



East  
Northamptonshire  
Council

## Policy and Resources Committee – 19 January 2015

### Private Sector Housing Redress Scheme

#### Purpose of report

This report advises members of new legislative requirements on letting agents and property management companies.

#### Attachment(s)

Appendix 1: Redress Scheme Equalities Impact Assessment

### 1.0 Background

- 1.1 Privately rented properties make up an important part of the housing mix within our district. The provision of well managed and looked after privately rented properties is key and recently a number of changes have been made by the government to give private tenants more control over the property they choose and where to go if they are not getting the appropriate service.
- 1.2 As a result, new legislation came into force from 1<sup>st</sup> October 2014 that requires all letting agents or property management companies to be a member of an approved Redress Scheme. This does not apply to those renting out a single property. There are only 3 government approved schemes that they can join; these are The Property Ombudsman Limited, Ombudsman Services and Property Redress Scheme. Where it is found that a company is not a member of one of these schemes, they may be issued with a fine of up to £5,000.

### 2.0 Redress Schemes

- 2.1 The aim of the redress schemes is to provide a free, independent service for resolving disputes between letting/property management agents and their customers. Prior to 1<sup>st</sup> October 2014 membership of such schemes was voluntary and therefore tenants could only go to the local authority if their complaint related to Housing Act 2004 (housing disrepair complaints) and Protection from Eviction Act 1977 (illegal eviction and harassment of tenants complaints).
- 2.2 From 1<sup>st</sup> October, if a tenant wishes to complain about the service they have received from their letting or property management agent they can complain to the redress scheme to investigate. Each scheme has a member search function to determine which scheme a company operates under. If a complaint is upheld the schemes have a number of options:
- Require an apology
  - Issue a reprimand
  - Order compensation
  - Fine a member
  - Expel a member
- 2.3 Compensation is 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's decision but complainants do not have to accept the decision. They can go to Court instead if they are not happy with the outcome.

- 2.4 If an agent is expelled they are likely be refused access to membership of another scheme; this would mean that they could not then legally operate if no scheme will accept them into membership.
- 2.5 If the tenant is unable to find their agent on any of the sites, they will need to contact the local authority to seek advice and for us to investigate. Following our investigations and on the balance of probabilities, if the company is not a member of any scheme the Council can issue a fine of up to £5,000. The company will still be required to join a scheme.

### **3.0 Important issues to consider**

- 3.1 At this time we have no register of letting or property management agents who are based within our district. These companies may be based within our district but many will also be based outside of our area but manage properties in our area. The Countywide Housing Group has recognised this issue and is looking to create one consistent process for investigating and dealing with complaints. For those outside the county we will notify the relevant council.
- 3.2 It is our intention to write to all companies that we are currently aware of, advising them of the requirement and the implications of not being a member of an appropriate scheme. We will also publicise the new requirements through press releases. Following initial work, a search for membership of a scheme will take place upon receipt of any housing related complaint within Environmental Services and will form part of our normal housing inspection and enforcement process.
- 3.3 Recent government guidance states 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 is up to the authority to decide what those circumstances might be, taking into account any representations an agent may put forward during the 28 day period following the notice of intention to issue a fine. The local authority may also determine that a £5,000 fine is disproportionate to the turnover/scale of the business or would lead to the company going out of business. It is recommended that members approve the fine to be set at £5,000 and that this may be reduced on a case by case basis determined by the Head of Environmental Services in consultation with Chair of this committee.

### **4.0 Equality and Diversity Implications**

- 4.1 An initial Equality Impact Assessment has been completed and provided in Appendix A following the introduction of this new power. There are no negative impacts assessed that require a detailed assessment to take place.

### **5.0 Legal Implications**

- 5.1 There are no legal implications in the adoption of this power.

### **6.0 Resource and Financial Implications**

- 6.1 Section 10 of the order stipulates how to recover the monetary penalty if it is not paid. A certificate signed by the Chief Finance Officer stating that the amount due has not been paid will provide conclusive evidence of that fact to the court who will issue a formal court order requiring payment.
- 6.2 Sums received by the authority from the monetary penalty may be used by the authority for any of its functions.

## 7.0 Constitutional Implications

7.1 In order for officers to begin advising companies of the new requirements and to use the powers provided, members are required to adopt these powers into the Council's constitution. Delegation for this function is recommended to the Head of Environmental Services, Environmental Protection Manager and the Housing Technical Officers.

## 8.0 Corporate Outcomes

8.1 The adoption of this duty contributes to the following Corporate Outcomes:

- Good Quality of Life – To improve the quality of the private rented sector by ensuring the letting and property management companies are part of a recognised scheme.
- Effective Partnership Working – Consistently applying the legislation across the county.


## 9.0 Recommendation

9.1 The Committee is recommended to

- (1) Approve the Equalities Impact Assessment as detailed in Appendix A.  
*(Reason – To comply with Equality Act 2010)*
- (2) Agree the Monetary Fee to be imposed of £5,000 unless otherwise determined by the Head of Environmental Services and Chairman of the Policy and Resources Committee.  
*(Reason – To comply with government guidance)*

### Resolve to Recommend to full Council:

- (1) That Part 6 of the Enterprise and Regulatory Reform Act 2013 Part and the Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 be adopted and authority delegated to officers as outlined at section 7.1 of the report.

<b>Legal</b>	Power: Enterprise and Regulatory Reform Act 2013 (Part 6) Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014	
	Other considerations:	
<b>Background Papers:</b>		
<b>Person Originating Report:</b>	Jenny Walker, Environmental Protection Manager ☎ 01832 742209 ✉ jwalker@east-northamptonshire.gov.uk	
<b>Date:</b> 10 <sup>th</sup> November 2014		
<b>CFO</b> 09.01.2015 	<b>MO</b>	<b>CX</b>



## EIA Initial Screening Form – Committee decision

<b>1. Decision being taken:</b>	Introduction of redress scheme enforcement
<b>2. Name and Job title / role of person completing Initial Screening:</b>	Jenny Walker Environmental Protection Manager
<b>3. What is the main purpose of the Service or Policy under discussion?</b>	To include the new Redress Scheme enforcement duties within the Scheme of Delegation and deliver enforcement to those not a member of the scheme
<b>4. List the main activities of the Service or Policy under discussion</b>	To investigate whether a company should be a member of a redress scheme, determine if they are a member of one of the 3 approved schemes, notify those who aren't giving an opportunity to remedy and for those who fail to do so issue a warning and then a fine of £5,000 (in most cases)
<b>5. Who are the main beneficiaries of the Service or Policy under discussion?</b>	Tenants of letting and property management agencies to ensure they have a route by which they can complain about the service they have received and that the redress scheme will investigate and hold the companies to account.
<b>6. How is the success of the Service or Policy under discussion measured?</b>	The number of companies who join a scheme when advised rather than be issued with a fine
<b>7. Are equality monitoring systems for the Service or Policy under discussion in place?</b>	No <i>(If yes give details)</i>

**8. Use the following table to indicate using a ✓:**

- a) Where you think that the decision being taken could have a positive impact on any of the groups or contribute to promoting equality of opportunity or improving relations within equality groups.
- b) Where you think that the decision being taken could have a negative impact on any of the equality groups i.e. it could disadvantage them.
- c) Where you think that the decision being taken could have a neutral impact on any of the equality group i.e. no impact

Equality Group	Positive Impact	Negative Impact	Neutral Impact	Reason
<b>Gender:</b>				
Women/Girls			✓	
Men/Boys			✓	
Transgender people			✓	
<b>Sexual Orientation:</b>				
Lesbians, gay men and bisexuals			✓	
<b>Race/Ethnicity:</b>				
White British people			✓	
White non-British people (including Irish people)			✓	
Asian or Asian British people			✓	
Black or Black British people			✓	
People of mixed heritage			✓	
Chinese people			✓	
Travellers (Gypsy/Roma/Irish heritage)			✓	
People from other ethnic groups			✓	
People who do not have English as their first language			✓	

Equality Group	Positive Impact	Negative Impact	Neutral Impact	Reason
<b>Disability:</b>				
Physical impairment, e.g mobility issues which mean using a wheelchair or crutches.			✓	
Sensory impairment, e.g blind/having a serious visual impairment, deaf/having a serious hearing impairment.			✓	
Mental health condition, e.g depression or schizophrenia			✓	
Learning disability/difficulty, e.g. Down's syndrome or dyslexia, or cognitive impairment such as autistic spectrum disorder			✓	
Long-standing illness or health condition, e.g. cancer, HIV. Diabetes, chronic heart disease or epilepsy			✓	
Other health problems or impairments ( <i>please specify if appropriate</i> )			✓	
<b>Age:</b>				
Older People (60+)			✓	
Children and Young People (see guidance for definition)			✓	
<b>Religion/Belief:</b>				
Christian			✓	
Buddhist			✓	
Hindu			✓	
Jewish			✓	
Muslim			✓	
Sikh			✓	
Other religion (including holding no belief)			✓	

Equality Group	Positive Impact	Negative Impact	Neutral Impact	Reason
<b>Other Potentially Affected Groups</b>				
Rural Isolation - People who live in rural areas e.g isolated geographically, lack of internet access			✓	
Socio-economic Exclusion – e.g. people who are on benefits, have low educational attainment, single parents, people living in poor quality housing, people who have poor access to services, the unemployed or any combination of these and the other protected strands	✓			The requirement to be a member of a redress scheme will enable those tenants who may live in poor quality housing or receiving poor service to seek an investigation into the management of the company which carries the possibility of compensation and other measures
Any other potentially affected groups ( <i>please specify</i> )			✓	
<b>9. If you have indicated that there is a negative impact on any group:</b>				
a) Is that impact against legislation?	Yes	No		
b) What is the level of impact?	High	Low		
10. Could you minimise or remove any negative impact that is of low significance?	N/A			
11. Could you improve a positive impact of the decision?				
12. If there is no evidence that the decision promotes equality of opportunity or improved relations, could it be adapted so that it does?	How?			
Head of Service signature				
<b>Date of Initial Screening:</b>				