

**THE REDRESS SCHEMES FOR LETTINGS AGENCY WORK AND PROPERTY  
MANAGEMENT WORK (REQUIREMENT TO BELONG TO A SCHEME  
ETC)(ENGLAND) ORDER 2014**

**1. INTRODUCTION**

1.1 The purpose of this report is to advise Community Policy and Review Panel of legislation that came in to force on 1<sup>st</sup> October 2014. The regulations require all letting and management agents to be a member of one of three designated government administered redress schemes.

**2. BACKGROUND**

2.1 On 3<sup>rd</sup> September 2014 parliament approved The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc)(England) Order 2014, which came in to force on 1<sup>st</sup> October 2014.

2.2 The regulations require all Local Authorities to monitor and enforce them on any person who engages in property management or letting work.

2.3 The purpose of the legislation is to ensure that those working as letting or managing agents, who offer a poor service and engage in unacceptable practices, can be formally challenged. This means that tenants and landlords within the private rented sector will be able to officially complain to the relevant redress scheme if they are unhappy with the service that they have received.

2.4 There are exclusions to letting agency work specified under the regulations and these are:

- The employer – where the prospective tenant is an employee
- The person for whom the prospective tenant provides work or services - where the prospective tenant is a worker
- The person for whom the prospective tenant provides work or services, where the prospective tenant is
  - (i) An employee who provides work or services under the contract of employment to a person who is the prospective tenants employer; or
  - (ii) A worker who provides work or services under the workers contract to a person who is not a party to that contract
- The hirer - where the prospective tenant provides services under a contract for service

- The person for whom the prospective tenant provides services under a contract for service

2.5 The current position in Rushmoor is as follows:

- Letters have been sent to all known managing and letting agents within the Borough advising them of the regulations
- Details of the regulations have been published on the Rushmoor web site
- Checks have been made on the three government administered redress schemes and all known managing and letting agents within the Borough are members of one of the schemes
- Crosschecking will be carried out with the benefits team to identify any new managing or lettings agents within the Borough.

### **3.0 THE ENFORCEMENT PROCESS**

3.1 Where the Council is satisfied on the balance of probabilities that a management or letting agent has failed to comply with the regulations and does not belong to a redress scheme, the Council may take action.

3.2 The Council may, by notice, require the person to pay the authority a monetary penalty of up to £5,000. This sum may be reduced in extenuating circumstances and it is up to the Council to decide what these might be on a case-by-case basis.

3.3 To do this the Council must serve a Notice of Intent, advising that they intend to impose a monetary penalty and must determine the amount of that penalty.

3.4 The Notice of Intent must be served within 6 months of the date on which the Council is first satisfied that the person has failed to comply with the regulations.

3.5 The Notice of Intent must include:

- The reason for imposing the monetary penalty
- The amount of the penalty
- Information as to the right to make representations and objections against the Notice of Intent within 28 days beginning with the day after the date on which it was served

3.6 A person on whom a Notice of Intent is served may within 28 days of the date of service make written representations and objections to the Council in relation to the proposed imposition of a monetary penalty. The Council must then consider whether to impose the monetary penalty with or without modifications.

3.7 Where the Council decides to impose a monetary penalty, a Final Notice must be served on that person, which must include

- The reason for imposing the monetary penalty
- Information about the amount of penalty to be paid
- Information about how the payment can be made
- Information about the period in which the payment must be made, which

- must not be less than 28 days
- Information about the right of appeal
- Information about the consequences of failing to comply with the Final Notice

#### **4.0 THE APPEAL PROCESS**

4.1 A person who is served with a Final Notice imposing a monetary penalty may appeal to the First-tier Tribunal (formerly the Residential Property Tribunal). The grounds for appeal are:

- The decision to impose a monetary penalty was based on an error of fact
- The decision was wrong in law
- The amount of monetary penalty is unreasonable
- The decision was unreasonable for any other reason

4.2 If an appeal is lodged the Notice will be suspended until such time as it is determined or withdrawn. The First-tier Tribunal may quash, confirm or vary the Final Notice.

#### **5.0 RECOVERY OF THE MONETARY PENALTY**

5.1 If the fine is not paid within the specified time period the Council can recover the fine with the permission of the Court as if payable under a court order.

5.2 A certificate, signed by the Head of Finance must be issued as evidence, if the fine is not paid in full by the due date

5.3 Sums received by the Council from the monetary penalty may be used by the Council for any of its functions.

#### **6.0 FINANCIAL IMPLICATIONS**

6.1 Any sums collected from a Final Notice will be an income to the Council.

6.2 It is anticipated that any breaches of the regulations will be complied with on the service of the Notice of Intent and that the likelihood of the requirement to serve a Final Notice is minimal, therefore there should be little or no impact on resources.

#### **7.0 CONCLUSION**

7.1 The Council is responsible for ensuring that all letting and managing agents are members of one of the three designated government administered redress schemes.

7.2 To date all known letting and managing agents within Rushmoor are members of one of the three designated government administered redress schemes.

7.3 These regulations are intended to give power to tenants and landlords if letting or managing agents provide a poor service or engage in unacceptable practices. This means that tenants and landlords will be able to complain to the appropriate redress scheme if they are unhappy with the service that they have received.

## **8.0 RECOMMENDATION**

8.1 That members note the content of this report and the implications of the new regulations

**Qamer Yasin**  
**Head of Environmental Health and Housing**

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**Background papers:** Statutory Instrument – 2014 No 2359 – The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc)(England) Order 2014

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