

6 December 2017

To:
lettingagentsteam@communities.gsi.gov.uk

Dear Sirs

Mandatory Client Money Protection Schemes for Property Agents

This response to your consultation is on behalf of The Federation of Private Residents' Associations, which as far as we know, is the only national body that represents the voice of leaseholders in England and Wales.

We have over 500 member associations representing tens of thousands of individual leaseholders.

The basic premise of this consultation is excellent and is supported by our members. It is however, dealing with one small aspect of a bigger problem, so whilst it is welcome in itself, we urge you to also look at the bigger picture as the London situation is part of the bigger England and Wales condition.

We would draw your attention to the other consultation currently ongoing for the regulation of managing agents and arising from that, the protection of money.

In addition, we would draw your attention to the work of the All Party Parliamentary Group on leasehold reform.

Although your consultation is aimed at the protection of short-term let, we think this has relevance to the long-term leasehold market, particularly as some of the property agents will be involved in both markets. Consideration needs to be given to the fact that a property agent maybe called upon to be regulated for the protection of money under two separate schemes.

We have longed campaigned with the Department and others for the protection of leaseholders money. We recently sent the following message:

Protection of Leaseholders' Money

Leaseholders are usually required by terms of their lease, to make advance payments towards the service charge, and to contribute to a sinking or reserve fund. These sums can be substantial, especially if major works are in the offing.

It is believed that there is no other area in the UK in which money held by a third party is not regulated. It has been suggested that the sums held by unregulated and unprotected third parties may well exceed £1 billion. An individual can set up in business as a property manager without any formal qualifications or experience or insurance – even if they have a criminal background and hold these deposits or other sums.

Perhaps unsurprisingly, this has from time to time resulted in leaseholders falling victim to fraud or outright theft of their payments. Sometimes they lose money through incompetence and the Financial Conduct Authority has no involvement and therefore there is no compensation.

Shocking as this seems, there has been much legislation to protect much smaller sums and housing deposits for renters, but nothing to protect leaseholders' funds. FPRA believes that it is essential that a system is devised so that funds paid by leaseholders to managing agents or landlords are protected by a scheme similar to the Financial Services Compensation Scheme.

General comments:

We also wish to raise the special vulnerability of elderly leaseholders especially those in 'extra care' homes and retirement properties. Many of these leaseholders lack the information, resources and indeed will to challenge poor practice and in some cases, are in actual fear or anxiety of doing so.

We feel the proposed penalties are derisory when compared to the sums of money potentially held and would not provide an adequate deterrent.

As you will appreciate, we have not felt it appropriate to answer your specific questions but hope the above will be useful.

FPRA welcomes this consultation and the proposals but without leasehold reform this could lead to further complications.

Bob Smytherman
FPRA Voluntary Chairman

