Winter 2011

Property Agent Matters

Opening the doors to future prosperity

It's not fair!

For those with children, those three words will be familiar to you and, as Christmas rapidly approaches, they will no doubt be repeated in homes up and down the country over the festive period.

Why is that relevant in a Property Agents publication? Well, on 19 September, the Office of Fair Trading released a consultation on the guidance they need to issue to Estate Agents.

For those of you with a good memory, at this time last year I encouraged you to give your business a good work out to lose some of the flab. The advice this year is the same, but the "flab" I am now referring to is any bad habits that your staff may have picked up, which could land them and you in some pretty hot water, with the penalties being an unlimited fine or imprisonment for up to two years.

If you read the consultation, there are a lot of pretty obvious bad practices highlighted, that I am sure none of you are guilty of, such as putting up sold signs on properties that you haven't sold, or failing to pass on acceptable offers.

However, there are some slightly greyer areas mentioned in the consultation that could leave you exposed to a penalty, if you don't tighten up your procedures.

When I talk to my Agent clients, or just Agents in general, it is normally the case that one of their competitors is still "buying in" stock by overvaluing. This is a breach in the Regulations and could lead to a penalty.

Review the descriptions you give to properties. Broad statements such as "recently decorated" can be a breach in the Regulations, if it only applies to part of the property, rather than the whole. You also need to be careful about giving some positive information and missing out the negative, such as "nice views of the countryside" but neglecting to say that there is also a view of a nearby power plant.

Personally, I think the guidance is fair and should give consumers the confidence that Agents are being truthful. I don't think Agents should fear this guidance, they should embrace it. For your unscrupulous competitors that are achieving an unfair advantage through providing misleading information, their time should, hopefully, be coming to an end, which can only be good news for you.

Anyone can slip into bad habits from time to time. It's still a tough market and everyone is looking for ways to have a competitive edge, to get the stock on their books, to make a sale. Christmas and the quieter winter months is a good time to reflect on your business practices and ensure there are no risk areas that could cause you a headache of far greater intensity than the one you feel on Boxing Day!!

I wish you all a very Merry Christmas and a prosperous 2012

Pension reform

With pension legislation changing from next year, many employers need to address their staff pension scheme offerings, or establish one if nothing is currently in place. Generally, there are two possible approaches:

- Adopt the basic "auto-enrolment" requirements when required to do so in May 2015 for most small businesses or
- Establish a contributory pension scheme prior to then, which will engage employees so that they know that their employer has provided something equivalent or superior when the legislation is publicised and then implemented.

Any employer of five or more people should already offer a basic "stakeholder" pension arrangement, particularly if some employees have already expressed an interest. These low-cost schemes were introduced in 2001 with the intention of making retirement savings popular. However, without any form of compulsion, take-up by both businesses and individuals has been extremely poor.

Every business will be given a "staging date", based upon numbers of employees, after which contributions to a Qualifying Workplace Pension Scheme should begin. This may be an existing or new scheme but should be available to all eligible workers (broadly those between age 22 and 65 earning more than £7,475 per annum). The precise criteria are detailed and still subject to a degree of change.

Basic Auto-Enrolment

For employers seeking to minimise costs, both in terms of contributions and administration, it may be best to use the new National Employment Savings Trust (NEST) scheme. This is independent of any commercial insurance company or investment group and provides basic investment options for lower and medium risk investors, making use of index-tracking funds. NEST is intended for lower-paid employees and, as a result, many businesses may operate this as an "entry-level" offering, with improved benefits available for more senior and longer-serving employees.

Costs will still exist, as employer contributions will be introduced at 1% per annum, rising to 3% by 2017. Meanwhile, employee contributions will also be compulsory, by salary deduction, rising from 1% to 5% by 2017 (the tax relief for employees will mean that they actually pay 4%, with 1% being rebated to the scheme by HMRC). These contributions are based on qualifying earnings, being a band between £5,715 and £38,185 per annum

Unfortunately, we cannot tell at this stage whether the NEST scheme will be easy to operate for employers' payroll or HR staff. It is intended that no advice will be required by employees and that all their questions may be answered by web-based flowcharts. In practice, this would appear to be a little optimistic!

Group Pension Scheme

Many businesses will, however, be prepared to plan for the introduction of these rules by introducing a scheme that will meet or exceed the auto-enrolment requirements later on.

At present, a number of mainstream pension providers and insurance companies have stakeholder-equivalent contracts that may become "qualifying workplace alternatives". To qualify, they will need to add auto-enrolment, while employers will need to match or exceed the required contribution rates. Some, but not all, already have the required range of investment options available.

The advantages of this approach are:

1. The scheme may be tailored as the employer's own, rather than it being viewed as a statutory arrangement that is likely to be taken for granted by employees.
2. The scheme will be able to offer a wider range of investment choices and be considered alongside employees' other pension arrangements (e.g. they may be able to transfer in accrued values from previous employments).
3. More senior and sophisticated employees will be able to contribute in respect of higher earnings (NEST caters for earnings up to £38,185) and they may also consider more bespoke retirement plans (such as phasing and drawdown).

Costs

Basic auto-enrolment need involve no direct administrative costs, other than the drain upon payroll and HR staff in maintaining the arrangements. However, most businesses will need an outlet for employees' questions, especially where advice is required, rather than simply referring them to a website.

For a worthwhile group scheme, advice will be required for the selection of, and negotiation of terms with, a pension provider, subject to preferences for the various advantages. In turn, where employees have more choice, they may also require more guidance.

Summary

Although, for many small businesses, the deadline is still more than three years away, we would suggest the following:

1. Engage with employees to show them that the business is representing their interests and willing to improve their employee benefits ahead of new legislation arriving.
2. Conduct pay reviews ahead of the business's staging date, in order to spread the impact of increased payroll costs. It may be possible to contain costs, as minimum contributions may be based upon band, rather than total, earnings.
3. Consider additional efficiency, such as salary sacrifice, to improve the employees' contributions, take-home pay, or a combination of both.

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