



Housing Conditions and Supply Team

The Redress Schemes for letting agency
work and property management work
(Requirement to belong to a scheme.)
Policy

July 2017



POLICY

Document Status: draft

Originator: Sue Phipps

Updated: May 2017

Owner: Rob Barnes

Version: 0.1

Date: May 2017

Approved by: Rob Barnes

Document Location

This document is held by Tamworth Borough Council, and the document owner is Rob Barnes.

Printed documents may be obsolete. An electronic copy will be available on Tamworth Borough Councils Intranet. Please check for current version before using.

Revision History

Revision Date	Version Control	Summary of changes
5 th May 2017	1	This is a new policy introduced in line with the provisions of The Redress Schemes for letting agency work and property management work,(Requirement to belong to a scheme etc.) (England) Order 2014.

Document Review Plans

This document is subject to a scheduled annual review. Updates shall be made in accordance with business requirements and changes and will be with agreement with the document owner.

Distribution

The document will be available on the Intranet and the website.

Contents

1	Introduction	5
2	Scope- applicable organisations	5
3	Approved Schemes	6
4	Enforceable Penalty	6
5	The Process	7
6	Proceeds of enforcement action	8
7	Recovery of penalty charges	8
8	Publicity and transparency	8
9	Policy Revision	8
10	Complaints	9
11	Further information	9

1. Introduction

This Policy sets out the approach that Tamworth Borough Council will take in regards to the adoption and operation of The Redress Schemes for letting agency work and property management work, (requirement to belong to a scheme etc.) (England) Order 2014, hereafter referred to as 'The Order.'

The Order was made under the Enterprise and Regulatory Reform Act 2013.

As the enforcing body the Council are required to set out its policy about the level of fines and the reason for imposing them.

By implementing this Order the Council will be in a position to take action against businesses that are not members of an approved scheme and this will be for the benefit of local private sector tenants and responsible businesses that have joined a scheme. It also gives an added means of improving the standard of private sector housing within Tamworth and assists in tackling rogue landlords or agents which give the sector a bad name.

2. Scope- applicable organisations

The order requires persons involved in two types of property work to be members of a redress scheme:

- Lettings agency work; and
- Property management work

2.1 Letting agents

A person who engages in lettings agency work must be a member of an approved redress scheme to deal with complaints in connection with that work made by a person who is, or has been, a prospective landlord or a prospective tenant. The scheme will apply to prospective tenancies which are assured (including assured shorthold tenancies), which are to be granted by a private sector landlord. Companies will not be able to seek redress under a redress scheme.

For the purposes of the Order, lettings agency work is defined as things done by any person in the course of a business in response to instructions from either a private rented sector landlord who wants to find a tenant, or a tenant who wants to find a property in the private rented sector.

2.2 Property managers

A person who engages in property management work must be a member of a redress scheme to deal with complaints in connection with that work. Unlike for lettings agency work, the Order does not define the type of complaints in relation to property management work that the redress schemes must consider.

Property management work is categorised as things done by a person in the course of a business in response to instructions from another person who wants to arrange services, repairs, maintenance, improvements, insurance, or to deal with any other aspect of the management of premises consisting of, or containing, a dwelling-house let under either a long lease, an assured tenancy or a protected tenancy.

3. Approved schemes

The Order makes it a legal requirement for all lettings agents and property managers in England to join one of three Government approved schemes. Only membership of one of the schemes below will be accepted as meeting the requirements of the order

There are three Government approved schemes as follows:

- Ombudsman Services Property
- Property Redress Scheme
- The Property Ombudsman

4. Enforceable Penalty

4.1 Maximum penalty

A maximum penalty of £5,000 will be imposed by Tamworth Borough Council where it is satisfied that someone is engaged in letting or property management work and is required to be a member of a redress scheme, but has not joined. Government guidance makes it clear that use of the maximum fine should be the norm.

4.2 Reduced penalty - extenuating circumstances

In line with official guidance Tamworth Borough Council will consider reducing the penalty if one or both of the following circumstances can be proved. Representations made about penalty reduction will be considered on a case by case basis.

- Lack of awareness – The Letting agent or property manager can prove they have not received any notification about the scheme and were unaware of their duties under the Order.
- The level of the fine being disproportionate for the business.

4.3 Cumulative Breaches

The Order identifies two specific breaches. It is usual for a business to be engaged in both management and / or letting work. Breaches could involve both elements. Tamworth Borough Council will interpret the legislation as stating that £5000 is the cumulative figure when both specified breaches occur.

There is no limit to the number of fines that can be imposed if the individual continues not to join a scheme.

5. The Process

5.1 Administration

The Housing Conditions and Supply Team will lead and administer this Policy. All initial penalty notices served shall be issued by the Senior Private Sector Housing Officer and approved by the Housing Conditions and Supply Manager. Final notices issuing the fine will be signed by the Director of Communities, Partnerships and Housing.

5.2 Informal warning letter

If we have reason to believe that an agent or manager is in breach of the requirements we will notify them in writing of the requirements of the Order and ask them to rectify the Breach within 14 days.

5.3 Initial notice

If after 14 days we have reason to believe that an agent or manager is still in breach of the requirements, we will give written notice of our intention to impose a penalty. The notice will set out the reasons and the amount of the penalty. The lettings agent or property manager will have 28 days to make written representations or objections, starting from the day after the date the notice of intent was sent.

5.4 Final notice

At the end of the 28 day period we will decide, having taken into account any representations received, whether to impose the fine. If a fine is required we will issue a final notice to the lettings agent or property manager giving at least 28 days for payment to be made.

5.5 Right to appeal

There is a right of appeal to the 1st Tier Tribunal Service.

6. Proceeds of enforcement action

Proceeds from the enforcement of the Order can be redeployed as the Authority sees fit. Penalty fines received will offset the overall cost of enforcement activities within the service. If there any surpluses they will be used to support the other work of the Housing Condition and Supply Team.

7. Recovery of penalty charges

If the charge is not paid the recovery will be actioned via The Councils' debt recovery procedures which include recovery through the County Court.

8. Publicity and Transparency

There was significant work and publicity undertaken around this Order and policy back in June/July 2016.

Information was posted on our webpages and all known local property agents and managers contacted. They were asked to submit details of which scheme they belong to. This information remains on our webpages.

To date there are a small number of local agents who are known not to have submitted this information and it is suspected have not joined one of the relevant schemes.

We will refresh this process of publicising the Policy.

09. Policy Revision

The Policy will be reviewed regularly and will take account of any changes to Legislation, Guidance and Procedure. Minor changes to policy delivery may be required from time to time, and will be undertaken with the agreement of the Corporate Director of Communities, Partnerships and Housing.

10. Complaints

Tamworth Borough Council has an established corporate complaints procedure for dealing with complaints. Information on how to make a complaint is outlined in a complaints leaflet that is available at all Tamworth Borough Council Offices and on the website. (The 'tell us system')

11. Further information

If you would like further information about this policy, please contact Tamworth Borough Councils Housing Conditions and Supply Team

In writing

Marmion House, Lichfield Street, Tamworth, Staffordshire, B79 7BZ

By telephone

01827 709 486/ 286

By email

housingconditions@tamworth.gov.uk

This page is intentionally left blank