

Southend-on-Sea Borough Council

Agenda
Item No.

Report of
Corporate Director for People
to
Cabinet
on
17th March 2015

Report prepared by:
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NEW LEGISLATION REQUIRING LETTING & MANAGING AGENTS REQUIREMENTS TO REGISTER WITH A REDRESS SCHEME

Relevant Scrutiny Committee: Policy and Resources
Executive Councillor: Councillor Norman

Part 1 Public Agenda Item

1. Purpose of Report

- 1.1 To update Members on a new piece of legislation which was brought in at the end of 2014 which requires all Letting and Managing Agents to register with a Redress Scheme which would ensure any complaints which are not resolved by the Letting or Management Agents can be considered independently. These new requirements will strengthen the Council's ability to tackle any poor quality Letting and Managing agents who operate in the Borough. The Council will be able to impose fines of up to £5,000 on any Agents who are in breach of these new requirements.

2. Recommendation

- 2.1 That the Cabinet agrees to:-
- a) Authorise Officers to investigate whether all Letting or Managing Agents operating in the Borough are Members of a nationally recognised Redress Scheme;
 - b) Take prosecution action if it is found that an Agent has breached these regulations and to impose a monetary penalty of up to £5,000.

3. Background

- 3.1 With the growing numbers of households renting in the Private Rented Sector (PRS) there has been pressure for improvements to be made to Letting and Managing Agents as there have been examples of poor practice in the sector both locally and nationally. The Enterprise and Regulatory Reform Act 2013 and the Redress Schemes for Lettings Agency Work and Property Management

Work (Requirement to Belong to a Scheme, etc) introduced these new requirements for agents to be part of a national redress scheme. There are three current national redress schemes which are:-

- The Property Ombudsman
- Ombudsman Services Property
- Property Redress Scheme

Current Position

- 3.2 The most logical service to enforce these new Regulations is the Private Sector Housing team who already work closely with Letting and Managing Agents who currently take action against Agents who do not issue Energy Performance Certificates (EPC's) for example.
- 3.3 Having undertaken some initial desktop research it would appear that there are Agents operating in the Borough who are not Members of the three national Redress Schemes and this will be followed up by writing to all of the known Agents asking them to confirm which scheme they are Members of.
- 3.4 The costs associated with policing these new regulations will be undertaken through existing staffing resources or otherwise funded through moneys generated from Penalty Charge Notices associated with Energy Performance Certificates and it is difficult to predict the amount of cases will be generated. Any breach of these Regulations is therefore likely to become apparent during the next 12 months and this could result in a considerable "spike" of both Officer Time and potential additional income. However over time Agents will be aware of the legislation and therefore the number of prosecutions and associated income is likely to reduce.

4. Corporate Implications - Contribution to Council's Vision & Corporate Priorities

Clean, Healthy, Prosperous, Excellent

This new legislation will hopefully result in some improvements to how the PRS is managed in the Borough and will help to improve the living conditions of those living in this sector and if they have a complaint about an Agent this will be considered independently if it's not resolved by the Agents themselves.

5. Financial Implications

The proposals outlined in this Report could generate some additional income during 2015/16 as the new regulations are enforced. There will be some additional administrative costs to be borne by the Council but it is possible that there could be a small surplus generated as a result of enforcement of these new regulations.

6. Legal Implications

The Council has a legal responsibility to enforce these new regulations in accordance with this new legislation. The Council would need to determine a policy

for the enforcement of the legislation and in order to act 'reasonably', allow fair notice and warning to those in breach to either cease operating or join a redress scheme. Any penalty charge is likely to be appealed to the First Tier Tribunal where the service responsible for issuing it would be required to defend the appeal. Current experience in defending appeals of Housing Act Notices at the First Tier Tribunal has shown that this process is time consuming, laborious and inevitably costs more than the enforcement recovery charges due to the onus being on the Local Authority to produce responding case bundles. Given the quasi-judicial nature of the Tribunal Service, the team responsible for enforcement is likely to also require Officer time from Legal Services (as is the current situation for Housing Act appeals).

7. People Implications

The impact of these new regulations will be closely monitored in the coming months in terms of their impact on front line staff and support services. Where imposed, this could result in some managing agents being put out of business from failure to join a redress scheme or inability to pay the fine.

8. Consultation

There is no need to consult externally on these proposals.

9. Equalities and Diversities Implications

None identified

10. Environmental Impact

None arising from this Report.

11. Background Papers

- The Enterprise and Regulatory Reform Act 2013;
- Redress Schemes for Letting Agency Work and Property Management Work (England) Order 2014

