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ASSESSMENT

Elmhurst Energy Response to:
“Protecting consumers in the letting and
managing agent market”

Prepared for: DCLG

29th November 2017



Domestic

Commercial

On Construction



Introduction:

Elmhurst Energy are pleased that DCLG are seeking a call for evidence on 'Protecting consumers in the letting and managing agent market' to seek views on whether a new regulatory model is needed for agents in the leasehold sector. This will hopefully gain an understanding of what form regulation of letting and managing agents should take to best protect and empower tenants and leaseholders.

Elmhurst energy is the largest Energy Performance Certificate (EPC) Accreditation body in the UK with 25 years of experience. We are governed by the Department for Communities and Local Government (DCLG), to ensure that we apply professional consistent standards to our members. We provide industry leading software platforms, training and support to our thousands of members, who produce EPCs for tenants and landlords throughout the UK. As such we are delighted to respond to each question in turn.

We hope you find the responses considered and useful for taking this forward in a progressive manner.

Questions and Answers

1. Chapter 1: 'The Case for Change'

1.1 Do you agree with our 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??

Elmhurst deals with a large number of letting agents who are knowledgeable and give professional level of service to their clients. We do however recognise that there are a smaller number of agents who give the industry a bad name. The consequences of poor or no advice is that families will live in cold, damp, and expensive to heat homes. In our area of expertise the regulations exist to protect consumers e.g. the Energy Performance Certificate (EPC) should be provided to tenants and from next April (2018) no new private rental property should be 'F' or 'G' rated. However poor agents will avoid compliance, therefore we agree that they must understand their responsibilities to landlords and tenants. Agents often act as the professional advisor to landlords, and therefore must advise their clients of all matters of law relating to the rental of properties, otherwise what is their purpose? If consumers are to be protected, then the Agent, who is giving advice, must understand and adhere to adequate professional standards.



1.2 Is a new regulatory approach required for property management agents? If not, why not?

Due to the fragmented nature of the supply chain, as the property management agents will often be 3 steps removed from the consumer (tenant), they must adhere to Building Regulation/Standards/practices when it comes to energy efficient improvements made to the property. The quality standards exist in law, so therefore the managing agents must be responsible for the work that they do or work they commission.

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

Independent information should be available along with a helpdesk and a route for alternative dispute resolution. The independent advice to consumers on what their rights are is required.

What should be the scope and objectives of any regulation? In particular:

1.3.1 Which agents and individuals working within managing agents should be covered?

Should individuals, companies and officers be treated differently?

1.3.2 What types of services should be included? And should any types of companies or services be excluded?

1.3.3 Should any other classes of people or property professionals be covered by any regulator?

The letting and management agents must be professional and give the correct advice to the consumers, they must be held accountable for the advice that they give and the contractors that they employ or commission.

2. Chapter 2: 'Entry Requirements'

2.1 Is there a need for minimum entry requirements for managing agents, to match the existing 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?

We advise to keep it simple and not too onerous, it is vital to ensure a level playing field to protect consumers. The good agents are already applying standards and the 'others' need this benchmark enforcing on them.

It is also vital to create an ability for the standards to be enforceable. It is also vital that they can be created with appropriate management levels, to ensure that they themselves are fit for purpose; displaying the ability to be amended in future reiterations to allow the industry to grow and be innovative. Setting standards and having them totally inflexible is not a pragmatic approach. Industry needs to ensure that they can change over time to ensure that they are current and relevant.



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

See above

2.3 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?)

A framework is required whereby companies/individuals have the ability to trained and qualified to achieve competence in pertinent areas of work for them e.g. contract law, PRS/MEES, repairs, HSE. It is up to the company/individual to operate within the bounds of their competence.

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

A National Occupational Standards (NOS) with essential 'core' elements including the law around landlords letting of private property and tenants rights is required. This can arrive at competence levels and cover all the work that the companies/individuals require to undertake.

2.5 Do Codes of Practice have a role in any future regulatory approach?

Yes, Regulation should require that Codes of Practice exist and are adhered too. It is vital that any Codes of Practice cover what the agents need, but it must ensure that it covers adequately consumer rights.

2.6 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?

Any good Codes of Practice must include clauses for 'conflict of interest' management.

2.7 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

3. Chapter 3: 'Approaches to enforcement and regulation'

3.1 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?

See below



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

See below

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

See below

3.4 What powers would any new regulatory body require to enforce its standards?

See below

3.5 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 non-compliance?

See below

3.6 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.

Elmhurst would suggest that competition is a good thing. Therefore we would not advocate for one scheme. The acceptance that these schemes already exist allows a system to be implemented quickly and effectively. We like the idea of an oversight body as this will ensure a level playing field for the consumer. Choice for Agents is a good thing and promotes innovation.

4. Chapter 4: 'Rights to switch agents and challenge charges'

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

A code of conduct and an arbitration route, and independent advice will allow consumers to challenge unfair practices

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

Same as above.

4.3 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?

If consumers or indeed letting agents can prove, through the arbitration process, that the managing agent has failed to comply with the code of practice they are entitled to demand a switch.

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

No, regulators need to be balanced and impartial, representing all parties equally.



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4.5 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?

No comment

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

No comment

5. Contact Details

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