

Appendix B

Eastbourne Borough Council

Redress Schemes for Lettings Agency Works and Property Management Work Enforcement Policy

May 2016

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Introduction

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014, made under the Enterprise and Regulatory Reform Act 2013, introduced the legal requirement that from the 1st October 2014 all lettings agents and property managers in England must have joined one of three Government established and approved redress schemes, for dealing with complaints in connection with that work. The Order can be found at the link below.

<http://www.legislation.gov.uk/ukxi/2014/2359/contents/made>

Most letting agents and managing agents should be aware of these schemes and are likely to have joined, as good practice, before 1 October 2014. Membership of the schemes is subject to annual renewal.

Eastbourne Borough Council is the enforcing authority for this legislation, and so is responsible for ensuring that all applicable agents and property managers within the borough have complied with the new rules and joined an approved scheme.

Definitions of "lettings agency" and "property managers" are contained within the legislation, and Government guidance.

Redress schemes

The three Government approved redress schemes are:

- Ombudsman Services Property www.ombudsman-services.org/property.html
- Property Redress Scheme www.theprs.co.uk
- The Property Ombudsman www.tpos.co.uk

Each scheme publishes a list of members on their respective websites so it is possible to check whether a lettings agent or property manager has joined one of the schemes.

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Whilst the majority of lettings agents and property managers provide a good service there are a minority who offer a poor service and engage in unacceptable practices. This requirement will mean that tenants and landlords, with agents in the private rented sector, and leaseholders and freeholders dealing with property managers in the residential sector will be able to complain to an independent person about the service they have received, and prevent disputes from escalating.

The decision made by a redress scheme is binding on all parties.

Enforcement

Eastbourne Borough Council as the enforcement authority can impose a penalty charge of up to £5,000 where it is satisfied, on the balance of probability, that someone is engaged in letting or management work and is required to be a member of a redress scheme, but has not joined.

The expectation contained in Government guidance is that a £5,000 fine should be considered the norm, and that a lower fine should only be charged if the enforcement authority is satisfied that there are extenuating circumstances.

The authority must give written notice of their intention to impose a penalty, setting out the reasons and the amount of the penalty to the person or company who has not complied with the legislation. The lettings agent or property manager will have 28 days to make written representations or objections.

At the end of the 28 day period the Council must decide, having taken into account any representations received, whether to impose a fine, and if so, issue a final notice to the lettings agent or property manager giving at least 28 days for payment to be made.

It will be up to the enforcement authority to decide what the extenuating circumstances might be, taking into account any representations the lettings agent or property manager makes, which would deem that no fine or a lesser charge would be appropriate. Detail on how Eastbourne Borough Council will consider each case is given in the Statement of Principles for Determining the Amount of a Penalty Charge.

An appeal may be made to the First Tier Property Tribunal following issue of the final notice. The contact details for this are;

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Ground Floor
Magistrates' Court and Tribunals Centre
6 Market Avenue
Chichester
West Sussex
PO19 1YE
Email; rpcsouthern@hmcts.gsi.gov.uk
Telephone 01243 779 394
Fax 0870 7395 900

The enforcement authority can impose further penalties if a lettings agent or property manager continues to fail to join a redress scheme despite having previously had a penalty imposed.

The penalty fines received by Eastbourne Borough Council may be used by the authority for any of its functions.

Review

This policy will be reviewed annually and updated if necessary to take into account legislative changes. The policy will also be reviewed if comments are received.

Comments should be sent to;

Customer First
Eastbourne Borough Council
Tel no 01323 41000
Email: customerfirst@eastbourne.gov.uk

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