

**HUNTINGDONSHIRE DISTRICT COUNCIL**

**Title/Subject Matter:** Enterprise and Regulatory Reform Act 2013  
Redress Schemes for Letting Agency Work and Property Management Work (Requirements to Belong to a Scheme) (England) Order 2014.

**Meeting/Date:** Licensing and Protection Committee – 21 June 2016

**Executive Portfolio:** Councillor Steve Criswell – Executive Councillor for Community Resilience.

**Report by:** Chris Stopford - Head of Community

**Ward(s) affected:** All

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**Executive Summary:**

The Redress Schemes for Letting Agency Work and Property Management Work (Requirements to Belong to a Scheme)(England) Order 2014 places a duty on those involved in such business to be a member of an approved scheme. Redress schemes provide an independent service for resolving disputes between letting agents, property managers and their customers. District Council's have enforcement responsibilities under the Order and can levy a monetary penalty of up to £5000 on any letting agent or property manager who is found to be in breach of the requirement.

**Recommendation:**

1. That the necessary amendments are made to the Council's Scheme of Delegation, such that the Head of Community be authorised to appoint suitably qualified officers to enforce the provisions specified in the Order.
2. That the Head of Community be authorised, in consultation with the relevant Executive Councillor, the value of the penalty charge for failure of businesses to be a member of an approved scheme.

## 1. PURPOSE OF THE REPORT

- 1.1 To seek authority to incorporate the powers and duties conferred on District Council's by the Redress Schemes for Letting Agency Work and Property Management Work (Requirements to Belong to a Scheme)(England) Order 2014 into the Council's Scheme of Delegation

## 2. BACKGROUND

- 2.1 The Redress Schemes for Letting Agency Work and Property Management Work (Requirements to belong to a Scheme etc.)(England) Order 2014 made under the Enterprise and Regulatory Reform Act 2013 requires letting agents and property managers to belong to a Government approved redress scheme.

- 2.2 Letting agency work is defined in the Act as things done by an agent, in the course of business, in response to instructions from:

- A private rented sector landlord who wants to find a tenant; or,
- A tenant who wants to find a property in the private rented sector.

- 2.3 Property management work means things done by a person in the course of a business in response to another person who wants to arrange services, repairs, maintenance, improvement, or insurance or to deal with any other aspect of the management of residential premises.

- 2.4 The redress schemes currently approved by the Government are:

- Ombudsman Services Property ([www.ombudsman-services.org/property.html](http://www.ombudsman-services.org/property.html)).
- Property Redress Scheme ([www.theprs.co.uk](http://www.theprs.co.uk))
- The Property Ombudsman ([www.tpos.co.uk](http://www.tpos.co.uk))

- 2.5 District councils are enforcing authorities for the purpose of the Order and are duty bound to enforce the relevant provisions. The penalty for breaching the requirement to belong to a redress scheme is a monetary penalty which the enforcing authority may impose by way of notice.

- 2.6 The maximum penalty an enforcing authority can impose is a monetary penalty of £5000. The expectation is that £5000 should be the norm and that a lower penalty should only be charged if the enforcing authority is satisfied that there are extenuating circumstances. It is up to each authority to determine what constitutes extenuating circumstances, but lack of awareness in the early days of the requirement and the turnover and scale of the business may be relevant considerations. It is open to the authority to give letting agents or property managers a grace period in which to join a redress scheme.

- 2.7 The procedure for issuing a penalty charge is prescribed; the enforcing authority must issue a notice of intent within 6 months of the date that the authority is in a position to issue a penalty charge. Any person served with a notice of intent has 28 days in which to make representations to the enforcing authority. Following the end of the 28 day period and having considered any representations, the enforcing authority may confirm, withdraw or vary the penalty charge levied. Any final notice for payment must give the recipient at least 28 days for the payment to be made. The recipient of a final notice has a right of appeal to the First-tier Tribunal. Enforcing authorities may recover the monetary penalty by order of a court.

### **3. OPTIONS CONSIDERED**

- 3.1 Local housing authorities are duty bound to enforce the Order and thus non-adherence to the duties specified may result in the Council breaching its statutory duty.

### **4. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND / OR CORPORATE OBJECTIVES**

- 4.1 Enforcement of the Regulations is consistent with the enabling communities corporate objective.

### **5. RESOURCE IMPLICATIONS**

- 5.1 There are no additional resource implications associated with the enforcement of the Order. Enforcement of the provisions specified will be met from existing budgets.

### **6. REASONS FOR THE RECOMMENDED DECISIONS**

- 6.1 The Redress Schemes for Letting Agency Work and Property Management Work (Requirements to Belong to a Scheme) (England) Order 2014, places a duty on commercial letting agents and property managers to be a member of a redress scheme. Local housing authorities are duty bound to enforce the provisions and can levy a monetary penalty of up to £5000 to remedy any breach of the Order. It is therefore recommended that:

- That the necessary amendments are made to the Council's Scheme of Delegation, such that the Head of Community be authorised to appoint suitably qualified officers to enforce the provisions specified in the Order.
- That the Head of Community be authorised, in consultation with the relevant Executive Councillor, the value of the penalty charge for failure of businesses to be a member of an approved scheme.

### **BACKGROUND PAPERS**

[The Redress Schemes for Lettings Agency Work and Property Management Work \(Requirement to Belong to a Scheme etc\) \(England\) Order 2014](#)

[Department for Communities and Local Government Guidance](#)

### **CONTACT OFFICER**

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