

Introduction

1. All Member or Registered Agents with The Property Ombudsman (TPO) scheme must acknowledge and cater for the needs of vulnerable consumers. These obligations are set out in the Codes of Practice and the Membership Obligation documents. In summary:

- You must treat consumers equally regardless of their race, religion or belief, sex, sexual orientation, gender recognition, disability, pregnancy or maternity, or nationality. Unlawful discrimination includes giving less favourable treatment because someone is perceived to have one of these personal characteristics or because they are associated with a person with such a characteristic.
- You should take special care when dealing with consumers who might be disadvantaged because of factors such as their age, infirmity, lack of knowledge, lack of linguistic or numeracy ability, economic circumstances, bereavement or do not speak English as their first language.
- You must offer suitable advice to meet the consumer's aims and needs.
- Member or Registered Agents are expected to have in place satisfactory provisions for attending to the needs of vulnerable consumers.

These guidelines are aimed at helping you to fulfil these obligations.

General Principles

2. For the purpose of this guidance note, vulnerability includes anything that may have an impact on a person's ability to make a sound decision, for example:

- Unfamiliarity with or difficulty in understanding the property buying, selling, letting or auction processes.
- Physical and/or mental health disabilities (see Useful Information).
- Language barriers.

3. You have an obligation to ensure that each individual is given all the relevant information and assistance needed to make an informed decision in the circumstances.

What You Must Do

4. It is your responsibility to ensure that your staff understand their obligations in this area and that the necessary arrangements are made to provide the vulnerable consumer with the appropriate advice and assistance suitable to their needs.

5. You should not make assumptions about the degree of knowledge that a consumer has. Be prepared to explain what you will do and what other agencies will do (e.g. solicitor, surveyor, financial advisor, mortgage lender). This is especially

important with, but not exclusive to, first time buyers, sellers, landlords and tenants. TPO's consumer guidance leaflets are available on the website to assist you in these circumstances.

6. If the consumer declares a vulnerability or it is obvious that the consumer has a vulnerability (e.g. blindness) you must consider the possible effect of that vulnerability on the proposed transaction.
7. If no vulnerability is declared by the consumer, but it becomes apparent that there may be a vulnerability, you should seek clarification from that consumer and/or their representative. Assessing a potential vulnerability is, of course, a sensitive matter and must be treated as such. Enquiries must be of a nature that are considerate, unlikely to offend and can in no way be interpreted as discriminatory.
8. If you are advised of or perceive there to be a vulnerability, further information should be sought from the appropriate organisation specializing in that vulnerability. Take the consumer's specific needs into account in any information or guidance you give them, particularly if any decision they make is based solely on that information or advice.
9. The consumer should always be encouraged to seek legal advice on any decision that may have legal connotations, regardless of any vulnerability.

Key Points

- Is there any indication that the consumer has physical, mental health and/or language difficulties?
- Is it apparent that the consumer is either unfamiliar or is having difficulty understanding the transaction?
- If you have answered yes to either of the previous questions, have you taken this into account and provided the consumer with the appropriate information and advice?
- Are you able to demonstrate that you have complied with these requirements in respect of all consumers?

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Useful Information

The NHS website provides useful information in relation to dealing with people with mental health issues where their capacity to make reasoned decisions may be impaired.

<http://www.nhs.uk/Conditions/social-care-and-support-guide/Pages/mental-capacity.aspx>

www.ableize.com is run by disabled people and provides links to local and national support and advice groups.

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