



Primary Authority Partnership

Warwickshire County Council Trading Standards & National Federation of Property Professionals & The Property Ombudsman

Primary Authority Advice

Advice requested:

1) Should an agent disclose that there is a legal limit on the occupancy of a building that is being marketed for rent?

Legislation considered:

Consumer Protection from Unfair Trading Regulations 2008 (“CPRs”)

Other Material considered:

National Trading Standards Estate Agency Team Guidance on Property Sales [September 2015] (“NTS Guidance”)

Trento Sviluppo srl and another v Autorità Garante della Concorrenza e del Mercato (Case C-281/12), 19th December 2013

Assured Advice Issued:

1) If a local authority introduces a legal obligation on owners of property to obtain a licence, before the property can be let to any tenants, then this is certainly material information and the agent should check the licence is in place before marketing.

If the conditions on the licence stipulate a maximum occupancy for the property, then this will be material information that any prospective tenant would need to know before taking a transactional decision.

The recent appeal case to the European Court from Italy (*Trento* above), decided that a ‘transactional decision’ can even include the decision whether or not to enter a shop.

So if the maximum occupancy rate from the licence was not placed onto any marketing information, a consumer could take a transactional decision (e.g. to phone or visit the agent), that they may not have taken had they known the maximum occupancy would not suit their individual needs.

Our best advice is for agents to display the maximum occupancy rate on marketing information, where there is a legal limit in place that will affect the occupancy of the property.



Date Advice is Effective from:

18 09 2015

Reference and renewal:

The reference for this advice is: WTS/NFOPP/TPOS/6

This advice shall be reviewed in 12 months from the issue date.