



## **Protecting consumers in the letting and managing agent market** **Response to Call for Evidence**

**6<sup>th</sup> December 2017**

### **About us**

The Northern Housing Consortium (NHC) is a membership organisation based in the North of England that works with local authorities and housing associations to advance the cause of housing. Our membership covers around 90% of all housing providers in the North. The NHC brings its members together to share ideas, and to promote their interests and to ensure their voice is heard at a regional and national government level.

We welcome the opportunity to respond to this call for evidence on protecting consumers in the letting and managing agent market.

### **The Case for Change**

Q1.1 Do you agree with analysis of the problems in the market set out in this chapter? What regulatory measures could better empower leaseholders to manage the quality and cost of the services they receive?

The NHC agrees with the analysis and very much welcomes an approach to a more professional managing agent market. We believe that a professional managing agent market would support improvements to the quality and management of property, and in turn, this would support better management practices thereby reducing the potential for challenge and conflict between residents and agents.

Empowerment of tenants can be enhanced through them having an understanding of their rights and for a process to exist to facilitate communication. One example would be for an independent agency to facilitate and encourage communication through tenants' associations. Tenants and leaseholders must be made aware of agents who are not part of any scheme in a designated area.

Q1.2 Is a new regulatory approach required for property management agents? If not, why not?

We very much support a new regulatory approach and believe that, if framed correctly, there are benefits for property management agents as well as for tenants and leaseholders. Any responsible agent will welcome the

opportunities which could be provided through a regulatory approach, for example, through information sharing, support, training, guidance and networking.

We believe that regulation creates a level playing field, and will help responsible agents to not be undermined by a minority of agents with poor practice and will help improve the reputation of all.

A regulatory approach would need to be introduced with careful planning to avoid any negative impact if, for instance, good and bad agents are driven away from the sector due to the costs and increased obligations.

We are aware of the work of the existing professional bodies and any system of regulation should be based on a model that takes account of the good practice of existing professional agencies.

**Q1.3** Aside from regulation, are there any alternative means the Government should consider for driving up standards and professionalism in the sector?

We believe that other practical considerations could include: a kite-mark scheme for agents to demonstrate their compliance with the standards which could be promoted by a regulator; forums for landlords and agents to provide a platform for discussion, training related to the regulation, an easy to use portal for tenants to log their complaints, and model agreements which would ensure that all agreements are legally compliant.

It would be useful if a scheme was promoted and incorporated on a wider strategic basis: a scheme which is integrated with local and regional housing strategies would support other outcomes, for example, better quality housing linked to improving health and wellbeing and improving outcomes which require a longer period of time to evidence improvements.

**Q1.4** What should be the scope and objectives of any regulation? In particular: i. Which agents and individuals working within managing agents should be covered? Should individuals, companies and officers be treated differently? ii. What types of services should be included? And should any types of companies or services be excluded? iii. Should any other classes of people or property professionals be covered by any regulator?

We would support bringing all managing agents within a single regulatory regime. We would not wish to see multiple systems for agents working across both the rented and owner-occupied sectors. This may require a regulation model to be broadened to ensure that it captures the wider range of activities and responsibilities covered by all managing agents.

## **Entry Requirements**

**Q2.1** Is there a need for minimum entry requirements for managing agents, similarly to the commitment to introduce such requirements for letting agents? If so, what

should these requirements include – a fit and proper person test and/ or qualifications or training? Are there any risks, for example that this might stifle innovation?

The NHC would support a fit and proper persons' assessment for determining competence, as well as an assessment of the suitability of an agents management structures and funding arrangements. Additional conditions could include obligations on the agent to take steps to deal with problems or make repairs.

Underpinning any scheme should be an assessment of whether the agent has been involved in fraud, practised unlawful discrimination, broken any housing laws, or breached any relevant code of practice.

Q2.2 If qualifications or training are required, what should they cover? What qualifications or courses already exist and are they necessary and sufficient?

We believe that a scheme should be built on existing good practice which has been established by professional bodies. A particular focus should be on raising awareness of rights and responsibilities, and on professionalising the less compliant elements of the sector and connecting to other minimum standards such as the Decent Homes Standard.

Q2.3 Should any qualifications and training requirements differ depending on role and service offered? (E.g. different requirements for company officers, or differing requirements for repairs compared to contract negotiations?)

No comment

Q2.4 What are the core elements that should be covered in setting appropriate standards for letting agents and for property managing agents?

Feedback from our tenant engagement has underlined the need for standards as a key measure in improving consumer protection in the sector. Having minimum tenancy management standards brings benefits to landlord and tenant relationships and reduces disputes within the sector; it will also assist local authority environmental, housing and tenancy relations staff in their advisory and supportive work. A scheme should be based on the existing promotion of high standards by the relevant professional associations.

Q2.5 Do Codes of Practice have a role in any future regulatory approach?

Yes: we support Codes of Practice that all agents must follow, supported by training and overseen by an independent regulator. Codes of practice for agents should include a requirement that they do not let properties which fail to comply with the Decent Homes Standard.

Q2.6 Could Codes of Practice (or any other reforms) have a role in addressing service charge abuses? Could and should they be used to tackle conflicts of interest which might arise, perhaps from connected companies?

No comment

Q2.7 How should a future system build on the existing codes? What elements of existing codes would be useful to retain? Are there elements that could go further?

No comment

### **Approaches to enforcement and regulation**

Q3.1. Which of the following options do you believe would have the greatest impact in driving up standards and increasing consumer confidence in the sector: a. Requiring all letting agents and managing agents to be members of a relevant professional body. This would require professional bodies or organisations to be approved by Government, possibly operating to one Code of Conduct. b. As above, but with oversight from a regulatory body, established or approved by Government. c. Government establishing or approving a new regulatory body, which agents are required to sign up to, with membership of a professional body optional?

We would support b. - membership of a professional body with oversight by a regulatory body, based on existing professional structures within the sector.

Q3.2 What implementation issues would need to be considered e.g. cost, corporate governance requirements, timescales for introduction?

We believe that a balance needs to be found between the level of regulation and the benefits to the consumer. Flexibility in a scheme is important as this increases the likelihood of a successful scheme. Lack of flexibility could be deemed to be unreasonable if there were any challenge to the scheme from those being regulated.

Q3.3 Are there other regulatory models that the Government should be exploring? Please give details.

No comment

Q3.4 What powers would any new regulatory body require to enforce its standards?

A regulatory body needs to not only provide the prospect of enforcement activity, but to offer incentives for agents to become a member by, for instance, restricting the powers of those who fail to comply with regulation, and offering incentives to those who do. Ultimately, the purpose and advantage of a regulation scheme is a means to improving management and property standards in the sector, rather than an uptake of membership in itself.

Q3.5 How could the requirement to be a member of an approved or regulatory body be effectively enforced? Should enforcement responsibility sit with any new regulatory body? What would be an appropriate penalty for noncompliance?

There may be a benefit to providing flexibility to local areas to decide how this is best enforced, with a role for Trading Standards. Given that Trading Standards teams are often under-resourced locally, and many have taken innovative approaches to managing their capacity, for example, through shared services, allowing local areas the option to decide on where enforcement should sit would ensure that this new regulation can be enforced more effectively.

Q3.6 Should the Government establish a new regulatory body to cover all the issues within leasehold and private rented management, lettings and, potentially, estate agency? Or should separate bodies be established? Please explain your answer.

We support oversight by an independent regulatory body, but based on existing professional structures within the sector.

### **Rights to switch agents and challenge charges**

Q4.1 What changes could be made to ensure that consumers are protected from unfair fees and charges, including major works?

By introducing this change, we would hope that consumers have greater protection through the increase in transparency and increased competition for services between property agents, brought about by landlords looking for the best value service.

Q4.2 How can we support consumers to challenge unfair fees and ensure that they have a route to redress?

Accessible guidance and information should be provided to tenants about their rights and the obligations of managing agents. Tenants do not always know how to lodge a complaint about an agent and are often fearful of doing so in case of retribution. This information should be provided in writing to the tenant when they sign the contract, including details of any redress scheme. This could be provided in a model tenancy agreement, and could be signposted in documentation that all landlords and agents have to provide to their tenants.

Q4.3 How can we make it easier for leaseholders to access their right to manage? What further measures are required to make it easier for consumers to choose or switch agent? Should we introduce a power of veto for leaseholders over a landlord's choice of managing agent?

The proposals should help to increase competition between agents, who will need to offer competitive deals and a good service for managing a property to the landlord, as the customer of the agent.

Q4.4 Could and should a regulator act as a consumer champion? What powers might they need to support this?

Yes: a consumer champion could use their status to amplify the voices of tenants and leaseholders, increase accountability and challenge unfair practices. They will also be able to highlight specific changes and improvements that will make a difference to tenants and leaseholders.

Q4.5 Should regulatory bodies have a role in providing information to consumers about the qualifications or performance of property agents? If so how could information be of the greatest benefit for consumers? What information should be provided? Should it be public?

We believe there is a benefit to the relevant information being made public. Not all agents comply with the transparency measures introduced in the Consumer Rights Act 2015 and there is an empowerment to the consumer through the transparency.

Q4.6 Are there other issues relating to the regulation of letting and managing agents that we should consider? Please explain.

No further comments

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