

Chichester District Council

Enforcement Procedure in respect of The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 makes it a legal requirement for all lettings agents and property managers in England to join a Government-approved redress scheme.

Chichester District Council (the Council) is the enforcing authority for the Order within their area. The authority to enforce the Order shall be delegated to the Head of Housing & Environment Services.

The Council can impose a fine of up to £5,000 where it is satisfied, *on the balance of probability* that someone is engaged in letting or management work and is required to be a member of a redress scheme, but has not joined.

Government guidance on the enforcement of the Order states that the expectation is that a £5,000 fine should be considered the norm and that a lower fine should only be charged if the enforcement authority is satisfied that there are extenuating circumstances.

The procedure for issuing a fine is as follows;

Step 1: Notice of Intent

The Council will give written notice of their intention to impose a penalty. This will set out:

- (i) the reasons for the penalty;
- (ii) the amount of the penalty; and
- (iii) the 28 day period to make written representations or objections, starting from the day after the date on which the notice of intent was sent.

This written notice will be served within 6 months of the date on which the Council has gathered sufficient evidence and satisfied any internal requirements that a fine is appropriate.

The Council may at any time withdraw the notice of intent or reduce the amount specified in the notice at any time by giving notice in writing.

Step 2: Representations and Objections

The person whom the notice of intent is served has 28 days starting from the day after the date the notice of intent was sent to make written representations and objections to the enforcement authority in relation to the proposed fine.

Step 3: Final Notice

At the end of the 28 day period the Council will decide whether to impose a fine based on the principles of the Housing and Environment Enforcement Policy.

Following consideration of the fine the Council will give at least 28 days for payment to be made. When imposing a fine, the Council will issue a final notice in writing which explains:

- (i) why the fine is being imposed;
- (ii) the amount to be paid;
- (iii) how payment may be made;
- (iv) the consequences of failing to pay;
- (v) the right to appeal against the penalty to the First-tier Tribunal and that any appeal must be made within 28 days after the imposition of the fine.

The Council may withdraw the final notice or reduce the amount specified in the notice at any time by giving notice in writing.

Step 4: Appeals

If an appeal is lodged the fine cannot be enforced until the appeal is disposed of. Appeals can be made on the grounds that:

- (i) the decision to impose a fine was based on a factual error or was wrong in law;
- (ii) the amount of the fine is unreasonable; or
- (iii) the decision was unreasonable for any other reason.

The First-tier Tribunal may agree with the Councils notice to issue a penalty or may decide to quash or vary the notice and fine.

Appeals will be heard by the General Regulatory Chamber, further details on the appeals procedure can be found at the following link:

<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/policy-makers-guidance-eng.pdf>

Step 5: Recovery of the penalty

If the lettings agent or property manager does not pay the fine within the 28 day period the Council will recover the fine with the permission of the court under a court order. If proceedings are necessary for the recovery of the fine, a certificate signed by the Head of Finance and Governance Services stating the fine has not been received within the required timescale will be taken as conclusive evidence.