



# Revealed: Property watchdog tells homeowners not to disclose compensation

EXCLUSIVE Leasehold managing agents and estate agents are able to use non-disclosure conditions to avoid more claims



By Alexa Phillips


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Homeowners who win compensation from the Property Ombudsman are being told not to disclose it, prompting warnings that others are missing out, **i** can reveal.

MPs and campaigners condemned the watchdog’s behaviour as “outrageous” and said **gagging orders** were being used so companies could avoid more compensation claims.

The Ombudsman told **i** property agents can make demands for secrecy because of a **lack of regulation**, agreeing it was “not a good practice” and “could be impacting more people”.

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In one case identified by **i**, compensation with a non-disclosure condition was awarded to a resident who complained about an issue that affected hundreds of others on the development.

Calum Matheson was offered £200 after complaining to the watchdog about the behaviour of the managing agent for his leasehold flat – but was told he would have to keep it a secret.

He filed a grievance this year after he and around 600 other residents in his new-build development, which is connected to a heat network, had their energy tariffs retrospectively increased.



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management company said the tariff had not been high enough to cover costs over the previous 15 months.

The Heat Trust, a charity, told **i** it has received complaints about retrospective price increases at other developments with communal heating and believed they could be in breach of the Consumer Rights Act.



Calum Matheson complained to the Property Ombudsman after his energy bill was retrospectively increased (Pic: supplied)

In an email to Mr Matheson shared with **i**, the Property Ombudsman wrote that Rendall & Rittner, the managing agent, “have advised that the goodwill award in the sum of £200.00, in full and final settlement relating to the communication shortcomings identified by this office, remains open for acceptance”.

The watchdog said the award “has been offered on a without prejudice basis and under the condition that you refrain from disclosing this award to any third parties”.

It said it considered the award to be “fair and reasonable” and would not be taking the case further.

Mr Matheson turned down the offer, saying: “I felt that it would be quite morally wrong for me to accept any settlement at all and not be able to tell my neighbours who have experienced exactly the same thing as me.”

Bob Blackman, a Conservative MP and member of the Housing Select Committee, told **i** the Ombudsman “shouldn’t be asking for what is basically a nondisclosure agreement – that’s completely wrong”.

He said: “It’s companies that are paying the compensation saying, ‘We don’t want a whole host of compensation claims’”

Clive Betts, a Labour MP and chair of the same committee, told **i**: “That’s outrageous. All the changes that I’ve supported and pressed for over the years are for the cases that the Ombudsman decides to be made public.”

He said the watchdog “should publish the results of these cases so other people can see what the situation is and if they’ve got the same problems, they can go to the Ombudsman and expect the same conclusion”.

Martin Boyd, chair of the Leasehold Knowledge Partnership charity, said there should be “no circumstances in which an Ombudsman is ever suggesting that matters have to be kept confidential”.

MPs including Mr Betts and Mr Blackman have urged the Government to improve regulations in the property sector to help homeowners.

## ‘Power rests with businesses’

The Property Ombudsman said it was communicating the offer to Mr Matheson but it was the managing agent who “wished to impose a non-disclosure caveat”.



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they have a choice between two schemes.

Mr Habert said having multiple redress schemes was intended to drive down costs for businesses but has led to “perverse incentives”.

He said they would like to publish cases and publicly name companies, but if they do “there is a significant risk that those businesses could choose to change schemes” and some have already done so “based on the presumption that they would be treated more favourably elsewhere”.

Mr Habert told **i**: “When you’ve got multiple schemes, you then have these unique problems arising because actually the power then rests with the businesses.”

He said non-disclosure clauses were “not a good practice”, saying: “This could be impacting more people. This is where you want a regulator who can turn around going, ‘if you’re going to make goodwill offers and things like that they shouldn’t be subject to NDAs when that the same issue is going to impact other people’. It’s not the right thing to do.”

A single ombudsman and regulator were also recommended in a report by Lord Best commissioned by the Government and published in 2019.

The Labour Party plans to enact the proposals if it wins power and tried to get them included in the **Leasehold and Freehold Bill** making its way through Parliament via an amendment, which was rejected.

The Property Ombudsman stressed that “we would never ourselves impose NDAs on our decisions”, adding: “The offer made by the agent was simply being communicated to the complainant, as the case was at our early resolution stage where we seek to guide the parties to a mutual resolution without making a formal decision.”

A spokesperson for Rendall & Rittner said: “In relation to our goodwill offer to Mr Matheson, we didn’t want others confused that the charges were not payable, because the offer was specific to a communication delay rather than the heat tariff.”

They said the leases allow for increases to the tariff where required and leaseholds were given advance notification of the extra charge last year. The company said the tariff was not updated at the time when there were substantial increases to utility costs and residents and leaseholders had paid less than the costs of what they consumed.

The Department for Levelling Up, Housing and Communities said it was “working to raise professionalism standards for property agents” and has mandatory schemes for agents to help drive up industry performance.

The Department for Energy Security and Net Zero said suppliers “should not be unfairly back-dating bills onto heat network customers” and said it will be introducing tougher consumer protections to prevent this. **i**

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