

Rt Hon Michael Gove MP
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DEAR MICHAEL GOVE

9 November 2023

Re: Regulation of property agents in light of latest damp and mould guidance

Following your announcement in February that all property managers in the social rented sector should be qualified and the issuing of recent damp and mould guidance, I write to urge you to extend these qualification requirements to letting agents, sales agents and managing agents.

I am sure you will agree that tenants in the social rented sector and the private rented sector should have parity and they should feel safe in the knowledge that their property manager is qualified and trained regardless of the tenure they rent. Furthermore, letting agents have a significant role to play in delivering the Decent Homes Standard and tenancy reforms as set out in the Renters (Reform) Bill. An estimated 46% of landlords use an agent, where inspections and notices all the way up to the daily running and management of a property are delivered by an agent. This could mean that potentially over two million households could be left uncovered by efforts to improve standards within the private rented sector if the focus on enforcement and new standards remains solely with landlords.

Following the introduction of the Building Safety Act and further legislation to reform the leasehold system I am sure you will also agree that it is only right that homeowners and tenants living in a block of flats or purchasing a home to live in have access to qualified and trained estate and managing agents. Currently, there are no barriers to entry to work in the property sector or even to belong to a professional membership body. This means varying levels of service, standards and application of new and existing laws.

The Renters (Reform) Bill and recently announced Leasehold and Freehold Bill provide opportunities to extend the requirements for qualifications for property managers across the property sector and help deliver the UK Government's reforms. I have included information that outlines how we think the regulation of property agents can be achieved and I would welcome an opportunity to meet with you to discuss this in more detail. Your office can liaise with Timothy Douglas, Head of Policy and Campaigns at Propertymark via timothydouglas@propertymark.co.uk and telephone 07920588936.

I look forward to hearing from you.

Best wishes,




Nathan Emerson MNAEA MARLA MNAEA (Comm.)
Chief Executive Officer, Propertymark

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BRIEFING

Regulation of Property Agents



Briefing for **Rt Hon Michael Gove MP**,
Secretary of State for Secretary of
State for Levelling Up, Housing and
Communities from Propertymark

Nov 2023

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Key concerns:

- 1 Propertymark believes that full mandatory government regulation of sales, letting and managing agents is the quickest and most effective method to eliminate unprofessional, unqualified and unethical agents from the property sector.
- 2 Piecemeal legislation is unmanageable and unenforceable. There is no statutory regulation to ensure property agents are suitably qualified.
- 3 Agents who are not members of a professional body do not have to meet minimum competency standards.

CURRENT STATE OF PLAY

SALES AGENTS

Currently, estate agents are not required by law to be licensed or qualified. In Scotland, a solicitor will manage much of the property sale. However, in England, Wales and Northern Ireland, unless the estate agent is a qualified chartered surveyor, he/she will liaise with other professional parties.

Estate agents across the UK are principally regulated by the Estate Agents Act 1979 and the Consumer Protection from Unfair Trading Regulations 2008. In addition, since 1 October 2008, all estate agents in the UK who engage in residential estate agency work are required to belong to an approved redress scheme under the Consumers, Estate Agents and Redress Act 2007.

LETTING AGENTS

There is currently no overarching statutory regulation of private sector letting agents in England, nor is there any legal requirement for them to belong to a trade association.

Scotland has introduced a qualification and registration scheme for letting agents. Wales requires agents to be trained and licensed. In Northern Ireland, January 2017 saw the Department for Communities announce an intention to “Introduce a regulatory framework for all letting agents including bringing forward legislation to ban letting agent fees.”

There is no comprehensive regulation of letting agents in England. There are an estimated 19,000 letting agents and 2.3 million landlords in England, with 46 per cent of landlords using a letting agent. ¹

CURRENT STATE OF PLAY

MANAGING AGENTS

There is currently no overarching statutory regulation of managing agents in England, nor is there any legal requirement for them to belong to a trade association.

Despite the Building Safety Act placing a huge focus on building and fire safety in multi-occupied buildings, there are no qualification or ongoing training requirements for managing agents.



Renters (Reform) Bill

Legislation to make the private rented sector fairer through reforming the private rented sector offers an opportunity to introduce a framework for the regulation of letting and managing agents in England and sales agents across the UK.

WHY IS REGULATION IMPORTANT?

Improve quality of service for consumers

Anyone can operate as a sales, letting or managing agent, regardless of qualifications or experience. This can result in variable service levels for tenants, landlords, leaseholders, homebuyers and sellers including general bad practice, lack of financial protection and no effective way to resolve complaints.

Introduce minimum operating requirements

There are no minimum standards to work in the sector and there are no statutory rules to ensure property agents are suitably qualified. Additionally, agents who are not members of a professional body do not have to meet minimum competency standards.

Parity is needed with the social rented sector

on 23 February 2023, it was announced by the UK Government that property managers in the social rented sector must gain professional qualifications under new rules to protect residents and raise standards in the sector. ²

Helping to deliver the Decent

Homes Standard and renters reforms

letting agents have a significant role to play in the private rented sector and can help deliver the Decent Homes Standard and tenancy reforms. Improving the standards of agents can help ensure greater compliance with reforms.

Prospective tenants lose £13,000 in a **fake agent scam**

In September 2023, fraudsters operated under a name of a legitimate agency and held two days of viewings. However, it later turned out that the flat shown had been booked through online travel agency Booking.com, which is how the fraudsters got the keys.

After looking around the property, the prospective tenants were sent what they say was a legitimate-looking contract and an invoice. They later discovered the scammers had used the property owner's real name in the documents. The scammers also used a legitimate real estate agency's company registration number on their invoice.

Because the prospective tenants did not have guarantors, they had to pay six months of rent in advance, along with a deposit worth five weeks' rent. Shortly after transferring the money to a bank account, they received an email from OpenRent saying they had removed the advert due to suspicions of fraud.

The prospective tenants reached out to the agent, who was still responsive and agreed to meet up to give them the keys. But no-one showed up.



[www.bbc.co.uk/news/
uk-england-london-66846416](https://www.bbc.co.uk/news/uk-england-london-66846416)

What should regulation look like?

The Renters (Reform) Bill provides an opportunity to introduce minimum qualification requirements and statutory Code of Practices to be adhered to by all letting, managing and sales agents, including:

- A Code of Practice that can be used by the government approved redress schemes to adjudicate against complaints and help drive up standards.
- The training and qualification requirements that must be met to ensure acceptance onto the mandatory register of letting and property agents. This could be integrated into the UK Government's plans for a Property Portal.
- Successful registration indicates that an applicant is a fit and proper person to carry out letting and property agency work. It will be a criminal offence for any property agent who is not on the register to operate.

AMENDING THE ESTATE AGENTS ACT 1979

Section 22 of the Estate

Agents Act gives powers to the

Secretary of State to introduce

'Standards of competence'

and prescribe professional or

academic qualifications as well

as designate an organisation as

a body which may itself specify

professional qualifications.³

KEY STATISTICS

Scotland

In 2014, legislation was passed making provisions for the regulation of letting agents in Scotland. A recent report into letting agent qualifications and Continuing Professional Development (CPD) highlights the importance that professional qualifications is playing in driving up standards across the private rented sector in Scotland.

87%

of letting agents who had completed a qualification said it had a positive impact on their professional capabilities.

51%

of landlords said that requirement for letting agent qualification had been a positive thing for the private rented sector overall.

84%

of letting agents said the introduction of qualifications has been positive for the sector overall highlighting more people looking at property agency as a long-term professional career option. ⁴

Regulation of Property Agents (RoPA) Working Group report

On 18 July 2019, the RoPA working group produced a report setting out recommendations for a new regulatory framework focused on estate agents in the UK and letting and managing agents in England. **The UK Government are yet to respond to the recommendations.**

The proposals included ensuring everyone in the industry is licensed, adheres to a strict code of practice, and holds (at least) a Level 3 qualification. ⁵

The measures were in line with the UK Government's responses to its calls for evidence on 'Protecting consumers in the letting and managing agent market' ⁶ and 'Improving the home buying and selling process'. ⁷

SUMMARY OF ROPA WORKING GROUP REPORT RECOMMENDATIONS ⁸

Proposals—what should Regulation look like?

Independent regulator, mandatory qualifications and a code of practice.

NB: The new proposed regulatory framework should cover estate agents across the UK and letting and managing agents in England.

To get a licence to operate from the regulator, agents must:

Meet legal obligations (e.g. Client Money Protection (CMP), Anti-Money Laundering (AML) and independent redress), pass a fit and proper person test and be appropriately qualified.

NB: This could include designated professional bodies carrying out some of these functions.

Code of practice will include:

- Overarching code set in statute.
- Regulatory codes specific to different aspects of property agency.
- Mandatory qualifications mean:
 - Licensed agents (individuals) should qualify to minimum level 3.
 - Company directors and Managing Agents qualified to a minimum of level 4.
- Regulator to impose Continuing Professional Development (CPD) requirements.
- Experience is not enough (no 'grandparenting').
- Phasing-in approach will be necessary.

NB: To clarify the functions of a property agent the UK Government should create a list of 'reserved activities' e.g. conducting viewings, market appraisals, providing direct advice.

Leasehold and freehold charges

Greater powers for the Regulator to enforce compliance against managing agents.

Appointing a regulator:

- A new public body should be established to undertake this role.
- Funded by firms and individuals it regulates.
- Could extend to other areas in the future e.g. landlords and the build to rent sector.
- Take over responsibility for the approval of property agent redress schemes.

Regulation is cost neutral for the UK Government

There are numerous providers offering qualifications to property professionals, these include:

- Propertymark Qualifications: £300 (incl. VAT) 'Level 3 Residential Letting and Property Management' ⁹
- Rightmove: £170 (+VAT) 'Certificate for Estate and Letting Agents' ¹⁰
- Able Agent: £225 (+VAT) 'Level 3 Lettings Practice' ¹¹

Sector appetite for qualifications

In 2022, over 3,800 agents voluntarily registered to complete a regulated qualification with Propertymark Qualifications with over 1,600 completing this achieving the qualification certificate.

The first three months of 2023 has seen that commitment to achieving qualifications continue and over 1,400 more agents have registered to complete a qualification.

SOURCES

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6. www.gov.uk/government/consultations/protecting-consumers-in-the-letting-and-managing-agent-market-call-for-evidence
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9. www.propertymark.co.uk/careers-learning/qualifications.html
10. hub.rightmove.co.uk/get-qualified-with-rightmove
11. www.theableagent.co.uk/qualifications



THE IMPACT

ELIMINATE UNETHICAL AGENTS

Full mandatory government regulation of sales, letting and managing agents is the quickest and most effective method to eliminate unprofessional, unqualified, and unethical agents from the property sector.

PARITY WITH THE SOCIAL RENTED SECTOR

In the UK Government's pursuit of equivalence across tenures it should be acknowledged that unlike the social rented sector, the private rented sector does not have a regulator with the aim of promoting a viable, efficient, and well governed sector including regularly publishing guidance.

CONSUMER PROTECTION

Since the RoPA report was published, the arguments for intervention have become far more pressing, particularly with the introduction of PAS8673 for the safe management of residential buildings, the new Building Safety Regulator regime, the reforms in leasehold and potentially commonhold tenures and now the mandatory qualifications for social housing property managers.

MEMBERSHIP OF A PROFESSIONAL BODY

Without full mandatory government regulation, the UK Government should also be doing more to promote the benefits of property agents joining a professional body and encourage consumers to use trained and qualified agent for additional protection.

ABOUT PROPERTYMARK



Propertymark is the UK's leading professional body of property agents, with over 17,500 members representing over 12,800 branches. We are member-led with an executive

Board of practicing agents who we work closely with to ensure that we uphold high-standards of professionalism and are able to advocate for legislative change on behalf of the sector.



MORE INFORMATION

For further information and to arrange a meeting please contact Timothy Douglas, Head of Policy & Campaigns via timothydouglas@propertymark.co.uk or telephone 07920 588936.

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