

Failing to act in accordance with reasonable expectations of acceptable trading practice

- 4.21 The CPRs place a general prohibition on unfair commercial practices (regulation 3). Unfair commercial practices include where a business fails to act in a professionally diligent way (meaning fails to act in accordance with honest market practice or in good faith) in its dealings with consumers. To be unfair, the dealings must materially distort or be likely to materially distort the economic behaviour of the average consumer.
- 4.22 The standard you must meet to show professional diligence is defined by honest market practice or general good faith in your area of business (here, that of a property sales business). This is an objective standard, meaning it is not determined by how other property sales businesses are acting. If you fail to meet this standard, you could still be in breach of the law even if the practice you adopt is widespread in the industry.
- 4.23 You are likely to be failing to act in a professionally diligent manner if you do not comply with:
- other legislation applying to property sales and estate agency business³⁴ or
 - the core requirements of your OFT approved redress scheme, for example to publicise that you are registered with such a scheme, to operate and publicise a complaints handling process, and to abide by an ombudsman's final decision or
 - other recognised standards in your industry or profession,³⁵ such as those set by guidance, codes of practice or similar.³⁶

³⁴ See, for example, the legislation listed at Annexe A.

³⁵ This may depend on the nature and quality of the standards concerned, including how long they have been in place, what they cover (for example whether requirements go above and beyond the law) and whether they are recognised by regulators or the courts.

³⁶ The Property Ombudsman's Code of Practice for Residential Estate Agents and RICS' UK Residential Property Standards (the blue book) are two examples.