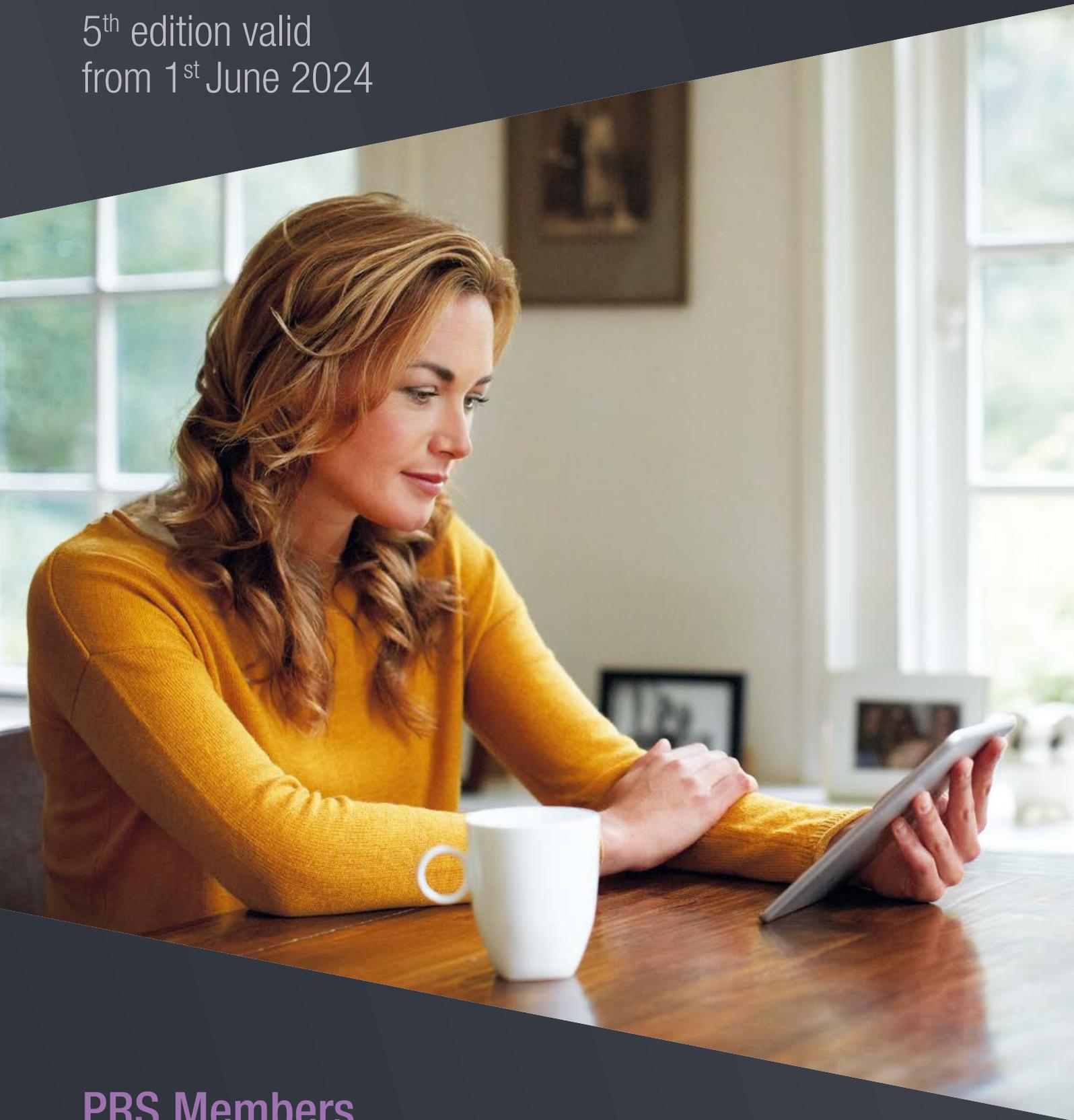


Conditions of Resolution

PRS Property
Redress
Scheme

5th edition valid
from 1st June 2024



**PRS Members
and Consumers**

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Introduction

These conditions set out:

- when we can investigate a complaint about one of our members
- the responsibilities of both parties once we have received a complaint
- the reasons why we may stop investigating a complaint

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

When making a decision we will consider contracts, terms of business agreed by both parties, all relevant laws, codes of practice and industry guides.

The limitations of our authority

We are not a regulator or an enforcement agency and we are unable to:

- close down or stop a member trading
- ban a member from future trading
- expel a member (unless they have not complied with a PRS decision)
- issue fines or prosecute members
- tell a member how to run their business
- deal with some leasehold issues e.g. instructing maintenance, service charges, asking agents to remove certain charges

We are also unable to tell a member to perform the impossible such as:

- providing documents they do not have
- meeting timescales that are either unreasonable or unrealistic
- correcting something specific that we have decided is reasonable e.g. wording for an apology
- transferring money that the member has not received e.g. rent or deposit, when there is no proof the tenant paid it

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 may report these to the appropriate authority, including Trading Standards
- you can also report your concerns to the national consumer helpline (<https://www.citizensadvice.org.uk/consumer/get-more-help/if-you-need-more-help-about-a-consumer-issue/>)
- Trading Standards may be able to investigate because they are a regulator/enforcement body

Information for those making a complaint

We can only investigate a complaint about PRS members

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

You can:

- use our online checker which is quick and easy, or
- call us to check, or ask for general guidance, on 0333 321 9418

How do I use this guide?

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

If your complaint is about leasehold residential management then please read the guide in the consumer resources section of our website which explains the limits of our authority and how we deal with these types of complaint.

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



Section A: Who can raise a complaint with us?

A1. To raise a complaint, you must be a consumer or directly affected by the member's actions

A2. Examples of consumers include:

- a landlord or tenant
- a buyer or seller
- freeholder or leaseholder
- individual leaseholders can complain about a managing agent although we will look at who is giving instructions to the managing agent to decide how we may be able to help
- small businesses, charities or trusts, as long as their annual turnover (for small businesses), annual income (for charities) or net asset value (for trusts) is less than £3 million

A3. Examples of consumers that may be directly affected by the member's actions or omissions include:

- a neighbour complaining about noise or on-going tenant behaviour in a property managed by an agent
- a tenant of a leasehold property, complaining to the building's managing agent
- prospective consumers of an agent, whether or not they continue to engage with them
- consumers or prospective consumers of agents who have chosen the PRS as their redress scheme for other complaints not covered by the regulations

A4. Members are required to co-operate with our complaints process for all types of work and to signpost us as their authorised redress provider. Where a member carries out multiple types of work, only some of it may be covered by a legal requirement for redress. This is all explained in the 'Who Must Join' page of our website.

A5. We may review an agent's membership if they are uncooperative about using our service to resolve any consumer complaints

A6. We will accept complaints about rent to rent or guaranteed rent type arrangements (including dealing with rent that has not been paid to landlords) because they are 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.

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 gone against any code of practice they 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?”

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

C1. You must:

- send your detailed concerns, in writing, to the member and
- clearly explain the specific reasons for your concerns and the solution you are looking for
- allow them to complete their internal complaints process
- try to resolve your concerns directly with the member and allow them up to eight weeks to do this

C2. We may accept your complaint before the full eight weeks have passed if:

C2.1 the issue requires urgent resolution

C2.2 the member is not responding to any of your communications within a reasonable time

C2.3 you have received a final response from the member and remain unhappy

C3. In all cases, your last communication relating to the issues with the member, before raising your complaint with us, must be in the last 12 months

C3. A [sample complaint letter](#) is available in the Resources section of our website

C4. At our discretion we may accept a case where we are satisfied that:

- a consumer has sent their detailed written concerns to the member, which remain unresolved although:
- a member believes no formal complaint has been raised
- a member believes their full complaints process has not been completed

In these situations, we may continue to investigate and advise the member to continue their process

- a consumer's circumstances mean that reasonable adjustments are needed
- communication between the parties show unresolved issues over a length of time

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

- D1. We may not investigate your complaint (or any part of it), or will stop investigating a complaint (or any part of it), if:
- D1.1 you have not provided evidence to show that you have used the member's internal complaints process
 - D1.2 in our opinion you do not have a reasonable prospect of success (we may then signpost you to other places for help and advice)
 - D1.3 we believe that any solution offered by the member is reasonable and we would be unable to improve it and
 - 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 that we have previously considered, and which was either rejected or settled
 - 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 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 by a criminal or civil court, 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 are being abusive to our staff (see our unreasonable behaviour policy)
 - D1.12 you are claiming over £25,000 as our authority is limited to this amount. Consumers can take advice on any other options for their remaining concerns
- 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
 - D2.3 both you and the member agree we can try to resolve the complaint
- D3. If we are unable to accept a complaint, we will explain our reasons

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 considered. This should include a clear breakdown of your complaint and your proposed solution (and if there is more than one issue the solution for each). You should demonstrate your attempts to resolve the complaint with the member
- E2. You can raise your complaint:
- E2.1 online at <https://www.theprs.co.uk/Complain>
 - E2.2 by post, with all relevant evidence
 - E2.3 where necessary, by telephone
- E3. After we accept a complaint, we reserve the right to accept any new issues, not included in the formal complaint to the member, where there is evidence of on-going communication. We may inform the member that we will expect the issues to be dealt with and will include them in our process.



Section F: Evidence

What are the parties responsible for?

- F1. The person raising a complaint with us must complete the PRS complaint form and send all the relevant evidence that they want us to consider
- F2. When the member is asked to send us their complaint response, they must also send us all the relevant evidence that they want considered
- F3. Both parties remain responsible, throughout our process, for providing all relevant evidence to support their case, in the time given, which will be considered when making our decision. We are unable to consider relevant evidence that either party may have, but has not provided
- F4. We have produced an [Evidence checklist](#) for all parties, which can be found on our website in the Resources 'guides' section
- F5. It is your responsibility to make and support your case with evidence, and we are unable to do this for you
- F6. Both parties are also responsible for their costs of preparing their own case and we will not make any award for these in our resolution process
- F7. Please do not send original documentation if you can avoid it
- F8. When we are investigating a complaint and collecting evidence, both parties accept that details, information and evidence will be shared with the other party and us

Asking for more evidence or information

- F9. Once both parties have provided all their evidence, if we have any queries we may, in the interest of fairness or clarity, request more evidence, or information
- F10. If we ask for more evidence, or information it must be provided in the timescale given by the person dealing with the case or it may not be considered

What other evidence will we consider?

- F11. 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

- F12. If you would like your evidence returned to you once the complaint has been closed, you must request this, in writing, when you provide your evidence. Any physical evidence we hold when the complaint is closed will be disposed of after 4 weeks
- F13. If no request is made, we are unable to take responsibility for any loss, resulting from us not returning the evidence to you
- F14. 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 explained in this document

If the complaint is closed

G2. We may close a complaint if it does not meet our acceptance criteria in sections B - D

G3. When we close a complaint, we will explain the reasons for this and may point you to other sources for help and advice

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, in the first 5 working days to discuss the complaint in greater detail

G5. If the case assessor asks for additional evidence, the person will have 5 working days to provide it

G6. If any additional requested evidence is not provided, the case assessor may close the case

G7. If the case assessor decides to continue investigating the complaint, the member will then have up to 10 working days to provide their complaint response and all their relevant evidence. The member must not include any claim for costs to prepare responses to the complaint (see F6 above)

G8. At our discretion we may extend our timescales for accepting a case, where we consider it appropriate

G9. We may also decide to continue investigating a case in line with C6 above

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

G10. When we contact both parties about the complaint, we may discover that a mutual agreement has been, or can be, reached quickly

G11. If this happens, the complainant will be asked to confirm, in writing, that they are satisfied with the agreed solution. The complaint will then progress to a proposed early resolution or closed, if already resolved

If there are concerns which were either not in the consumers complaint letter or complaint form

G12. A complainant will be unable to:

- raise new issues or substantially change their position during our complaint process if the member has not had a chance to respond
- repeatedly raise the same complaint with us if it has previously been considered

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 attempt to discuss the complaint in detail with each party
 - H1.2 understand both parties' positions
 - H1.3 propose a solution for resolving the complaint early
- H2. When proposing an early resolution, the case assessor may include:
- H2.1 a meaningful apology
 - H2.2 an explanation
 - H2.3 practical action to minimise any loss
 - H2.4 repayment of actual loss and/or costs you have incurred
 - H2.5 a payment, where appropriate, for distress and inconvenience
 - H2.6 other appropriate action suggested by the complainant or decided by us such as providing documents or a detailed reply to previously unanswered points raised
- H3. If both parties accept the case assessor's proposal, they must tell us within the given timescale. Once accepted this becomes our final decision, in full and final settlement of the complaint
- H4. At our discretion we may extend our timescales for accepting the proposal, where we consider it appropriate
- H5. If either party disagree with the proposal, a case officer will decide if the complaint should progress to the next stage of our process.
- H6. If the complainant does not accept this proposal and the agent does, and the case officer decides that this proposal cannot be improved, the complainant will be given a second opportunity with a deadline to accept, or the case may be closed
- H7. At our discretion, the complaint will not proceed to the next stage where we are satisfied that:
- H7.1 the proposed early resolution was agreed after detailed discussions with both parties
 - H7.2 one of the parties may be frustrating the process and progressing the case would not lead to a decision improving the early resolution proposed
- H8. An early resolution proposal is the informal stage of our process, facilitated by negotiation. If the complaint proceeds to the next stage, the formal decision made by a case officer. This decision is an independent assessment of the facts, and the result may be more or less than what was offered at the early resolution stage

Section I: Default decision process

When we make a default decision

- I1. If the member provided no response and no evidence in the given timescale, 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. In circumstances where the agent has made some attempt to engage with us, we may decide to follow the proposed decision process but this will be at our discretion
- I2. The member will be required to pay us the published complaint fee even if they are an enhanced member
- I3. If the member provides a late response and/or evidence after the given timescale, the case officer may consider it when making a decision, at their discretion. The decision will remain a default, as the member's response was outside the given timescale
- I4. The default decision will be sent to both parties:
 - I4.1 only the complainant has 10 working days to accept it or request a review if they believe there was an error or fact, law or administration
 - I4.2 the member has no automatic right to raise a review request
 - I4.3 at our discretion, and in certain extraordinary circumstances, we may allow a member to raise a review request for a default case

If the default decision is accepted

- I5. If the complainant accepts the default decision this becomes our final decision, in full and final settlement of the complaint
- I6. 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, and early resolution has been unsuccessful, the complaint will be allocated to a case officer to review and:
- confirm that the proposed early resolution would remain the same or
 - make a proposed decision
- J2. Case officers will not engage directly with the parties other than to request any information that would help them make a fairer decision
- J3. The proposed decision will be made based on all information received from both parties
- J4. We aim to send the proposed decision to both parties within 20 working days of them being told that the complaint is progressing. However, at times, we receive large volumes of complaints, or particularly complex complaints which take time to investigate, so this is not always possible
- J5. After the proposed decision have been sent to both parties, they each then have 10 working days to accept it, or request a review if they believe there was an error of fact, law or administration (see Section K below)
- J6. If a complainant rejects a proposed decision, or does not respond in the given timescale, the complaint will be closed
- J7. The proposed decision will become a final decision, in full and final settlement, if accepted by the complainant and the member does not request a review or their request is rejected
- J8. The case officer may close the case if:
- J8.1 the parties have settled the complaint before a decision is made
 - J8.2 in their opinion the complaints made fall outside our authority

Section K: Review requests

Making a review request

- K1. Either party can request a review within 10 working days of receiving a proposed decision
- K2. The party requesting the review must explain clearly why they believe there has been an error in fact, law or an administrative mistake, which would materially change the decision
- K3. The party requesting the review will be unable to provide more evidence at this point, unless we specifically ask for it, in the interest of fairness
- K4. We will not accept a review request:
 - K4.1 where a party just disagrees with the amount awarded - there would need to be evidence that this was the result of an error in fact, law or an administrative mistake in the decision
 - K4.2 from a member where a default decision was made

If a review request is rejected

- K5. We will explain why the request has been rejected and the decision will then become the final decision, in full and final settlement of the complaint
- K6. If the complainant's review is rejected, they then have 5 working days to confirm whether they accept or reject the final decision
- K7. If the complainant accepts the final decision, including where a member's review request has been rejected, 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. Once a review request has been rejected, the party who made the request is unable to request another review or ask us to consider any additional evidence
- K10. Neither party has the right to view the other's review request unless the request for the decision to be reviewed has been accepted

If a review request is accepted

- K11. We will confirm this to the party who requested the review
- K12. The review request will be sent to the other party, who will have 5 working days to provide their comments. We will only consider additional evidence, at this point, if it is provided during this time or at our request
- K13. Once the response has been received, or the deadline has passed without response, we will advise both parties that the case is proceeding to the final decision stage

Section L: Final decisions

- L1. The final decision will consider the proposed or default decision, the accepted review request(s) and any response(s) received
 - L1.1 The only points the final decision will deal with are those that we have accepted as potentially having an error in fact, law or administration, that would materially change the decision
 - L1.2 The final decision will confirm any other points in the review request that we were unable to accept
- L2. We aim to send the final decision to both parties within 20 working days of them being told that the complaint is progressing. However, at times, we receive large volumes of complaints, or particularly complex complaints which take time to investigate, so this is not always possible
- L3. The final decision will be sent to both parties and will set out:
 - L3.1 a summary of the review request(s) and any response(s)
 - L3.2 the reasons, if any, for amending the decision
 - L3.3 any remedy required from the member, financial or non-financial
- L4. The complainant will then have 10 working days to tell us if they accept the final decision

If the final decision is accepted

- L5. Once the complainant tells us that they accept the final decision, it becomes binding on the member. 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 complainant tells us within 10 working days that they do not accept the final decision or does not respond, the case will be closed. We may still report concerns about the member to the appropriate authority
- L8. The complainant will still have the option of taking advice on their position and using the decision as evidence, if appropriate
- L9. At our discretion, and in extenuating circumstances, we may extend our timescales where we consider it appropriate

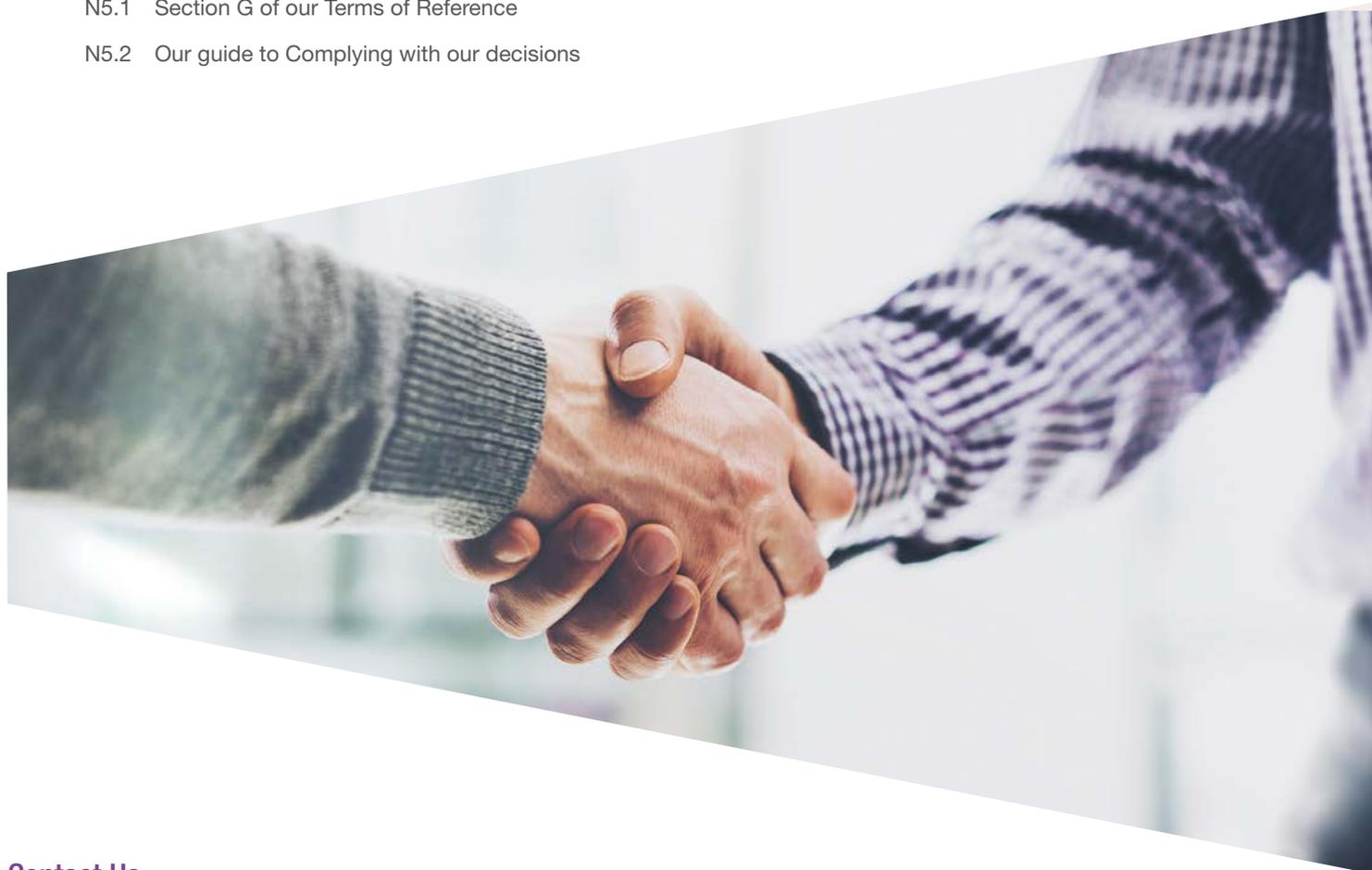
Section M: Awards

- M1. A proposed, default or final decision may conclude that the complainant should receive an award from the member. This may include, but is not limited to, one or more of the following:
- M1.1 a meaningful apology
 - M1.2 an explanation
 - M1.3 practical action to minimise any loss
 - M1.4 repayment of actual loss and/or costs you have incurred
 - M1.5 a payment, where appropriate, for distress and inconvenience
 - M1.6 to provide information, documents or answer questions previously asked by the complainant
 - M1.7 other appropriate action suggested by the complainant or decided by us
- M2. See our [Guide to Awards](#), in the Resources 'guides' section of our website, which sets out how we calculate financial awards
- M3. We will also consider whether the complainant contributed to the loss
- M4. We will consider whether the complainant is an average, vulnerable or an informed consumer. This may affect the amount of compensation we award
- M5. The maximum amount of compensation we can award is £25,000
- M6. We may award more compensation than the complainant claimed if the evidence supports it, not exceeding the maximum amount
- M7. The case will be closed when a decision which has become final makes no award, and our compliance process will not apply



Section N: Compliance

- N1. Members are expected to comply with agreed early resolutions and proposed, default or final decisions within 10 working days
- N2. If the decision directs the agent to provide documents or information, the compliance team will send them to the complainant to check that they match the award:
- If they do and all other awards are satisfied, the case will be closed
 - If the complainant disagrees, they must explain exactly why the documents or information is insufficient. We will then investigate and decide whether we need to go back to member
- N3. The compliance officer will have the final decision on whether the member has complied
- N4. The parties may agree between themselves to an alternative timescale for compliance and our compliance officer will take this into account. The complainant does not have to accept longer than 10 working days for the member to comply
- N5. If members do not comply, the case will progress to our disciplinary stage. More information can be found in the resources 'guides' section on our website:
- N5.1 Section G of our Terms of Reference
- N5.2 Our guide to Complying with our decisions



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Department for Levelling Up,
Housing & Communities

**NATIONAL
TRADING
STANDARDS**
Estate Agency Team
Protecting Consumers
Safeguarding Businesses

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