Effective Enforcement in the Private Rented Sector

November 2018

Second Edition

The National Approved Letting Scheme

Contents

Appendices

1. Objectives

This toolkit is designed to assist local authority enforcement officers to take effective action to tackle rogue letting agents that fail to comply with the law. In particular, it explores the requirement for letting agents to belong to a government approved redress scheme and to display their fees, redress scheme membership and client money protection status.

The toolkit also makes reference to the requirement for agents to belong to a client money protection scheme. These regulations will come into force on 1 April 2019.

By enforcing these requirements effectively, it will help to improve the professionalism of the industry and drive up consumer protection for tenants and landlords alike.

The toolkit was first published in June 2016 and has been very well received. In June 2018, the toolkit was comprehensively updated in conjunction with London Trading Standards to apply the knowledge and learning from operational experience and relevant tribunal decisions.

We would like to thank officers from the following authorities who have provided helpful information, advice and examples of good practice that have all contributed to the initial development and/or revision of this toolkit:

- Barking & Dagenham Council
- Brent Council
- Bristol City Council
- Chartered Trading Standards Institute
- Camden Council
- Enfield Council
- Hertfordshire County Council
- Islington Council
- London Trading Standards
- Newham Council
- Powys County Council (National Trading Standards Estate Agency Team)
- Sheffield City Council
- Westminster City Council
- York City Council

Plus a personal thanks to Richard Tacagni **www.londonpropertylicensing.co.uk** for his invaluable input and also to the members of the London Trading Standards Lettings Group who were instrumental in updating and adding value to the toolkit **www.londontradingstandards.org.uk**

2. Foreword by the Chief Executive of NALS

At NALS our aim is to create a better, safer Private Rented Sector (PRS) for all – tenants, landlords, and agents.

Only by raising standards and enforcing legislation do we stamp out the small minority whose rogue activities tarnish our sector's reputation which is why we created the NALS Effective Enforcement Toolkit.

First published in 2016, it provides a unique way to assist local authority enforcement officers to take effective action in tackling rogue letting agents who fail to comply with the law.

Since then, we have seen many changes in the PRS. Legislation governing it is rapidly changing, so we have extensively updated the toolkit to reflect this.

Aware of the challenges local authorities face in carrying out their work in the PRS, the Toolkit has been fully updated and now references over 50 Tribunal decisions from across England. By providing easy access to this wealth of information it will help enforcement officers correctly interpret the legislation while providing a useful benchmark for assessing the appropriate level of penalties.

Isobel Thomson,
NALS CEO

3. Summary of the legislation

3.1. Redress Scheme Membership

On 1 October 2014, legislation came into force making it a requirement for all lettings agents and property managers in England to belong to a Government approved redress scheme. These schemes provide a mechanism for complaints to be investigated and determined by an independent person.

Further redress scheme guidance is contained in Annex C of the Ministry for Housing and Local Government (MHCLG) "Improving the Private Rented Sector and Tackling Bad Practice - A Guide for Local Authorities'. You will find a link to the document in Appendix 6.

The terms 'letting agency work' and 'property management work' are defined in sections 83 to 88 of the Enterprise and Regulatory Reform Act 2013. There are certain exemptions listed in articles 4 and 6 of the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 (hereafter referred to as the 'Redress Scheme Order').

In general terms, letting agency work is described as things done by any person in the course of a business in response to instructions received from:

(a) person seeking to find another person wishing to rent a home in England under an assured tenancy and, having found such a person, to grant such a tenancy ("a prospective landlord"); or
(b) a person seeking to find a home in England to rent under an assured tenancy and, having found such a home, to obtain such a tenancy of it ("a prospective tenant").

In general terms, property management work is described as 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 in England on C's behalf, and
(b) the premises consist of or include a home let under a relevant tenancy.

The definition of property management was explored in Ridgemoor Properties Limited and Reading Borough Council (PR/2017/0014). The company took on properties under a one to five year lease and then let out to tenants on assured shorthold tenancies. It was held they were not acting on instructions received from another person. Based on the specific circumstances in this case, the appeal was allowed and the notice quashed as it was held the company were not carrying out property management work.

Where appropriate, council officers should refer back to the legislation and MHCLG guidance to study the full definitions and exemptions as we have only included a brief summary. For the purpose of this guidance, we have referred to people carrying out letting agency or property management work as 'agents'.

For the purposes of the legislation, the government has approved two redress schemes under Section 87 of the Enterprise and Regulatory Reform Act 2013. They are:

- **Property Redress Scheme**
- **The Property Ombudsman**

Full contact details for the two scheme providers are included in Appendix 2.

Note: On 6 August 2018, Ombudsman Services Property ended their redress scheme. All letting agents and property managers that were previously a member of that scheme were required to join one of the other schemes by that date.

If consumers are unhappy with the service provided, they can report their concerns in writing to their agent. If the matter is not satisfactorily resolved within 8 weeks, the consumer (landlord or tenant) can take their complaint to the redress scheme that the agent belongs to. The adjudicator may then carry out an independent investigation. This marks an important step forward in improving consumer protection.

Failure to join a redress scheme is dealt with by way of a financial penalty and the enforcing authority can determine the level of penalty up to a maximum of £5,000. For the purposes of this guidance, we have referred to the process of serving a financial penalty as the Penalty Charge Notice (PCN) procedure.

The schedule to the regulations makes clear that the notice must be served within 6 months of the of the date when the enforcing authority is first satisfied that the person has failed to comply. This demonstrates the importance of accurate record keeping and prompt action by the enforcing authority to ensure that they are not out of time to take action.

MHCLG guidance states that a £5,000 fine should be considered the norm and that a lower fine should only be charged if the enforcing authority is satisfied that there are extenuating circumstances. It says it is up to the enforcing authority to decide what such circumstances might be, taking into account any representations the lettings agent or property manager makes during the 28 day period following the authority's notice of intention to issue a fine.

Experience has shown that First-tier Tribunals are having regard to government guidance in reaching their decision. In doing so, they are generally accepting that the maximum penalty of £5,000 should be imposed unless there are any mitigating features.

In AG Camden Ltd and London Borough of Camden (PR/2015/0025), Meridian Relocations and City of Bradford MDC (PR/2016/0002), Centrepoint Property Limited and London Borough of Newham (PR/2016/0047/48/49) and Yasir & Co Ltd and London Borough of Newham (PR/2017/0031), the appeals were all rejected and a £5,000 penalty for failure to belong to a redress scheme was upheld.

The guidance goes on to state that in the early days of the requirement coming into force, lack of awareness could be considered. Nevertheless an authority could raise awareness of the requirement and include the advice that non-compliance will be dealt with by an immediate sanction. As the requirement to belong to a redress scheme has been in force since October 2014, it is unlikely that lack of awareness would now warrant a lower penalty.

Another issue that could be considered is whether a £5,000 fine would be disproportionate to the turnover/scale of the business or would lead to an organisation going out of business. The onus should be on the agent to provide documentary evidence if they cite this as justification for a lower penalty, following service of a Notice of Intent. This could include submission of the company's audited accounts for the last two years.

In Landmarc Estates Ltd and London Borough of Camden (PR/2015/0015), the appeal was allowed in part and the penalty was reduced from £5,000 to £2,500 due to difficult family circumstances and to avoid financial hardship as it was a small and only modestly profitable business.

In Lets Go (Leeds) Ltd and Leeds City Council (PR/2016/0018), the appeal was allowed in part and the penalty was reduced from £5,000 to £3,725 after company accounts produced to the First-tier Tribunal showed a small trading loss, albeit unaudited and not independently verified.

In Cherry Estate Agency Limited and London Borough of Newham (PR/2016/0032), the appeal was allowed in part and the penalty was reduced from £5,000 to £3,000 after company accounts showed only modest turnover and profitability, combined with steps to join a redress scheme once the matter was brought to their attention.

Another factor to consider is situations where there is a short gap in redress scheme membership caused by a delay in paying the annual renewal premium. In Mr Zulfikar Shakoor (T/a Homes 4U Direct) and London Borough of Newham (PR/2017/0032), the appeal was allowed in part and the penalty was reduced from £5,000 to £2,000 as the breach was only of short duration whilst the agent was out of the country. Scheme membership was renewed on his return.

It is open to the authority to allow a lettings agent or property manager an opportunity to join one of the redress schemes rather than impose a fine although this is only likely to be appropriate in exceptional circumstances, given that redress scheme membership has been a requirement for over 3 years.

The enforcing authority can impose further penalties if an agent continues to fail to join a redress scheme despite having previously had a penalty imposed.

Whilst the MHCLG guidance is not statutory guidance, the advice it contains has been referred to and upheld in some First-tier Tribunal appeal hearings, as demonstrated in decisions referenced in this section.

3.2 Display of fees, etc.

On 27 May 2015, legislation came into force making it a requirement for all agents in England and Wales to publicise their relevant fees. The same requirement was extended to Wales on 21 October 2015 by virtue of the Consumer Rights Act 2015 (Commencement No. 2) (Wales) Order 2015. Section 83 to 88 of the **Consumer Rights Act 2015** (the CRA2015) contains further guidance about exactly which fees must be displayed:

(a) a description of each fee that is sufficient to enable a person who is liable to pay it to understand the service or cost that is covered by the fee or the purpose for which it is imposed (as the case may be);

(b) in the case of a fee which tenants are liable to pay, an indication of whether the fee relates to each dwelling-house or each tenant under a tenancy of the dwelling-house; and

(c) the amount of each fee inclusive of any applicable tax or, where the amount of a fee cannot reasonably be determined in advance, a description of how that fee is calculated.

Further guidance on the display of Prescribed Information is contained in Annex D of the MHCLG guidance "Improving the Private Rented Sector and Tackling Bad Practice - A Guide for Local Authorities'. You will find a link to the document in Appendix 6.

In the Upper Tribunal decision of London Borough of Camden v Foxtons Limited (MISC/0156/2017), the Judge noted that the MHCLG guidance had been issued whilst the Act was still a Bill and did not appear to have been reissued or confirmed since the Bill became an Act. Thus, the Judge was unsure about the status of the guidance.

The same Upper Tribunal decision found that the term 'administration charge' or 'administration fee' is not acceptable unless accompanied by a sufficiently detailed description that enables someone to understand the service or cost that is covered by the fee or the purpose for which it is imposed. A case summary is contained in Appendix 5.

The list of fees must be displayed in each of the agent's premises where they meet clients face to face, where it is likely to be seen by such persons (Section 83(2)).

According to MHCLG guidance, someone walking into an agent's office should be able to see the list without having to ask for it and if someone does ask it should be clearly on view and not hidden, for example in a drawer. So displaying the fees in a staff-only area, or only providing the fees list on request will not comply with the requirements.

It is important the fees are always on display. In Abid Sukander (Trading as A S Properties) and London Borough of Newham (PR/2017/0006), a penalty of £5,000 was upheld as the list of fees had been removed from display and placed on the desk facing towards the manager for a period of at least four hours and was not on public view.

The information must also be published on the agent's website, if they have one (Section 83(3)).

Within England, alongside the list of fees the agent must also display a statement saying whether they belong to a client money protection scheme, if they hold any money as part of their agency service (Section 83(6)). For example:

"# are not members of a client money protection scheme"; or

"# are members of a client money protection scheme operated by ##'.

Most organisations that operate client money protection schemes will provide window stickers, logos and other promotional material to help publicise that the agent is a member.

A client money protection scheme is a scheme that enables a person on whose behalf an agent holds money to be reimbursed if all or part of that money is not repaid to that person. From 1 April 2019, it will be a legal requirement for agents to belong to a government approved client money protection scheme if they hold client funds. This is explored in more detail in the next section.

SAFEagent is a government-endorsed kite mark denoting agents that belong to such a scheme. It is referenced in the **MHCLG How to Rent Booklet**. It is not a scheme in its own right but recognises client money protection schemes operated by the Association of Residential Letting Agents (ARLA), the Law Society, the National Approved Letting Scheme (NALS), the Royal Institution of Chartered Surveyors (RICS) and the UK Association of Letting Agents (UKALA).

These schemes are all run by recognised industry bodies or organisations that operate in the private rented sector to provide accreditation and/or regulation. They are completely independent from the letting agent and they do not act on behalf of the participating firm.

There are other client money protection schemes operated by commercial organisations, but which are not part of the **SAFEagent** kite mark. Membership of any client money protection scheme will satisfy the legislation and for the purposes of this guidance, it is not possible to provide a definitive list of all of them.

Within England, alongside the list of fees, agents must also display a statement saying which redress scheme they belong to. For example:

"# are members of a redress scheme operated by the Property Redress Scheme, or the Property Ombudsman" **[delete as appropriate]**

The redress schemes will provide window stickers, logos and other promotional material to help publicise that the agent is a member.

While the CRA2015 only requires agents to display information on their websites and in premises that prospective clients can visit, it can be argued that agents should also display which redress scheme they have joined when they advertise on property portals (where possible), to avoid the risk of committing an offence of omitting material information under the Consumer Protection from Unfair Trading Regulations 2008.

Where appropriate, council officers should refer back to the legislation and MHCLG guidance for the full definitions and exemptions as we have only included a brief summary. For the purpose of this guidance, we have referred to the requirement to display relevant fees, redress scheme membership and client money protection status as 'Prescribed Information'.

Failure to display Prescribed Information is dealt with by way of a financial penalty and the enforcing authority can determine the level of penalty up to a maximum of £5,000. Only one PCN can be imposed on the same agent in respect of the same breach (Section 87(6)).

One area that remains unclear is what constitutes a breach for which a single penalty of up to £5,000 can be imposed. There have been inconsistent First-tier Tribunal decisions on this point and the matter will not be resolved until there is a binding decision from the Upper Tribunal.

In the First-tier Tribunal decisions of Alexanders Property Consultants Ltd and London Borough of Camden (PR/2016/0009), Ringley Agency Ltd and London Borough of Camden (PR/2016/0012) and Oakford Estates Limited and London Borough of Camden (PR/2016/0021), it was held that failing to display relevant landlord fees and relevant tenant fees was a single breach under Section 83 for which a maximum penalty of £5,000 could be imposed. We understand that London Trading Standards Lettings Group (LTSLG) believe this is the correct interpretation.

Meanwhile, we understand that LTSLG believe failing to display Prescribed Information in store is a separate breach to failing to display information on the letting agent's website and that separate penalties can be imposed for each breach.

In Homegain Limited and London Borough of Newham (PR/2017/0015), the appeal was dismissed and the First-tier Tribunal upheld two separate penalties of £3,750 (£7,500 in total) for failing to display Prescribed Information instore and on the company's website. In Marcus James T/a Marcus James (UK) Limited and London Borough of Newham (PR/2017/0012), the appeal was dismissed and the First-tier Tribunal upheld two separate penalties of £5,000 (£10,000 in total) for failing to display Prescribed Information instore and on the company's website.

There is less consensus about whether failing to display (1) a list of all relevant landlord and tenant fees, (2) redress scheme membership and (3) membership (if any) of a client money protection scheme is one breach or three.

In the First-tier Tribunal decision of Uxdale Ltd and London Borough of Islington (PR/2016/0008) and Frognal Estates Limited and London Borough of Camden (PR/2017/0025), it was held that final notices could include separate penalties for failing to display each part of the Prescribed Information. In the Uxdale case, a penalty of £8,000 was imposed for multiple breaches on one Final Notice and the appeal was dismissed. In the Frognal Estates case, a penalty of £15,000 was imposed for multiple breaches on one Final Notice and the appeal was dismissed.

However, in the First-tier Tribunal decision of Metropole Properties Limited and Westminster City Council (PR/2016/0050), it was held that failure to display all relevant fees and client money protection information was a single breach for which only one penalty could be issued. Similar judgements were reached in Flavio Costa Properties Limited and London Borough of Newham (PR/2016/0037), Abid Sukander and London Borough of Newham (PR/2017/0006), M & M Europe Limited and London Borough of Newham (PR/2017/0007), Central Park Estates Limited and London Borough of Newham (PR/2017/0011), Anglowide Estates and Mortgages Ltd and London Borough of Barking & Dagenham (PR/2017/0020), Top Supports Estate Agents Limited and London Borough of Barking & Dagenham (PR/2017/0021), Station Estates Ltd and London Borough of Newham (PR/2017/0024) and Filtons Stratford Ltd and London Borough of Newham (PR/2017/0029).

LTSLG is currently of the view that with respect to section 83 of the CRA2015 the correct interpretation is that there can be 3 separate breaches (for Fees, CMP & Redress Information) in respect of the website and 3 in respect of the agent's office, so a maximum of 6 breaches in total.

However, LTSLG accepts that this is not as clear-cut in the legislation and guidance as it should be and is therefore open to interpretation.

Until there is a binding Upper Tribunal decision or amended government guidance or legislation, there will remain a lack of clarity on this point and each enforcing authority is advised to seek appropriate legal advice.

MHCLG guidance states that a £5,000 fine should be considered the norm and that a lower fine should only be charged if the enforcing authority is satisfied that there are extenuating circumstances. It says it is up to the enforcing authority to decide what such circumstances might be, taking into account any representations the lettings agent or property manager makes during the 28 day period following the authority's notice of intention to issue a fine.

The guidance goes on to state that in the early days of the requirement coming into force, lack of awareness could be considered. Nevertheless an authority could raise awareness of the requirement and include the advice that non-compliance will be dealt with by an immediate sanction. As the requirement to display Prescribed Information has been in force since May 2015, it is unlikely that lack of awareness would now warrant a lower penalty.

Another issue that could be considered is whether a £5,000 fine would be disproportionate to the turnover/scale of the business or would lead to an organisation going out of business. The onus should be on the agent to provide documentary evidence if they cite this as justification for a lower penalty, following service of a Notice of Intent. This could include submission of the company's audited accounts for the last two years and copies of bank statements.

Where a letting agent has cited financial hardship as part of the grounds for any appeal, it is open to the Tribunal to issue Directions requiring suitable audited company accounts to be provided.

It is open to the authority to give the agent a period in which to comply rather than impose a fine, although this is only likely to be appropriate in exceptional circumstances, given that it has been a requirement to display Prescribed Information for three years already. The authority may choose to adopt a more lenient approach to a minor technical breach as opposed to a general failure to display any of the Prescribed Information. An example of such a breach might be if all other fees and required information are displayed correctly on the website and in the agent's office except that the landlord fees state the % rates "plus VAT" instead of an inclusive with VAT figure.

The enforcing authority can impose further penalties if an agent continues to fail to comply despite having previously had a penalty imposed.

3.3 Client Money Protection

In May 2018, the government published draft Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2018 that will come into force on 1 April 2019.

The regulations will apply across England to any property agents who engage in letting agency or property management work.

The regulations will make it a legal requirement for property agents that hold any client money to be a member of a government approved client money protection scheme. The level of cover must be no less than the maximum amount of client money that is held by the agent from time to time (Regulation 3). This implements the provisions in sections 133 to 135 of the Housing and Planning Act 2016.

The regulations place a duty of the agent to (Regulation 4):

a) obtain a certificate confirming membership of an approved client money protection scheme;

b) display a copy in each of the agent's premises where they meet clients face to face where it is likely to be seen by such persons;

c) display a copy on the company's website (if any); and

d) produce a copy of the certificate to anyone who may reasonably require it, free of charge.

There are further provisions that require an agent to notify their clients in writing within 14 days if membership of a CMP scheme is approved or revoked or if the agent ceases to be a member of a scheme or becomes a member of a different scheme.

A breach of the regulations is taken to have occurred in each local authority where the agent has premises or where housing is situated for which the agent undertakes letting agency or property management work (Regulation 5). If the breach occurs outside of the local authority's area, the enforcing authority must notify the relevant local authority of their intent to issue a financial penalty.

In July 2018, MHCLG published guidance for prospective client money protection schemes looking to obtain approval from the Secretary of State. You will find a link to the guidance in Appendix 6.

Failure to belong to a government approved client money protection scheme can lead to a financial penalty of up to £30,000 (Regulation 6). Failure to comply with the requirement to display client money protection information can lead to a financial penalty of up to £5,000 (Regulation 7).

Only one penalty can be imposed on the same agent in relation to the same breach, unless the breach continues beyond the end of the relevant period (Regulation 9).

A similar PCN procedure applies in relation to any penalty imposed, as outlined in the Schedule to the Regulations.

It is understood the Tenant Fees Bill is intended to amend the Consumer Rights Act to make clear that agents must display the name of their client money protection provider.

The Client Money Protection Schemes for Property Agents (Approval and Designation of Schemes) Regulations 2018 enable the government to approve suitable client money protection schemes that property agents must belong to. It is understood a list of approved schemes will be published in good time to enable agents to join before the statutory provisions come into force. Once the list of approved providers has been published, this may be a good opportunity for each enforcing authority to contact agents in their local area and advise them of the requirement to join.

3.4 Ban on letting fees to tenants

In May 2018, the government published a Tenant Fees Bill which, subject to Parliamentary approval, will restrict the ability for landlords and agents to charge fees to their tenants. The legislation is not expected to come into force before April 2019, although the actual implementation date is not yet known.

At the time of publishing this toolkit, the Tenant Fees Bill could be amended following scrutiny in the House of Commons and House of Lords. As such, whilst the publication of the Tenant Fees Bill is noted, it has not been covered in detail within the toolkit.

4. The enforcing authority

Before undertaking enforcement action, it is important to check that your council is the enforcing authority under the relevant legislation. We have summarised the arrangements below.

If you are still unsure, you may wish to speak to your Legal Services Department for advice.

4.1 Redress Scheme Enforcement

Under the Redress Scheme Order (Article 2), the enforcing authority is defined as a district council, a London borough council, the Common Council of the City of London, or the Council of Isles of Scilly.

We understand the definition of enforcing authority includes unitary councils and metropolitan borough councils which can exercise any of the functions allocated to a district or council.

County councils are not included within the enforcing authority definition.

It is important the local authorities work closely together in enforcing the legislation. In relation to non-unitary local authorities, we understand that they can make arrangements under section 101 of the Local Government Act 1972 for any other authority to exercise their functions, unless there is express statutory provision that the function cannot be exercised in this way.

Where necessary, council officers may wish to obtain legal advice as we are unable to provide a definitive interpretation of the law.

The Order places a duty on every enforcing authority to enforce the Order within their local area (Article 7). So this is something that each council must strive to do. It is not optional.

4.2 Display of Prescribed Information Enforcement

Under Section 87 of the CRA2015, the enforcing authority is defined as the local weights and measures authority in England and Wales i.e. Trading Standards.

In London boroughs and single-tier authorities, these arrangements give the council more flexibility in how they enforce the legislation. So for example, at Nottingham City Council, the private sector housing team is responsible for enforcing the redress scheme although intelligence is also gathered by Trading Standards. Whilst at Newham Council they have adopted a partnership approach where Trading Standards enforce the redress scheme with oversight and management from the private sector housing team.

In two-tier authorities, the situation is more complicated as the enforcing authority for the redress scheme is the district council whereas the enforcing authority for the display of Prescribed Information is the county council. This requires close partnership working and information sharing between the two councils.

The MHCLG guidance states that generally, the enforcing authority will be the local authority in whose area the letting agent who has not complied with the requirement is based. So for a national letting agent who has not published their fees and other details, they can be liable for a fine for each and every office where the information is not published.

When it comes to enforcement against a web-based company offering services across the country, MHCLG guidance states that local authorities will need to agree which authority will issue the penalty notice, as multiple fines cannot be imposed for the same breach of the requirement. In such cases, MHCLG guidance suggests that the local authority with the registered head office, or where the website is registered, could potentially take the lead.

When enforcing the requirement to display Prescribed Information on the agent's website, attention is drawn to section 87(2) of the CRA2015. In these circumstances, it states that the enforcing authority is the Trading Standards service for the area where the dwelling house to which the fees relate is located and not where the agent's office is based. Depending on the area the agent covers, this could mean that breaches involving failure to display Prescribed Information occur across multiple council areas and empower numerous Trading Standards teams to take enforcement action.

When considering enforcement issues, regard should be had to whether the agent has entered into a primary authority partnership agreement with a particular local authority, which then provides robust and reliable advice for other councils to take into account when carrying out inspections or dealing with non-compliance. Further information can be found at: **https://primary-authority.beis.gov.uk/about**

4.3 Requirement to belong to a client money protection scheme

Under section 135(5) of the Housing and Planning Act 2016, the requirement to belong to a client money protection scheme in England from 1 April 2019 will be enforced by:

a) district council;

b) county council for an area for which there is no district council;

c) London borough council;

d) The Common Council of the City of London; and

e) The Council for the Isles of Scilly

The relevant local authorities will be under a duty to enforce the client money protection requirements once they come into force.

We understand that the Tenant Fees Bill is proposing to transfer enforcement responsibility to Trading Standards and so these arrangements could be subject to change.

5. Promotional activity

Whilst the lettings industry wants to see these laws effectively enforced, we also want councils to actively promote these requirements amongst agents, landlords and tenants. It is in the interests of consumer protection that all parties understand their rights and responsibilities.

After all, what better way to empower tenants to exercise their rights and reduce the need for council intervention in routine property disputes? If tenants are signposted away from non-compliant agents and understand their rights under the redress schemes, it can help to reduce council service requests and make best use of limited resources.

With council budgets under more pressure than ever, we recognise that the likelihood of councils undertaking paid advertising is slim. But with careful thought, initiative and innovation, much can be done to reach out to tenants, landlords and agents at minimal cost.

While it is acknowledged the requirement for redress scheme membership and the display of Prescribed Information have now been in place for a considerable period of time, active promotional activity is recommended to raise awareness about the requirement for client money protection scheme membership that comes into force on 1 April 2019.

It is important for enforcement officers to engage with the council's communications or media team at the earliest opportunity. After all, whilst enforcement officers are very capable when it comes to enforcing the law, they are not always best placed when it comes to developing an effective communications plan.

To help save time and energy, we have provided some examples of promotional activity already carried out by councils across the country. After all, it is much easier to learn from existing good practice than keep reinventing the wheel.

5.1 Council Website

The council's website provides a powerful tool to reach out to residents and businesses in the local area.

For private tenants, the website usually contains housing advice and guidance on finding private rented accommodation. This creates a great opportunity to signpost tenants to letting agents that are members of a government approved redress scheme, whilst highlighting the need for agents to display fees and other information. Thus, tenants can become the eyes and ears of the council and provide feedback if the rules are not complied with.

Islington Council have produced an excellent private tenant guide that includes information on agents' fees **(here)** – it is listed under 'Useful documents'.

For private landlords, the website usually has information about housing standards, property licensing and other relevant issues. Landlords can be advised about the dangers of placing their valuable asset in the hands of an agent that does not belong to a redress scheme and is not displaying the Prescribed Information. After all, if they are failing to follow these simple steps, what other legal requirements are they failing to comply with and will they still be trading in a few months time?

For agents, the website can remind them about the new legislation and the consequences of getting things wrong. We came across some good examples on **Newcastle City Council's website (here)** and **Islington Council's website (here)**. The Islington website contains a well-designed factsheet for businesses on agent fees that can be downloaded from their website.

5.2 Social Media

Social media has become an increasingly important means of communication for everyone involved in the property industry – be it landlords and agents advertising their properties or prospective tenants looking for somewhere to live. There are also numerous online discussion forums where landlords and agents discuss issues and share information.

Most councils now have Twitter and Facebook accounts and some have many thousands of followers. Whilst enforcement officers are not often allowed to post their own updates, the council's media team are usually looking for interesting content to share.

Whilst one tweet or Facebook post won't change the world, a series of timely updates will help to improve engagement and let people know about their rights and responsibilities when it comes to renting from a private landlord or agent.

5.3 Press Release

Press releases provide a great opportunity to promote news stories through the local media and trade press. This is particularly the case if the council are promoting robust enforcement activity against rogue letting agents – an issue everyone will support.

From our experience, the best press releases emanate from a joint enterprise between the council's media team and the private sector housing or Trading Standards team.

To generate interest, the press release needs a good focus. For example, the first £5,000 civil penalty served; or 'crackdown on rogue letting agents to protect vulnerable tenants'. Press coverage can be enhanced by offering eye- catching photos to accompany the story online and in hard copy publications.

The press release will usually contain a quote from the Council Leader, Mayor or Cabinet Member, which helps to demonstrate the council's commitment to consumer protection and raising standards in the private rented sector.

For inspiration on drafting a press release, see examples from **Croydon Council (here)**, **Islington Council (here)** and **Sheffield Council (here)**, all of which achieved good media coverage.

5.4 Landlord & Letting Agent Forums

Most councils have a landlord and agent forum to discuss local issues and improve engagement. They might be organised directly by the council or run by a landlord association on their behalf. If you don't yet have an active forum in your area, perhaps now is a good time to start!

There may also be other privately run landlord and property investor forums taking place in your area. We've come across many such groups operating across the country, often with very little local authority engagement. For example, there are networking groups organised through Facebook, MeetUp **(www.meetup.com)** and various other online forums and websites.

Once you have tracked them down, why not ask for an invite to network with attendees and perhaps after that, you could request a speaking slot on the agenda.

Giving a presentation on the legal requirements for letting agents and property managers will be useful for landlords and agents alike. It will help to raise awareness whilst explaining what the council are doing to enforce the law. From our research, a number of councils including Bristol City Council, Leicester City Council, Leeds City Council and London Borough of Barking & Dagenham have already followed this approach.

5.5 Landlord Newsletter

Articles in landlord newsletters can be really useful to help raise awareness. With most now being produced as e-bulletins and distributed online, this helps to minimise printing and postage costs.

We've seen some great articles published by Bristol City Council in their quarterly 'Landlord News', including a front- page feature in the Winter 2014 edition.

5.6 Housing Advice Centre

With a shortage of affordable housing, many tenants visit their council's housing advice centre to seek help and advice. Some councils provide leaflets, advice sheets and landlord/agent lists to help people find their own accommodation.

It is important to check that all this information is up to date and reflects the new legislation. After all, imagine the reputational damage if a local council referred tenants to an unregistered agent, or used their services to procure temporary accommodation for homeless families. It wouldn't look good.

5.7 Business Advice

It goes without saying, but one of the simplest steps will be to send advisory letters to all agents based in the local area. Whilst this can be done by post, a quicker and more cost effective approach might be to send information by email.

Westminster City Council reported that sending advisory letters by email had worked well and produced fast results, particularly when liaising with independent agents and web-based companies working from a virtual office.

The first step in the process will be to compile a list of agents operating within the local area. This in itself is no simple task, although by interrogating various information sources, a central list can be developed and the list can evolve over time.

Useful sources of information can include:

- **Agents already known to the private sector housing, homelessness and trading standards teams;**
- **Asking housing enforcement officers to identify agents when responding to housing service requests from tenants;**
- **Mandatory HMO, additional and selective licensing under which the applicant must disclose both the landlord and the person or company managing the property, if different;**
- **Liaison with the accommodation office at the local university or college;**
- **Agents advertising properties through property portals;**
- **Agents advertising properties for rent in the local press; and**
- **Street surveys to identify agents that operate from a local business premises.**

Once you have your list of agents, we have produced some example letters in Appendix 7 that you might want to customise and use locally. We would also need to comply with the General Data Protection Regulations (GDPR) in relation to any information that falls within scope of the regulations.

Whilst advisory letters followed by spot-checks on the redress scheme websites should help to identify any agents that have failed to join, the process for checking the display of Prescribed Information may need a more hands-on approach.

After all, without visiting the agent's premises, how can you be sure that all the required information is being displayed?

Visits can be programmed in on an area-by-area basis over a period of time. Prior to visiting the agent's premises, their website can also be checked. That way, any deficiencies in information displayed online can be discussed with the manager during the site visit.

This approach really does work. For example, in August 2015, Enfield Council told us they had identified 202 letting agents in the borough and checked whether each agent was a member of the 3 redress schemes. Of the 202 agents 30 were found not to belong to a redress scheme and so visits were made to these premises to inform them of their legal obligations and to advise them how to comply. They told us that all but one agent is now compliant. This is a great example for other councils to follow.

6. Penalty Charge Notice (PCN) Procedure

So you have carried out promotional activity but find there are still a small minority of agents who have failed to comply with the requirements. What next? Before rushing in and serving your first penalty, it is important to check that you have got all the building blocks in place to ensure the process runs smoothly and to minimise the risk of appeal.

6.1 Cabinet Report

An important first step in the process will be to prepare a Cabinet report or similar (depending on the council's constitution) to give council officers delegated authority to implement the new arrangements and to approve the level of monetary penalties. It will normally be necessary for the report to be lodged on the council's 'Forward Plan' in advance of the Cabinet meeting.

The monetary penalty for failure to belong to a redress scheme or display prescribed information under the CRA2015 is a civil penalty of up to £5,000. Higher penalties will be available under the new client money protection regulations that come into force on 1 April 2019. MHCLG guidance to local authorities says that:

"The expectation 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. It will be up to the enforcement authority to decide what such circumstances might be, taking into account any representations the lettings agent or property manager makes during the 28 day period following the authority's notice of intention to issue a fine".

The MHCLG guidance goes on to say that in the early days, lack of awareness could be considered and also whether the £5,000 fine would be disproportionate to the turnover of the business or would lead to the company going out of business.

We would encourage councils to adopt the maximum penalty in line with MHCLG guidance as the default option, whilst retaining council officer's flexibility to reduce the amount in extenuating circumstances, in order to avoid fettering the council's discretion. Providing this flexibility will also reduce the likely number of appeals.

We realise that preparing the cabinet report can be a time consuming process. Given the content of each council's report is likely to be very similar, it would seem sensible to save time by checking what other councils have already done. Whilst not endorsing or recommending a particular report, we have included links to reports approved by **Hammersmith & Fulham Council (here)** and **Lewisham Council (here)**.

Whilst the PCN procedure is very similar for both statutory provisions, there are a couple of differences that local authorities need to be aware of. Where the process varies, we have highlighted this in the section below.

6.2 Warning Letter

Whilst there is no legal requirement to send the agent a warning letter, it is an option. It may also reduce the number of cases discontinued following a Notice of Intent, by clarifying any misunderstanding at an early stage in the process.

Issuing warning or advisory letters may be most appropriate when undertaking a letting agency compliance project with respect to new legislation and seeking to educate and engage with letting agents in the local area. However, where requirements have been in force for a considerable period of time, ignorance of the law is no defence and the enforcing authority may decide to proceed directly to formal action. The Tribunal Judges have supported the view, that there is no necessity on Trading Standards giving any warning or advisory letters before issuing notices. An example of this can be found in Noor Rashid (Let Belle Vue) and Darlington Borough Council (PR/2015/0020). They have advised Appellants that as letting agents, professionals in their industry they are expected to be aware of all relevant laws that apply to them and impact on their clients.

The fact that a warning or reminder letter has been sent and non-compliance continued thereafter can be evidenced by the council and included within the bundle of evidence in any subsequent First-tier Tribunal appeal.

A warning letter could set down a deadline by which the requirements must be complied with, to avoid the PCN being served.

We have included an example warning letter in Appendix 7 that the enforcing authority may wish to customise for local use.

A similar process could be adopted to help raise awareness of the client money protection requirements that come into force on 1 April 2019.

6.3 Notice of Intent

The first stage of the formal PCN process is to serve a 'Notice of Intent' on the agent. It must be served within 6 months of the date on which the enforcing authority has sufficient evidence of the agent's breach.

The Notice of Intent must set out:

- **the amount of the proposed penalty;**
- **the reasons for proposing to impose the penalty; and**
- **information about the right to make representations and objections within 28 days beginning the day after the date on which the notice of intention was sent.**

If an agent has failed to join a government approved redress scheme and also failed to display the Prescribed Information, a separate Notice of Intent should be served under each statutory regime.

If the agent has failed to display their fees whilst also failing to display their client money protection scheme status, we believe that these two breaches of the CRA2015 can be included in separate Notices of Intent or combined in one. Tribunals have previously accepted both options. However we would suggest that if you are arguing multiple breaches (separate breaches for Fees, CMP and Redress Information) it may be better to do separate the notices to help illustrate this point.

Once a Notice of Intent has been prepared, it is good practice to get an experienced colleague or manager to check the notice for any errors. For example, to make sure the company name is shown in the correct format as a limited company, a partnership or a sole trader. By getting the notice checked, it can help to identify and correct any errors before the notice is served. This can reduce the instances where a notice needs to be withdrawn, or where an appeal is lost before the Tribunal.

It is important that the enforcing authority has adequate processes and record keeping in place to collate all the key documentation, monitor time limits and record decision making, in order to provide a complete audit trail in the event of an appeal.

6.4 Submission of Representations

Careful consideration should be given to the procedural arrangements for reviewing any representations that are received to ensure a fair, transparent and consistent decision making process. The arrangements should be documented in local policies and procedures.

Neither the legislation or MHCLG guidance imposes any restrictions on what constitutes a valid representation. As such, all representations that are received should be considered regardless of how minor or irrelevant they are considered to be. Otherwise, failure to properly consider a representation could result in the final notice being quashed on appeal.

In Cherry Estates Agency Limited and Newham Council (PR/2016/0032), it was held the Council were wrong to conclude the representation submitted was not a proper representation and that it should have been taken into account. As such, the First-tier Tribunal allowed the appeal in part and reduced the penalty from £5,000 to £3,000.

It is recommended that there is a clear separation of duties between the investigating officer/officer in charge (OIC) and the internal process for deciding whether a financial penalty should be imposed and the level of penalty. This helps to avoid any allegation of bias and ensures the process for reviewing representations is fair and impartial. The decision making process should be recorded in writing to help justify the reasoning for any decision in the event of an appeal.

For example, Newham, Islington and Westminster Councils have a panel of senior officers that consider any representations received in response to a Notice of Intent. The OIC presents the case and advises the panel on any mitigating or aggravating factors, but they are not involved in making the final decision.

The enforcing authority may decide to adopt a local policy or guidelines to provide a framework within which the level of penalty will be assessed and the weight given to any aggravating or mitigating factors. However, in doing so, it is important for an authority not to fetter its discretion and to retain the flexibility to reach an appropriate decision in each case based on the facts.

If a formal panel is considered too resource intensive, an alternative option could be for the decision-making process to be overseen by a more senior officer who is independent of the investigation.

One of the issues considered in some Tribunal appeals has been the concept of a 'trajectory of compliance' i.e. steps taken to bring the agent into compliance once an issue has been highlighted. This is something the enforcing authority may wish to incorporate into their local policies and procedures, whilst also having regard to the length of time the agent has been in breach of the requirements.

In Pick N Move Properties Ltd and Kirklees Council (PR/2016/0017), the First-tier Tribunal allowed the appeal in part and reduced the penalty for failing to join a redress scheme from £5,000 to £4,000 as the agent had joined a redress scheme almost immediately after being contacted by the council. In Alliya Umer (Diverse Lettings Limited) and Kirklees Council (PR/2017/0027), the penalty was reduced on appeal from £5,000 to £4,500 for similar reasons.

In the Upper Tribunal decision London Borough of Camden v Foxtons Ltd [2017] UKUT 349 (AAC), Judge Levenson agreed it was appropriate to take account of a change in circumstances if steps were taken to achieve compliance between service of the Notice of Intent and Final Notice. This could result in a lower penalty being awarded. It is worth noting that these cases relate to Notices of Intent issued more than 2 years ago and the conduct between notices could therefore be heavily out-weighed by the period of non-compliance, particularly if the agent has been non-compliant since the relevant legislation came in.

If the agent is seeking a lower penalty on the grounds that the proposed penalty is unreasonable and will result in financial hardship, the enforcing authority could invite the agent to submit financial documentation. This could include full audited accounts over the last two or three years and six months of bank statements for each relevant account. It is worth noting that abbreviated accounts published on the Companies House website may lack sufficient detail and may not cover the relevant period for undertaking such an assessment.

An agent's profit and loss report can be useful in trying to establish the true health of the business – by mapping out all income and outgoings, including salaries, pension contributions, director loans and dividend payments, this can be much more informative than simply looking at net profit. If an agent declines the opportunity to provide full financial disclosure, this would strengthen the enforcing authority's reasons for imposing the maximum penalty and demonstrate that the authority had acted reasonably in their approach.

In Next Property Ltd and Westminster City Council (PR/2017/0048), the agent argued that the penalty would cause financial hardship but was unable to evidence the turnover or profitability of the business or demonstrate why a £5,000 penalty would be unaffordable. The appeal was dismissed.
Where the enforcing authority has used its discretion to reduce the penalty in response to representations received, there are several examples of the First-tier Tribunal upholding the decision on appeal.

In V and V Properties Ltd and Islington Council (PR/2016/0005), a reduced penalty of £2,000 was imposed for failure to display Prescribed Information. The amount had been reduced to acknowledge partial compliance and the appeal was dismissed.

In Ghulan and Tahera Tahir and Leeds City Council (PR/2016/0019 & 0020), a reduced penalty of £2,500 was imposed for failure to belong to a redress scheme. The amount had been reduced to acknowledge action taken to achieve compliance and the appeal was dismissed.

6.5 Final Notice

At the end of the 28-day period for making representations, the enforcing authority must decide whether to impose a penalty, with or without modification, after having regard to any representations received. The enforcing authority must be satisfied on the balance of probabilities that the agent has breached the regulations.

If the enforcing authority decides to impose a financial penalty, the Final Notice must set out:

- **the amount of the financial penalty;**
- **the reasons for imposing the penalty;**
- **information about how to pay the penalty;**
- **the period in which the payment must be made (for redress scheme enforcement, this must not be less than 28 days. For display of fees enforcement, this must be 28 days beginning with the day after that on which the notice was sent);**
- **information about the rights of appeal; and**
- **the consequences of failing to comply with the notice.**

Within the Final Notice, it is important to specify how the penalty can be paid rather than saying an invoice will be sent separately. This issue has been raised in some Tribunal hearings and it would be unfortunate if a notice was quashed on such a technicality.

At any stage in the process, the enforcing authority can withdraw a Notice of Intent or Final Notice, or reduce the monetary penalty specified, although this would need to be done in writing.

When dealing with issues of non-compliance involving agents, Trading Standards Officers should be encouraged to log issues on the national intelligence database as it helps to prioritise resources and identify trends using the national intelligence model.

Within London, Final Notices can be recorded on the Mayor of London's 'Rogue Landlord and Agent Checker' which can be viewed here: **www.london.gov.uk/rogue-landlord-checker**

6.6 Dealing with an error or omission in the Notice

Careful attention must be paid when preparing a Notice of Intent or Final Notice to avoid any errors or omissions that could invalidate the notice.

In Roxflex Services Limited and London Borough of Newham (PR/2016/0036), an appeal was allowed and the Final Notice was quashed as it was held the Notice of Intent had been served at the wrong address.

In Paul Lawson T/a Howard Estates and Westminster City Council (PR/2016/0052 & 0053), the appeal was allowed and the notices were quashed as it was found the notices should have been served on a limited company which was the legal entity despite no limited company name being displayed on the agent's website.

In Countrywide Residential Services Ltd and London Borough of Barking & Dagenham (PR/2017/0018), it was accepted that failure to display client money protection information on the agent's website had been included on the Final Notice but not the Notice of Intent and so that breach was dropped from the proceedings.

In Uxdale Ltd and London Borough of Islington (PR/2016/0008), the agent's website was incorrectly described in the Final Notice as '.co.uk' and not '.net'. However, the First-tier Tribunal were satisfied with the officer's evidence that the correct website had been checked and the incorrect address was a slip and did not amount to a substantial error. As such, the appeal was dismissed.

In the event that there is a material error in a Notice of Intent or Final Notice, Schedule 9, para 4 CRA2015 enables the enforcing authority to withdraw the notice at any time. Depending on the circumstances, it may be appropriate to withdraw and reserve a new Notice of Intent provided the proceedings are still within time. Otherwise, the notice may be overturned on appeal.

6.7 Right of Appeal

Anyone served with a PCN has the right of appeal to the First-tier Tribunal in England, or to the Residential Property Tribunal if a local weights and measures authority in Wales has served the notice.

The grounds for appeal are that:

- **the decision to impose a financial penalty was based on an error of fact;**
- **the decision was wrong in law;**
- **the amount of the monetary penalty is unreasonable; or**
- **the decision was unreasonable for any other reason.**

In the event of an appeal, the PCN is suspended until the appeal has been determined or withdrawn. The Tribunal has the power to quash, confirm or vary the Final Notice.

The rules governing the appeals process before the General Regulatory Chamber of the First-tier Tribunal can be found in the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009. In the event of an appeal, it is important that council officers and their legal representatives study these rules carefully as it will help to ensure the smooth running of the case.

If an appeal is submitted out of time, the Tribunal can decide whether to grant an extension of time to hear the appeal. In the Flat Shop Limited and Plymouth City Council (PR/2016/0031), an application to appeal out of time was rejected.

In Xpress Link Limited and London Borough of Tower Hamlets (PR/2018/0020), the application to appeal was delayed by two and a half months as the agent said they had sent the appeal to the wrong address. The enforcing authority objected, the Tribunal refused to grant an extension of time and the appeal was dismissed.

In reaching their decision in the Xpress Link case, the Tribunal cited the Upper Tribunal's decision Data Select Limited v HMRC [2012] UKUTR 187 which sets down five principles against which any application for an extension of time should be considered: (1) What is the purpose of the time limit? (2) How long was the delay? (3) Is there a good explanation for the delay? (4) What will be the consequences for the parties of an extension of time? and (5) What will be the consequences for the parties of a refusal to extend the time?

An enforcing authority may wish to make reference to this Upper Tribunal decision when responding to an appeal submitted out of time.

Once an appeal has been lodged, the Tribunal will issue Directions setting out a timescale for each party to prepare and submit their respective bundle of documents and to set a date for the hearing once witness availability has been confirmed.

The enforcing authority will need to decide who is best placed to prepare their bundle of documents. Whilst this could be done by the case officer who may have a better understanding of the issues, it is likely that the Legal Services Department may be best placed to do this as they should have more experience with preparing bundles in the correct format for tribunals. This will save the officer time and allow them to get on with issuing more notices. Consideration could also be given to the case officer preparing the bundle under the supervision of a more experienced officer or legal adviser.

The bundle should be prepared in line with the 'Hearing Bundles – Good Practice Guide 2016'. This will usually be supplied to both parties by the Tribunal once the appeal is received. The bundle of documents is usually prepared in lever arch files with a file index and numbered pages. The bundle is likely to comprise a statement of case, witness statements and relevant exhibits. The Directions will state how many copies must be provided to the Applicant and to the Tribunal and by when. It can be quite a short timescale and so it is important to start preparing the bundle as soon as there is any indication that an appeal has been submitted.

Whilst First-tier Tribunal decisions are not binding and set no precedence, they can be persuasive and help to achieve consistency in the decision making process and in the Tribunals approach to legal principles. As such, relevant Tribunal decisions can be included within the Respondent's bundle. In Abid Sukander (T/a A S Property) and London Borough of Newham (PR/2017/0006), Judge McKenna commented that any Tribunal decisions being relied upon should be included within the bundle of documents. Furthermore the good practice guide states that if a party wishes to rely on a court or tribunal decision, that party will provide one copy to the Tribunal and one to the other party.

The appeal can be dealt with by way of a paper determination or oral hearing. Both parties are given the opportunity to state their preference, although the Tribunal will decide which option is most appropriate having regard to the circumstances and complexity of each case. For more straightforward cases it is recommended that the Council elects a paper hearing to keep the costs down. If however it is felt the Judge may have some questions that may need fielding or need reassurance on a particular point then it may be better to request an oral hearing.

Each party can decide whether they wish to appoint a solicitor or barrister to represent them in the proceedings although there is no requirement to have a representative who is legally qualified. Whether to use a representative who is legally qualified will depend on the length and complexity of the case and the knowledge and experience of the case officer or team manager who could otherwise take on the role. It is suggested that someone separate to the investigation presents the case if possible.

Once the appeal process has started, it is still possible for both parties to negotiate and agree a revised position that they both feel comfortable with, by way of a Consent Order. For example, this might involve agreeing a reduced financial penalty that takes into account information that was not previously available, or by addressing a procedural or factual error in the service of a notice which leads the enforcing authority to amend their position.

To reduce costs associated with a full hearing, both parties can request that the Tribunal make a Consent Order to dispose of the proceedings under Rule 37 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009. If the Tribunal agree with this proposal, they may issue Directions requiring both parties to prepare and agree an appropriate Consent Order.

In Jeremy James and Co Limited and Westminster City Council (PR/2016/0055, 0056 & 0057), a Consent Order was agreed and the company was ordered to pay three penalties of £1,500, £5,000 and £2,500 as three instalments of £3,000 per month with the full amount to be paid within 3 months.

In relation to costs, it is usual practice for each party to pay their own costs. However, in exceptional circumstances, either party can apply for an order of costs under Rule 10 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009. An order can only be made for wasted costs or if the Tribunal considers that either party has acted unreasonably in bringing, defending or conducting the proceedings. An application can be made at any time during the proceedings, but not later than 14 days after the Tribunal issue their decision or the appeal is withdrawn.

In deciding any order for costs, the Tribunal will usually have regard to the Upper Tribunal decision Willow Court Management Company (1985) v Alexander (2016) UKUT 0290 which sets out the principles for assessing such an application.

In London Corporate Apartments Ltd and London Borough of Tower Hamlets (PR/2016/0039), the Judge ruled that the company should pay £2,700 legal costs to the council after finding '….this attempt to circumvent the regulatory legislation under the 2015 Act is nothing more than a sham…' and had resulted in a significant waste of time and public resources.

More information about the General Regulatory Chamber and their jurisdiction for hearing appeals regarding letting and managing agents can be found online at: **www.gov.uk/guidance/appeal-against-a-fine-as-a-letting-or-managing-agent.**

In Appendix 5 we have included a summary of relevant First-tier and Upper Tribunal appeal decisions.

In Appendix 8, we have included a template Statement of Truth kindly provided by Islington Council. This may assist councils in formatting their bundle of evidence for an appeal hearing.

In Appendix 9, we have included a template Consent Order that has been developed with assistance from Westminster City Council.

6.8 Recovery of financial penalty

If there is no appeal, or the notice is upheld on appeal and the agent fails to pay the penalty in full, the enforcing authority can recover the penalty on the order of a court, as if payable under a court order. This is explained in more detail in Schedule 9, Paragraph 6 of the CRA2015 and Article 10 of the Redress Scheme Order.

Effective enforcement will be dependent on good partnership arrangements between enforcement officers and finance officers to ensure prompt follow-up action in cases of non-payment.

In proceedings for recovery in the County Court, a certificate which is signed by the chief finance officer of the local weights and measures authority which imposed the penalty, and states that the amount due has not been received by a date specified in the certificate is taken as conclusive evidence of that fact.

It is important that the enforcing authority puts in place appropriate arrangements to recover the financial penalty in the event of non-payment. This will help to ensure that the enforcement intervention is taken seriously.

Following service of a Final Notice, the payment received by the council can be used for any of its functions. We would strongly suggest that the cabinet report includes a recommendation that this money is reinvested to support future housing enforcement activity undertaken by housing or trading standards teams.

6.9 National Trading Standards Estate Agency Team

Whilst not part of the PCN process, we understand that Powys County Council currently host the National Trading Standards Estate Agency Team and maintain an overview of all related enforcement activity.

If a PCN is served on an agent who is also acting as an estate agency, you may wish to bring this matter to their attention **http://www.powys.gov.uk/en/licensing-trading-standards/national-trading-standards-estate-agency-team**.

Many agents are involved in both sales and lettings, in which case it is important to check that they also belong to an approved estate agents redress scheme. If not, they can be issued with a further financial penalty for that offence. We would recommend you refer to the National Trading Standards Estate Agency Team toolkit for more information.

7. Collecting evidence

The failure to belong to a redress scheme or display Prescribed Information is a civil offence that requires a lower burden of proof than a criminal prosecution. In order to serve a penalty notice, the enforcement authority must be satisfied that, on the balance of probabilities, a breach has been committed.

Given that the decision to serve a penalty notice may be challenged on appeal, we have set out below some of the evidential steps that could be taken to minimise the risk of a successful appeal.

7.1. Visit the letting agency

When issuing notices of intent in respect of website breaches it is useful to visit the agent's business premises to speak to the manager and discuss the issue face to face. This enables the investigating officer to see if the Prescribed Information has been displayed which may result in further notices being issued and to discuss any concerns. All evidence should be recorded in the officer's notebook to provide best quality evidence.

Photographs of the shop front, including close-up shots showing individual properties advertised for letting, could also be taken to provide evidence that the business is trading. Such photos can then be exhibited, if required.

To prove the Prescribed Information was not on display, it is advisable to supplement the officer's hand written notes with date stamped photographs and/or video footage showing the inside the letting agency to prove the information was not on display.

In M & M Europe Limited and London Borough of Newham (PR/2017/0007), video footage of the reception area was exhibited showing the Prescribed Information was not on display. In defence the agent argued the information was displayed in his private office which is kept locked when he is not there. The Tribunal found that this did not satisfy the requirement to display information at a place in the premises where it is likely to be seen. The video footage was referred to in the decision and appeared to be a key factor in proving the case.

If there is a notice on display but it lacks all the Prescribed Information or the landlord and tenant fees are not clearly described, the notice should be photographed in high resolution to show the precise wording.

In Station Estates Ltd and London Borough of Newham (PR/2017/0024), Judge Taylor found that a photo taken to prove client money protection information was not on display was not sufficiently clear to prove the offence. As such, the appeal was allowed in part and the penalty was reduced.

Officers should have regard to Schedule 5, Paragraph 23 of the CRA2015 and the need to give two working days written notice if they are planning to make routine visits to agents. We understand that the Department for Business, Energy and Industrial Strategy (BEIS) in their guidance to businesses on investigatory powers suggest a format for such a notice. It is important to remember however that there is no need to give such a notice in some circumstances including if a breach of the legislation is suspected or if it would defeat the purpose of the visit.

7.2. Examining the agent's website

It is important to collect best evidence in order to prove the absence of Prescribed Information from the agent's website on the relevant dates to justify the service of the notice of intent and final notices. This requires careful examination of all pages on the agent's website to establish a complete picture of the relevant information that has and has not been published.

In Oliver Franklin Limited and London Borough of Tower Hamlets (PR/2017/0004), the council exhibited screen shots of the company website together with a hyper-cam video giving a tour of the website showing each of the relevant web-pages on the date the Notices were served. As a result, the appeal was dismissed and the £5,000 penalty was upheld.

In Appendix 4, we have included Hypercam instructions that explain how this methodology can be used to gather evidence and record an agent's website.

7.3. Establish the legal status of the letting agency

It is important to establish the nature of the letting agency business. For example, is it a sole trader, limited company, partnership, etc. Does the business have several branches and is it a franchise or is the whole business in single ownership. Or is it an online-only Agency with no branches but just a registered office. There are a number of ways to obtain this information.

The first will be to speak to the Branch Manager and clarify the situation with them. If they provide details of a head office, further enquiries can be made there.

The Companies Act 2006 and the Companies (Trading Disclosures) Regulations 2008 requires that the company's business name must be displayed at the premises, on official company stationery and on the company's website.

Internally, officers can obtain information from the Council's Business Rates Department, provided disclosure is permitted by satisfying one of the exemptions in the Data Protection Act.

The council can establish ownership of the agent's business premises by carrying out a Land Registry search. The cost of an electronic search is just £3 (correct as of May 2018).

For limited companies, details about the registered office, company directors and company accounts can be obtained from **Companies House**.

Another option is to serve a Requisition for Information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976. The local authority can serve this notice on anyone with an interest in land (i.e. a letting agency business). The notice can require the recipient to disclose full details of the occupiers and owners of the premises in order to carry out their enforcement functions under the relevant legislation.

Anyone served with such a notice is required to provide the information within 14 days. Failure to comply is a criminal offence that upon prosecution in the Magistrates Court could result in an unlimited fine. In October 2015, an agent was fined £5,000 after failing to respond to an information request from Southend Council (read here).

A further option may be to serve a notice on the agent under Schedule 5, Part 3, Paragraph 14 of the CRA2015. A local Weights and Measures authority may exercise the powers in this part of the schedule for a number of reasons including to enable that enforcer to exercise or consider whether to exercise any functions it has under Part 8 of the Enterprise Act 2002. Thus if such action is being considered the notice could require the recipient to disclose full details of the occupiers and owners of the premises in order to carry out their enforcement functions under the Enterprise Act (with respect to domestic infringements of the CRA2015).

If the agent failed to comply with the notice an application could be made to the County or High Court seeking an Order. The court can make an Order requiring the person to do anything that the court thinks it is reasonable for the person to do, for any of the purposes for which the notice was given, to ensure that the notice is complied with and may require the person to meet the costs or expenses of the application.

7.4. Correspondence

Copies of any letters or emails sent to the agent and any responses received should be retained and can be exhibited in the event of an appeal.

7.5. Verification

The investigating officer should conduct verification checks on the redress scheme websites to confirm the agent's membership status, if any. All checks should be carried out on the same day and properly recorded so that they can be incorporated into a statement of witness in the event of an appeal.

If there is any doubt about the Agent's membership of a redress scheme, it may be advisable to write to each redress scheme provider (see Appendix 2) to confirm whether a company is registered. We understand feedback from the scheme providers is that while they publish member information on their websites, they can only publish the address the agent allows them to, due to data protection (a PO box, for example). Each scheme should be able to provide this information following a written request from the enforcing authority.

At the same time, it would be advisable to visit the agent's website (if any) to check if the Prescribed Information has been displayed and to take screen shots to confirm that the business is trading and to indicate the number of properties being advertised for rent.

In Campbell Property UK Ltd and Portsmouth City Council (PR/2017/0002), the agent appealed on the basis they were a member of the Property Redress Scheme at the relevant time. The council believe that the agent's membership did not include this particular branch. The Tribunal decided that whilst the issue of individual branch registration may alter the subscription fee, it did not amount to a breach of the Order. The appeal was allowed and the Final Notice was quashed.

7.6. Advertisements

The investigating officer could retain copies of any recent newspaper advertisements placed by the agent, to help strengthen the evidence base.

Another suggestion to find agents operating in the local area is to look for 'To Let' boards when officers are out conducting visits.

In Lets Go (Leeds) Ltd and Leeds City Council (PR/2016/0018), the council explained that officers had been tasked to look for 'To Let' boards when out of the office. As a result, a 'To Let' board was found belonging to the agent. The agent denied acting as a letting agent but accepted being involved in management. As such, the penalty was upheld but was reduced from £5,000 to £3,750 due to financial circumstances.

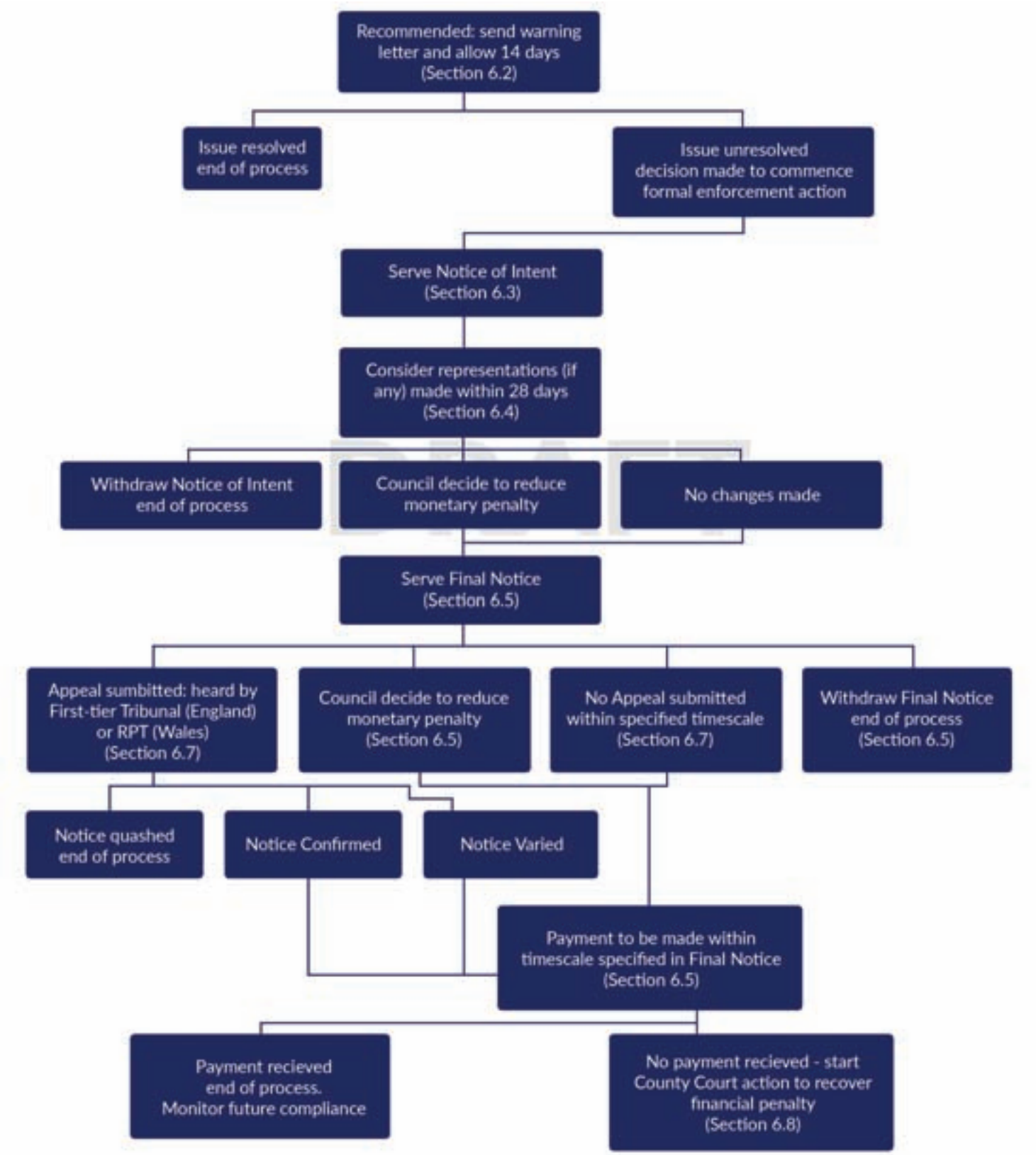
Appendices

1 - 10

The National Approved Letting Scheme

Appendix 1: Enforcement Flowchart

Note: the Sections quoted in the flowchart refer to the relevant sections of the enforcement toolkit.



Appendix 2: The government-approved redress schemes

Property Redress Scheme

Premiere House
1st Floor
Elstree Way
Borehamwood
WD6 1JH

Telephone: 0333 321 9418
Email: info@theprs.co.uk
Online membership search

The Property Ombudsman

Milford House
43-55 Milford Street
Salisbury
Wiltshire
SP1 2BP

Telephone: 01722 333306
Online membership search

Appendix 3: Case Studies

Sheffield becomes first northern city to act on new renting legislation

In June and July 2015, Sheffield City Council fined 11 letting agents a total of £37,000 for failing to belong to one of the three government approved redress schemes.

Sheffield City Council is believed to be the first authority outside London to use new legislation designed to boost the rights of millions of people living in rented accommodation. Around 16 per cent of households in Sheffield (35,000) now live in rented accommodation. This has doubled over the past ten years in line with the national picture.

Councillor Jayne Dunn, Cabinet Member for Housing, said:

"We want the people of Sheffield to be able to live in good, safe housing, regardless of whether it's rented or not.

"More people are living in rented housing as the cost of buying their own home becomes increasingly unaffordable. And we need to protect their rights.

"We are committed to this and will use all new legislation to help us. Thankfully most letting agents and landlords in Sheffield are very good and work with us really well. But we will take firm action on the small minority that do not follow the new measures designed to give tenants a fair deal."

There are approximately 200 agents in Sheffield who charge property owners a fee to find tenants and manage thousands of privately rented homes on their behalf. The overwhelming majority have joined one of the redress schemes and complied with the new regulations.

Islington Council steps up action against rogue letting agents

In June 2015, Islington Council issued a press release urging letting agents to make sure they were aware of their legal responsibilities, after it fined a local firm £5,000 for failing to sign up to a complaints redress scheme.

Before the new rules came in, Islington Council's trading standards team and the Property Ombudsman wrote to letting agents in Islington advising them to sign up to a scheme or risk a fine.

Almost all of Islington's 150 letting agents signed up, but APS Estates Ltd of Caledonian Road, London N1 did not. Trading standards followed up the letter with a visit and further reminders.

On 10 December 2014, Islington's trading standards team issued a notice saying they intended to impose a fine of £5,000 for failing to sign up.

APS Estates Ltd appealed the decision, but on 5 June 2015, the First-tier tribunal found in favour of Islington's trading standards team and that the fine should remain at £5,000. APS has since joined a redress scheme.

Following further change in the law, Islington Council again wrote to letting agents explaining it was now a legal requirement for them to display the fees they charged to tenants and landlords, both on their website and in their premises. Agents were reminded that failure to display fees and required information could incur a penalty of up to £5,000.

Cllr James Murray, Islington Council's executive member for housing and development, said:

"More and more people in Islington rent privately, and we want to make sure they are treated well and not ripped off.

"The vast majority of local lettings agents signed up to a redress scheme in good time, but we took action against the small number that did not. It's important that tenants and landlords can get independent adjudication if they have a complaint.

"It's also important that letting agents follow the rules about displaying fees - we'll be encouraging them to do so now, so that they avoid the possibility of a fine."

Appendix 4: Hypercam Instructions

Hypercam instructions – benefits, advantages and pitfalls

Hypercam is a useful way of capturing evidence of breaches on letting agent websites. It can be used instead of, or in addition to photocopies and screenshots. Hypercam captures the action from your screen and saves it to an AVI (Audio-Video Interleaved) movie file.

The reason for using Hypercam over other 'reaping' software is that software programs like 'Webreaper' do not always capture the whole site. With very sophisticated websites the designers usually put 'bots'* in place to stop you being able to capture it in its entirety.

Using Hypercam means that you can actually click in to anything that is available on the website and search as if you are a potential tenant or landlord and it will record everything that is done on the screen. This will also show how certain information is hidden and how many clicks or scrolling it takes to find the information from the home page.

When using Hypercam, if your department has a standalone computer or forensic computer, this is the one that should be used. The first thing to do before starting any recording is to clear the cookies. This was brought up in the case of CH Peppiatt and London Borough of Camden 2017. The company said that by not clearing the cookies on the computer, the search brought up old web pages. There is a counter argument that a consumer wouldn't always clear the cookies on their computer or device before carrying out a search, but it is worth clearing them so that the argument does not arise. In order to do this, you would need to go to the 'start' menu and select the 'control panel'. Once this is selected, choose 'Network and Internet Options' then 'Delete browsing History and Cookies'.

If possible, it is also better to carry out the recording (with a microphone plugged in to your computer) and talk through it saying what you are looking for and why something isn't compliant. In the case of Vita Property Group and London Borough of Camden (PR/2017/0045) the Judge commented that the recording and the voiceover to the recording helped point out the exact issue with the fees. This was Judge Peter Hinchliffe who is well versed in the legislation but still found the explanation on the voiceover of benefit. In this case there were no landlord fees and the tenant fees were vague. It is useful to be able to explain to the listener things that may be specifically missing from the tenant fees, which constitute a breach or that having a simple 'Admin Fee' which is not compliant, as many Judges are new to this legislation. It also means that you can actually say when a hyperlink doesn't work even though the pointer will change to suggest there is a hyperlink there, it doesn't actually click through.

Before you start recording on Hypercam, ensure that you have selected the region on the screen you are recording and ensure it is the entire screen as this will show everything you are seeing including the time and date at the bottom of the screen. Once you start recording type in the website address to take you to the home page of the agent's website you are recording.

It is necessary to click in to every possible link on the website. Sometimes companies do hide the fact that they are not members of a client money protection scheme or their redress scheme membership in the 'company information' or somewhere obscure. This would still be regarded as a technical breach as it is not with the list of fees as stipulated by section 83(6) CRA2015. It may also highlight other potential breaches or offences under other legislation if material information is hidden.

It is also advisable to check the actual properties 'to let' to see if the fees hyperlink is there and what is specified. Letting agents occasionally have conflicting fees in different places. In addition to this, by recording the properties they have for rent and for sale and how many an agent may have is sometimes indicative of their size. Therefore if when an agent makes representations, they state that they could not pay the fine due to the fact they are struggling, if there are several properties advertised on their website that are high value then this could indicate the opposite. Include the properties that are for sale as well, because again, this is evidence of how well the company is doing.

Having the Hypercam recording is also a benefit to the officer as they can return to the recording and check it, especially if an agent is insistent that the information was there all along. This will also give the option of taking screen shots at a later date if they are needed. Once representations have been made, it would be advisable to take a second recording of the website, especially if no changes have been made or the changes are not adequate.

N.B. If your matter is proceeding to a Tribunal appeal and you intend to rely on a Disc or USB of a Hypercam recording you MUST check with the Tribunal first. Some Tribunals accept USBs and Discs whereas some accept one or the other or not at all. If you are relying on it in evidence, make sure you send a copy to the letting agent as well as the tribunal in good time before the hearing. Quite often, after an appeal is made to the Tribunal it is apparent that there is no dispute about the breaches on the website. In such circumstances there is no necessity to provide the recording to the relevant parties (although you still can) but it is still important to evidence the breaches and it is always important to bring the disc or USB with you on the day just in case a dispute arises.

* An Internet Bot, also known as web robot, WWW robot or simply -bot-, is a software application that runs automated tasks over the Internet.

This example pro forma guide to the person using Hypercam could be used as an aide memoire:

Internet Investigations Record

Date:	
Reference Number:	
Investigating Officer:	
Letting Agent:	
Web address:	
Delete browsing history and cookies?	Time ___:___
Set screen region:	Yes ☐
	No ☐
Set location file saved to:	Yes ☐
	No ☐
Time screen recording started:	Time ___:___
Time screen recording finished:	Time ___:___

Time Complete	
Date:	
Name and Signature:	
Time:	Time ___:___

Appendix 5: Tribunal Decisions

In this section we have included a summary of various Tribunal decisions that council officers may find useful as a point of reference. It is not a complete record of all Tribunal decisions and nor is it intended as such.

Whilst only Upper Tribunal decisions set precedence, First-tier Tribunal decisions can still be persuasive and can be referenced in the bundle of documents that is prepared for a Tribunal hearing.

To date, not all decisions are published online. Some First-tier Tribunal decisions can be found **here (www.bailii.org/uk/cases/UKFTT/GRC)** and Upper Tribunal (Administrative Appeals Chamber) are published **here (http://bit.ly/2FtoESc)**.

If a Tribunal decision cannot be found online, it may be possible to request a copy from the Tribunal or from the relevant local authority.

London Borough of Camden v Foxtons Limited
Ref: MISC/0156/2017
Date: 25 August 2017

At the time of publication, this was the only Upper Tribunal decision that sets precedent concerning the display of lettings fees to tenants.

It was found that there was nothing wrong per se with using the expression 'administration charge' or 'administration fee' provided that it is accompanied by a description that is sufficient to enable a person to understand the service or cost that is covered by the fee or the purpose for which it is imposed.

However, in this case it was found that the wording did not not meet that test and accordingly did not meet the requirements of section 83(4)(c) of the Consumer Rights Act 2015. It particular, it was not clear exactly what was included, what it might not cover and that the fee quoted would never be exceeded as the maximum fee.

In allowing the appeal by London Borough of Camden, Judge H Levenson decided that credit should be given for the company's attempt to design a compliant system, and awarded four penalties of £4,500 (£18,000 in total) for failure to publish all relevant fees in three branches and also on the company's website.

Data Select Limited v HMRC [2012] UKUT 187 (TCC)
This Upper Tribunal decision sets out the principles against which an application to appeal out of time will be considered.

Willow Court Management Company (1985) v Mrs Ratna Alexander (2016) UKUT 0290
This Upper Tribunal decision sets out the principles against which an application for an order of costs will be considered.

The table below summarises relevant First-tier Tribunal decisions that were considered when developing this updated enforcement toolkit.

First-tier Tribunal decisions

Redress Scheme Membership Tribunal Decisions		
PR/2014/0001	Rosewood Residence Ltd and London Borough of Newham	Appeal dismissed and £2,500 penalty upheld
PR/2015/0003	APS Estates Ltd and London Borough of Islington	Appeal dismissed and £5,000 penalty upheld
PR/2015/0004	ETB Property Services Ltd and London Borough of Islington	Appeal dismissed and £5,000 penalty upheld
PR/2015/0010	London Sweet Homes Limited and London Borough of Camden	Appeal dismissed and £2,500 penalty upheld
PR/2015/0015	Landmarc Estates Ltd and London Borough of Camden	Notice varied and penalty reduced from £5,000 to £2,500 to avoid financial hardship and to acknowledge a trajectory of compliance
PR/2015/0017	Meridian Properties Leeds Ltd and Leeds City Council	Appeal dismissed and £2,500 penalty upheld
PR/2015/0019	Matthew Lee (Westside Lettings) and Sheffield City Council	Notice varied and penalty reduced from £2,100 to £2,000 to apply the council's guidelines slightly differently and give an increased discount for 'contrition'
PR/2015/0020	Noor Rashid (Let Belle Vue) and Darlington Borough Council	Appeal dismissed and £3,000 penalty upheld
PR/2015/0025	AG Camden Ltd and London Borough of Camden	Appeal dismissed and £5,000 penalty upheld
PR/2015/0027	Mrs Oprul Rumayo, Pineapple Properties Limited and Leeds City Council	Appeal dismissed and £2,500 penalty upheld
PR/2016/0002	Meridian Relocations and City of Bradford MDC	Appeal dismissed and £5,000 penalty upheld
PR/2016/0017	Pick N Move Properties Ltd and Kirklees Council	Notice varied and penalty reduced from £5,000 to £4,000 to acknowledge a trajectory of compliance
PR/2016/0018	Lets Go (Leeds) Ltd and Leeds City Council	Notice varied and penalty reduced from £5,000 to £3,725 to avoid financial hardship
PR/2016/0019 PR/2016/0020	Ghulan and Tahera Tahir and Leeds City Council	Appeal dismissed and £2,500 penalty upheld
PR/2016/0025	Mohammed Mlah T/a SN Property Services Limited and London Borough of Camden	Notice varied and penalty reduced from £11,000 to £9,000 due to ill health
PR/2016/0027	Fraser Property Services Limited and Leeds City Council	Notice varied and penalty reduced from £2,500 to £500 due to the small size of the business and to avoid financial hardship
PR/2016/0032	Cherry Estate Agency Limited and London Borough of Newham	Notice varied and penalty reduced from £5,000 to £3,000 to avoid financial hardship and to acknowledge a trajectory of compliance
PR/2017/0002	Campbell Property UK Ltd and Portsmouth City Council	Appeal allowed and notice quashed as it was decided the Agent was a member of a redress scheme
PR/2017/0014	Ridgemoor Properties Limited and Reading Borough Council	Appeal allowed and notice quashed. Held that the company were not carrying out property management work
PR/2017/0027	Alliya Umer (Diverse Lettings Limited) and Kirklees Council	Notice varied and penalty reduced from £5,000 to £4,500 to acknowledge a trajectory of compliance
PR/2017/0031	Yasir & Co Ltd and London Borough of Newham	Appeal dismissed and £5,000 penalty upheld
PR/2017/0032	Mr Zulfikar Shakoor (T/a Homes 4U Direct) and London Borough of Newham	Notice varied and penalty reduced from £5,000 to £2,000 as the breach was only of short duration

Display of Prescribed Information Tribunal Decisions		
PR/2016/0005	V and V Properties Ltd and Islington Council	Appeal dismissed and £2,000 penalty upheld
PR/2016/0008	Uxdale Ltd and London Borough of Islington	Appeal dismissed and £8,000 penalty upheld for four breaches
PR/2016/0009	Alexanders Property Consultants Ltd and London Borough of Camden	Notice varied and penalty reduced from £10,200 to £5,200 as it was considered to be two breaches
PR/2016/0012	Ringley Agency Ltd and London Borough of Camden	Notice varied and penalty reduced from £5,000 to £3,000 as it was considered to be one breach and to avoid financial hardship
PR/2016/0014	Southwood Property Services Ltd and Reading Borough Council	Appeal dismissed and £5,000 penalty upheld
PR/2016/0021	Oakford Estates Limited and London Borough of Camden	Notice varied and penalty reduced from £2,500 to £1,250 as it was considered to be one breach
PR/2016/0022	Avas Residential Property Services Limited and London Borough of Tower Hamlets	Notice varied and penalty reduced from £5,000 to £3,850
PR/2016/0036	Roxflex Services Limited and London Borough of Newham	Appeal allowed and notice quashed due to a procedural error
PR/2016/0037	Flavio Costa Properties Limited and London Borough of Newham	Notice varied and penalty reduced from £10,000 to £4,000 as it was considered to be one breach
PR/2016/0039	London Corporate Apartments Ltd and London Borough of Tower Hamlets	Appeal dismissed, £5,000 penalty upheld and agent ordered to pay £2,700 costs for unreasonable behaviour
PR/2016/0050	Metropole Properties Limited and Westminster City Council	Notice varied and penalty reduced from £7,500 to £5,000 as it was considered to be one breach
PR/2017/0004	Oliver Franklin Limited and London Borough of Tower Hamlets	Appeal dismissed and £5,000 penalty upheld. Application to set aside the decision also refused
PR/2017/0006	Abid Sukander (Trading as A S Properties) and London Borough of Newham	Notice varied and penalty reduced from £10,000 to £5,000 as it was considered to be one breach
PR/2017/0007	M & M Europe Limited and London Borough of Newham	Notice varied and penalty reduced from £10,000 to £5,000 as it was considered to be one breach
PR/2017/0011	Central Park Estates Limited and London Borough of Newham	Notice varied and penalty reduced from £8,000 to £4,000 as it was considered to be one breach
PR/2017/0012	Marcus James T/a Marcus James (UK) Limited and London Borough of Newham	Appeal dismissed and £10,000 penalty upheld for failing to display information instore and on the agent's website
PR/2017/0015	Homegain Limited and London Borough of Newham	Appeal dismissed and £7,500 penalty upheld for failing to display information instore and on the agent's website
PR/2017/0018	Countrywide Residential Services Ltd and London Borough of Barking & Dagenham	Notice varied and penalty reduced from £5,000 to £4,000 due to error in Notice of Intent
PR/2017/0019	Prime Lodge Estates and London Borough of Barking and Dagenham	Appeal dismissed and £10,000 penalty upheld for failing to display information instore and on the agent's website
PR/2017/0020	Anglowide Estates and Mortgages Ltd and London Borough of Barking & Dagenham	Notice varied and penalty reduced from £9,000 to £4,500 as it was considered to be one breach
PR/2017/0021	Top Supports Estate Agents Limited and London Borough of Barking & Dagenham	Notice varied due to error in Notice of Intent and penalty reduced from £10,000 to £3,000 as it was considered to be one breach and to avoid financial hardship
PR/2017/0024	Station Estates Ltd and London Borough of Newham	Notice varied and penalty reduced from £10,000 to £4,500 as it was considered to be one breach and to acknowledge a trajectory of compliance
PR/2017/0025	Frognal Estates Limited and London Borough of Camden	Appeal dismissed and £15,000 penalty upheld for several breaches
PR/2017/0029	Filtons Stratford Ltd and London Borough of Newham	Notice varied and penalty reduced from £11,000 to £5,000 as it was considered to be one breach
PR/2017/0044	Abbey Property Hampstead Ltd and London Borough of Camden	Appeal dismissed and £5,000 penalty upheld
PR/2017/0045	The Vita Property Group Ltd and London Borough of Camden	Appeal dismissed and £5,000 penalty upheld
PR/2017/0048	Next Property Ltd and Westminster City Council	Appeal dismissed and £5,000 penalty upheld

Redress Scheme & Display of Prescribed Information Tribunal Decisions		
PR/2016/0047 PR/2016/0048 PR/2016/0049	Centrepoint Property Limited and London Borough of Newham	Appeal dismissed and £15,000 penalty upheld for three breaches
PR/2016/0052 PR/2016/0053	Paul Lawson T/a Howard Estates and Westminster City Council	Appeal allowed and notice quashed as it was served on the wrong legal entity
PR/2016/0055 PR/2016/0056 PR/2016/0057	Jeremy James and Co Limited and Westminster City Council	Consent Order made requiring payment of £9,000 penalty at a rate of £3,000 per month over 3 months

Other Tribunal Decisions		
PR/2016/0031 PR/2016/0034	The Flat Shop Limited and Plymouth City Council	The Tribunal refused to grant an extension of time for an appeal to be submitted
PR/2018/0020	Xpress Link Limited and London Borough of Tower Hamlets	The Tribunal refused to grant an extension of time for an appeal to be submitted

Appendix 6: Legislation and key reference documents

Relevant legislation includes:

Local Government (Miscellaneous Provisions) Act 1976, section 16

The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (SI 2009 No. 1976)

Enterprise and Regulatory Reform Act 2013

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc)(England) Order 2014 (SI 2014 No. 2359)

Consumer Rights Act 2015, Part 3, Chapter 3 (here) and Schedule 9 (here)

Consumer Rights Act 2015 (Commencement No. 2) (Wales) Order 2015

The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2018

Key reference documents include:

Letting Agents and Property Managers – which government approved redress scheme do you belong to? MHCLG, October 2014

Improving the Private Rented Sector and Tackling Bad Practice – A Guide for Local Authorities. MHCLG, March 2015

Estate Agents Enforcement Toolkit produced by the National Trading Standards Estate Agency Team at Powys County Council

Applying to become an approved client money protection scheme - guidance for prospective schemes, MHCLG, July 2018

Appendix 7: Example letters and notices

Example advisory letter to letting agent

Dear

Property Management Work/Letting Agency Work,
Requirement to belong to a redress scheme and display certain prescribed information

I am writing to draw your attention to legislation that impacts on the way you operate your business.

Since 1 October 2014, it has been a requirement for persons who are engaged in property management work or letting agency work (subject to certain exceptions) to belong to a government approved redress scheme for dealing with complaints in connection with that work.

The government has approved two redress schemes for this purpose:

Property Redress Scheme
Premiere House
1st Floor Elstree Way
Borehamwood WD6 1JH

Telephone: 0333 321 9418
Website: **www.theprs.co.uk**

The Property Ombudsman
Milford House
43-55 Milford Street
Salisbury Wiltshire SP1 2BP

Telephone: 01722 333306
Website: **www.tpos.co.uk**

It is a legal requirement that your business is registered with one of these schemes and failure to comply could result in a penalty of up to £5,000.

I would also draw your attention to the requirement to display certain information in every business premises where you meet clients face to face.

You are required to display:

- **list of all relevant landlord and tenant fees;**
- **A statement saying which redress scheme you belong to; and**
- **A statement saying whether you belong to a client money protection scheme.**

The information must be clearly displayed where it is likely to be seen by clients who visit your business premises. It is not sufficient to display the information in staff only areas, or to only provide the information on request.

This information must also be displayed on your company website, if you have one.

Failure to display this information both in-store and on your company website could result in a penalty of up to £5,000 for each breach.

I would ask that you carry out all necessary checks to ensure you are complying with these legal requirements as we are committed to ensuring these laws are properly enforced in the interests in consumer protection. Should you require any further information or advice, please do not hesitate to contact me.

Yours

Example warning letter to letting agent

Dear

Property Management Work / Letting Agency Work
Requirement to belong to a redress scheme and display certain prescribed information

I recently wrote to draw your attention to legislation that impacts on the way you operate your business.

I am concerned that you may be in breach of the legislation and so it is important that you address this matter forthwith in order to avoid the risk of legal action.

Since 1 October 2014, it has been a requirement for persons who are engaged in property management work or letting agency work (subject to certain exceptions) to belong to a government approved redress scheme for dealing with complaints in connection with that work.

The government has approved two redress schemes for this purpose:

Property Redress Scheme
Premiere House
1st Floor Elstree Way
Borehamwood WD6 1JH

Telephone: 0333 321 9418
Website: **www.theprs.co.uk**

The Property Ombudsman
Milford House
43-55 Milford Street
Salisbury Wiltshire SP1 2BP

Telephone: 01722 333306
Website: **www.tpos.co.uk**

It is a legal requirement that your business is registered with one of these schemes.

I would also draw your attention to the requirement to display certain information in every business premises where you meet clients face to face.

You are required to display:

- **list of all relevant landlord and tenant fees;**
- **a statement saying which redress scheme you belong to; and**
- **a statement saying whether you belong to a client money protection scheme.**

The information must be clearly displayed where it is likely to be seen by clients who visit your business premises. It is not sufficient to display the information in staff only areas, or to only provide the information on request.

This information must also be displayed on your company website, if you have one.

It is important that you carry out all necessary checks to ensure you are complying with these legal requirements as we are committed to ensuring these laws are properly enforced in the interests in consumer protection.

I would also ask that you complete and return the attached form so we can update our records and confirm that your business is now compliant.

Should you fail to comply with the requirements by [insert date 14 days ahead], it is my intention to start formal legal action that could result in a financial penalty of up to £5,000 for each breach of the requirements. Should you require any further information or advice, please do not hesitate to contact me.

Yours

Letting Agent Enquiry Form

Name of letting agent	
Full Address including postcode	
Telephone	
Email	
Name of person completing the form	
Position in the company	

Which government approved redress scheme do you belong to?

	Tick	Membership no.	Date joined
Property Redress Scheme	☐		
Property Ombudsman	☐		

Is all the following information clearly displayed in-house so that it is easily accessible to clients who visit your premises?

	Tick	Where displayed?
All relevant landlord and tenant fees	☐	
Client money protection status	☐	
Redress scheme membership	☐	

Is all the information mentioned in item 2 also displayed on your company website?

Yes		No		We don't have a website	

Webpage where information located:

Please return this form within 14 days from the date on the letter to:

[insert name and address]

Example Notice of Intent (Redress Scheme Membership) (England)

The Enterprise and Regulatory Reform Act 2013 s83 – 88

The Redress Schemes for Letting Agencies Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

Notice of Intent

To: Name

Address

It is a requirement under the above regulations for persons who are engaged in property management work or letting agency work to belong to a government approved redress scheme for dealing with complaints in connection with that work.

The Council is satisfied, on the balance of probabilities that you are or have been engaged in property management and/or letting agency work whilst not a member of a government approved redress scheme [or you were not a member of a government designated redress scheme at a time when you were required to be] and you have therefore failed to comply with the above regulations.

The Council therefore intends to issue you with a Final Notice imposing a monetary penalty of £5,000 **[or such lessor amount as specified]**.

Before a Final Notice is served, you have a right to make written representations and objections in relation to the proposed imposition of a monetary penalty within 28 days beginning the day after the date on which the notice of intent was sent.

Any representations should be sent to **[insert name, title and address]**
Dated this [#] day of [##] 20##

Signed:

Officer Name

Post title

Example Notice of Intent (Display of Prescribed Information) (England)

The Consumer Rights Act 2015, s83 – 88 & Schedule 9

Notice of Intent

To: Name

Address

It is a requirement under the above Act for letting agents to publish a list of the agent's relevant fees at each of the agent's premises at which the agent deals face to face with persons using or proposing to use services to which the fees relate, and to display the list of fees where it is likely to be seen by such persons.

The list of fees must include:

a) description of each fee that is sufficient to enable a person who is liable to pay it to understand the service or cost that is covered by the fee or the purpose for which it is imposed (as the case may be);

b) in the case of a fee which tenants are liable to pay, an indication of whether the fee relates to each dwelling-house or each tenant under a tenancy of the dwelling-house; and

c) the amount of each fee inclusive of any applicable tax or, where the amount of a fee cannot reasonably be determined in advance, a description of how that fee is calculated.

If the agent holds money on behalf of persons to whom the agent provides services as part of that work, the agent must also publish with the list of fees, a statement of whether the agent is a member of a client money protection scheme.

The agent must also publish with the list of fees, a statement that indicates that the agent is a member of a redress scheme and that gives the name of the redress scheme.

This information must also be published on the agent's website, if it has one.

The Council is satisfied, on the balance of probabilities that you are or have been engaged in letting agency work whilst not complying with this requirement. The precise nature of the breach is that:

For example: "You have failed in your duty to publish a full list of all your relevant landlord fees on your website"

_____

_____

_____

and you have therefore failed to comply with the requirements specified in Section 83 of the above Act.

The Council therefore intends to issue you with a Final Notice imposing a monetary penalty of £5,000 **[or such lessor amount as specified].**

Before a Final Notice is served, you have a right to make written representations in relation to the proposed imposition of a monetary penalty within 28 days beginning the day after that on which the notice of intent was sent.

Any representations should be sent to **[insert name, title and address]**

Dated this [#] day of [##] 20##

Signed:

Officer Name
Post title

Example Notice of Intent (Display of Prescribed Information) (Wales)

The Consumer Rights Act 2015, s83 – 88 & Schedule 9

Notice of Intent

To: Name

Address

It is a requirement under the above Act for letting agents to publish a list of the agent's relevant fees at each of the agent's premises at which the agent deals face to face with persons using or proposing to use services to which the fees relate, and to display the list of fees where it is likely to be seen by such persons.

The list of fees must include:

a) a description of each fee that is sufficient to enable a person who is liable to pay it to understand the service or cost that is covered by the fee or the purpose for which it is imposed (as the case may be);
b) in the case of a fee which tenants are liable to pay, an indication of whether the fee relates to each dwelling-house or each tenant under a tenancy of the dwelling-house; and
c) the amount of each fee inclusive of any applicable tax or, where the amount of a fee cannot reasonably be determined in advance, a description of how that fee is calculated.

This information must also be published on the agent's website, if it has one.

The Council is satisfied, on the balance of probabilities that you are or have been engaged in letting agency work whilst not complying with this requirement. The precise nature of the breach is that:

_____

_____

and you have therefore failed to comply with the requirements specified in Section 83 of the above Act.

The Council therefore intends to issue you with a Final Notice imposing a monetary penalty of £5,000 **[or such lessor amount as specified].**

Before a Final Notice is served, you have a right to make written representations in relation to the proposed imposition of a monetary penalty within 28 days beginning the day after that on which the notice of intent was sent.

Any representations should be sent to **[insert name, title and address]**

Dated this [#] day of [##] 20##

Signed:

Officer Name
Post title

Example Final Notice (Redress Scheme Membership)

The Enterprise and Regulatory Reform Act 2013 s83 - 88

The Redress Schemes for Letting Agencies Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

Final Notice

To: Name

Address

It is a requirement under the above regulations for persons who are engaged in property management work or letting agency work to belong to a government approved redress scheme for dealing with complaints in connection with that work.

The Council is satisfied, on the balance of probabilities that on **[insert date]** you were engaged in property management and/or letting agency work and that you were not a member of a government approved redress scheme and you have therefore failed to comply with the above regulations.

In reaching a decision, the Council has had regard to any representations received in response to the Notice of Intent, or No representations were received following service of the Notice of Intent **[delete as applicable]**.

The Council is therefore imposing a monetary penalty of £5,000 **[or such lessor amount as specified]**. You are required to pay this amount to the Council within 30 days of the date of this Notice unless you appeal against the Notice, in which case the Notice is suspended until the appeal is finally determined or withdrawn. Details of how to pay are listed on the reverse of this notice.

You can appeal against this Notice to the First-tier Tribunal (General Regulatory Chamber) within 28 days beginning the day after the date on which this notice was sent. The grounds for appeal are that:

a) the decision to impose a monetary penalty was based on an error of fact;
b) the decision was wrong in law;
c) the amount of the monetary penalty is unreasonable;
d) the decision was unreasonable for any other reason.

The Tribunal may quash the final notice, confirm the final notice or, vary the final notice. You can contact the First-tier Tribunal (General Regulatory Chamber) at:

General Regulatory Chamber
HM Courts and Tribunals Service PO Box 9300
Leicester LE1 8DJ

Email: grc@hmcts.gsi.gov.uk
Telephone: 0300 123 4504

If you do not pay the amount of the monetary penalty as directed above, and you do not appeal, then the Council may recover the monetary penalty on the order of a court, as if payable under a court order.

This means that the Council may, for example, get an order to:

- **send bailiffs**
- **obtain attachment of earnings order**
- **take money that you are owed by someone else from your bank account (a third party debt order)**
- **secure the debt against any property you own (a charging order).**

Dated this [#] day of [##] 20##

Signed:

Officer Name
Post title

Example Final Notice (Display of Prescribed Information) (England)

The Consumer Rights Act 2015, s83 – 88 & Schedule 9

Final Notice

To: Name

Address

It is a requirement under the above Act for letting agents to publish a list of the agent's relevant fees at each of the agent's premises at which the agent deals face to face with persons using or proposing to use services to which the fees relate, and to display the list of fees where it is likely to be seen by such persons.

If the agent holds money on behalf of persons to whom the agent provides services as part of that work, the agent must also publish with the list of fees, a statement of whether the agent is a member of a client money protection scheme.

The agent must also publish with the list of fees, a statement that indicates that the agent is a member of a redress scheme and that gives the name of the redress scheme.

This information must also be published on the agent's website, if it has one.

The Council is satisfied, on the balance of probabilities that on **[insert date]** you were engaged in letting agency work and that you have failed to comply with the above regulations. In particular, you have:

Failed to publish a list of the agent's relevant fees, a statement saying whether you belong to a client money protection scheme and which redress scheme you belong to **[delete as appropriate]** at **[insert premises name and address]** where you deal face to face with persons using or proposing to use services to which the fees relate and you have failed to display all the information where it is likely to be seen by such persons; and/or

Failed to publish a list of the agent's relevant fees, a statement saying whether you belong to a client money protection scheme and which redress scheme you belong to [delete as appropriate] on the company's website at **[insert website url]**.

In reaching a decision, the Council has had regard to any representations received in response to the Notice of Intent, or No representations were received following service of the Notice of Intent **[delete as applicable]**.

You can appeal against this Notice to the First-tier Tribunal (General Regulatory Chamber) within 28 days beginning with the day after that on which this notice was sent. The grounds for appeal are that:

a) the decision to impose a monetary penalty was based on an error of fact;
b) the decision was wrong in law;
c) the amount of the monetary penalty is unreasonable;
d) the decision was unreasonable for any other reason.

The Tribunal may quash the final notice, confirm the final notice or, vary the final notice. You can contact the First-tier Tribunal (General Regulatory Chamber) at:

General Regulatory Chamber
HM Courts and Tribunals Service
PO Box 9300
Leicester LE1 8DJ

Email: **grc@hmcts.gsi.gov.uk**
Telephone: 0300 123 4504

If you do not pay the amount of the monetary penalty as directed above, and you do not appeal, then the Council may recover the monetary penalty on the order of a court, as if payable under a court order.

This means that the Council may, for example, get an order to:

- **send bailiffs**
- **obtain attachment of earnings order**
- **take money that you are owed by someone else from your bank account (a third party debt order)**
- **secure the debt against any property you own (a charging order).**

Dated this [#] day of [##] 20##

Signed:

Officer Name
Post title

Example Final Notice (Display of Prescribed Information) (Wales)

The Consumer Rights Act 2015, s83 – 88 & Schedule 9

Final Notice

To: Name

Address

It is a requirement under the above Act for letting agents to publish a list of the agent's relevant fees at each of the agent's premises at which the agent deals face to face with persons using or proposing to use services to which the fees relate, and to display the list of fees where it is likely to be seen by such persons.

This information must also be published on the agent's website, if it has one.

The Council is satisfied, on the balance of probabilities that on **[insert date]** you were engaged in letting agency work and that you have failed to comply with the above regulations. In particular, you have:

Failed to publish a list of the agent's relevant fees at **[insert premises name and address]** where you deal face to face with persons using or proposing to use services to which the fees relate and you have failed to display the information where it is likely to be seen by such persons; and/or

Failed to publish a list of the agent's relevant fees on the company's website at **[insert website url]**.

In reaching a decision, the Council has had regard to any representations received in response to the Notice of Intent, or No representations were received following service of the Notice of Intent **[delete as applicable].**

The Council is therefore imposing a monetary penalty of £5,000 **[or such lessor amount as specified]**. You are required to pay this amount to the Council within 28 days beginning with the day after that on which this Notice was sent, unless you appeal against the Notice, in which case the Notice is suspended until the appeal is finally determined or withdrawn. Details of how to pay are listed on the reverse of this notice.

You can appeal against this Notice to the Residential Property Tribunal within 28 days beginning with the day after that on which this notice was sent. The grounds for appeal are that:

a) the decision to impose a monetary penalty was based on an error of fact;
b) the decision was wrong in law;
c) the amount of the monetary penalty is unreasonable;
d) the decision was unreasonable for any other reason.

The Tribunal may quash the final notice, confirm the final notice or, vary the final notice. You can contact the Residential Property Tribunal at:

The Residential Property Tribunal Wales
1st Floor, West Wing Southgate House
Wood Street
Cardiff CF10 1EW

Email: **rpt@gov.wales**
Telephone: 03000 256 146

If you do not pay the amount of the monetary penalty as directed above, and you do not appeal, then the Council may recover the monetary penalty on the order of a court, as if payable under a court order.

This means that the Council may, for example, get an order to:

- **send bailiffs**
- **obtain attachment of earnings order**
- **take money that you are owed by someone else from your bank account (a third party debt order)**
- **secure the debt against any property you own (a charging order).**

Dated this [#] day of [##] 20##

Signed:

Officer Name
Post title

Appendix 8: Example Statement of Truth

Witness Statement of
AB for the Respondent
Statement made on [enter date] and consists of x pages

REF NO: PR/##

IN THE FIRST TIER TRIBUNAL GENERAL REGULATORY CHAMBER BETWEEN
XXX Appellant
-and-
THE LONDON BOROUGH OF YYY Respondent

WITNESS STATEMENT OF AB

I [AB], make this statement in the knowledge that it will be placed before the First-tier Tribunal as my evidence and that the contents of this statement are true to the best of my knowledge and belief. Except where the contrary is indicated I make this statement from matters which are personally known to me.

1. [YYY Council] is authorised to enforce the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 and the Trading Standards team has delegated responsibility for the enforcement of this Order.

2. I am the [add position] of the Trading Standards team and as part of that role, I have delegated authority to determine whether it is appropriate to impose a monetary penalty on a person who, on the balance of probabilities, has failed to join a redress scheme under Article 3 of that Order, and also to determine the amount of that penalty.

3. In October 2014 the Department for Communities and Local Government issued guidance on the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014. Section 3 of that guidance states

"The expectation 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. It will be up to the enforcement authority to decide what such circumstances might be, taking into account any representations the lettings agent or property manager makes during the 28 day period following the authority's notice of intention to issue a fine. In the early days of the requirement coming into force, lack of awareness could be considered; nevertheless an authority could raise awareness of the requirement and include the advice that non-compliance will be dealt with by an immediate sanction. Another issue which could be considered is whether a £5,000 fine would be disproportionate to the turnover/scale of the business or would lead to an organisation going out of business. It is open to the authority to give a lettings agent or property manager a grace period in which to join one of the redress schemes rather than impose a fine". I attach a copy of this guidance as **Exhibit 1**.

4. On **[add date]** I considered information provided by [xxxx] Trading Standards Officer regarding [xxx Business]. From this information, I was satisfied on the balance of probabilities that on [add date] [xxx Business] had not joined a redress scheme as required by the Order. I therefore considered that it was appropriate to issues a monetary penalty. Furthermore, I took into account representation received from [xxx Business] together with information received from [xxx officer] and considered that it was appropriate to impose the monetary penalty of £5000.00 [or less].

5. In considering this penalty I took the following factors into account; [List relevant factors e.g.]

- [xxx Business] had been given advice by this service about the requirement to join a scheme,
- [xxx Business] were not a new business,
- The Director of [xxx Business] was also a Director of a sister company and this company was registered with TPOS under the scheme.

In taking these factors into account, I concluded that lack of awareness of the scheme could not be considered a factor. Furthermore, there was nothing in the representation from [xxx Business] that indicated that a [£000] fine would be disproportionate to the turnover/scale of the business or would lead to an organisation going out of business.

I believe that the facts stated in this witness statement are true.

Signed

Date

Appendix 9: Example Consent Order

REF. NO: PR/##
IN THE FIRST TIER TRIBUNAL
(GENERAL REGULATORY CHAMBER)
PROFESSIONAL REGULATION

BETWEEN:

XXX	Appellant
-and-	
THE LONDON BOROUGH OF YYY	Respondent

CONSENT ORDER
Rule 37
Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009

This Order is made in accordance with Rule 37 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 and the Tribunal Directions dated ## and is agreed between the parties.

It is hereby ordered by Consent, that;

1. ##

2. ##

3. ##

We, the undersigned hereby agree to an order being made in the above terms

Signed _____ Signed _____

Name _____ Name _____

Representative for the Appellant Representative for the Appellant

_____ _____

Dated _____ Dated _____

Appendix 10: Disclaimer

In preparing this guidance, the National Approved Letting Scheme wish to make it clear that legislation may change over time and the advice given is based on the information available at the time the guidance was produced. It is not necessarily comprehensive and is subject to revision in the light of further information.

Only the Courts, the First-tier Tribunal or the Upper Tribunal can interpret statutory legislation with any authority. This advice is not intended to be a definitive guide to, nor a substitute for the relevant law. Council officers are advised to contact their legal department to ensure that all their policies and procedures fully comply with the relevant law.

The National Approved Letting Scheme

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Hatherley Lane
Cheltenham
GL51 6SH
Tel: 01242 581712
Email: info@nalscheme.co.uk

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