



Instructions for redress schemes covering lettings agency work and property management work seeking government approval

1. Background

- 1.1 The Department for Communities and Local Government (DCLG) are introducing the requirement for all letting agents and property management agents to be a member of an approved redress scheme for dealing with complaints in connection with that work.
- 1.2 The Private Rented Sector in England accounts for 3.8 million households, or 17% of the total 22 million private accommodations. This is up from 9% of the total in 1991, demonstrating the rapid growth of the sector and its increasing importance in meeting the country's needs.
- 1.3 The majority (89%) of private landlords are private individuals and 78% of landlords only owned a single dwelling for rent. It is unsurprising therefore that many landlords of properties wishing to rent out choose to do so through a letting or managing agent. The Private Landlords Survey suggests that agents were involved in approximately 66% of all private rented tenancies.
- 1.4 The Property Ombudsman estimates there are approximately 11,560 agents (branches) involved in letting property and that around 60% of letting and property management agents have voluntarily joined redress schemes to independently deal with complaints from their clients. While the Private Landlords Survey (2010) suggests that 85% of letting and management agents were members of a professional body which would implicitly suggest membership of an independent redress scheme. Whilst it is impossible to generate a definitive number, as of September 2013 DCLG estimates that they are around 3,500 branches that as a result of this requirement will need to sign up to an approved redress scheme.
- 1.5 The information on leasehold property is very limited, although CentreForum ("A new lease of life", 2012) estimate that there are approximately 2.5 million leasehold properties in England. We do not know the total number of managing agents in the residential leasehold



sector but we expect the number to be relatively small. We do know that the Association of Residential Managing Agents (ARMA) has over 260 corporate members managing 900,000 leasehold homes and the Association of Retirement Housing Managers (ARHM) represent 55 member organisations who manage 105,000 retirement properties in the UK (believed to be upwards of 80% of leasehold properties in the retirement sector). Whilst it is impossible to generate a definitive number, DCLG estimate that as of September 2013 there might be around 500 leasehold management companies who might be subject to redress.

- 1.6 The Redress Schemes for Lettings Agency Work and Property Management Work (Approval and Designation of Schemes) (England) Order 2013 (the Order) came into force in December 2013. Under this Order the Secretary of State for Communities and Local Government is now calling for applications for redress schemes to submit for approval.

2. The Requirement

- 2.1 This document sets out the conditions that must be satisfied and the information that must be submitted before the Secretary of State may approve a redress scheme for Lettings Agency Work and/or Property Management Work. You are reminded that these conditions must continue to be satisfied throughout the operation of the scheme.
- 2.2 The Secretary of State may exercise his discretion to withdraw approval at any time in accordance with Article 8 of the Order and therefore has the right to withdraw approval, if subsequently it is found that these conditions are no longer being met. Other circumstances in which approval may be withdrawn include (but are not limited to) a relevant change in the law, or a change in the factors the Secretary of State considers it appropriate to take into account when assessing whether the conditions for approval have been satisfied.
- 2.3 Applications from potential schemes must be provided no later than 17:00 hours on Friday 28 February 2014 in accordance with the stated timescales in section 5. If required, DCLG reserve the right to extend this deadline by up to a further month.
- 2.4 The conditions for approval are set out at Annex A. DCLG will evaluate applications at the end of the application window and will aim to communicate the results by the 7th April 2014. To aid this timetable schemes are encouraged to submit ahead of the deadline so that there is time to resolve any queries.



- 2.5 DCLG remains committed to introducing the requirement as soon as possible but the second Order which makes the duty mandatory cannot be laid until the Secretary of State is satisfied that all agents are able to be a member of an approved scheme. It is therefore essential that schemes are able to take members as soon as possible. As many agents operate in both the private rented sector and in residential leasehold, DCLG encourages schemes to accept agents from both sectors.
- 2.6 This invitation to submit an application for approval is open to all providers of redress schemes. DCLG will provide details of the number of schemes approved by 7th April 2014, at which point each scheme must make its own decision whether to proceed or not. Receiving approval must not be taken as any guarantee that agents will join your scheme over any other.
- 2.7 Approval of a scheme will not constitute any assurance as to the number of scheme members an applicant will be able to attract or the profitability of a scheme. The risk of operating the scheme shall, at all times, rest with the applicant and DCLG will not be in any way responsible for any losses suffered by the applicant in connection with the operation of a scheme.
- 2.8 The Secretary of State may consider further applications for approval when the policy is reviewed in a year's time and or at a future date at such time as the Secretary of State considers appropriate.

3. Questions Arising

- 3.1 Any questions you may wish to pose to DCLG must be sent to redress@communities.gsi.gov.uk. All questions must be submitted **by 17:00 on Monday 3rd February 2014**. Any questions submitted after this time will not be answered.
- 3.2 Questions and answers may, at DCLG's discretion, be provided to other potential schemes (in writing in the form of serially numbered bulletins). However, such information will remain anonymous as to the source when passed on.

4. Timescales

- 4.1 Set out below is the proposed timetable for approving application to become a scheme. This is intended as a guide. Should it be necessary, DCLG reserves the right to deviate from this at any stage.



Date	Event
Monday 6 th Jan 2014	Application window begins
Mon 3 rd Feb 2014	17.00 - Deadline for receipt of clarification questions
Friday 28 th Feb 2014	17:00 - Deadline for receipt of applications
Monday 7 th Apr 2014	All applications assessed and results communicated.

5. Conduct

- 5.1 Applicants must not communicate to any person their proposed fees (even approximately) before the end of the application process on Friday 28th February 2014, other than to obtain, in strict confidence, a quotation for insurance required to submit the application.
- 5.2 The applicant must not try to obtain any information about any other person's application or proposed application before the results are communicated on Monday 7th April 2014 or, if DCLG extends the deadline for receipt of applications, the date on which the deadline falls.
- 5.3 The applicant must not make any arrangements with any other person about whether or not they should apply, or about their proposed fees. The only exception is where the applicant is considering a group application (see paragraph 7 below).
- 5.4 The applicant must not offer any inducement to any member of DCLG's staff for doing or refraining from doing any act in relation to the scheme.
- 5.5 If the applicant engages in any of the activities set out this paragraph or if DCLG considers the applicant's behaviour is in any way unethical DCLG reserves the right to disqualify the applicant from the process.

6. Group Applications

- 6.1 If the applicant wishes to submit an application as part of a group or consortium, the group or consortium must as part of their application, either nominate a lead party with legal personality or create a single legal entity.
- 6.2 In the event of an application being submitted by a group or consortium the applicant must provide an undertaking within the application that the group or consortium will, when required by DCLG, nominate a lead party



or create a single legal entity which will take on full legal liability for the scheme.

7. Content of Application

- 7.1 The applicant is required to submit an application in A4 describing how they will meet the conditions for approval with reference to the document attached as Annex A. Applications must also include the following points:
- 7.2 Nominate a lead person who will be the main contact for this work and confirm that individual will be contactable by phone through out the duration of the project.
- 7.3 The expectation is that the scheme will be provided in full by the applicant, where this is not the case full details of any sub-contractors/interims that may be used must be provided.
- 7.4 Indicate when the scheme will be accepting agents and in a position to offer redress.
- 7.5 As part of reducing fraud and error and to confirm financial viability please attach your accounts for financial year 2012/13, a statement of turnover, profit & loss account and cash flow for the most recent year of trading, a statement of your cash flow forecast for the current year and a bank letter outlining the current cash and credit position; or alternative means of demonstrating financial status if trading for less than a year.

8. Security and Identity Checks

- 8.1 Individuals must be prepared to provide documentary evidence substantiating their identity and nationality and to sign a criminal declaration form if requested by DCLG.

9. Due Diligence

- 9.1 While reasonable care has been taken in preparing the information in this and supporting documents, the information within the documents does not purport to be exhaustive nor has it been independently verified.
- 9.2 Neither DCLG, nor its representatives, employees, agents or advisors:
 - 9.2.1 makes any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of this and supporting documents; or
 - 9.2.2 accepts any responsibility for the adequacy, accuracy or completeness of the information contained in this and supporting documents nor shall any of them be liable for any loss or



damage (other than in respect of fraudulent misrepresentation) arising as a result of reliance on such information or any subsequent communication.

- 9.3 It is the applicants sole responsibility to undertake such investigations and take such advice (including professional advice) as it considers appropriate in order to make decisions regarding the content of its application and in order to verify any information provided to it during the application process and to query any ambiguity, whether actual or potential.

10. Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”)

- 10.1 The applicant’s attention is drawn to the above regulations. As a successful applicant may be a potential transferor for the purposes of TUPE, the applicant should ensure legal advice is sought as to whether TUPE applies to the proposed scheme, and if so, to reflect the financial implications of such a transfer in the application. If TUPE is deemed to apply then the financial implications are a matter for the applicant, not DCLG.

11. Application Return and Validity

- 11.1 The deadline for applications is no later than **17:00 on Friday 28th February 2014.**
- 11.2 Applications must be submitted to redress@communities.gsi.gov.uk
- 11.3 DCLG will open and assess applications as and when they are submitted. The details submitted must accurately reflect the scheme’s operation and no changes must be made to the scheme after the application has been submitted unless agreed in writing with DCLG.
- 11.4 It is the applicant’s responsibility to ensure that the application arrives no later than the time and date stated above (unless the time and/or date are subsequently amended in writing by DCLG). Late applications will be rejected by DCLG.
- 11.5 The application must be based upon the conditions and specification(s) set out in the supporting documents and must contain all the information requested otherwise it may be rejected on the basis of being unsuitable and non-compliant.
- 11.6 It is intended that a decision on all applications will be communicated no later than **16:00 on Monday 7th April 2014.** By submitting an



application, the applicant agrees that the application remains valid for acceptance for a period of 180 days from the deadline for applications.

12. Evaluation

- 12.1 DCLG will approve all applications that meet the conditions for approval.
- 12.2 The conditions for approval are set out at Annex A.
- 12.3 Each condition for approval will be on the basis of a pass or a fail. If a single condition is failed then the application will be automatically unsuccessful and will not be considered for approval.
- 12.4 If all applications submitted fail the same condition for approval for the same reason/s then DCLG reserve the right to consider whether the factors that indicate a condition has been met are achievable, and then amend them as necessary.
- 12.5 DCLG may request clarifications by the applicant on its application and reserves the right to consider any response to those clarifications in the application process.

13. Acceptance of Applications

- 13.1 DCLG reserves the right to amend, add to or withdraw all or any part of this and supporting documents at any time during the application period.
- 13.2 DCLG also reserves the right to approve more than one application.
- 13.3 The applicant will be notified of the outcome of the application at the earliest possible time.
- 13.4 Nothing in the documentation provided by DCLG to the applicant during this process or any communication between the applicant and DCLG or DCLG's representatives, employees, agents or advisors shall be taken as constituting approval of any application. No applicant will be deemed to have been formally approved until a successful applicant has received formal approval from DCLG.

14. Application Costs

- 14.1 Applicants must obtain for themselves at their own responsibility and expense all information necessary for the preparation of their application and any subsequent clarifications. DCLG is not liable for any costs incurred by the applicant as a result of the application procedure. Any work undertaken by the applicant is a matter solely for the applicant's own commercial judgement.



15. Access to Government Information

- 15.1 Under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 DCLG is obliged (subject to the application of any relevant exemptions) to disclose information in response to requests for information. The applicant should be aware that DCLG could receive requests for any information relating to this process.
- 15.2 In respect of any information submitted by an applicant that it considers to be commercially sensitive the applicant should:
- 17.2.1 clearly identify such information as commercially sensitive;
 - 17.2.2 explain the potential implications of disclosure of such information;
and
 - 17.2.3 provide an estimate of the period of time which the applicant believes that such information will remain commercial sensitive.
- 15.3 Applicants should note that even where information is identified as commercially sensitive, DCLG may be required to disclose such information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.
- 15.4 Where an applicant receives a request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 during the process, this should immediately be passed to DCLG and the applicant should not attempt to answer the request without consulting DCLG.

16. Transparency

- 16.1 Applicants should be aware that in accordance with the Government's transparency agenda, it is DCLG's intention to publish the results of those applicants that are approved to be on the scheme (except any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 or Environmental Information Regulations 2004) on www.gov.uk

17. Format of Applications

- 17.1 Applications must be legible and in English.
- 17.2 Applications must be compatible with Office 2003.