

# PSRA Agreements

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# Topics

- Importance of Letters of Engagement
- Exclusions
  - Not everything is covered by the regulator
  - Items not covered by PSRA, not required in LOE
- Overlap between Letters of Engagements and the Regulators Code of Practice
- Lettings & Property Management LOE's
  - The importance of Schedule 1 (lettings) Schedule 2 (property management)



# Letters of Engagement



- Letters of Engagement also known as Property Services Agreements are a requirement under Section 43 of the Property Services (Regulation) Act 2011. The Act states that a Licensed Property Services Provider (Licensee) must have a signed Property Services Agreement in the specified form in place within **7 days** of starting to provide a property service.
- These documents are a contract between the Licensee and the Client and **should clearly outline what property services are being provided along with all costs involved**. The Licensee should ensure that the Client has been made aware of all conditions in the agreement before signing.
- Failure to use a Property Services Agreement is **“Improper Conduct”** within the meaning of the Act.
- Each Licence category type has a specific Property Services Agreement and the appropriate Agreement should be completed dependant on the Property Service being provided.

# Letters of Engagement

- A – Auction
  - B – Sales
  - C – Lettings (including the management of a rental tenancy)
  - D- Property Management (Multi-Unit Developments)
- 
- Check you have the latest version of the template agreements from the PSR.ie web-site (Oct 22)



# Importance of the agreement

- Protects the client
- Protects you the agent!
  - If you put the time into the content and preparation of the agreement
- A critical document in the case of a complaint being made to the regulator
- If you have a licence, then you know how to complete the basics of the agreement!



# Exclusions!

- Not all services / work carried out by agents come under the remit of the regulator and therefore are not covered by LOE's

**EXCLUDED**

# Exclusions!

## Common Issues which do not fall under the remit of the **Property Services Regulatory Authority (PSRA):**

| <u>Subject Matter:</u>  | <u>Type of Allegations/Issues:</u>   | <u>Recourse:</u>  |
|---|--|---|
| <b>Complaint against an Owner Management Company (OMC)</b>  | <ul style="list-style-type: none"> <li>- Complaint against OMC/ property service provider acting on their behalf on issues including service charges, AGM'S, Maintenance of Common areas etc.</li> </ul> | OMCs are governed by the Multi-Unit Development Act 2011 (MUD) and are subject to company law. Any member of an OMC has recourse to the circuit court.                        |
| <b>Complaint that an OMC is providing Property Services without a licence</b>                       | <ul style="list-style-type: none"> <li>- Complaint against OMC alleging they are carrying out property services in a multi-unit development without a licence.</li> </ul>                                | An OMC is entitled to self-manage and are not obliged to appoint a management agent to manage the multi-unit development on the OMC's behalf. The OMC is the management body. |
| <b>Complaint against Landlord</b>   | <ul style="list-style-type: none"> <li>- Complaint by tenant against landlord/letting agent regarding tenancy agreement, inspections, rent increases, issues with neighbouring tenants etc.</li> </ul>   | The Residential Tenancies Board (RTB) - <a href="http://www.rtb.ie">www.rtb.ie</a>  |
| <b>Complaint against a licensed Property Services Provider regarding a property In Receivership</b> | <ul style="list-style-type: none"> <li>- Complaint by previous owner against estate agent regarding the sale of property in receivership.</li> </ul>   | Agent must act on instruction of their client (the receiver), contact bank/receiver and seek legal advice.  |
| <b>Complaint against a licensed Property Services Provider regarding a Valuation</b>                | <ul style="list-style-type: none"> <li>- Complaint against agent regarding a valuation or the conduct of a property service provider while carrying out a valuation.</li> </ul>                          | Valuation is not defined as a 'property service' within the Act. You may wish to seek legal advice or seek advice from a reputable firm.                                      |

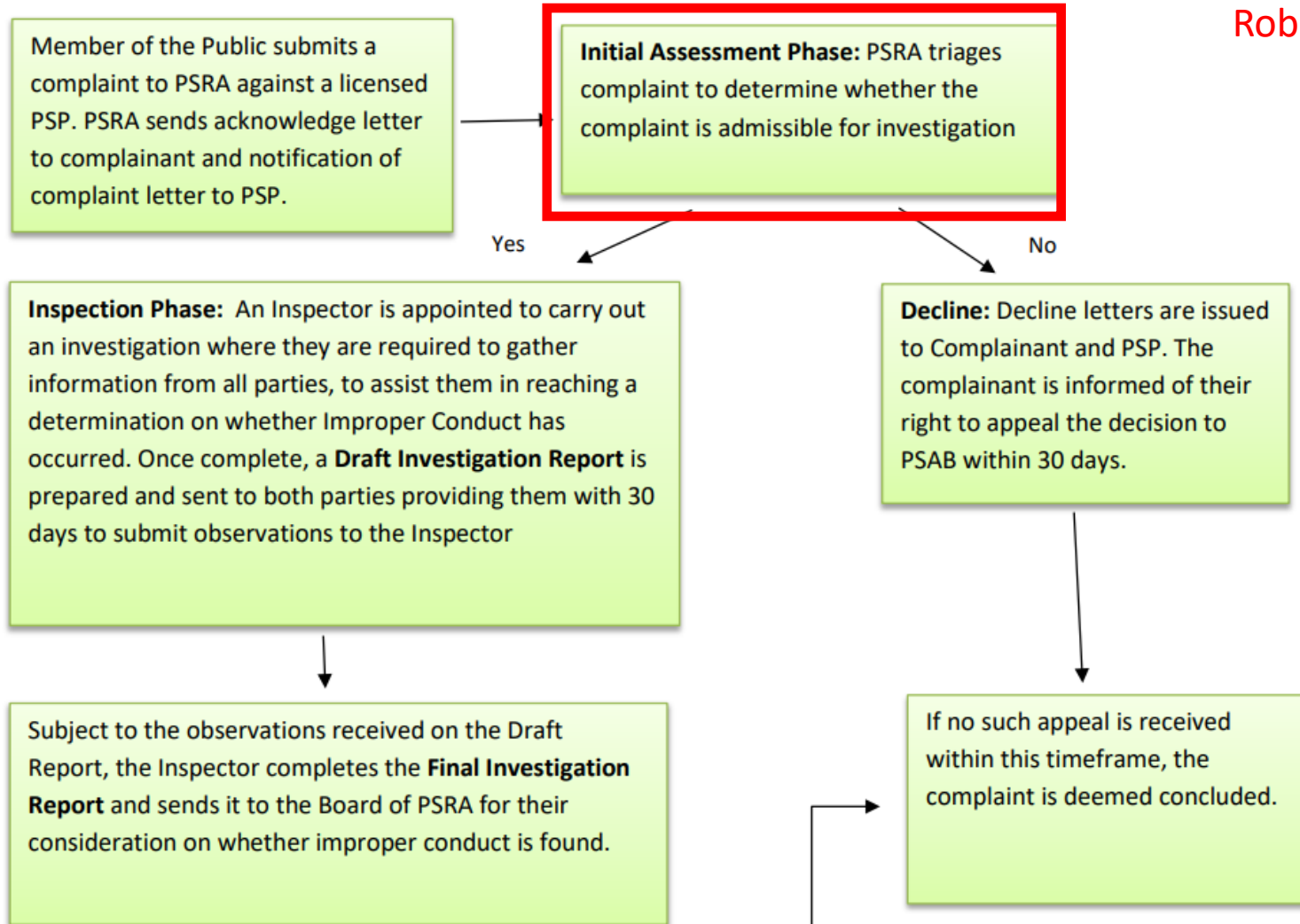
# Exclusions

|   |   |  |
|---|---|--|
| <b>Complaint against a licensed Property Services Provider regarding the successful bidder.</b>                             | <ul style="list-style-type: none"><li>- Complaint against estate agent regarding a situation when you were not the successful bidder e.g. Gazumping/ Gazundering.</li></ul>                         | Agent is contracted by their client (the vendor) and must act on their instruction. Ultimately, it is the vendor's decision on the price to sell the property at and to whom.                                      |
| <b>Complaint against a licensed Property Services Provider regarding Issues Pre-Property Services (Regulation) Act 2011</b> | <ul style="list-style-type: none"><li>- Any complaint made against a licensee regarding matters pre 2012.</li></ul>   | The Act is intended to be prospective, not retrospective and on that basis, the Authority is unable to investigate matters that occurred prior to the enactment. You may wish to seek legal advice on this matter. |
| <b>Complaint against a licensed Property Services Provider regarding Property Management Services</b>                       | <ul style="list-style-type: none"><li>- Complaint made against an agent regarding the management of a property where the agent had not let the property to the tenant/sourced the tenant.</li></ul> | This is not considered as a 'property service' within the Act. You may wish to seek legal advice or contact your landlord.   |
| <b>Complaint against a licensed Property Services Provider regarding Data Protection matters</b>                            | <ul style="list-style-type: none"><li>- Complaint made against an agent regarding a data protection breach.</li></ul>   | Data Protection Commission (DPC) – <a href="https://www.dataprotection.ie/">https://www.dataprotection.ie/</a>   |



# PSRA Complaint Process

## PSRA Complaint Process Map:



Robust LOE is critically important

# LOE's and PSRA Code of Practice



An tÚdarás Rialála Seirbhísí Maoine  
Property Services Regulatory Authority

## **CODE OF PRACTICE**

PROPERTY SERVICES PROVIDERS  
DELIVERING A PROFESSIONAL SERVICE

# Principles of the Code of Practice

Advise clients in writing of any material change to the terms agreed in the **Letter of Engagement** by amending or providing a new **Letter of Engagement** for signature.



Adhere fully to the terms agreed with the client in the **Letter of Engagement** and ensure it fully reflects any amendments to the terms agreed during the course of the engagement.

# Breach of Letter of Engagement

- Property Services Act 2011 (Minimum Standard) Regulations 2020
  - Commenced 30<sup>th</sup> Nov 2020
- Breaches of the above act fall under the definition of **'improper conduct'**
- *A licensee shall adhere to the terms agreed in the letter of engagement or other contract or agreement or any terms of agency with their client in respect of the provision of a property service. **A breach of any provision of a Letter of Engagement will now be admissible for investigation by the Authority.***
- *NB: This is **a very significant change to what may be considered to be improper conduct.** Up to now, a significant number of complaints received by the Authority are declined for investigation because the behaviour concerned does not fall under the definition of **"improper conduct"**. Many such cases involve allegations of poor or shabby provision of services or **breaches of the terms of the letter of engagement** which fall short of being serious enough to render the licensee "no longer a fit and proper person" to provide property services. **Such cases will now be admissible for investigation.***



# Letter of Engagement (C and D)

- Clarity protects you as the agent and helps to avoid conflict
  - Amend the template agreements as appropriate
- D Licence - Property Management (OMC's)
  - Clarify Ancillary facilities what are you responsible for managing? Lakes, protected structures, sewage pumps, car parks, green spaces
  - Take the time to clearly identify the estate boundaries at the beginning (don't assume)
  - Budget apportionment, mixed developments houses v apartments
  - Budget spend – authorisation levels and sign off, director approval
- **Additional Service section of LOE's** (Part 111, lettings, Part IV Mgmt)
  - Give this section time and consideration
    - Distinction between lettings and management
  - Rent Reviews
  - RTB Cases and Representation?
  - Refurbishments & Upgrades?
- Use the LOE to **clearly** define the services you are providing and use it to manage client expectations



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# Thank you

