

# Calling time on rogue landlords

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# Introduction

## Letting agents & rogue landlords

1. Common problems;
2. Legislative framework/  
enforcement options;
3. Recent developments.



# Common complaints

- Fees and charges
- Letting agents providing poor service
- Security deposits
- delayed and substandard repairs
- Unfair business practices including misleading advertising
- Poor quality housing
- Unlicensed HMOS
- Fire safety/ health and safety issues



# Current legislative framework

Wide range of enforcement options, for example:

- Consumer Protection from Unfair Trading Regulations 2008 (“CPUTR”)/ Enterprise Act 2002;
- Consumer Rights Act 2015;
- Redress Schemes Order 2014;
- Housing Act 2004;
- Town and Country Planning Act 1990



# CPUTR 2008 (as amended)

## **Misleading actions:**

e.g. mis-stating cost of rent in advertising; inaccurate info about property particulars or availability e.g. furnished/ unfurnished

**Misleading omissions:** e.g. failing to set out fees; failure to mention can not use garden

## **Aggressive commercial practices:**

e.g. exploiting vulnerability, threatening eviction; entering property without permission to discuss late payment of rent

## **Unfair Commercial Practices (sch 1):**

e.g. pretending to be a signatory to a code of conduct when not; displaying trust mark without authorisation; falsely stating only available for a limited time.

# Enforcement/ remedies

1. Criminal prosecution
2. Part 8 Enterprise Act 2002:  
Undertakings/  
Enforcement order  
Contempt of court
3. Consumer's individual  
right of redress



# Consumer Rights Act 2015

## **Duty:**

Fees must be displayed at the letting agent's office and on their website with a clear explanation of what the fees are/ its purpose and amount [s.83].

## **Enforcement**

Authority can impose a penalty up to £5000) [s.87].

## Redress Scheme for Lettings Agency Work and Property management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

### **Duty:**

Letting agents must join government redress scheme:

### **3 government redress schemes:**

- The Property Ombudsman (TPO)
- The Property Redress Scheme
- Ombudsman Services Property to redress scheme

### **Enforcement:**

Local housing authority  
Up to £5000 monetary penalty.



# Housing Act 2004: Houses in Multiple Occupation ("HMOs")

## **Obligations:**

1. Licence? (s.72)
2. Management (s.234) (health and safety)

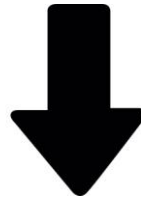
See also:

- The Management of Houses in Multiple Occupation (England) Regulations 2006
- Smoke and Carbon Monoxide Alarm (England) Regulations 2015
- Who can be prosecuted?**
- Rent Repayment Order? (s.73)**



# Town and Country Planning Act 1990

Breach of planning control?



Yes

Enforcement Notice (s.172 TCPA 1990)



Non-compliance

Prosecution (s.179 TCPA 1990) / Confiscation

# Recent developments: Tenants Bill

## Queen's speech

*draft Bill to:*

*ban landlords and agents from requiring tenants to make any payments as a condition of their tenancy with the exception of the rent, a capped refundable security deposit, a capped refundable holding deposit and tenant default fees cap holding deposits at no more than one week's rent and security deposits at no more than one month's rent*



# Industry response

David Cox, chief executive of the Association of Residential Letting Agents (ARLA) Propertymark:

- Announcement disappointing;
- Gov had insufficient time to consider consultation;
- Letting agents stand to lose around £200 million in turnover;
- Could cost the sector 4,000 jobs;
- Landlords themselves would lose £300 million, may seek to cover losses by increasing rents;
- Average rent costs will go up by £103 per tenant, per year;
- Contradicts government stated aim to encourage longer term tenancies.



# Housing and Planning Act 2016

Expected to come into force in October 2017

## Key points:

### 1. Banning orders

(e.g. Banning person from letting housing or managing property [s.14])

- Length of order: at least 12 months [s.16]
- Consequences of breach: prosecution

### 2. Database of rogue landlords.



Ongoing cases, future prosecutions, general queries...

Feel free to join Bryan, Cameron or Daniel, or any of the Gough Square Team on the stand to discuss. Alternatively, contact us at:

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