

Briefing: Letting Agent Fees Ban

Summary:

- Shelter strongly welcomes the government's intention to ban letting agent fees to tenants. Ending upfront fees will reduce the significant financial pressures renters can experience when moving and make the lettings market more transparent and competitive.
- The government has clearly stated the policy intent: banning fees to tenants in order to help renters as consumers. As such we believe an outright ban on all fees is the only way to ensure this policy achieves its objective.
- Evidence from Scotland suggests that arguments that the ban will lead to rent increases for tenants are overstated. Although there is a risk that removing referencing fees may increase discrimination in the market, this can be mitigated in part by using the ban as an opportunity to look more creatively at how such a service can be delivered.

The problem with letting fees

Government figures show that, on average, tenants pay **more than £200 in letting agency fees**, on top of rent in advance and deposits. Our research has also found that some tenants pay much higher fees. We found that **one in seven tenants** have been charged **more than £500**. Worryingly, lower income tenants are charged higher fees on average.

There has been a **lack of transparency** about exactly what costs are being covered and how fees are set. Shelter carried out a mystery shopping exercise and found inexplicably wide variations in pricing. Fees for reference checks ranged from just **£30 to £220** and tenancy renewal could cost anything from **£35 to £150**.

Shelter research from 2013 showed that, of those who had used a letting agency in the preceding three years, **27% had to borrow or use a loan to pay fees** and **17% cut down spending on heating and food** to cover costs. Letting fees can cause a significant income shock to prospective renters who are unable to plan for these unpredictable costs.

Shelter's position on banning letting fees

Ending upfront fees will reduce the significant financial pressures renters can experience when moving. **We support an outright ban**. Our rationale for banning fees is:

- a) **Renters cannot act as consumers:** Private tenants do not shop around based on agent – they shop around based on location and the type of home they want. They are unable to exercise consumer choice when it comes to letting agent fees, and as a result should not be subject to them. Landlords are the consumer in this relationship and should pay the cost of choosing to engage an agent. At present agents reduce fees for landlords to attract new clients and rely on passing these costs on to renters.
- b) **Predictability beats upfront costs:** Although the evidence from Scotland shows that letting fees did not lead to an increase in rents, we accept that a ban on tenant fees may lead to higher fees for landlords (although we think this will be tempered somewhat by their consumer power) – who may pass these fees onto their tenants through rent rises. But by every measure, predictability is

preferable. We know that our clients would prefer to account for a small rental increase than face large fees on top of deposits and advanced rental costs.

- c) **Unregulated market creates chaos:** The unregulated nature of the lettings market means that cowboys get away with charging extortionate fees. According to Shelter research, more than half of people who used a letting agency experienced financial difficulties because of fees. And one in seven have been charged more than £500 in fees.

Shelters position on introducing a cap on letting fees

An alternative proposal to resolving the problem of letting fees is to introduce a cap on fees. Shelter does not support this proposal and would favour an outright ban on all tenant fees. Our reasoning for this is:

- a) **Many of the services tenants currently pay for are conducted on behalf of, and also paid for by, the landlord** and we believe it is wrong that the tenant should be expected to pay. For example, reference or credit checks are seen as a way to protect the landlord from 'problem tenants' rather than of benefit to the tenant and right to rent checks are a legal requirement to let a property.
- b) **Introducing a cap on tenant fees would not limit the total amount tenants are charged.** Since the ban was introduced we have heard instances of letting agents introducing completely new fees to make more money from tenants such as 'legal document charges'. Capping costs does not limit the number of different charges a tenant may face, which can be wide ranging, meaningless and costly. By capping individual fees and not banning charges outright it is unlikely there will be any positive effect for tenants.
- c) **Setting the level of the cap is near impossible** in such a variable market. Some letting agents have already begun to not charge any tenant fees whilst others charge several hundred pounds per person. By introducing a cap, you risk all letting agencies charging the maximum amount, regardless of necessity in their business model.

Impact of the fees ban in Scotland/Will the ban lead to rent increases?

Since the Chancellor announced the ban there have already been claims that costs will just get passed onto tenants through **rent increases**. This was also a hot topic when the legal clarification explicitly banning fees was going through in Scotland in 2012.

In 2013, Shelter commissioned research on the impact on rents in Scotland. Of the **120 landlords** interviewed for that research, **only one noticed an increase in what they were charged** by their letting agent and passed it on in higher rents.

The Office for National Statistics' index of private rental prices now provides us with even more insight into what happened in Scotland, and can help us understand what the impact of this change may be on rents in England. The official data shows us that banning fees in Scotland **did not coincide with any significant spike in rents**. If there was an impact, it was short-lived – rents are up 5% in Scotland since fees were banned there, and by 9% in England over the same period.

Potential risk: Reference checks and increasing discrimination

Another risk that has been suggested is that **not allowing reference checks could increase discrimination**. We would not want the system to arise where agents refuse to even check some tenants because of a preconception that they will fail.

As a charity we see the effects of existing discrimination in the private rental sector (PRS) every day so we take this concern very seriously. We know that many landlords already routinely reject households with children or on housing benefit. However, the instances of people not being able to access a tenancy due to

an objective reference check seems to be quite small: our tenant survey found only 2% of renters, including those claiming housing benefit, had been refused or prevented from moving into a property due to a failed reference check in the last five years. It doesn't seem to be the case that references are serving as a meaningful safeguard for landlords at present and instead they are opting for broader criteria, particularly the persistent 'no DSS'.

Concerns about unintended consequences can be mitigated in part by using this as an opportunity to **look more creatively at options like tenant passports**. Given the lack of established benchmarks there is also the real risk that costs for referencing would become inflated **as agents look for new ways to charge tenants**. Preventing this will encourage agents to keep the costs of referencing to a minimum.

Case study: Dourish & Day Letting Agents

Since opening earlier this year (with all three founders having previously worked for large corporate estate/letting agents) Dourish & Day have not charged any fees to tenants. They argue that the landlord is paying the agent to cover these costs and does not believe in double charging for things such as references.

Their experience has been incredibly positive, with many landlords switching to work with the agent because the absence of fees makes its properties more attractive to tenants. The agent has also encountered many landlords who were still unaware that tenant fees existed, expecting that they were covering the costs anyway.

Tenants are also incredibly happy with the service and, whilst the agent accepts that sometimes tenants will fall in love with another agent's property and thus be willing to pay the fees, they have some families who are solely searching for properties on its listings so that they can avoid the fees.

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