

OFT guidance on property sales: compliance with the CPRs and BPRs

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CPRs/BPRs guidance on property sales

- **What we will cover**

- Why has the OFT produced the guidance?
 - Background to the Consumer Protection from Unfair Trading Regulations (CPRs)
 - The origins of the OFT guidance
 - Our overall policy objectives
- Enforcement
- What else drives compliance?
- Q&As

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● Examples of detriment

- Financial loss
 - e.g. prospective buyers paying for surveys that they wouldn't commission if they knew what the estate agent knows
 - e.g. clients not getting the best price because the agent pressurises them to accept a lower offer or favours the lower offer from which he or she gains a referral fee
- Wasted time and effort (and sometimes expense)
 - e.g. prospective buyers viewing unsuitable properties or sellers showing such buyers around their homes
- Stress and frustration
 - e.g. when an agent does not deal with consumer complaints promptly, effectively or in a professional manner

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- **Background to the Consumer Protection from Unfair Trading Regulations (CPRs)**
 - Stem from the EU Unfair Commercial Practices Directive (UCPD) 2005
 - UCPD implemented into UK law by the CPRs in 2008
 - Meant the outright repeal of 12 pieces of consumer protection legislation and the partial repeal of 11 others
 - BIS has now decided it will mean the end of the Property Misdescriptions Act (PMA) too
 - All businesses, including property sales businesses, have been required to comply with the CPRs since May 2008

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● The origins of the OFT guidance

- OFT-BIS general guidance on CPRs published 2008
 - But it's not unusual for us to follow up general guidance with some sector-specific guidance too
- Home Buying and Selling Study, February 2010
 - 64 per cent of estate agents thought there was a need to provide more guidance on the law to estate agents
- BIS consultation on repeal of the PMA, January 2011
 - CPRs 'are relatively new and we recognise that some estate agents and enforcers may need assistance in considering their application to estate agency. The OFT have kindly offered to produce guidance on the CPRs and estate agency.'

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- **Our overall policy objectives**

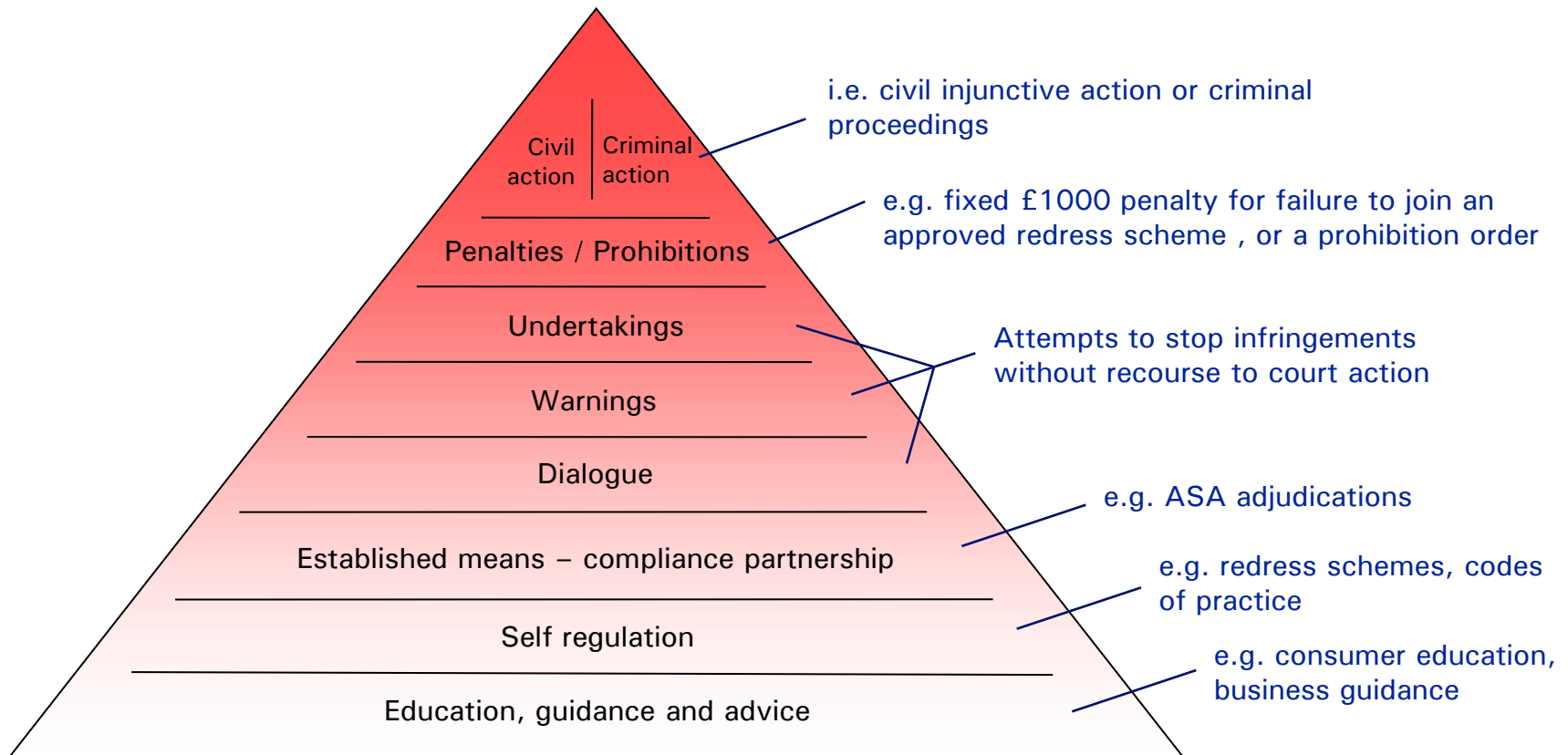
- We've produced the guidance to raise understanding: about how the CPRs can be applied in this sector, what sorts of practices may be in breach, and what businesses might need to do to ensure compliance with the regulations
- It is intended to help estate agents and other property sales businesses to comply with the law
- It will also help the industry (and enforcers) as we move into a post-PMA world

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- **Enforcement of the CPRs if necessary**
 - All Trading Standards Services have been using the CPRs:
 - Trading Standards Services have notified the OFT of prosecutions, including almost 1,200 criminal offences successfully prosecuted
 - Includes some action against estate agents
 - Trading Standards Services that have continued to use the PMA can be expected to turn to the CPRs
 - Better regulation principles require enforcers to promote compliance by the most appropriate means – there are a range of possible actions

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- A range of compliance 'tools'...



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● What else drives compliance?

- Most businesses want to comply, but some lack understanding of the law
 - Guidance materials and Trading Standards' advice/support help to raise understanding and promote compliance
 - Where breaches are minor or technical, Trading Standards advice/support may be more likely than enforcement action
- Self-regulation
 - Trade associations and professional bodies can exert a positive influence: through advice/training, codes of practice, and penalties against firms that break codes of practice

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- **What else drives compliance?**

- Informed consumers asserting their rights
 - Businesses' fear of reputational damage and bad publicity, and their wish for good standing and positive publicity, are key drivers of compliance
 - Consumers can complain to trade associations / professional bodies, approved redress schemes, Citizens Advice consumer service, Trading Standards, ASA, OFT, and/or the media
 - Enforcers (and others) can influence through consumer education: e.g. OFT has developed advice sheets for home buyers and sellers
- Self-interest

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Any questions?

Guidance: www.offt.gov.uk/shared_offt/estate-agents/OFT1364.pdf

Overview: www.offt.gov.uk/OFTwork/estate-agents/guidance-overview/

Consumer advice sheets: www.offt.gov.uk/OFTwork/estate-agents