

BABERGH DISTRICT COUNCIL and MIDSUFFOLK DISTRICT COUNCIL

From: Corporate Manager – Private Sector Housing	Report Number: <big>S22</big>
To: Executive Committee Strategy Committee	Date of meeting: 6 June 2016 9 June 2016

THE INTRODUCTION OF PENALTY CHARGES FOR LETTINGS AND MANAGING AGENTS FAILING TO REGISTER WITH REDRESS SCHEMES.

1. Purpose of Report

- 1.1 To provide a joint policy which sets out the penalty charges for non-compliance with the Redress Schemes for Lettings Agency Work and Property Management Work (England) Order 2014

2. Recommendations

- 2.1 That the Policy and its immediate implementation be approved.

3. Financial Implications

- 3.1 This Policy will be delivered within existing resources. However a small Government support grant of £800 was received to assist with the administrative costs in the identification of agents who do not appear to be registered.

4. Legal Implications

- 4.1 Local Authority enforcement is mandatory under the Order but the level of fine and delegated authority for enforcement needs to be determined.

5. Risk Management

- 5.1 Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Failure to carry out the requirements of the Order	3 -Probable	Bad	Adopt the attached Policy
Failure to adopt a penalty charge structure	3- Probable	Bad	Adopt the attached Policy

6. Consultations

- 6.1 None required.

7. Equality Analysis

7.1 Equality analysis is not applicable as enforcement of the legislation is mandatory. However the legislation will ensure private tenants have redress options when they have received an unsatisfactory service from Letting Agents.

8. Shared Service / Partnership Implications

8.1 The Policy and proposed financial penalty structure has been aligned across Suffolk to ensure a consistent approach.

9. Links to Joint Strategic Plan

9.1 Enforcement is mandatory under the Order. However it aims to ensure private tenants receive a satisfactory service from Letting Agents and therefore ensures this growing sector is able to thrive. This work supports Health and Wellbeing to prevent interventions at a later stage.

10. Key Information

10.1 Under the Order all lettings and managing agents have to register with one of the three Redress Schemes. The purpose is to ensure private sector tenants who receive an unsatisfactory service from an agent are able to take their complaint to a Redress Scheme Ombudsman for a legally binding decision and possible compensation. The Local Housing Authority has a duty to investigate and take enforcement action where it is alleged that an agent has failed to register with one of the schemes.

10.2 The report sets out a recommendation for delegated enforcement powers to be given to the Private Sector Housing team and presents a proposed financial penalty structure.

10.3 All Letting Agents and Property Managers who are known to operate within the two districts have been contacted and written confirmation has been received confirming compliance.

11. Appendices

Title	Location
A Penalty Charges for Lettings and Managing Agents Failing to Register with Redress Schemes	Attached

12. Background Documents

12.1 Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme) (England) Order 2014

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PENALTY CHARGES FOR LETTINGS AND MANAGING AGENTS FAILING TO REGISTER WITH REDRESS SCHEMES

1.0 INTRODUCTION

- 1.1 There are around 12,000 letting agents in England, handling approximately two-thirds of all residential lettings. The size of the private rented sector is increasing every year. In line with the Government's policy to protect tenants, it is important that people living in this sector have the ability to complain if they receive poor service from their agent. Common complaints include poor customer service, misleading adverts, unclear fee structure and repairs not carried out.
- 1.2 Under the 'Redress Schemes for Lettings Agency Work and Property Management Work (England) Order 2014', all persons who engage in letting agency work or property management work have to register with one of three official redress schemes approved by the Secretary of State to ensure their tenants and leaseholders have a straightforward option to hold agents to account. Anyone who feels they have had an unsatisfactory service from their letting agent will be able to take their complaint to one of the three Redress Schemes and could receive compensation. The three schemes are run by The Property Ombudsman, Ombudsman Services Property and the Property Redress Scheme. Exemptions include registered social housing providers and Local Authority housing providers.
- 1.3 Article 3 imposes the requirement for persons who engage in lettings agent's work to belong to a scheme and Article 5 imposes the same requirement for persons who engage in property management. Information regarding an agent's registration and compliance can be found online.
- 1.4 Article 7 makes provision for enforcement and states that the requirements should be enforced at a local level by Private Sector Housing teams who have knowledge of agents operating in their area.

2.0 INTERVENTION AND ENFORCEMENT

- 2.1 Enforcement should always be proportionate and the fine level is significantly greater than the cost of joining an official scheme. This will minimise the impact on the courts. Article 8 permits a Local Authority to impose a fine of up to £5,000 where it is satisfied that someone engaged in letting or management work and is required to be a member of a redress scheme but has not joined.

Number of Offences	Level of Fine
First Offence	£100
Second Offence	£2500
Third and subsequent Offences	£5000

- 2.2 Where enforcement action is intended, written notice will be given of the intention, setting out the reasons for the penalty, the amount of the penalty and explaining that there is 28 day period to make written representations. At the end of the 28 day period the Council will decide whether to impose a fine and if so, must give 28 days for payment to be made. There is a right to appeal to a First Tier Tribunal which must be made within 28 days after the imposition of the fine.
- 2.3 Should an agent be able to demonstrate compliance to Private Sector Housing or sign up to a scheme during any stage of the enforcement process then no fine will be issued and any Notice of Intent would be withdrawn.