

**Decision Maker:** PUBLIC PROTECTION AND ENFORCEMENT POLICY  
DEVELOPMENT & SCRUTINY COMMITTEE

**Date:**

**Decision Type:** Non-Urgent                      Non-Executive                      Non-Key

**Title:** Lettings Enforcement update

**Contact Officer:** Rob Vale, Head of Service, Trading Standards & Commercial Regulation  
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**Chief Officer:** Colin Brand, Director of Environment and Public Protection

**Ward:** (All Wards);

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1. Reason for report

This report seeks to update this committee on the work undertaken by Bromley Trading Standards under the London wide Lettings project.

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2. **RECOMMENDATION(S)**

**That the committee note the update.**

## Impact on Vulnerable Adults and Children

1. Summary of Impact: There are a number of vulnerable groups who can be impacted by the actions of unscrupulous landlords and letting agents, including persons vulnerable by virtue of age, on a low income, people with complex health conditions and those at risk of harassment or eviction.
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## Corporate Policy

1. Policy Status: Not Applicable
  2. BBB Priority: Children and Young People Excellent Council Safe Bromley Supporting Independence Vibrant, Thriving Town Centres Healthy Bromley:
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## Financial

1. Cost of proposal: No Cost
  2. Ongoing costs: NA
  3. Budget head/performance centre: Trading Standards
  4. Total current budget for this head: NA
  5. Source of funding: The London Trading Standards (LTS) Lettings project, which has been funded by National Trading Standards (NTS)
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## Personnel

1. Number of staff (current and additional): One
  2. If from existing staff resources, number of staff hours: NA
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## Legal

1. Legal Requirement: Statutory Requirement: The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 as amended by the Tenant Fees Act 2019
  2. Call-in: Not Applicable
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## Procurement

1. Summary of Procurement Implications: N/A
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All Wards
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## Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

### 3. COMMENTARY

3.1 A report [ES20062](#) on the MODEL LONDON LETTINGS ENFORCEMENT POLICY was presented to this committee on 19<sup>th</sup> January 2021 for pre-decision scrutiny setting out the London Trading Standards (LTS) Lettings project which has been funded by National Trading Standards to assist London boroughs to fulfil their duty to enforce the requirement for letting agents that handle client money, which accounts for the vast majority, to belong to an approved Client Money Protection (CMP) scheme to protect this money should the business fail. The MODEL LONDON LETTINGS ENFORCEMENT POLICY was adopted at Executive on 10<sup>th</sup> February 2021.

3.2 It was resolved at the meeting of the Public Protection and Enforcement PDS Committee that an update report be presented to the Committee later in the year.

3.3 Previous enforcement activity in this area of consumer protection has been presented to this Committee on Thursday 27 September 2018 [ES18068](#) and the results of the project presented in a further report [ES19039](#) on 26th June 2019 when Members were apprised that as a result of the project, 25 businesses had been brought into compliance. The situation had therefore improved, businesses were complying, and the public were being properly informed.

3.4 This project was funded until the end of March 2021, with aims to identify up to ten agents physically based in the borough, and who have been the subject of general complaints and/or having regard to the size of the business. A specialist contractor, one of a small team working with other boroughs, carried out the preliminary work including contacting the schemes that offer CMP, preparing notices for LBB to enforce and assisting with any representations.

3.5 A total of nine agents were identified as failing to comply with the requirements set out in the legislation at 7.1, resulting in enforcement action and ultimately fines. In brief, the failings related to:

- breach of the duty to publicise a copy of the client money protection (CMP) certificate on its website, contrary to Reg 4 of the Client Money Protection Scheme for Property Agents (Requirement to Belong to a Scheme etc) Regulations 2019
- failure to comply with the requirement of s83 of the Consumer Rights Act 2015, namely to display/publish details of required information including VAT
- failure to belong to an approved Client Money Protection (CMP), a statutory requirement under the Client Money Protection Schemes for Property Agents Regulations (Requirement to Belong to a Scheme etc.) Regulations 2019

3.6 The table below sets out the outcomes:

Agents investigated	Agents fined	Appeals	Total fines received (x 6 agents)	Total fines outstanding (x 1 agents)
8	7	3	£20,000	£2,500

3.7 This project has enabled us in the short term to address key non-compliance in the borough with minimal operational resources and we have two on-going investigations which are being conducted by our own officers.

- 3.8 The ability to confidently issue penalties coupled with the experience gleaned from the project has put LBB in a much stronger position to, having regard to Trading Standards' priorities, be able to respond to information or to plan work in the future.
- 3.9 In terms of how the authority can use the funds generated by the fines, this is non-recurring income and not likely to generate a regular future income stream. All the legislation under which the fines have been issued allow for local authorities to apply the proceeds to meet the costs and expenses incurred in, or associated with, carrying out any of its enforcement functions. Arrangements have been made to appoint an agency officer to engage in follow up work in this area of our business as well as wider enforcement projects.

#### **4. IMPACT ON VULNERABLE ADULTS AND CHILDREN**

- 4.1 Children living in bad housing are more likely to suffer from poorer general health, respiratory health problems and asthma – with children living in private rented housing more likely to have poorer general health and wheezing problems. Working-age adults living in bad housing are disproportionately at greater risk of poorer general health, low mental wellbeing and respiratory problems including asthma and breathlessness.

#### **5. POLICY IMPLICATIONS**

- 5.1 The outcomes contribute to the guiding principles of Building a Better Bromley, notably Supporting Independence and a Safer Bromley. Protecting consumers through regulating the letting agent and property management sector by enhancing the clarity of their experience when using these businesses will assist Bromley residents who are searching for solutions to housing needs. The work may also assist the Authority in discerning whether or not to engage the services of letting agents/property managers when assisting people who are experiencing housing difficulties.

#### **6. FINANCIAL IMPLICATIONS**

- 6.1 The enforcement activity referred to in this report was conducted as part of the London Trading Standards (LTS) Lettings project and was funded by National Trading Standards at no cost to the Council but has resulted in income from fines set out in table 3.6.
- 6.2 In terms of how the authority can use the funds generated by the fines, this is non-recurring income and not likely to generate a regular future income stream, but this will need to be kept under review. The legislation under which the fines have been issued allow for local authorities to apply the proceeds to meet the costs and expenses incurred in, or associated with, carrying out any of its enforcement functions. Arrangements have been made to appoint an agency officer to engage in follow up work in this area of our business as well as wider enforcement projects which be fully funded from this income received.

#### **7. PERSONNEL IMPLICATIONS**

- 7.1 Number of staff (current and additional): One
- 7.2 If from existing staff resources, number of staff hours: Not applicable

#### **8. LEGAL IMPLICATIONS**

- 8.1 Legal Requirement: Statutory requirement. The Redress Schemes for Lettings Agency Work and Property Management Work Requirement to Belong to a Scheme etc) Order 2014; The Consumer Rights Act 2015, sections 83-88; The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019

<b>Non-Applicable Sections:</b>	PROCUREMENT IMPLICATIONS FINANCIAL IMPLICATIONS
Background Documents: (Access via Contact Officer)	<a href="#">ES18068</a> PLANNED ENFORCEMENT OF LEGISLATION WHICH REGULATES THE LETTING AGENTS AND PROPERTY MANAGEMENT SECTOR 27 <sup>th</sup> September 2018  <a href="#">ES19039</a> LETTING AGENTS ENFORCEMEN 26 <sup>th</sup> June 2019  <a href="#">Mandatory client money protection for property agents - Enforcement guidance for local authorities</a>  LONDON TRADING STANDARDS Model London Lettings Enforcement Policy