signpost to us, as an authorised ADR provider. We reserve the right to remove a member from membership if they unreasonably reject the option of using our service to resolve consumer complaints
- A6. We will include the offering of rent to rent or guaranteed rent type arrangements with landlords and tenants as covered by the 'property management' definition set out in the Redress Schemes for Lettings Agency Work and Property Management Work (Approval and Designation of Schemes) (England) Order 2013. We will accept complaints from consumers relating to these arrangements including dealing with rent that has not been paid to landlords

Section B: Do I have reasons to make a formal complaint?

- B1. Your complaint(s) must be about things which you claim a member has done, or not done, which have:
- B1.1 effectively not fulfilled their legal or contractual responsibilities to you
 - B1.2 affected or breached your rights
 - B1.3 caused you a loss by not acting in line with any code of practice they have signed up to
 - B1.4 treated you unfairly
- B2. Examples of unfair treatment include:
- B2.1 poor or incompetent service
 - B2.2 rudeness or discourtesy
 - B2.3 a lack of clear explanation
 - B2.4 not completing a transaction efficiently or as reasonably expected
 - B2.5 avoidable delays in delivering agreed or expected service(s)
- B3. When we look at complaints, the test we apply is:
“Did the member provide the service reasonably expected by an average consumer?”
- B4. Members should not charge a consumer to deal with a complaint either before or after the complaint was escalated to us. Any complaint fee charged and challenged through us is very unlikely to be upheld.

Section C: What do I need to do before raising a complaint with you?

- C1. You must have made a complaint in writing to the member and allowed them to use their complaints process, with the last communications being within 12 months relating to the incident you are complaining about
- C2. Your complaint to the member must clearly set out the specific reasons for the complaint and explain what solution you are looking for
- C3. You must try to resolve the complaint directly with the member and give them up to eight weeks to do this
- C4. We may accept a complaint before the full eight weeks have passed if:
 - C4.1 the issue requires urgent resolution
 - C4.2 the member is not responding to any of your communications within a reasonable time
 - C4.3 you have received a final response from the member and remain unhappy
- C5. A **sample complaint letter** is available in the Resources section of our website

Section D: Why might we be unable to accept your complaint?

- D1. We may not investigate a complaint (or any part of it), or will stop investigating a complaint (or any part of it), in the following circumstances:
- D1.1 you have not provided evidence to show that you have used the member's formal complaint process
 - D1.2 in our opinion you do not have a reasonable prospect of success. We will explain our reasons if this is the case
 - D1.3 we believe that any solution offered by the member is reasonable and we would be unable to improve it.
 - in this situation, we will inform you that the offer should be accepted or that it can be rejected
 - if it is rejected, the case will be closed
 - D1.4 You have raised a complaint point that has been previously considered by us and either rejected or settled with our involvement
 - D1.5 in our opinion, the complaint is not supported by relevant evidence
 - D1.6 you have not responded to any reasonable request from us in the time period given
 - D1.7 we consider the complaint is more appropriately dealt with by a court, tribunal or another independent complaints, conciliation or arbitration platform, such as a tenancy deposit protection scheme
 - D1.8 legal proceedings have been started or the complaint is being, or has been, heard by a court, tribunal or another independent complaints, conciliation or arbitration platform, such as a tenancy deposit protection scheme
 - D1.9 you are looking for a legal decision or sanction that can only be awarded or enforced through a criminal or civil court or tribunal, such as a banning order or closing a business down
 - D1.10 you are claiming that the agent has acted criminally or fraudulently as these claims should be directed to the police or trading standards
 - D1.11 we consider that you have acted unreasonably or have been abusive to the member or our staff (see our unreasonable behaviour policy)
 - D1.12 it is outside our authority to make an award over £25,000. Depending on the type of complaint and amount being requested we may be able to make an award up to this amount for one or multiple strands of a complaint. The consumer will then need take advice on their options for any further amount they feel they are owed
- D2. While we may stop investigating your complaint for the reasons above, we have the option to progress your case if:
- D2.1 there is no other relevant independent body that could handle your complaint
 - D2.2 the Head of Redress agrees that we can consider a specific part of your complaint and we will direct you to another more appropriate place for the remainder of your complaint
 - D2.3 both you and the member agree we can try to resolve the complaint

Section E: Raising the complaint

PRS Complaint form

- E1. To raise a complaint you will need to complete our complaint form and send us all the relevant evidence you want us to consider
- E2. You can do this
 - E2.1 using our online process
 - E2.2 by sending your complaint form and all relevant evidence to us by post
 - E2.3 if necessary, asking us to help with raising the complaint over the telephone
- E3. After we accept a complaint, we reserve the right not to accept any new issues that are unrelated to the original complaint made to the member



Section F: Evidence

What are the parties responsible for?

- F1. The person raising a complaint with the PRS must send all the relevant evidence that they want us to consider when they complete their PRS Complaint Form
- F2. When the member is asked to send us their response to the complaint, they must also send us all the relevant evidence that they want us to consider
- F3. Both parties are therefore responsible for providing all relevant evidence to support their case, which will be considered when making our decision. We are unable to take responsibility for relevant evidence that either party may have, but do not provide within our prescribed timescales
- F4. We have produced an Evidence Checklist for all parties, which can be found in the Resources 'guides' section of our website
- F5. Both parties are also responsible for the costs of preparing their case and we will not make any award on these as part of our resolution process
- F6. Please do not send original documentation if you can avoid it (see F10)

Asking for more evidence or information

- F7. Once both parties have provided all their evidence, if we have any queries we may request more evidence, or information on what has been provided, in the interest of fairness or clarity
- F8. If we ask for more evidence, or information, the time provided for a party to respond to this request will be set by the person dealing with the case and must be sent to us within the deadline given. Any evidence, or information, provided after this may not be considered

What other evidence will we consider?

- F9. We may consider evidence that is freely and publicly available although not provided by the parties. Where we do, we will explain what we have considered

Returning your evidence

- F10. If you would like your evidence returned to you once the complaint has been closed, you must make this clear, in writing, when you provide your evidence. Any physical evidence we hold after the complaint is closed will be disposed of after 4 weeks
- F11. We are unable to take responsibility for any loss, resulting from us not returning the evidence to you, where you did not request it at the time you sent it to us
- F12. If you have requested your evidence be returned by special delivery, you will need to pay the correct postage to us in advance

Section G: Initial assessment

Initial assessment

- G1. When we receive a complaint, we will carry out an initial assessment to make sure it meets the conditions of this document

If the complaint is closed

- G2. If the complaint does not meet our acceptance criteria in sections B - D we may be required to close it
- G3. Where we close a complaint, we will explain the reasons for this and point you to other sources who may be able to help

If the complaint is accepted

- G4. The complaint will be allocated to a case assessor who will then attempt to make first contact with both parties and discuss the complaint in greater detail, within 5 working days
- G5. The case assessor will allow the person making the complaint 5 working days to provide any more relevant evidence
- G6. The member will then have up to 10 working days to provide their response to the complaint and all their relevant evidence
- G7. If the person making the complaint cannot provide us with any specifically requested evidence, the case assessor may be required to close the case

If the complaint is resolved before a full response from the member is requested

- G8. When someone from the PRS contacts both parties about the complaint, they may discover that a mutual agreement has been reached
- G9. If this happens, we will ask the person making the complaint to confirm, in writing, that they are satisfied with the agreed solution before the complaint is closed

How does the PRS deal with complaints not set out in either the consumers letter of complaint or complaint form submitted to the PRS?

- G10. If we discover that there are material issues which need to be resolved by a member in the complaint, either at initial acceptance or during the resolution or decision-making process, which have not already been formally raised then we reserve the right to inform the member of this and will expect the issues to be dealt with. These are likely to be more serious breaches of consumer protection regulations or legislation that a consumer was not aware of
- G11. A complainant cannot however raise new issues or substantially change their position during our complaint process if the member has not had a chance to respond to the issues in complaint. A consumer also cannot continue to raise the same issue with us if their complaint has not been accepted

Section H: Early resolution

- H1. Once all the evidence has been received from each party, the case assessor will have up to 15 working days to:
 - H1.1 discuss the complaint in detail with each party
 - H1.2 outline their understanding of the complaint
 - H1.3 explain their proposal for resolving the complaint early

- H2. When proposing an early resolution to both parties, the case officer may include:
 - H2.1 an apology, explanation, or other appropriate action
 - H2.2 a practical solution to minimise any actual loss and/or costs paid by the person making the complaint
 - H2.3 compensation in respect of actual loss and/or costs paid, the time and trouble taken to make the complaint, or for inconvenience and distress experienced

- H3. If both parties accept the proposal sent by the case assessor, they must inform us in the time period we give. This will be in full and final settlement of the complaint and becomes our final decision

- H4. If either party do not agree to the proposal during the time given, the complaint will proceed to the next stage



Section I: Default decision process

When we make a default decision

- I1. If the member provided *no* response and evidence in support of their position in the time period we set, we will advise both parties that the complaint is progressing to a case officer. A default decision will then be made solely based on the evidence from the person who raised the complaint
- I2. If the member provides a response and evidence in support of their position *after* the time period we set, the case officer can decide whether to accept the late evidence. The complaint will remain a default, as the member's response was outside the timescales
- I3. Where a default decision is made, the member will be required to pay us the published complaint fee even if they have joined as an enhanced member
- I4. The default decision will be sent to the person who made the complaint, who then has 10 working days to accept it or make a review request if they believe there was an error of fact, law or administration
- I5. If a review request is made then it will be sent to the member who can provide their comments
- I6. Notwithstanding a review request being made by the person making the complaint, the default decision will be sent to the member. The member has no right to raise a review request on the default decision

If the default decision is accepted

- I7. If the default decision is accepted by the person raising the complaint, it becomes the final decision of the scheme
- I8. The case will move to the compliance stage of our process

Section J: The proposed decision

- J1. Where the member has provided a response and evidence in support of their position, and early resolution has not been possible, we will advise both parties that the complaint is being allocated to a case officer who will make a proposed decision
- J2. The proposed decision will be made:
 - J2.1 within 20 working days of the parties being told the complaint is progressing
 - J2.2 based on all information received from both parties
- J3. The proposed decision will be sent to both parties who each have 10 working days to accept it or to request a review
- J4. The proposed decision will become a final decision if accepted by the person making the complaint and the member does not make a review request or their review request is not accepted
- J5. The case officer may close the case if:
 - J5.1 the parties have settled the complaint before a decision is made
 - J5.2 in their opinion the complaints made fall outside of our authority

Section K: Review requests

Making a review request

- K1. Either party may make a review request within 10 working days of receiving a proposed decision, other than a member on a default decision
- K2. A party cannot make a review request just because they disagree with the amount of the award made
- K3. The person making the review request must clearly explain why they believe there has been an error in fact, law or an administrative mistake in the decision, which would materially change the outcome
- K4. The person requesting the review will not be able to provide more evidence at this point (unless specifically requested by us, in the interest of fairness)

If a review request is rejected

- K5. The person making the request will receive detailed confirmation explaining why the request has been rejected. The proposed decision will then become the final decision
- K6. If the complainant raised the review request, they then have 5 working days to confirm whether they accept or reject the final decision
- K7. If the complainant accepts the final decision, the case will move to our compliance stage
- K8. If the complainant rejects the final decision, the case will be closed, and we will inform the member
- K9. The person making the request will not be able to make another review request or ask us to consider any additional evidence
- K10. Unless a review request has been accepted, neither party has the right to view the other's review request

If a review request is accepted

- K11. The person making the request will receive confirmation that the request has been accepted
- K12. We will send the review request to the other party, who will then have 5 working days to provide their comments. We will only consider any additional evidence at this point if it is material to the complaint
- K13. Once the response to the review request has been received, or the deadline to respond has passed with no response, we will advise both parties that the case is progressing for a final decision

Section L: Final decisions

- L1. The final decision will be made using the proposed decision, the review request, and any response to it.
 - L1.1 We will only review the points raised which we have accepted as having an error in fact, law or administration that would materially change the proposed decision.
 - L1.2 Any other points raised in the review request which we were unable to accept as having an error will not be reviewed in the final decision. This will be confirmed in the final decision.
- L2. The final decision will be made within 20 working days of the parties being told the case is progressing to this stage.
- L3. The final decision will be sent to both parties and will set out:
 - L3.1 a summary of the review request and any response
 - L3.2 the reasons, if any, for amending the proposed decision
 - L3.3 any remedy required from the member, financial or otherwise
- L4. The person who made the complaint will then have 10 working days to tell us if they accept the decision

If the final decision is accepted

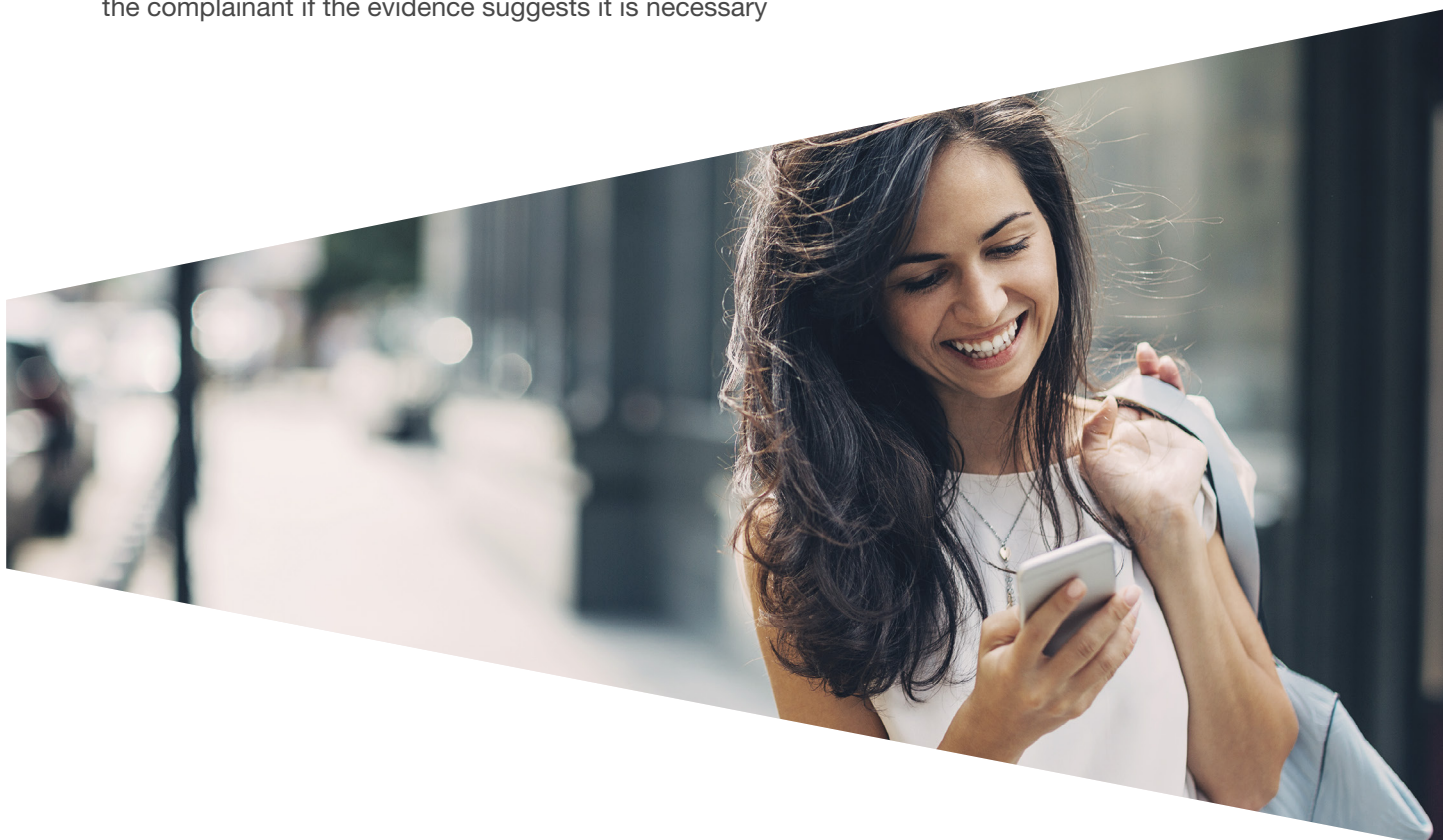
- L5. Once the person making the complaint tells us that they accept the final decision, it becomes final and binding on the member and no other requests for review will be considered
- L6. The case will move to our compliance stage

If the final decision is rejected

- L7. If the person making the complaint does not respond at all or informs us within 10 working days that they do not accept the final decision, the case will be closed
- L8. The person making the complaint will still have the option of taking advice on their position and using the decision as evidence, if appropriate

Section M: Awards

- M1. A proposed or final decision may conclude that the person who made the complaint should receive an award from the member. This may include, but is not limited to, one or more of the following:
- M1.1 an appropriate action or remedy suggested by the person making the complaint if we agree, or decided by us
 - M1.2 any practical action/solution required to minimise any actual loss and/or costs paid, which are supported by relevant evidence
 - M1.3 repayment of actual loss and/or costs paid, which are supported by relevant evidence
 - M1.4 a payment in recognition of the time and trouble taken to make the complaint
 - M1.5 a payment, where appropriate, for inconvenience and distress experienced
- M2. Compensation payments will be calculated based on loss or costs which are supported by relevant evidence. We will also consider the degree, if any, the person raising the complaint contributed to the loss
- M3. We may consider whether the person raising the complaint is an average or an informed consumer. This could affect the amount of compensation we award.
- M4. See our [Guide to Awards](#), in the Resources 'guides' section of our website, which sets out how we calculate financial awards
- M5. The maximum total amount of compensation we can award is £25,000.00 (see D1.12)
- M6. Subject to the overall maximum limit, we may award more compensation than has been claimed by the complainant if the evidence suggests it is necessary



Section N: Members' complying with decisions

- N1. Members will be expected to comply with agreed early resolutions or scheme decisions within 10 working days
- N2. The parties may agree a timescale between themselves if appropriate and we will then monitor compliance with that agreement. The person making the complaint is not under any obligation to accept longer than 10 working days for the member to comply
- N3. Members who do not comply with an agreed early resolution or our decisions can face disciplinary action. See our guide to **Complying with our decisions** in the Resources 'guides' section of our website



Contact Us

☎ 0333 321 9418 📧 info@theprs.co.uk 🌐 www.theprs.co.uk