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**Report of Head of Housing Partnerships and Housing Growth**

**Report to Director of Environment and Housing**

**Date: 27<sup>th</sup> July 2015**

**Subject: Implementation of the Property Redress Scheme**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	No
Are there implications for equality and diversity and cohesion and integration?	No
Is the decision eligible for Call-In?	No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	No

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**Summary of main issues**

1. In October 2014, The Department of Communities and Local Government (DCLG) announced that all letting agents and managing agents must be members of the mandatory Redress Scheme. Membership ensures that tenants will be able to complain to an independent person about the service they receive.
2. Subsequent regulations set out that the Local Housing Authority is responsible for the regulation of the scheme. This means that the Local Authority must ensure that all letting and managing agents are members of the scheme. Failure to be a member will result in a £5k fine which the Local Authority can retain.
3. In order to implement the regulation of the scheme, which will help tenants with their disputes, it is proposed to introduce a new SO2 post on a temporary basis for one year in the first instance. The post will be responsible for implementing the Council's regulatory responsibility. It is expected that the post will be self-financing but even if not, the post can be justified given that it will ensure that all agencies have complied with this important piece of legislation. The cost of the post will be £36,508.

## **Recommendations**

4. The Director of Environment and Housing is requested to approve the establishment of an additional SO2 post within the Private Rented Regulation Service to implement the regulation of the Property Redress Scheme. The post will be a temporary post for one year, in the first instance, and should be self-financing through the imposition of the statutory £5k fine which can be retained by the Council.

### **1 Purpose of this report**

- 1.1 The purpose of this report is to set out the mandatory Property Redress Scheme, introduced by DCLG, in October 2014 and to seek the Director's approval to introduce a post to support the implementation of the scheme in Leeds.

### **2 Background information**

- 2.1 It is a legal requirement for all lettings agents and property managers in England to belong to a government approved Redress Scheme from 1<sup>st</sup> October 2014. Membership must be renewed on an annual basis.
- 2.2 The Redress Scheme provides a free independent service for resolving disputes between letting agents, property managers with their customers. The scheme is also designed to allow landlords using lettings agents or property managers to use the Scheme to make complaints about the service received.
- 2.3 The government anticipate that this Scheme will help to "weed out" bad lettings agents and property managers and help to drive up standards within the sector. The new requirement will be enforced by Local Authorities who can impose a fine of up to £5k where an agent or property manager has not joined a scheme and should have so done. The £5k fine is expected to be the norm.
- 2.4 There are three government approved Redress Schemes
  - The Ombudsman Services Property
  - The Property Redress Scheme
  - The property Ombudsman
- 2.5 The rules for each Redress Scheme vary but there are common features that require letting agents and property managers to
  - Have a code of practice
  - Have an in-house complaints procedure
  - Co-operate with any investigation and agree to pay compensation promptly if the Redress Scheme awards it
- 2.6 The schemes deal with breaches of codes of conduct and issues relating including
  - Lack of transparency about fees
  - Inaccurate property descriptions
  - Disputes about refunds of holding deposits taken to secure a property
  - Inaccurate accounting and not passing rent on to the landlord
  - Slow or poor service

### **3 Main issues**

- 3.1 It is expected that the Local Authority will ensure that all lettings agents and property managers are members of one of the three schemes. Each scheme is required to publish its membership list on its website so that membership details can be checked.
- 3.2 Together with officers from Legal Services and Finance officers from the Private Rented Sector Regulation Service have been working on the regulatory process required for the implementation of the Council's regulatory responsibility.
- 3.3 If the Council finds that any letting agent or property manager is not a member of one of the three schemes then a notice of intention to impose a fine will be issued. If within 28 days membership has still not taken place, and no contact has been received, the Council will issue a final notice to impose a £5k fine and allow 28 days for payment. There is no limit to the number of fines that can be levied on a single letting agent or property manager if they continue not to be a member of a scheme.
- 3.4 The letting agent or property manager has a right of appeal against a decision to impose a fine. The appeal is made to a first tier Tribunal and must be made within 28 days of the date of issue of the fine notice.
- 3.5 There will be a great deal of work involved with the regulation of the Redress Scheme and there is no capacity within the existing structures to implement the scheme. The work to be carried out includes
- Gathering the initial intelligence of all letting agents and property managers in the city
  - Cross referencing the data to the scheme membership lists
  - Updating, maintaining computer systems with data of non- members
  - Running reports from systems
  - Issuing of notices
  - Liaison with Finance and legal services
  - Providing progress reports.
- 3.6 It is proposed, therefore, that a temporary SO2 post is introduced, for one year in the first instance, to carry out the above duties. The cost of such a post would be £36,508 and would be offset by the income from fines. A review of the effectiveness of the post will be undertaken within the first year of operation to enable a decision to be taken about the longer term future of the post.

### **4 Corporate Considerations**

#### **4.1 Consultation and Engagement**

- 4.1.5 Detailed discussions have taken place with Legal Services about the Council's legal regulatory role. Legal Services have drafted legal notices, which are appended to the report, and have agreed the recovery process.
- 4.1.6 Discussions have also taken place with Finance about the issuing and recovery of the invoices through the Sundry Debtors System and an agreed process is in place.

## **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 There are no issues for Equality and Diversity / cohesion and integration.

## **4.3 Council policies and the Best Council Plan**

- 4.3.1 The Council has an ambition to be the "Best City". One determiner of achievement will be whether or not the city has a housing offer that meets the ambition of "Best City". The Private Rented Sector is key market in the provision of housing in the city. The Council has a clear regulatory role in this sector to ensure that standards are maintained and tenants have access to a safe, warm and secure home. The implementation of this scheme will be another tool with which to regulate the sector.

## **4.4 Resources and value for money**

- 4.4.1 The cost of the temporary post will be £36,508 at the top of SO2. Whilst there is no funding available for this position it is expected that it will be self-financing through the imposition of fines. The Council will levy a £5k on any letting agent or property manager who fails to register with one of the government backed Property Redress Schemes. The Council is allowed to retain the fine income.
- 4.4.2 It is expected that the post will be self-financing but even if not, the post can be justified given that it will ensure that all agencies have complied with this important piece of legislation

## **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The decision being requested falls under the Director's delegations in accordance with part 3 of the constitution.
- 4.5.2 The government have introduced a Property Redress Scheme which Local Authorities are responsible for ensuring all lettings agents and property managers are registered with one of the three government backed schemes. Legal advice has been given by the Principal Legal officer for Housing Law and the scheme has been drawn up on that advice.
- 4.5.3 The decision is not open to call in as it is an administrative decision.

## **4.6 Risk Management**

- 4.6.1 The key risk is that there are not enough fines levied to cover the cost of the temporary post. However given the scale of the market this is unlikely and monitoring will take place on a monthly basis.

## **5 Conclusions**

- 5.1 The implementation of the Property Redress Scheme, by government, provides an independent and free service for resolving disputes between tenants and lettings agents and property managers.

- 5.2 The scheme will be regulated by the Council and allows the Council to levy a retainable £5k fine for non-registration. The scheme will support the Council's work in regulating the private rented sector and tenants' rights to a safe, secure and warm home.
- 5.3 The additional temporary post at SO2 will enable the Council to fully implement its responsibilities and will be self-financing through the fine income.

## **6 Recommendations**

- 6.1 The Director of Environment and Housing is requested to approve the establishment of an additional SO2 post within the private rented regulation team to implement the regulation of the Property Redress Scheme. The post will be a temporary post for one year, in the first instance, and should be self-financing through the implementation of the statutory £5k which can be retained by the Council.
- 6.2 The Director of Environment and Housing is requested to review the need for this post in the light of operational reality.

## **7 Background documents<sup>1</sup>**

- 7.1 None

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.