

Subject:	The Redress Schemes for Lettings Agency and Property Management Work	Status:	For Publication
Report to:	Cabinet	Date:	26 th November 2014
Report of:	Health and Housing Manager	Portfolio Holder:	Housing and Environmental Health
Key Decision:	<input checked="" type="checkbox"/> Forward Plan <input checked="" type="checkbox"/>	General Exception	<input type="checkbox"/> Special Urgency <input type="checkbox"/>
Community Impact Assessment:	Required: Yes	Attached:	Yes
Biodiversity Impact Assessment	Required: No	Attached:	No
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1.	RECOMMENDATION(S)
1.1	To give the Director of Business authority to take any and all steps necessary to exercise and/or discharge the Council's functions, powers and duties under The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014.
1.2	That any money received from the enforcement of the Order is used to support the Health, Housing and Regeneration budget to undertake work to improve standards within the Private Rented Sector.
1.3	All future negotiations and minor amendments to be delegated to the Director of Business in consultation with the Portfolio Holder.

2. PURPOSE OF REPORT

- 2.1 To amended the Council's Scheme of Delegation to give the Director of Business authority to take any and all steps necessary to exercise and/or discharge the Council's functions, powers and duties under The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014.

3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following corporate priorities:
- Priority 1: Regenerating Rossendale:** This priority focuses on regeneration in its broadest sense, so it means supporting communities that get on well together, attracting investment, promoting Rossendale, as well as working as an enabler to promote the physical regeneration of Rossendale.
- Priority 2: Responsive Value for Money Services:** This priority is about the Council working collaboratively, being a provider, procurer and a commissioner of services that are efficient and that meet the needs of local people.

4. RISK ASSESSMENT IMPLICATIONS

- 4.1 There are no specific risk issues for members to consider arising from this report.

5. BACKGROUND AND OPTIONS

- 5.1 The Government want to expand the Private Rented Sector and improve the quality of the condition and management practices. Under the quality improvements from the 1st October

2014 all businesses involved in letting or property management work are required to join one of the three Government approved property ombudsman redress schemes. Failure of which will lead to a fine.

- 5.2 To join one of the three ombudsman redress schemes the businesses must show that they meet the industry Code of Practice. Tenants, including prospective tenants, and Landlords, can complain about poor services or hidden fees. If a complaint is found proven then schemes have a number of options including requiring an apology, issuing a reprimand, order compensation, fine a member or expel a member.
- 5.3 Regarding compensation, the amounts payable are capped at £25,000 and if an aggrieved party wishes to claim more they have to proceed via the Courts; rather than the Ombudsman Scheme. Members of the Scheme are bound by the Scheme decision. If expelled then they are likely be refused access to membership of another scheme so effectively they could not then legally operate if no scheme will accept them into membership.
- 5.4 There are in excess of 30 businesses or persons in Rossendale undertaking letting agency or management work on behalf of property owners. Whilst many businesses provide a good, professional service there are some that do not. Several managing agents start a business with no or little knowledge of their roles and responsibilities. The requirement to be a member of a redress scheme will compel businesses to meet industry codes of practices which should subsequently improve management standards. This will complement the work undertaken by Housing in the private rented sector which also aims to improve management practices.
- 5.5 There will be those that try to avoid joining a redress scheme, and the enforcing authority will be district councils. Where the authority is satisfied on the balance of probabilities that a person has failed to join a redress scheme, the authority may require the person to pay a monetary penalty to a maximum amount of £5000.
- 5.6 A person who is served the monetary penalty may appeal to the First-Tier Tribunal on the grounds of a decision being based on an error of fact, the decision being wrong in law, the penalty being unreasonable or the decision was unreasonable for any other reason. Where the person appeals the final notice is suspended until the Tribunal make a decision. The Tribunal can quash, confirm or vary the final notice.
- 5.7 If the monetary penalty notice is not paid the Council may recover the monetary penalty on the order of a court, as if payable under a court order. Any amount received under a monetary penalty notice or Court Order can be used by the authority for any of its functions.
- 5.8 Officers have produced a Fact Sheet detailing the new legal requirements of managing and letting agents', which has been sent to all those known to the Authority.
- 5.9 It is anticipated that through the enforcement of this new legislation some new income may be generated from those persons that flaunt the law. At this stage we are unable to quantify how much this may be as we do not know how many enforcement cases will need to be taken although it is envisaged to be minimal.
- 5.10 There will be no direct expenditure on the enforcement of the new legislation other than Officer time. As it is anticipated that this time will be minimal it can be delivered under the current Health and Housing staffing structure. This will be monitored and kept under review.

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

6.1 The penalty structure and its methodology has yet to be finalised. It is intended that once completed it will be reported to Members as part of the annual budget fees and charges.

7. MONITORING OFFICER

7.1 This scheme was brought in as part of the Government's proposals for improving standards in the private rented sector. If an Agent does not join a government authorised consumer redress scheme they can be subject to a £5,000 fine from the local authority and can be ultimately closed down if they continue to breach their legal requirement to join such a scheme.

8. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT

8.1 Consultation has been undertaken with the Portfolio Holder, members of the public, stakeholder groups.

8.2 An equality impact assessment has been undertaken and no negative or disproportionate impact on any protected equality groups. There will be a wider community benefit for all tenants in the Borough, and in particular for those that are most vulnerable due to their circumstance by ensuring that the Council can robustly discharge functions and its powers under The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014.

9. CONCLUSION

9.1 This new legislation has been brought into force by Government to drive up standards in the Private Rented Sector. There are in excess of 30 businesses or persons in Rossendale undertaking letting or property management work on behalf of property owners. Whilst many provide a good service, there are several that have very little knowledge of what their roles and responsibilities entail. Enforcing this legislation gives the Council another tool to improve standards, drive out Rogue Landlords; and improve the reputation of the Private Rented Sector in Rossendale.

9.2 The training and development of Managing and Letting Agents in relation to their legal responsibilities with particular reference to housing conditions may assist in the reduction of housing disrepair complaints.

No Background Papers
