

Letting Agents and Property Managers: Redress Scheme

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

From 1 October 2014 it became a legal requirement for all lettings agents and property managers in England to join one of three Government-approved redress schemes;

- Ombudsman Services Property www.ombudsman-services.org/property.html Telephone 0330 440 1634
- Property Redress Scheme www.theprs.co.uk Telephone 0333 3219418
- The Property Ombudsman www.tpos.co.uk Telephone 01722 333306

How to join an Approved Scheme

Joining any of the three schemes involves a simple application process which can be done online. More information about the membership requirements, joining instructions and fees can be found on each of the scheme websites, listed above.

Lettings Agents and Property Managers

‘Letting agency work’ are things that are done by an agent in the course of a 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.

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

Exclusions

Managers of common hold land: Article 6(2) of the Order excludes managers of common hold land even if one of the units is subsequently let on an assured tenancy.

Managers of some student accommodation: Articles 6(3) to (7) of the Order exclude student accommodation; in particular, halls of residence (which may be run privately), accommodation provided to students by education authorities and charities; and accommodation provided by any landlord where the students are nominated by an educational establishment or charity.

Managers of refuge homes.

Managers instructed by local authorities and social landlords.

Head tenant as a manager: where a leaseholder receives a reduced service charge in exchange for maintenance work around the property for example gardening in a block of flats, or cleaning and maintains common areas such as stairwells, car parks and corridors.

Resident management companies can arise in different circumstances, but where the residents' management company owns the freehold and manages the block as part of their ownership duty there is no requirement for the company to join a redress scheme.

Informal Arrangements: someone looking after the letting or management of a rented property or properties on behalf of a family member or friend who owns the property/properties, where the person is helping out and doesn't get paid or only gets a small thank you gift of minimal value; a friend who helps a landlord with the maintenance or decoration of their rented properties on an ad hoc basis; a person who works as a handyman

or decorator who is employed by a landlord to repair or decorate their rented property or properties when needed; a landlord who occasionally looks after a friend's property or properties whilst they are away and doesn't get paid for it; a joint landlord who manages the property or properties on behalf of the other joint landlords.

Whilst it is not possible to cover all eventualities in this note one of the key issues to consider when deciding what could be considered an 'informal arrangement' is whether the person doing the letting or property management work is offering their services to genuinely helping out a friend or acquaintance, instead of being paid for their services.

Charities - the Order does not exclude charitable organisations. However, unless they are charging a fee for a service the charity could argue that is not operating in the course of a business and therefore be excluded from the duty.

If you are unsure if the legislation applies to you, please contact one of the approved schemes.

Purpose of the schemes

To allow you to complain to an independent person about the service you've received if you're:

- A tenant or landlord with agents in the private rented sector
- A leaseholder or freeholder dealing with property managers in the residential sector

Ultimately the requirement to belong to a redress scheme will help weed out bad agents and property managers and drive up standards.

Enforcement by the council

BANES can impose a fine of up to £5,000 where an agent or property manager should have joined a scheme but has not done so.

The local authority can impose further penalties if a lettings agent or property manager fails to join a redress scheme despite already having had a penalty imposed. There is no limit to the number of penalties that may be imposed on an individual lettings agent or property manager if they continue to fail to join a scheme.

Find out more

Find more information on www.gov.uk or by contacting us.

Useful links;

www.gov.uk/government/publications/lettings-agents-and-property-managers-redress-schemes

<http://www.legislation.gov.uk/ukdsi/2014/9780111116821/contents>