



Primary Authority Partnership

Warwickshire County Council Trading Standards & National Federation of Property Professionals & The Property Ombudsman

Primary Authority Advice

Advice requested:

When should the EPC rating of a property for rent or sale be shown on property particulars?

Legislation considered:

Energy Performance of Buildings (England and Wales) Regulations 2012, as amended ("*EPB*")

Consumer Protection from Unfair Trading Regulations 2008, as amended ("*CPRs*")

Other Material considered:

DCLG – Improving the energy efficiency of our buildings – A guide to energy performance certificates for the marketing, sale and let of dwellings. [April 2014] ("*DCLG marketing guidance*")

DCLG - Improving the energy efficiency of our buildings – Local weights and measures authority guidance for energy performance certificates and air conditioning inspections for buildings. [March 2016] ("*DCLG Guidance*")

National Trading Standards Guidance on Property Sales [September 2015] ("*NTS Guidance*")

Assured Advice Issued:

An EPC must be commissioned before a property, for sale or rent, is marketed (EPB, Reg 7(2)). The EPC should be obtained within seven days starting on the day the property is first marketed, but a further 21 days are permitted if the certificate cannot be obtained within the initial seven days.

Once an EPC has been obtained, the energy performance rating within the EPC must appear in any advertisement in commercial media (EPB, Reg 11(2)).

EPB, Reg 6(2) requires an EPC to be made available to a person who requests/accesses information in writing about the building (for example: property brochure or website detailed listing). An EPC also needs to be made available to anyone at the time of actually viewing a property.

To make this clear, the responsible person cannot let anyone view the property, nor can they make any written information available to anyone, until the EPC is available.

With the exception of the two activities mentioned above, other marketing activities can take place after the EPC has been commissioned, but before it has been received (EPB, Reg 7). This would include placing a for sale / rent sign on the property, placing an advert in a newspaper or displaying a picture in the office window for example.

Many properties are advertised online via property portals and it is our view that a list of properties that appears following a search, would be acceptable marketing without an EPC. Any 'click through' to a new page containing all the information about the property should only appear if an EPC for the property is present on the site (as this detailed page would be considered 'information in writing').

A potential offence could be committed under the CPRs if an EPC was omitted from marketing information as described above; for example a consumer may change their transactional decision to travel some distance to view a property, if they knew in advance that the energy efficiency of the property was poorly rated.

Date Advice is Effective from:

08 11 2016

Reference and renewal:

The reference for this advice is: WTS/NFOPP/TPOS/5

This advice shall be reviewed in 12 months from the effective date.