

COMPLAINTS AND BREACHES OF THE SCOTTISH CORE STANDARDS FOR ACCREDITED LETTING AGENTS

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1. Introduction

From time to time complaints about an accredited letting agent may arise. Landlord Accreditation Scotland (LAS) consider a complaint to be a criticism of a letting agents management standards, which expects a reply and the outcome to bring about change.

Complaints may come from a variety of sources including the tenant, a neighbour, a client landlord, or a council department.

Non-compliance with the [Scottish Core Standards for Accredited Landlords](#) (the Standards) may also be found during the compliance check process or during the period of accreditation with LAS.

The aim of the following procedures is to provide a clear framework for investigating complaints and breaches of the Standards and to ensure that each case will be dealt with appropriately and in a consistent manner.

2. Letting agent Procedures

From 31 January 2018 it became a legal requirement for all letting agents in Scotland to adhere to a statutory code of practice. The Letting agent Code of Practice (the Code) be [read here](#). The Code sets out standards for all aspects of letting agency work. If you believe your agent has breached the Code, you must first make a complaint to the letting agent concerned. Section 7 of the Code details the procedures letting agents must have in place to deal with a complaint that may be raised by either a tenant or a landlord. If you feel that you have exhausted the letting agents complaints procedure and the matter is not resolved, the next step is to inform the agent that you intend to escalate the matter via an application to the [Housing and Property Chamber First-Tier Tribunal](#).

Membership of LAS is voluntary and the regulatory process for complaints against letting agents in Scotland as outlined above takes precedence over LAS complaints process. Landlords can, however, make a complaint to LAS should there be outstanding matters following a determination by the First-tier Tribunal, that can be investigated under the Standards that are not matters covered by the Letting agent Code of Practice.

It must be emphasised that an integral part of the complaint management process lies one step back, namely by prevention to minimise the need for formal intervention by either the First-tier Tribunal or LAS.

3. Complaints

Any complaints to LAS about an accredited letting agent following a First-tier Tribunal determination must be made in writing or other agreed media – this includes; letter, email, or the online form available from the LAS website and should be sent to the LAS office. The complainant is required to demonstrate that all matters concerning the First-tier Tribunal application are completed prior to contacting LAS. A complaint cannot be investigated if the agent has not been notified that contact is to be made with LAS. Complaints can be raised up to three months after a First-tier Tribunal determination has been made. A complaint should include the following information:

- Name of Letting agent
- Address of the rental property concerned
- A copy of the First-tier Tribunal decision
- The nature of the complaint or dispute
- An indication of the timescale involved concerning a problem
- How the complainant would like the issue to be resolved
- A contact name, address and telephone number for the person raising the complaint or dispute. LAS will not accept anonymous complaints as LAS will be unable to investigate the complaint effectively

If a serious complaint is received by telephone LAS will record the conversation as accurately as possible, however, the complainant should follow up the telephone call in writing to ensure that the facts have been recorded correctly. LAS staff will contact the complainant should the two accounts differ.

4. Non-Compliance with the Standards

Accredited letting agents are expected to comply with the Scottish Core Standards for Accredited Landlords and Letting Agents. If during membership of LAS a letting agent is found to not comply with any of the Standards, then the letting agent will be contacted to discuss their non-compliance with a view to rectifying the matter.

If it is confirmed that the letting agent has failed to comply with the Standards, the letting agent will be given 10-28 working days to correct the problem.

Thereafter, failure to comply will constitute a breach of the conditions of membership of LAS. Breaches of the requirements of LAS will be formally investigated. The letting agent will be contacted with details of the investigation and will be given 10 working days in which to respond.

LAS may also decide to pass a complaint over to other authorities. It is not the intention of LAS to name and shame accredited letting agents who are subject to sanctions or removal from membership of LAS. However, sanctions taken against a letting agent may be reported in an objective way to demonstrate that the LAS is being robustly administered.

5. Notification Process

Upon receiving a complaint or where an alleged breach of the Standards has been found or reported, LAS will check that the complaint/alleged breach fulfils the criteria as listed in this document, **Section 3 Complaints**.

The complainant will be notified within 10 working days if their case is/is not being investigated. When a decision is made by LAS that the reported complaint/alleged breach of the Standards is not to be investigated, the complainant will receive full reasons in writing as to why this decision has been made.

Where a complaint/alleged breach of the standards has been found to meet the criteria in this document, **Section 3 Complaints**, the letting agent will be written to, informing them of the case and giving them 10 working days in which to respond. It is expected that the letting agent will take any necessary remedial action immediately.

From the date of receipt of the letting agent's response to the complaint, LAS will endeavour to complete the investigation within 28 working days. Should LAS be unable to conclude the investigation within this timescale the complainant will be contacted with details as to why this is not possible.

Following the investigation, where reasonable recommendations to rectify the complaint or breach have been made, the letting agent will comply with these recommendations or their accreditation status will be removed.

If accreditation status is removed, LAS will formally write to the letting agent giving the reasons for the decision. The letting agent will have the right of appeal.

6. Procedure for Appeals for Letting agents

If the letting agent does not agree with LAS's decision, they have the right to appeal the outcome of an investigation if they believe the findings are flawed, or LAS's procedures have not been followed. The letting agent is invited to attend an appeals hearing and to put their case forward. All parties concerned have the right to ask questions.

The letting agent must lodge any appeal within 20 working days of being notified that their accredited status has been removed and fully explain their reasons for the appeal. In addition, if the Board of Directors feels that it cannot make a judgement on whether a letting agent's membership status should be revoked, the Board of Directors may also choose to pass the case to the Appeals Panel for their final decision.

The Appeals Panel will consist of:

- An independent chairperson
- 1 accredited letting agent
- 1 tenants' organisation representative

Letting agents who have been awarded accreditation status will be asked if they would be prepared to make themselves available to sit on the Appeals Panel, as part of the membership to the Scheme, should a complaint arise that requires the Appeals Panel to convene. Selection of members to sit on this panel will be done on a rota basis but will be voluntary. Payment of travelling costs will be reimbursed.

The Appeals Panel has the power to rescind membership of Landlord Accreditation Scotland. The decision of the Appeals Panel is final. A formal record of the proceedings will be kept.

7. Sanctions Available

The following sanctions will be available to LAS in dealing with complaints:

- To recommend that the letting agent apologise, in writing, to the appropriate person(s) for the relevant conduct, action or omission
- To caution the letting agent against repeating the conduct, action or omission
- To recommend to the letting agent that they refund any costs charged to the tenant that are not applicable
- To discuss with the letting agent changes to their procedures or documentation arising from the facts disclosed by a complaint, breach or infringement, which has been upheld
- To discuss with the parties other, more appropriate, ways of resolving the complaint or dispute including mediation
- To suspend the accredited status with LAS of the letting agent
- To remove accredited status from the letting agent
- To refer the matter to other regulating or enforcing bodies (including the Police)
- Any combination of the above, or any other reasonable action, which LAS feels appropriate in order to support high standards within the industry and the accreditation scheme.

Depending on the nature of the case a letting agent who has had their accreditation revoked may be able to reapply for accreditation after a certain period. Timescales can be set by either the Board of Directors or the Appeals Panel.

8. Removal from the Scheme

Letting agents may be removed from LAS if they fail to meet the requirements of the Scottish Core Standards for Accredited Landlords/Agents.

Failure to respond to complaints or to comply with the recommendations in a reasonable and satisfactory manner may constitute grounds for disqualifying a letting agent from accreditation with LAS.

Any unlawful action by a letting agent may constitute grounds for disqualification from LAS.

The letting agent will be notified of the decision to remove them from LAS, and the reasons for their removal from LAS, within 10 working days of the decision being made. The complainant will also be notified of the decision within 10 working days.

A letting agent who loses their accredited status will no longer be participants of, or eligible for, any of the benefits of LAS and may not use the Landlord Accreditation Scotland logo on any publicity/promotional material, which must be removed within 10 working days.

Failure to comply with these conditions constitutes breach of contract and may be enforced by legal action.

9. Monitoring Complaints and Reviewing the Complaints Procedure

This document was first published by Landlord Accreditation Scotland in July 2008 and reviewed annually since. The Complaints and Breaches of the Scottish Core Standards for Accredited Landlords will be reviewed next by the end of 2020.

Address to which complaints should be made:

**LAS Director
Landlord Accreditation Scotland
8B McDonald Road
Edinburgh
EH7 4LZ**

Email: info@landlordaccreditationscotland.com

Web: www.landlordaccreditationscotland.com