

# Property Redress Scheme

2018 Annual Report

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# Foreword by the Chairman of the Council



I think it is safe to say that the word of last year was ‘change’ and this is true, no more so than in the world of property. Of course, nothing stays the same, and from someone who celebrated his 80th birthday in 2018, I have seen a lot of upheaval during my lifetime.

However, it is true to say that in this industry, the pace and scale of change has been unprecedented. The number of reforms and level of legislative activity has not been seen in the private rental sector since the 1988 Housing Act. By the time the changes are completed, over the next few years, we will have seen as great an impact, as the then ground-breaking law over 30 years ago. It is also true that all other parts of the property sector are now under scrutiny – sales, leasehold and new build properties.

The reason for all this change is, of course, politics but it is fundamentally predicated by the shortage of housing stock and the need to inject more supply into the market. Simply, we do not have enough homes. This fact is applicable across all Governments and all political creeds over the last half-century and the pressures have been steadily building up. The industry, therefore, has to be fit for purpose and adapt; hence the rapid pace of change. So of course when you breach the dam, the inevitable is likely to happen and the flood follows.

This said, the changes that are being made are probably overdue. Introducing better protection of consumers, who are ultimately customers of us all, is part of a healthy and vibrant market. We are also living in a world of innovation and technology that is impacting our lives, mostly positive but sometimes unpredictably, and with unforeseen detriment. The law is, therefore, struggling to catch up.

I am however an optimist and believe that when faced with change, you have to adopt the mantra of “Carpe Diem” – seize the day and take control of your own destiny. Many in the industry have been calling for reform and creating a safe and trustworthy sector that is all too often tarnished by the actions of a very tiny majority. It is therefore reassuring that most of the moves by the Government to legislate have involved a huge amount of consultation, working groups and evidence gathering.

I myself saw this first hand when I joint chaired the working group on the proposal to make Client Money Protection (CMP) compulsory for all letting agents, providing the financial assurance to consumers that their money is safe. We, however, did a lot of work to ensure our conclusions reflected the concerns and needs of the industry. The result is that robust, affordable CMP will be a reality in the market and a mandatory requirement for all agents to have in place.

I am also proud of my involvement with the Property Redress Scheme (PRS), who have gone from strength to strength. Our reporting always is a year in arrears, but even looking at the growth and success of the Scheme from 2014 till the end of the reporting period, the figures are impressive. The Scheme has continued to grow and now provides the redress requirement for a significant proportion of the market. I, of course, extend my thanks to the hard-working team at the PRS, my Advisory Council and of course every one of our Members for contributing to making the Scheme the positive influence it is today.

I leave you with one more thought on the future and how the industry must now face the coming challenges. This time the quote is from former US President, Barack Obama

“Change will not come if we wait for some other person or some other time. We are the ones we’ve been waiting for. We are the change that we seek”

**Lord Monroe Palmer OBE FCA**  
Chairman of the PRS Advisory Council

# 01.

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## Head of Redress Report

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Sean Hooker is the Head of Redress for the Property Redress Scheme. He is a qualified Adjudicator (ACI Arb), CEDR Accredited Mediator, and has a Professional Award in Ombudsman and Complaints Handling Practice (Queen Margaret University and Ombudsman Association).

**2**018 was a fundamental year for the Property Redress Scheme, and this was mirrored in the wider sector, as further developments in the Government's "project" to reform the housing market started to take shape.

Our scheme continued to grow steadily in the first three quarters of 2018 and this reflected a still expanding market, better enforcement of the regulations and much higher awareness of the legislation. However our expansion was boosted by a totally unexpected development; namely the announcement by Ombudsman Services – Property, that they were withdrawing from the market and would no longer operate a redress scheme. This meant that all their current members had to join an alternative scheme, in a short space of time, in order to remain compliant or risk enforcement. A lot of effort was required to bring on board the agents who approached us and I am pleased that this was done smoothly and efficiently. The consequence however was a sizable increase of Members over and above our already healthy growth for the year. I welcome all new members and anticipate that they will receive a first class service from the team.

The increased Membership has also led to an increase of complaints and therefore we have increased resourcing to this side of the business. We have also honed and revised our processes with earlier contact and informal resolution being the focus of our efforts. This work is still rolling out and the benefits are now being seen with the objective being to reduce complaint times and obtain a high level of satisfaction with the outcomes.

We are also moving towards more effective education and guidance for both our members and complainants. Our online resource centre has expanded with new case studies and guides and will continue to do so. Our regular members' newsletter provides an update on legal developments and legislative changes and signposts agents to finding useful and essential information for compliance.

Together, with our parent company, the PRS is participating in a major new initiative called the Hamilton Fraser Academy, and in conjunction with the Guild of Letting and Management

are running a series of training events open to all agents, aimed at helping them comply with current changes in the law.

I firmly believe that better education is key to raising standards and I continue to engage with the sector on a regular basis, attending events and talks, aimed at keeping agents and landlords informed. I've also written a large number of articles and blogs that have received good coverage and supplemented these with video blogs, podcasts and social media, all with the intention of spreading good practice, promoting awareness and helping the industry become increasingly more professional.

As the industry moves increasingly towards regulation and professionalism, I am involved in workshops, consultations and sector engagement run by the Government and numerous organisations. Their aim is to be part of making long lasting changes to a rapidly expanding sector which can be prone to negative publicity. Getting it right is essential as the changes will define the industry's future for years to come. ●

## Sean Hooker - A View from Westminster



### What happened in 2018?

The private rented sector was a major focus of the Government during 2018. A large number of legal changes went through Parliament and several measures came into force. A brief summary:

#### **April 2018 - Introduction of banning orders**

Agents operating illegally are subject to banning orders. Under a ban they will not be able to earn income renting out housing or engage in letting agency or property management work. At the same time the Government set up a rogue landlord and agent data base, however this is not currently available to the public. This prompted the Mayor of London to set up his own database and the Government to commit to opening it up in the near future.

#### **April 2018 - Minimum Energy Efficiency Standards**

Legislation was introduced to ensure that no new tenancy is granted unless a property has a minimum Energy Performance Certificate Rating of E. It will become illegal to let some landlords' properties, but the energy efficiency standard of rental stock should be vastly improved.

#### **October 2018 - Extended HMO landlord licensing**

This extends the definition of licencing to include more properties.

#### **October 2018 - Introduction of minimum bedroom sizes for rental properties**

This is targeted at overcrowded properties and unsuitable rental properties.

continued overleaf...

## What is coming in 2019?

Major new legislation to be implemented in 2019

### **March 2019 (Homes) Fitness for Human Habitation Act**

A major change to the existing law, in terms of enforcement of basic standards in rental properties and empowers tenants to take legal action, independently of a local authority.

### **April 2019 – Mandatory Client Money Protection scheme membership**

This actually was subject to a ministerial order and the process of procuring schemes to run it was put in place during 2018.

### **June 2019 – Ban on letting agent fees to tenants**

This flagship policy of the Government has been a major and controversial piece of law that will impact the entire sector.

### **June 2019 – Cap on security and holding deposits**

This will come in at the same time as fee ban.

## What is in the pipeline?

Some major pieces of work are being started in 2019 and will come in to force over the next few years.

The Government has pledged to:

- Implement a provision in the Estate Agency Act 1979 to ensure all estate agents will require mandatory qualifications, and extend this to letting agents and property managers. They will also introduce regulation to the sector and a code of conduct to govern property professionals.

- Ask the industry to adopt voluntary transparency relating to estate agents referral fees received for recommending other commercial services, otherwise they will look to ban these.

Look at bringing in other changes to the home buying process.

- Introducing mandatory electrical safety checks on all rental properties and extend the requirement for a carbon monoxide detector in every property, not only those with solid fuel burners.
- Set up a Housing Complainant Resolution Service, where a consumer can direct their complaint and it will direct them to the appropriate scheme. There will be a common complaints code and increased cooperation and data sharing amongst the schemes.
- Introduce landlord redress to bring landlords in line with agents.
- Set up a New Build Homes Ombudsman for consumers of new, off plan and refurbished buildings. Again this will be a challenge and there are currently no timescales.

### **Be Prepared and Make the Changes.**

- With so much change and with the increasing risk of being fined or even closed down, agents will need to ensure they have all their ducks in a row. The market is changing and consumers are becoming more aware of their rights. Ultimately the majority of property professionals will comply, make the necessary changes and will embrace the new landscape as part of a trusted and safe sector, providing quality services to their customers. ●

**Dacre,  
Son &  
Hartley**  
dacres.co.uk

“

From the point that Dacre Son & Hartley first approached PRS to supply redress support we have found them helpful and proactive in meeting our needs. Case handling is easy to track with clear parameters easing the impact on management time.

*Dacre Son & Hartley, one of PRS' key accounts, joined us in August 2018 following the closure of OS:P. Patrick McCutcheon is Head of Residential. They have 17 branches with us along with two other separate franchise memberships.*

# 02.

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## The Advisory Council

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The role of the Advisory Council is to act as an advisory body to the Head of Redress and the PRS Board in all matters relating to the running of the scheme.

The Advisory Council refers matters of consideration to the Head of Redress and PRS Board, including, where appropriate, changes in the law resultant from new, modified or changed legislation, subject to legal challenge or current case law precedent. They must scrutinise and maintain the Head of Redress' impartiality and if necessary, make recommendations relating to the resourcing of the Head of Redress' department.

## The Advisory Council Members

### *Nick Lyons*



The introduction of so much new legislation within such a short period will take time for the industry to adjust, but the intent of the legislation being focused on compliance and improvement of rental accommodation standards is very positive and will help improve the reputation and professionalism of the rental industry. As a provider of compliance information to the lettings and property management market we have embraced these initiatives and provided solutions to help property professionals streamline their processes whilst still meeting their obligations.



### *Eric Walker*



I believe that by abolishing tenant fees agents will have to compete on service and value rather than use tenants to unfairly subsidise their income and gain a competitive advantage. The momentum towards proper regulation is equally welcomed to drive out the small minority of rogue agents. The plan to ensure landlords subscribe to an ombudsman's code of practice will offer further protection to tenants whilst endorsing the benefit of using a professional managing agent.



### *Paul Shamplina*



With unprecedented compliance and change brought in by the Government, it's making letting agents and landlords become more professional in renting out properties. The one thing I am most excited about is that finally, Client Money Protection is mandatory for all letting agents from the 1st April 2019.

At Landlord Action over the years, we have had to act for numerous landlords over the years in trying to recover lost monies from many agents, who have misappropriated landlords' rents and did not have Client Money Protection in place. I even remember speaking with a journalist about one rogue letting agent as far back as 2001 and we were talking about CMP being mandatory then. Thankfully the consumer will now be protected and that can only be a good thing.





## *Tessa Shepperson*



2019 is going to be a challenging year for the Private Rented Sector with new laws on fitness for habitation, tenant fees, and client money protection with other new laws on the way.

The job of myself and other lawyers is to help our clients cope with all this and I am excited to be developing new services to help us do this better. Given proper help and guidance it is still possible for both landlords and agents to succeed in the sector.



## *Richard Price*



This year sees Client Money Protection (CMP) become mandatory for letting agents, which is something I have been supportive of for a number of years.

CMP is a backstop safeguard for agents' customers which can only enhance the lettings environment, giving landlords and others the reassurance that client money is safe until it arrives at the intended destination, or the ability to claim compensation if it doesn't!

Whilst policing of the mandatory requirement to have CMP may be challenging to those tasked to enforce it, the heightened awareness of agents customers to the issue can only be a good thing, and something they check is properly in place when dealing with agents.



## *Alex Cosgrove*



This year is a time of huge changes within the lettings industry with so much new legislation coming in to force. It is hoped that the new legislation will help create better industry standards and gives trading standards additional powers to deal with persistent and unscrupulous rogue agents that flout the law, by issuing fines, as well as criminal sanctions and banning orders. I am looking forward to continuing working with the industry and its partners to ensure compliance and understanding of the new legislation.



## *Alison Nunez*



With the tenant fee ban, Fitness for Habitation, CMP and even more legislation looming, Agents will need to ensure they are not only fully compliant but that they offer the best possible service to both Tenants and Landlords to support them through the complexities of renting property. It will be another challenging year for the Private Rental Sector, however good agents and professional Landlords will welcome each step towards regulation.



# 03.

## Memberships Statistics

### Property Agents

#### Members by Region

<b>2.2%</b>	Northern Ireland
<b>2.2%</b>	Scotland
<b>3.4%</b>	North East
<b>8%</b>	Yorkshire
<b>7.8%</b>	North West
<b>3.8%</b>	Wales
<b>6.8%</b>	West Midlands
<b>6.1%</b>	East Midlands
<b>3.3%</b>	East of England
<b>35.21%</b>	London
<b>13.3%</b>	South East
<b>7.7%</b>	South West
<b>0.19%</b>	Islands



# Quick Facts

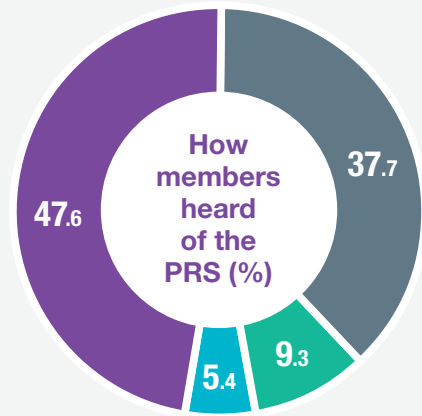
## 2018 Quick Facts

**9,292** Agent offices signed up to date

**47%** Registered for sales  
**76%** Registered for lettings

**75%** Registered for property management  
**74%** Members signed up for Entry Model

\* UKALA Members: 483



- Internet
- Press Article
- Advert
- Other

## 2017 Quick Facts

**6,787** Agent offices signed up to date

**39%** Registered for sales  
**71%** Registered for lettings  
**70%** Registered for property management  
**82%** Members signed up for Entry Model

## 2016 Quick Facts

**5,929** Agent offices signed up to date

**31%** Registered for sales  
**79%** Registered for lettings  
**76%** Registered for property management  
**82%** Members signed up for Entry Model

## 2015 Quick Facts

**3,941** Agent offices signed up to date

**31%** Registered for sales  
**80%** Registered for lettings  
**76%** Registered for property management  
**85%** Members signed up for Entry Model

# 04.

## Complaints and Compliance

### Compliance

#### Expelled Members by Region

0%	Northern Ireland
2%	Scotland
0%	North East
9%	Yorkshire
14%	North West
4%	Wales
4%	West Midlands
2%	East Midlands
7%	East of England
47.9%	London
4%	South East
6%	South West
0.1%	Islands



**Highest Award**  
**£25,000**

In this case, the Landlord claimed for considerable rent arrears, as well as for the costs of a bridging loan which was taken out to cover the shortfall. The PRS Head of Redress found that there were considerable failings on the part of the Agent in respect of their duty of care and professionalism, and in light of the amount of the rent arrears, plus the behaviour of the Agent, made the highest award possible under the remit of the PRS.

## Quick Facts

In 2018 we issued

**269** proposed decisions

and

**77** final decisions

made by the Head of Redress.

This is up by

**82%** (from 148)

and

**103%** (from 38)

respectively from last year.

### Complaints Statistics

**£1,102.83**

Average award made to complainants

**£296,660.11**

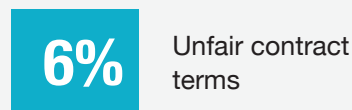
Total compensation awarded

**58 days**

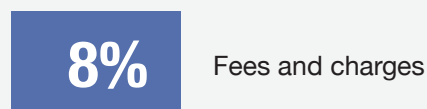
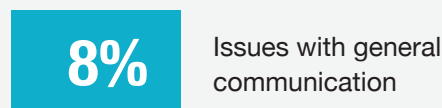
Average time taken to resolve complaints from evidence received to closure

The below figures show the top causes for complaint in 2018, represented as a % of total complaints raised:

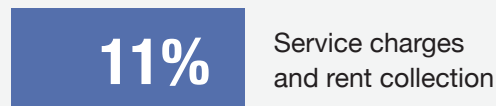
#### Sales



#### Lettings



#### Property Management



# 05.

## The Complaints Process

### Step 01

#### Complaint raised

We will only accept a complaint where:

- The Complainant has followed the Member's formal complaints process;
- Up to **8 weeks** has been allowed for the Member to resolve the complaint;
- There is no response or no satisfactory resolution has been reached.

### Step 02

#### First Contact from Case Assessor

The complaint will be assigned to a Case Assessor who will:

- Make first contact with both parties within **5 working days**;
- Determine whether the complaint is valid and acceptable by the Scheme under the Conditions of Complaint;
- Then allow the Complainant **10 working days** to submit evidence or further information if requested.

### Step 03

#### Party Resolution

If the complaint is accepted the Case Assessor:

- Will notify the Member of the valid complaint;
- Will then allow both parties **10 working days** to resolve the complaint between themselves;
- Will wait for confirmation on whether a mutual agreement has been reached, or whether the complaint should continue.

### Step 04

#### Member response

If the parties are unable to reach mutual agreement, the Member:

- Has **10 working days** to submit their rebuttal evidence to the Case Assessor. (Refer to PRS Conditions of Complaints);
- Must provide Rebuttal evidence, or a Default decision will be made for which the Member will be charged and against which the member may not request a review.

## Step 05

### Early resolution

Once all evidence has been received, the Case Assessor:

- Will attempt to facilitate Early Resolution of the complaint, giving the parties **15 working days** to reach negotiated agreement;
- Will then outline their understanding of the complaint and proposed grounds for resolution;
- May proceed the complaint to the next stage, either after the **15 working day** period or earlier if Early Resolution is not proving successful.

## Step 06

### Proposed Decision

- The Case Assessor will draft a Proposed Decision based on the evidence provided and discussions between the parties.
- The Proposed Decision will be issued within **20 working days**.

## Step 07

### Party response

Once a decision has been made:

- Both parties have **10 working days** to either accept the Proposed Decision or request a Review of the decision on a basis of an error in fact, law or administrative error;
- If the Proposed Decision is accepted by the Complainant, a Declaration will be sent to be returned to the PRS;
- If a Review has been requested, the other party will then have 5 working days to respond.

## Step 08

### Final decision

If a Review Request is accepted:

- The Head of Redress will have **20 working days** to issue a Final Decision;
- The Complainant has **15 working days** to accept the Final Decision which will become binding on the Member. Failure to respond will result in the complaint being closed.

## Step 09

### Compliance

- The Member will have **28 days** to comply with the decision, at whichever stage it is made;
- The Complainant can take the Member to Court for non-compliance.

**For more information please refer to the PRS Conditions of Complaints**

## The importance of early resolution

Lord Bingham, the former Lord Chief Justice once said “The law loves compromise!”

Why? Well, surely agreement is better than an argument – and maybe because judges would rather be playing golf and not listening to barristers in court!

With so many dispute resolution alternatives now; negotiation, adjudication, mediation, facilitation, to name but a few, why then, should a case even get as far as the court?

Wouldn't people rather avoid a long drawn out process, which takes time and can be costly? It makes more sense that everyone would prefer to move on with their lives.

Communication and negotiation work so well together, particularly at the start of a dispute to help resolve the matter quickly. However sometimes, due to other underlying issues or lack of understanding, the case has to be overseen by a trained third party decision maker.

### What is early resolution?

Intervention by an objective third party who listens to each party understands their perspective and offers impartial advice in order to facilitate a 'win win' positive outcome.

### What do we do?

Our sole focus is to help, understand the root cause and talk, listen and negotiate. Every case has an early resolution process which allows the parties to settle the matter prior to a formal written decision.

We take time to read each party's position, assess the relevant evidence and with our industry knowledge, engage by telephone to discuss with the aim of reaching a compromise.

As we all know, a problem shared is a problem halved.

### A snapshot of our hands on experience

**Holding deposits:** An agent relied on a non-refundable clause and was unable to justify any costs; another Agent took £750 deposit, did not provide the house which was promised or refund the deposit. In both cases, the holding deposit was returned to the Complainant.

**Student let:** A property refurbishment was not fully completed when the tenant moved in, so although it was going to be as advertised, it wasn't quite ready for occupation, causing inconvenience. The Agent agreed to a compensatory payment and an apology.

**Administrative errors:** An Agent who applied a fee of £95 for having to send a letter, agreed to cancel the fee and issue an apology.

**Service issues:** An Agent left the tenant to organise work carried out following an insurance claim; communication from the agent was rude and showed their lack of responsibility. The recommendation, which was accepted, was to make a compensation payment of £500 and to issue an apology.

**Poor service:** The Complainant reported problems with the condition of the property at the start and during the tenancy, some of which were still not dealt with and complained about the Agent's unauthorised entry to the garden without notice. In addition the Agent delayed responding to the Complainant on several occasions. The Agent acknowledged these claims and agreed to pay £200 in compensation.





**Leaseholder complainant:** The Complainant claimed for 'potential loss' which is outside the remit of the scheme but also referred to the Agent's tone in their communication for which the Agent agreed to issue an apology.

**Duty of care:** An Agent was found to have failed to sort out non-payment of utility bills, pay outstanding rent and organise repairs in the property. Following early resolution, the Agent agreed to decorate the property as soon as it could be organised, pay the outstanding rent over a period of 3 months and issue an apology. ●

**Steve Bowen**  
*Case Assessor*



Early Resolution is an excellent way of focusing my thought process and that of the Complainant and Member from the first contact onwards. Rather than each party thinking just about the details of the Complaint, it focuses everyone's attention on how a resolution can be achieved, at the earliest opportunity, to the satisfaction of both parties.



## The benefits

- A quick and concise route to finding a middle ground
- Successful early resolution saves at least 20 working days
- Reduces escalating conflict
- Cost effective in terms of time for everyone and depending on your membership, in terms of complaint fees

**Suzy Hershman**  
*Head of Dispute Resolution*



Our teams really enjoy the hands-on nature of early resolution and get a buzz from knowing they have actively helped resolved a dispute.



# 06.

## Case Studies

### Case Study One

#### Key Topics

**Rent to Rent, Poor service**

#### Award

**The Agent was directed to:**

- **Pay the Complainant £3250 in extra rent owed**
- **Pay the Complainant £200 for delays, poor service, inconvenience and distress**

#### Complaint Summary

The Complainant, landlord, maintained that rent was often paid late, responses to the emails were delayed, wanted the Agent to give the property back, and this whole situation had caused distress and inconvenience.

The Agent maintained the property was on a tenant find only basis; that the guaranteed rent contract was with the previous owner of the business and they were only helping the landlord to manage the property as a gesture of good will.

#### Evidence

Emails, letters, Tenancy Agreement, Agent's Terms and Conditions

#### Case Details

The Complainant rented the property to the original agent under a "Guaranteed Rent" management agreement which only ended after the original agent sold the business to Agent 2 (the Agent). No new management agreement was ever signed.

The Complainant was not informed of the new owners of the business and he gave 2 months' notice to end the agreement on the contract end date, so that he could regain possession of his property. The Agent did not respond to the notice, however did re-let the property and collected the rent on behalf of the Complainant.

#### Final Decision

The Agent was being run by the same director and at the same trading address as the original agent; and by their documentation and actions, had assumed all the rights and responsibilities and privileges of the original agent, deriving the same benefits of the original agreement, as well as taking on the liabilities and obligations.

This implied an on-going continuous management agreement on the same terms.

While the Complainant has since terminated the contract with the Agent, and now has a new Assured Shorthold Agreement in place with the tenant, the Agent had collected rent on the tenancy they set up, without the Complainant's knowledge, naming themselves as Landlord. The rent also included a monthly charge to the tenant of a £250 premium under the guaranteed rent agreement, despite there being an Assured Shorthold contract for the 13 month period in question, which they were not entitled to keep. This amounted to £3250 which the Complainant was entitled to receive.

Rent payments and response emails were often delayed and is unprofessional practice, causing inconvenience and distress resulting in a compensation payment of £200.

### Key points

Rent to rent 'guarantee' agreements place responsibility on the Agent, who in effect becomes the Landlord, to keep earning rent for the duration of the tenancy. The property owner forgoes the commission in place of a guaranteed rent for the full term.

It follows that the Agent becomes the Landlord's tenant, and will be responsible for evicting their sub-tenant. For a Landlord to be able to terminate the agreement with the tenant, the Landlord has to first terminate their relationship with the Agent.

An Agent, who has bought an existing business cannot absolve himself of carrying out his management duties on the same basis as the outgoing agent where his actions imply an on-going contract.

Some management agreements state that the Agent continues to rent the property until the requisite notice has been served by the landlord, which was not the case here.

An Agent has a duty to communicate with the property owner with all relevant information, and in a timely manner.

### For more information please refer to:

<https://www.theprs.co.uk/news/how-does-guaranteed-rent-or-rent-to-rent-work>

<https://www.theprs.co.uk/Resource/ViewFile/137>

#### NATIONAL TRADING STANDARDS

Estate Agency Team

Protecting Consumers  
Safeguarding Businesses



The aim of the NTS Estate Agency Team is to raise standards within the industry. The Property Redress Scheme provides intelligence to the team regarding agents that have been expelled or where there are concerns with compliance matters. This information is fundamental for investigations, providing crucial evidence for the team to pursue either a prosecution or to issue a warning or banning order. Effective communication between the team and the redress schemes is crucial in our work to protect consumers and safeguard honest businesses.

*Emma Cooke at National Trading Standards Estate Agency Team (NTSEAT)*

## Case Study Two

### Key Topics

#### Deposit Protection

#### Award

**The Agent was directed to transfer the deposit of £1750 into Landlord's own tenancy deposit protection scheme account**

### Case Details

The Landlord had requested confirmation of the deposit protection as soon as the tenancy began.

The Agent's Terms and Conditions which had been signed by the Landlord confirmed the deposit would be protected, as legally required, by the Agent.

The Landlord requested confirmation that the deposit had been protected several times over the next few months, always receiving a reply to say that it was being done, or looked into because the staff member dealing with the deposit protection had now left.

### Evidence

Emails, letters, Tenancy Agreement, Agent's Terms and Conditions.

### Decision:

Email evidence confirmed that the Landlord had been persistent in requesting confirmation of the deposit having been protected.

The evidence also demonstrated:

- How pro-active the Landlord was in ensuring that his legal obligation was complied with

- That the tenancy deposit protection scheme, which the Agent specified would be used, had no record of the deposit being protected.

### Key points from the case:

The law is clear, the deposit MUST be protected with one of the three tenancy deposit protection schemes within 30 days of receiving the money and NOT within 30 days of the tenancy starting, in order to comply with the law.

The person who is in possession of the funds is under a duty to ensure the deposit is protected.

A Landlord is ultimately responsible, and potentially open to legal action if the deposit is not protected correctly. However this will not negate the Agent's liability if there is clear evidence that the Agent had taken on the responsibility to organise the protection under their Terms and Conditions and continually failed to do so.

Even under a fully managed agreement between a Landlord and Agent, a Landlord can decide to keep the responsibility and protect the deposit themselves by joining one of the tenancy deposit schemes and:

- If choosing the custodial method, advise the Agent of the account details for the money to be transferred directly into
- If choosing the insurance method, open a deposit protection insurance account for the deposit and once the details have been passed to the Agent agree that the Agent transfers the deposit to the landlord's designated account with the tenancy deposit protection scheme.

### For more information please refer to:

<https://www.mydeposits.co.uk/law/>

<https://www.mydeposits.co.uk/how-it-works/>



**STRUTT  
& PARKER**



Strutt & Parker joined the PRS when OS:P ceased taking new cases. Fortunately, we have not had to engage with them as regards a complaint (yet!) but they have been very quick and clear in response to questions we have put to them.

*Strutt and Parker*

# 07.

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## Hamilton Fraser Academy Launched

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With the private rented sector in flux, being left behind in this ever-changing industry simply isn't an option. From the tenant fee ban to the increase in the standards needed to operate in the PRS, we appreciate that looking after a property can be time consuming and, with changing legislation, training from experts is often needed.

Understanding the challenges currently faced by property professionals and, with a unique perspective of both the landlord and letting agent positions within the industry, in 2019 Hamilton Fraser launched the Hamilton Fraser Academy.

The Hamilton Fraser Academy provides an extensive range of workshops to suit you. Our sessions cover the full tenancy lifecycle, from deposit protection all the way through to dispute resolution and are led by leading industry experts that possess years of experience who have a wealth of hints and tips to share with you.

## What is the Hamilton Fraser Academy?

The Academy is a unique training workshop offering that will enable agents and other property professionals in the sector to learn how to future-proof their lettings business regardless of the mounting pressures being experienced by all working in the industry.

With the tenant fee ban legislation coming into force on 1st June 2019, our workshops will help you navigate the private rented sector with ease and arm you with the tools and knowledge to maintain a healthy – and profitable – business throughout 2019 and beyond!

From reducing dispute levels and ensuring you're complying with the law, through to maintaining better and longer landlord relationships our panel of industry experts will explain how to go about maximising revenue and minimising cost, to work towards a more successful lettings business.

## What we offer

Our workshops address and provide solutions to the actual day-to-day issues faced by agents, explained in detail by our panel of knowledgeable experts. They cover a wide range of relevant and useful topics with supporting advice from mydeposits, Property Redress Scheme, and Landlord Action.

So, if you...

- Need to find perfect tenants
- Want to attract and retain more landlord clients
- Want to reduce your dispute ratio
- Need industry updates
- Want to stand out from the competition

...simply choose between our half day 'taster' sessions or full day workshops to suit your needs.

**Half Day:** Our half day 'taster' workshops are packed with useful information and tips to take away and implement that can help to transform your business or portfolio. In addition to the extremely useful networking you'll also receive a Certificate of training and gain CPD points.

**Full Day:** The full day workshops are perfect for in-depth advice and guidance, as they allow that extra time to cover off every aspect listed below in detail, including answering your specific questions. The workshop includes the following:

- Tenancy Deposit Protection Basics
- Tenancy Deposit Protection Intermediate
- Tenancy Deposit Protection Advanced
- Effective Negotiation Techniques
- Dispute Resolution Workshop

- Handling Complaints
- Maximising your Landlord Instructions
- Compliance in 2019
- Eviction Special
- Legislation and updates from Westminster

## How you'll benefit from attending

- Reduce your dispute levels
- Learn effective negotiation techniques
- Minimise delays throughout the tenancy
- Support your tenancy lifecycle from start to finish
- Gain vital industry knowledge
- Continued support from industry experts
- Stay ahead of industry changes
- Networking opportunities
- Hamilton Fraser Academy Workshop Certification (CPD inclusive)
- Platform to ask your questions and get them answered



**Are you interested in attending but can't make it to our office? Let us know where you're located so we can host an event in your area!**

## Bespoke sessions

If you're looking for something more specific simply get in touch. We can tailor sessions to reflect your needs, or those of your agency.



**To find out more about the Hamilton Fraser Academy visit:**  
[www.hamiltonfraser.co.uk/academy/](http://www.hamiltonfraser.co.uk/academy/)



As a letting agent it is imperative for our team to be up-to-date about legislation. Hamilton Fraser Academy training provides a great opportunity to get the correct information to help us respond to our customers' needs. Paul Shamplina and the team have many years of experience and is a well-recognised expert within the industry, so there's no question as to who's best placed to work with.

Upad

# 08.

## Charity Highlights

**C**risis is the national charity for homeless people. Through life-changing employment, housing and wellbeing services, they support people who are at risk of homelessness, sleeping rough, or living in unstable accommodation, to leave homelessness behind permanently. Using research and direct experience with their members, they campaign for the political commitment and social changes needed to make homelessness in Britain a thing of the past.

PRS is supporting Crisis to deliver vital services to over 10,000 homeless people at Crisis's 11 Skylight centres across the year. Crisis Skylight centres provide innovative education, employment, housing and wellbeing services to help people leave homeless behind for good. Coaches and tutors carefully address everyone's needs, giving them the tools they need to find work, accommodation and positive wellbeing.

Crisis staff understand that each person's homelessness is different. At Skylight centres, progression coaches work one-on-one with members to help them identify solutions to their homelessness and leave it behind.

This can include helping members to access relevant training opportunities and educational courses delivered at our Skylight centres. Accredited learning at Crisis Skylight centres can include:

- core subjects such as Literacy, Maths and IT
- vocational courses such as painting and decorating
- wellbeing activities such as yoga, Wing Chun and boxing
- visual arts and theatre, including hat-making, painting and drama.

Coaches work with members to help them improve their physical and mental wellbeing, either through one-on-one counselling sessions or group sessions. Improving an individual's social network is also vital to improving



their overall wellbeing, and evening events, informal social groups and member zones provide opportunities for people to make life-changing connections.

Gaining work is central to finding a sustainable route out of homelessness; having a job brings financial stability, independence and self-respect. Crisis's Employment services help people find and keep jobs by offering access to education, employability training and grants. Crisis offers personalised support to help people set and reach their goals around work, and also run their own social enterprises such as cafes and shops which offer people on-the-job training.

Coaches support clients throughout their journey into employment, from CV writing to interview practice and help buying smart work clothes. Coaches will also work with clients who are looking to find a settled home, helping members to explore past experiences of renting and to address any barriers that might prevent them from moving into independent accommodation.

Crisis knows that homelessness can be ended, and what it will take to get there. In 2017-18 Crisis was able to support 784 people into work, 2,556 to achieve improved wellbeing and 832 people into accommodation, and PRS is delighted to support Crisis to end homelessness for more people across Britain in 2019. ●

The Crisis logo, featuring the word 'Crisis' in a bold, red, sans-serif font.

# 09.

## Accounts

### Profit & Loss Account

for the year ending 30th November 2018

Turnover	1,234,676
Administrative expenses	<u>(1,217,829)</u>
Surplus on ordinary activities before taxation	16,847

### Balance Sheet

for the year ending 30th November 2018

Fixed assets	266,080
Debtors	203,305
Cash at bank	<u>377,681</u>
	<u>847,066</u>
Creditors	<u>(663,737)</u>
Total assets less current liabilities	183,329
<b>Capital &amp; reserves</b>	
Called up share capital	100
Surplus or deficit	<u>143,229</u>
<b>Total equity</b>	<u><u>143,329</u></u>

\* Includes £5,000 donation to PRS Charity of the Year.

### Profit & Loss Account

for the year ending 30th November 2017

Turnover	788,574
Administrative expenses	<u>(796,573)</u>
Surplus on ordinary activities before taxation	(7,999)

### Balance Sheet

for the year ending 30th November 2017

Fixed assets	282,606
Debtors	120,628
Cash at bank	<u>390,845</u>
	<u>794,079</u>
Creditors	<u>(667,597)</u>
Total assets less current liabilities	126,482
<b>Capital &amp; reserves</b>	
Called up share capital	100
Surplus or deficit	<u>126,382</u>
<b>Total equity</b>	<u><u>126,482</u></u>

\* Includes £5,000 donation to PRS Charity of the Year.



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# Membership Options

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The PRS has three membership models to accommodate the different requirements of our members.

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## Option 1

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### Enhanced Model

One annual fee for head office and each of the branches, with no individual complaints fee (subject to the Property Redress Scheme's fair usage policy\*).

**Cost:**

- From £238.80 (inc. VAT) per application (head office) +
- From £238.80 (inc. VAT) per branch

For example, if you have a head office and 2 branches that will require 3 subscriptions (£716.40 inc. VAT)

You will receive access to our legal helpline which includes general advice from Irwin Mitchell, in association with ArcLegal & specialist landlord and tenant advice from Landlord Action.

\*see website for details

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## Option 3

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### RLM Model

For property agents that conduct residential leasehold block management as the main aspect of their business (approximately 80% of all activity).

**Cost: Annual Membership:**

- £240 (inc. VAT) per application (Head Office/Person) +
- £1.20 (inc. VAT) per extra Branch if applicable

**Complaint Fees:**

- £240 (inc. VAT) for an Agent who is a member of a body with client money protection insurance
- £240 (inc. VAT) for all others

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## Option 2

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### Entry Model

Low annual subscription fee for head office and each of the branches plus reasonable complaints fees.

**Cost:**

- From £110 (inc. VAT) per application (head office) +
- From £132 (inc. VAT) per branch

For example, if you have a head office and 2 branches that will require 3 subscriptions (£120 inc. VAT)

**If the complaint is escalated to STAGE 4 of the complaints process, we will then charge complaint fees from £120 (inc. VAT) to the Member in order to formally resolve the complaint.**

Whichever membership subscription the Member chooses will cover all the work the Member undertakes e.g. an Agent who undertakes Estate and Lettings Agency will not pay a separate subscription for the different types of work. The Member must however inform the PRS of the type of work undertaken at each branch. A Head Office and all associated branches must be on the same membership model.

# 10.

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## Insight to Client Money Protection

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### **Client money protection is coming in 2019**

From 1st April 2019 letting agents in England will be required by law to belong to an approved client money protection scheme to protect landlord and tenant money. Agents are required to comply or face heavy penalty fines of up to £30,000. The government estimate that around 4,000 agents will be required to obtain membership of a CMP scheme prior to the legislative deadline. Now more than ever it is important to understand your legal obligations as a letting agent and ensure that you are compliant.

### What is client money protection?

**C**lient money protection is designed to protect client money held by property agents. Client money protection offers financial protection for landlords and tenants that their money is secure whilst being held by an agent, and also helps to continually support and raise standards within the property industry. In the event that monies are misappropriated by an agent in the course of running their business, client money protection helps to return monies to the affected parties (landlord and/or tenants).

### What does a compliant agent look like?

Agents should already be aware of the coming legislation and be putting measures in place to ensure they are compliant on 1st April 2019. Many agents may already have access to client money protection as a result of their membership to an agent body such as ARLA, RICS, NALS or UKALA.

Client Money Protect (CMP) – the PRS’ partner CMP scheme and part of Hamilton Fraser, parent company to mydeposits, has been running a voluntary client money protection scheme since 2014 with over 800 agent members. In February 2019 Client Money Protect was announced by the government as one of the first schemes to be authorised to provide mandatory client money protection to agents in England having already been approved by the Scottish Executive and Rent Smart Wales. You can find out more about Client Money Protect by visiting the website [www.clientmoneyprotect.co.uk](http://www.clientmoneyprotect.co.uk)

### Joining a client money protection scheme

Agents need to comply with a number of standards in order to join a client money protection scheme. In relation to most of the schemes agents are required to;

- Have a segregated client money bank account
- Have membership of a consumer redress scheme (PRS or TPO)
- Have professional indemnity insurance
- Agree to abide by the Scheme Rules or Terms and Conditions
- Agree to appear on the scheme’s website
- Display the scheme’s logo in their branch(es) and on their website
- Provide landlords/tenants with information about client money protection and their membership of the scheme

Additionally relevant credit and fraud checks are carried out on agents to help to identify whether client money is being held correctly. ●



Client Money Protect is the official CMP partner of the Property Redress Scheme.

# 11.

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## The PRS Online

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If you want to keep up with legislative changes, our key people and their movements or just general information on the sector, then follow us on:

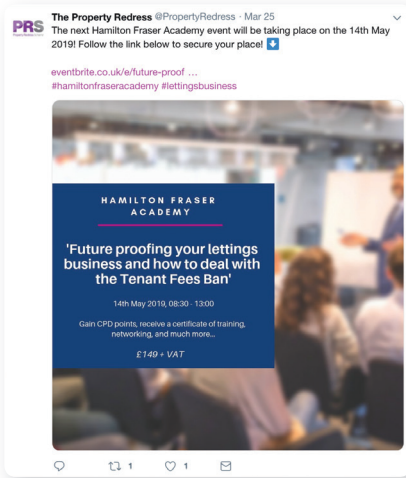
Twitter **@PropertyRedress**

Facebook **@PropertyRedressScheme**

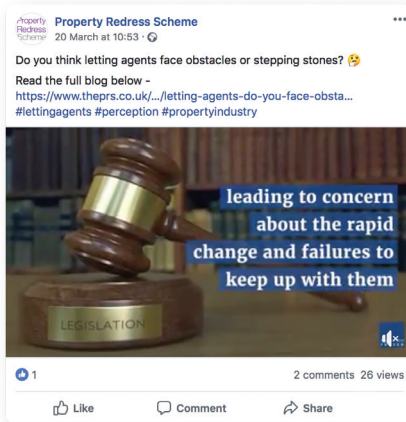
LinkedIn **The Property Redress Scheme**

On our website you can find FAQs, blogs from our Head of Redress, Sean Hooker and all your PRS news. Just head to **theprs.co.uk** to find everything you need to know about the Scheme.

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 [@PropertyRedress](https://twitter.com/PropertyRedress)

Scheme Authorised by:



Ministry of Housing  
Communities &  
Local Government

**NATIONAL  
TRADING  
STANDARDS**

Estate Agency Team  
Protecting Consumers  
Safeguarding Businesses

The Property Redress Scheme is a government authorised Consumer Redress Scheme for Lettings, Property Management and Estate Agents and other Property Professionals. HF Resolution Ltd trading as Property Redress Scheme. Registered Office: Lumiere, Suite 1-3, 1st Floor, Elstree Way, Borehamwood, WD6 1JH. Registered in England 08994516.