



Primary Authority Partnership

Warwickshire County Council Trading Standards

Old Budbrooke Road, Warwick, CV35 7DP

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Propertymark

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The Property Ombudsman

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Primary Authority Advice Reference WTS/PM/TPO/23

This Primary Authority Advice has been produced by Warwickshire County Council Trading Standards Service, in partnership with The Property Ombudsman and Propertymark, for use by member businesses as an aid to complying with the law. If you follow this advice correctly, your local Trading Standards Service should respect this and not ask you to comply with the law in a different way. If you are contacted by a local authority enforcement body, please inform them that you are a member of the scheme.

Advice requested:

Two agents (A & B) are instructed on a joint agency agreement to sell a property.

Agent A secures an offer on the property that is accepted by the vendor (however the vendor wants both agents to continue to market the property).

Q - 'A' updates the property page on an internet portal with 'sold subject to contract'. What should Agent B do to comply with the CPRs, in regard to their own property page on the internet portal?

Legislation considered:

Consumer Protection from Unfair Trading Regulations 2008 ("CPRs")

Other Material considered:

National Trading Standards Estate and Letting Agency Team Guidance on Property Sales and Lettings, September 2015, Reviewed August 2020 ("*NTS Guidance*")

TPO Code of Practice for Residential Estate Agents [1st June 2019] ("*Code of Practice*")

Assured Advice Issued:

It is important to consider the instructions from the vendor at this point. If the vendor informs both agents that the property is to be removed from the market, then Agent B should take down their property page on the internet portal and cease marketing.

If the vendor decides that marketing of the property should continue after accepting an offer subject to contract, then Agent B should also make it clear on his property page on the internet portal that the property has been sold, subject to contract.

To avoid consumers becoming confused, it would be sensible for Agent B to add a statement to the internet description, for example 'This property is currently sold subject to contract by another agent, however the vendor is still considering offers'.

Agent B should not use any terms that would be misleading, for example 'another property sold by us' as this is incorrect and misleading. If Agent B is asked if they have sold the property, then they should clearly state no.

Only Agent A, who has secured the sale, can use additional advertising within his property description, such as 'Another property sold subject to contract by Agent A' as this is factually correct.

Date Advice is Effective from (issue date): 31 01 2017

Last Review Date: 04 03 2021

Next Review Date: 03 03 2022

Primary Authority: Warwickshire County Council Trading Standards Service

Co-ordinators: The Property Ombudsman and Propertymark

Supporting Regulator: Not applicable

For Publication on the Primary Authority Register: Yes

Geographic Applicability: This advice applies in England.

Scope: This advice is applicable to all member businesses.

How to obtain up to date copies of this advice: Current copies of this advice may be obtained via the member organisations' websites:

www.tpos.co.uk/members/assured-advice/assured-advice-information

and

www.propertymark.co.uk/working-in-the-industry/primary-authority-advice/.