

RICS notification

Material information for residential sales and lettings

July 2022

This notification applies to all residential sales and lettings agents in England, Scotland, Wales and Northern Ireland. It is a summary of the recent guidance on [material information](#) released by the National Trading Standards Estate and Lettings Agency Team (NTSELAT) and should be read in conjunction with the [RICS information alert on The Consumer Protection from Unfair Trading Regulations 2008 \(CPRs\)](#), [NTSELAT guidance on property sales and lettings](#) and [NTSELAT guidance on the CPRs](#).

It is recommended that RICS members seek independent legal advice if they are unsure of any provisions under the CPRs.

Introduction

Material information is information a consumer needs to know at each stage of the property transaction process in order to make a sufficiently informed transactional decision, such as to request more details on the property or to arrange a viewing.

Under current legislation as set out in the CPRs, estate and letting agents have a legal obligation not to omit material information from property listings.

However, there is a view that not all agents are complying with this legislation, and NTSELAT have set up a project to ensure consistency in the information provided to consumers.

The focus is currently on the information that is available for both sales and lettings through property portals. However, material information applies to all listings and the same approach should be adopted irrespective of how a property is marketed.

In terms of the work that NTSELAT is doing, there are three parts to the project: A, B and C.

NTSELAT has now published new guidance on material information for **Part A** that is intended to assist industry stakeholders – primarily property agents – to comply with their obligations. The guidance applies to properties for sale and to let listed on property portals.

Parts B and C have yet to be finalised. NTSELAT will be engaging with an industry working group – which includes RICS – to develop additional guidance for Parts B and C.

In terms of the areas that will be covered, we understand that **Part B** will focus on the physical characteristics of a property, such as construction and utilities, and **Part C** will focus on the areas not covered in A and B, such as restrictive covenants.

Part A

For sales listings, Part A information includes:

- council tax band or domestic rate information
- purchase price and
- tenure.

For lettings listings, Part A information includes:

- council tax band or domestic rate information
- rent and
- details of any deposit(s) payable.

Sales listings

Council tax band or domestic rate information

The council tax band/ratings band for the property must be displayed on the listing.

If there is a chance that the council tax band may change due to improvement works such as an extension, the agent should check with the seller whether there have been any significant changes to the property that may affect its valuation.

Where the council tax band may be deleted – for example, when a property is [derelict or in disrepair](#) – this should be clearly stated on the listing.

If the property is exempt from council tax, the reason for this may be material information and should be disclosed, such as a prohibition order that prevents its use until compliance with the order.

New-build and council tax bands/property rates

The council tax bands/property rates are not always known at the point of listing for new-build properties. NTSELAT has indicated that, in these situations, agents are recommended to state clearly on the property listing the reason why, for example: 'New build – council tax band/property rates not yet available.'

As soon as agents become aware of actual council tax bands/property rates, listings should be updated to reflect this.

Purchase price

Purchase price is considered material information and is to be included in a listing as a numerical amount. It is acceptable for properties to be advertised with a price range, as long as this is a true and accurate reflection of the property valuation.

If there are other financial liabilities associated with the property or the purchasing process, like a reservation fee or contributions to communal areas in a freehold property, this would also be considered material information and should be included on the listing (see below for the NTSELAT view on 'price on application').

Tenure

The tenure of the property must be included in the property listing.

Lettings listings

Council tax band or domestic rate information

The council tax band or domestic rate information must be provided.

Rent

With regards to rent, several points must be taken into consideration when listing a property.

- Rent should be listed as a numerical amount with the time period specified, such as per calendar month.
- If rent is paid monthly, equivalent weekly rent amounts can be shown for information purposes.

- If rent cannot be paid weekly, this must be clear in the listing.
- Listings should state whether rent is inclusive of bills and, if so, which bills are included.
- Listings must reflect the nature of the occupancy and price per tenancy. For example, in a house share where there is a single tenancy between the occupiers, the overall rental amount for the property should be listed. If a comparative 'per person' or 'per room' rental amount is included, it must be clear that this is the price when the property is fully occupied.
- Where a property is multi-occupied and rented on a room-by-room basis, the rental amount per room along with the occupancy should be listed, for example single or double room.

Security deposit

Details of the security deposit must be included on the listing. Agents must:

- comply with region-specific legal requirements for deposit amounts – this is through the [Tenant Fees Act 2019](#) in England and the [Renting Homes \(Fees etc.\) Act 2019](#) in Wales; for deposit amounts in Scotland and Northern Ireland, ensure that they are aware of any changes coming through
- ensure that the deposit reflects the related occupancy – if a multi-occupancy property is let on a single tenancy, the full amount of the deposit should be listed; if a comparative 'per person' or 'per room' deposit amount is included, it must be clear that this is the price when the property is fully occupied
- state the deposit per tenancy for multi-occupancy properties let on a room-by-room basis.

Holding deposit

If a holding deposit is required, this must clearly be stated in the listing. Agents must:

- comply with the region-specific legal requirements for deposit amounts – this is through the [Tenant Fees Act 2019](#) in England and the [Renting Homes \(Fees etc.\) Act 2019](#) in Wales; for holding deposits in Scotland and Northern Ireland, ensure that they are aware of any changes coming through
- ensure that the deposit reflects the related occupancy – if a multi-occupancy property is let on a single tenancy, the full amount of the deposit should be listed; if

a comparative 'per person' or 'per room' deposit amount is included, it must be clear that this is the price when the property is fully occupied

- state the holding deposit per tenancy for multi-occupancy properties let on a room-by-room basis.

Summary

The following must now be included in all property listings on residential property portals:

- council tax band/domestic rate information
- price
- tenure

Role of agents in providing material information

If agents list properties for sale or to let, they must ensure that material information is included in the property particulars, regardless of where the property is marketed. In future, if they attempt to list on a property portal and do not provide the material information set out in Part A, the listing will not be accepted.

In terms of an agent's role in providing material information for both property portals and other listings, they should:

- read in full the new guidance provided by NTSELAT on [Part A](#), along with the guidance on [property sales and lettings](#) and the [CPRs](#)
- update their business processes and practices if required, and ensure that their staff understand both the regulations and the new guidance, along with what is expected of agents
- inform the seller, landlord or their representative of the information that they need to provide
- update property information checklists so that staff are asking for the relevant information as early as possible
- undertake verification checks on information provided to ensure it is accurate, for example by obtaining title information to confirm ownership and tenure; if the seller has appointed a solicitor/conveyancer at the outset, they can also help verify the information before the property is advertised

- display material information prominently and clearly in the property listings – if information is hidden, unclear or ambiguous, it could cause liability for a ‘misleading omission’, which is an offence under the CPRs
- ensure that material information is provided in a timely manner – if any material information is known, it must be provided at the earliest opportunity; ideally, this will be in the first draft of the property particulars but if information is unknown at this stage, the listing should be updated as soon as new information comes to light
- ensure that potential buyers or tenants are aware of any gaps in the material information, and provide them with the missing information at the earliest opportunity in addition to updating the listing
- preserve all business records and ensure they demonstrate that training has been undertaken based on the guidance, and
- maintain a comprehensive paper and/or electronic record trail that clearly demonstrates compliance with the CPRs.

Which property listings need material information?

All types of property listing should include material information, including:

- agency websites
- property portals
- third-party websites and
- printed materials (including listings displayed in agency windows).

The CPRs take into consideration that there may be limitations in terms of the space available to display information. For example, a single A4-sized paper advert in a window may contain less detailed information than an online advert or the accompanying printed brochure.

However, agents should consider the priority that they give to details in property listings to ensure that the material information is included. Where space is limited, reference may be made to where or how the missing material information can be found.

Price on application

NTSELAT has published its opinion, developed with the Competition and Markets Authority, that the use of 'price on application' or 'POA' in property listings (principally sales listings) contravenes consumer protection legislation.

NTSELAT's opinion is that their use in relation to a listing on a residential property portal or an agent website is likely to be misleading as it withholds – or in some cases masks – the asking price from consumers.

The property's price is information that the average consumer needs in order to make an informed transactional decision.

All listings on residential property portals will be covered by this announcement, including those for land sales and garage sites.

Energy Performance Certificates (EPCs)

Providing an EPC rating is a legal requirement for property listings in England, Wales and Northern Ireland, unless the property is exempt.

Currently, an EPC rating is not included in the published list of material information as the legislation allows for EPCs not to be provided immediately. However, it should be made available within seven days of the property first coming onto the market. Agents must ensure that they are compliant with the existing timescales for obtaining an EPC and update the listing once it is received.

If there is a valid EPC, it would be expected that the rating is included when the listing is made. If the seller or landlord does not have a copy of the EPC, it can be found on the EPC register.

- [EPC register for England, Northern Ireland and Wales](#)
- [EPC register for Scotland](#)

If the EPC is out of date or unavailable, one must be purchased. Since April 2018, it is also a legal requirement for the EPC rating to be a minimum of an E rating for that property to be let to a tenant.