The Redress Schemes for Lettings Agency and Property Management Work

Ruth Hayes
DCLG
Challenge – PRS and the State

How best to engage and change behaviour when:

- 89% of landlords are private individuals.
- 78% of landlords own just one rental property.
- 63% of private landlords have no relevant experience or qualifications.
- Many do not even think of themselves as landlords.
- There is a small element of rogue landlords who target vulnerable tenants.
Additional regulation?

Using existing regulations

Empowering and informing consumers

Choice and competition – new institutional investment in large scale, purpose-built PRS

Boosting housing supply (across all tenures) and access to mortgage finance for first time buyers
Redress Scheme - Policy Aim

• To make it easier for consumers to pursue a complaint against their agent.

• Provide easy access to an independent body who will investigate their complaint, make a ruling and if upheld can award compensation.

• Provide an alternative option to the courts and tribunals
Lettings agency work means things done by any person in the course of a business in response to instructions received from—

(a) a person seeking to find another person wishing to rent a dwelling-house in England under a domestic tenancy and, having found such a person, to grant such a tenancy (“a prospective landlord”);

(b) a person seeking to find a dwelling-house in England to rent under a domestic tenancy and, having found such a dwelling-house, to obtain such a tenancy of it (“a prospective tenant”).
Exemptions from the definition of a Lettings Agency

If a person only does the following things then this is not lettings agency work:

(a) publishing advertisements or disseminating information;

(b) providing a means by which—
   (i) a prospective landlord or a prospective tenant can, in response to an advertisement or dissemination of information, make direct contact with a prospective tenant or (as the case may be) prospective landlord;
   (ii) a prospective landlord and a prospective tenant can continue to communicate directly with each other.

“Lettings agency work” also does not include —
(a) things done by a local authority
“Property management work” means things done by any person ("A") in the course of a business in response to instructions received from another person ("C") where—

(a) C wishes A to arrange services, repairs, maintenance, improvements or insurance or to deal with any other aspect of the management of premises on C’s behalf, and

(b) the premises consist of or include a dwelling-house let under a relevant tenancy which is -

   an assured tenancy for the purposes of the Housing Act 1988
   a regulated tenancy for the purposes of the Rent Act 1977
   a long lease other than one to which Part 2 of the Landlord and Tenant Act 1954 applies
Exemptions

Lettings exemptions

• Employers who find homes for their employers or contractors;
• higher and further education authorities; and
• legal professionals

Property managers exemptions

• Things done by a person who is a social landlord;
• Commonhold land;
• Halls of residence;
• Refuge homes;
• receivers and insolvency practitioners;
• Local authorities;
• right to manage companies;
• legal professionals and
• property managers instructed by local authorities and social landlords.
Letting agents and property managers in England must belong to one of the three Government approved redress schemes:

- The Property Ombudsman (TPO)
- Ombudsmen Services Property (OSP)
- The Property Redress Scheme (PRS)
**Enforcement** is by
- a district council,
- a London borough council,
- the Common Council of the City of London or
- Council of Isles of Scilly

**Penalty** is a fine of up to £5,000

Expectation is that the fine should £5,000 unless there are exceptional circumstances

Agents and Managers have right of appeal to the First Tier Tribunal

Local Authorities can retain the fine
A Local Authority identifies that a letting agent or property manager hasn’t joined a redress scheme.

LA issue a notice of intent including:
- The reasons for imposing the fine
- The fine amount
- How the agent can make written representation and objections

The agent makes written representation and objections.

LA serves a final notice including:
- Reasons for imposing the fine
- Amount to be paid
- How and when the payment must be made
- Information on the right to appeal
- The consequences of failing to comply

The agent appeals to the First tier Tribunal.

Or LA withdraws the fine.

Notice is quashed.

Or Agent liable to pay fine.

Or Tribunal confirms/varies the final notice.
Relationship with redress schemes

- The three redress schemes are independent organisations which have been approved by Government.
- They have their own complaints procedure which for all the schemes includes an independent reviewer
- DCLG will receive key performance data on a monthly basis and can withdraw approval if necessary
- All schemes will publish an annual report with consistent statistics and case studies
- All schemes agree to have a memorandum of understanding with regulatory bodies to exchange information
TRANSPARENCY OF FEES
Transparency - Policy Aim

• To prevent agents from drip feeding information on fees

• To promote competition on fee levels and expose very high fee levels or blatant double charging

• To make it clearer what landlords and tenants are being charged for

• To encourage landlords and tenants to choose on more than just cost and promote SafeAgent

• To raise awareness of the ability to complain to the redress schemes
Duty of letting agents to publicise fees for assured tenancies

Fees Tariff

**Landlord Charges**
- Tenant finder: £100
- Property Management: 12% of rent

**Tenant Charges**
- Credit Check (per tenant): £15
- Checking in service: £50
- Tenancy Renewal: £50

**Tariff to cover both Landlords and Tenants’ fees (but not fees the agent receives from the landlord on behalf of another person e.g. a gardener)**

**Must include a description of what the fee covers**

**Fees must be displayed** - where the list is likely to be seen by the customer - at each agent’s premises where the agent deals face-to-face with customers and if they have one, on their website

**The fee must be inclusive of tax. If the fee can’t be determined in advance then how the fee is calculated must be shown**

**Fees for tenants must be clear whether they are per tenant or per dwelling**

**Tariff will cover fees that apply during the life of the assured tenancy as well as upfront fees (but not the rent or deposit)**
• Whether or not the agent is a member of a client money protection scheme

• Which redress scheme the agent has joined
**Enforcement** is by a local weights and measures authority

**Penalty** is a fine of up to £5,000

Expectation is that the fine should £5,000 unless there are exceptional circumstances

Agents and Managers will have right of appeal to the First Tier Tribunal

Local authorities can retain the fine

Process is same as for mandatory redress
Timings

- Provisions are in the Consumer Rights Bill which is currently report stage in the House of Lords.
- Commencement will be by order after Royal Assent.
- Intention is that it will be this Parliament but that is subject to usual Parliamentary processes.
ANY QUESTIONS?