

Primary Authority Partnership

Warwickshire County Council Trading Standards

Old Budbrooke Road, Warwick, CV35 7DP

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Propertymark

Arbon House, 6 Tournament Court, Edgehill Drive, Warwick, CV34 6LG

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The Property Ombudsman

Milford House, 43 - 55 Milford Street, Salisbury, Wiltshire, SP1 2BP

Primary Authority Advice

This advice is applicable to all member businesses acting in a capacity of a letting agent, managing agent or landlord. If you are contacted by a local authority enforcement body, please ensure that you inform them that you are a member of the scheme.

Advice requested:

When accommodation in a house in multiple occupation (“HMO”) is advertised in anticipation of the necessary planning permission and/or licence being granted before tenants move in, must this fact be disclosed in advertising material?

Legislation considered:

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

Other Material considered:

TPOS Code of Practice for Residential Letting Agents [1st October 2016]

The UK Code of Non-broadcast Advertising and Direct & Promotional Marketing, Edition 12

Assured Advice Issued:

Student accommodation is often in HMOs, and advertising for the academic year can begin as early as November the previous year. Sometimes the necessary planning permission and HMO Licence have been applied for, but not yet granted.

There is no legal barrier to this, but if the planning or licensing application, or appeal on either of these, is lost, then the building concerned cannot be let as an HMO. If this happens before any tenants move in, then those tenants may have nowhere to live – potentially very close to when their courses start.

In our opinion, the fact that advertised accommodation is subject to planning permission (etc) would constitute material information, the omission of which may

cause an average consumer to take a transactional decision which they may not otherwise have taken. We would therefore advise that this should be mentioned in advertising material.

Date Advice is Effective from:

09 01 2019

Reference and renewal:

The reference for this advice is: WTS/PM/TPOS/32

This advice will be reviewed annually; however it will remain valid until it is marked 'obsolete' on the Primary Authority Database. If any part of this document requires amendment following a review, a completely new version will be added to the database and the previous version shall be marked 'obsolete'.