

End letting fees:

Frequently asked questions

# End letting fees: FAQs

## Why is Shelter campaigning on letting agencies?

We help people find and keep their home. Nine million people currently rent their homes privately, a third of whom are families with children. Renting in England is typically insecure and expensive- 33% of private renters moved home in 2011-12<sup>1</sup>, and the average costs of moving are around £2,000 in London and a £1,000 outside of the capital<sup>2</sup>. In the last year alone rents have risen by an average of £300<sup>3</sup>, and nearly one in four people in England and Wales<sup>4</sup> have been charged what they felt were unfair letting agency fees.

Whilst deposits and rent in advance make up a significant part of the moving costs high letting agency fees can cause a significant income shock to prospective renters- who are unable to adequately plan for these unpredictable costs. High fees have adverse impacts: our research revealed that of those who had used a letting agency in the last three years 27% had to borrow or use a loan to pay fees and 17% cut down spending on heating or food to cover the costs<sup>5</sup>. With approximately sixty six per cent<sup>6</sup> of tenancies being arranged through the lettings market, it is important for Shelter to focus on how we can ease prohibitive costs to renters, and how we might improve standards in the lettings market as well as across the wider private rented sector.

## What concerns does Shelter have with the current lettings market?

As private renting continues to grow, it is vital to improve the security and conditions for the increasing number of families who rent their home. Everyone should have a decent, stable, affordable home – including those who rent their home from a private landlord. Our advisers regularly see renters who have experienced poor service in the lettings market, and

last year we had nearly 15,000 online enquiries to our letting agency advice pages. In 2012 8,334 enquiries were made to the Property Ombudsman regarding complaints about practices and behaviour in the lettings market<sup>7</sup>; but this is likely to be a significant underestimate, as many renters do not know how to complain and many letting agencies are not members of an accreditation scheme, and therefore exist outside of the ombudsman's jurisdiction. A quarter of the letting agency users we surveyed also said they did not complain about their letting agency when they wanted to because they did not think anything could be achieved<sup>8</sup>.

Renters we've supported tell us of the expensive and disproportionate letting fees they've been charged, and how these can make getting a home difficult. Twenty three per cent of renters have told us they missed out on a home they wanted because of high fees in the lettings market<sup>9</sup>. The Resolution Foundation also highlighted the high cost of using letting agencies, with affordability problems compounded by associated costs of moving including deposits and rent in advance<sup>10</sup>. The think-tank's report highlighted a wide variation in fees with no discernible difference in service provided and identified a lack of transparency as hampering effective competition.

The lettings industry has even been described by its own representatives as akin to the "Wild West"<sup>11</sup>. Regulation is weak - even by the light-touch standards of the private rented sector - and tenants have no guarantee of receiving a professional service. Citizens Advice, identified problems in contacting agencies, serious delays in repairs, inadequate client money protection, and additional fees and charges<sup>12</sup>.

Complaints have not been confined to renters. Landlords too have complained that high fees deter prospective tenants or risk discouraging good tenants to renew a tenancy. Landlords have also complained about agencies double charging them and renters for the same service<sup>13</sup>. The dissatisfaction felt by renters and landlords towards the lettings market has led us to investigate this further. We believe changes are necessary so that costs to renters are predictable and affordable, and the lettings market are required to meet set standards.

## How did Shelter come to the conclusion that reform is necessary?

Shelter has conducted an investigation into renters' and landlords' experiences of the fees charged and the services provided in the lettings market. Given high house prices and the shortage of social housing, private renting is the only realistic option for many; high and unpredictable costs may jeopardise potential renters securing a tenancy. Our investigation revealed the breadth and scale of the problems, with nearly one in four people in England and Wales (24%)<sup>14</sup> stating that they had been charged unfair lettings fees and 60 per cent<sup>15</sup> of renters saying they worry about fees each time they move. Four in ten adults who have dealt with a letting agency in the past three years say that letting agency fees were a factor in the money worries they experienced when moving<sup>16</sup>. Shelter's investigation shows the impact letting fees can have on people's ability to access and move within the private rented sector, and our examination of the structure of the lettings market helped us to identify solutions that would aid access and affordability and raise standards. Our recommendations are based on months of evidence gathering, research with renters and landlords, and engagement with the industry.

## What would be the impact of ending letting fees?

Ending upfront fees will significantly reduce the financial pressures renters experience when moving. Spreading the cost of fees over the course of a tenancy would ease the income shock caused by high and unpredictable fees. Furthermore it would assist those to whom upfront costs act as a barrier to accessing the private rented sector.

We believe this is the only reform that would be adopted uniformly across the lettings market, and the only reform that will address the overall cost of fees, and the income shock caused by them being charged upfront.

Shelter does not believe that rents will necessarily rise if upfront fees are banned. We believe that some in the lettings market charge high fees which do not reflect the work done, simply because they can, in a broken market where renters have little consumer power. As landlords have more ability to shop around, we expect the overall level of fees charged by agencies to fall when all fees are charged to landlords. (So renters would still be better off overall even if landlords passed

on the entire cost in rent). Concentrating fees on the landlord's side of the transaction will encourage competition which should reduce prices.

Moreover, landlords in turn may decide to absorb some of the cost if this is necessary to attract good tenants or because they agree it is fair for them to pay the cost of the service they have commissioned. It's possible that some letting costs could be passed on to landlords, who in turn increase rents. However if costs are passed on to renters, there are several reasons why spreading the cost via rent is preferable; it reduces access barriers to private renting; it means renters are not paying for fees at the same time as finding rent in advance and deposits; and it can be covered via housing benefit.

## What evidence did you base these recommendations on?

We've conducted a number of pieces of research with both renters and landlords, including the largest ever survey of private renters, which captured the views of over 4,000 renters. Hundreds of renters and landlords responded to our call for case studies, documenting the range of fees they'd been charged and the service they'd experienced. In addition we have commissioned independent mystery shopping research looking at the lettings market in six locations across the country, detailing the high and wide range of fees being charged. We have undertaken months of stakeholder engagement with the lettings industry, consumer bodies, private renter organisations and other organisations active on this issue. We've studied the current market and have concluded that a ban on letting fees to renters is the most appropriate solution, given the landlord is the primary consumer and primarily benefits from the letting service.

## What evidence does Shelter have of high fees?

Letting agency fees on average cost £355<sup>17</sup>. This compares to a weekly average rent of £164<sup>18</sup>. Whilst there is evidence of some renters being charged minimal or no fees, the common experience indicates fees are high, with one in seven renters who used a letting agency (15 per cent) being charged in excess of £500<sup>19</sup>. Our surveys show renters using a letting agent pay on average three separate fees and 38 per cent pay four or more<sup>20</sup>. There is great variation in the fees charged to renters with little justification for that

variation. Mystery shopping research commissioned by Shelter found examples of fees for reference checks ranging from £30 to £220 and of renewal fees ranging from £35 to £150<sup>21</sup>

## **Aren't the problems confined to a few rogue letting agencies?**

Our analysis shows the market does not work. The problems of high cost and poor standards are not confined to a few "rogue" agencies but are widespread across the industry. Many of the complaints we and other organisations have heard do not only relate to egregiously poor practice by a minority of agencies, but are widespread, and related to common practices- such as charging high fees.

## **What engagement did you have with the industry?**

We undertook extensive engagement with the lettings industry. We have shared findings from our research with a number of organisations and participated in a number of roundtables and events on this issue. Whilst industry colleagues may take different views to Shelter about how to reduce fees to renters, we hope to continue our fruitful dialogue about how to improve standards in the sector as a whole.

## **Wouldn't this problem be solved if fees were transparent?**

Shelter does not believe that transparency alone will bring down the cost of fees. Proponents of transparency suggest that potential renters could compare costs and discriminate in favour of the cheapest agencies. However, this ignores how the market operates. Renters search by property, and are then forced to use the agency already contracted by the landlord to let that property. They are unlikely to avoid an agency on cost grounds if this will mean losing out on a suitable property which is advertised at a rent they could otherwise afford. In addition, the current excess of demand in many markets makes it extremely difficult for tenants to exercise much choice at all.

In the short-term, the lettings market should be fully transparent about the costs renters will face. Evidence suggests this is not the case at present. Less than half (43 per cent) of all renters surveyed for Shelter said that their letting agency was open and transparent

about the fees they would be asked to pay<sup>22</sup>. Whilst failure to fully disclose fees before a transaction takes place could leave agents in breach of the Advertising Standards Authority guidance and the Consumer Protection from Unfair Trading Regulations (2008), there is little evidence trading standards are taking substantial action against non-compliance.

## **What will be the impact of the recent Advertising Standards Authority ruling?**

We welcome the Advertising Standards Authority ruling which states that the lettings market must make clear what compulsory fees are charged when letting a property. However, we are concerned that the ruling could become little more than a disclaimer to alert potential renters that fees will be incurred, particularly as renters have little power to negotiate, with only a quarter of tenants stating that they are in a position to negotiate on agency fees<sup>23</sup>. We do not believe transparency will be universally adopted voluntarily and transparency is difficult to enforce. Voluntary codes are already not being adopted universally across the lettings market, with approx 40% of agencies existing outside of any of the professional bodies' accreditation schemes<sup>24</sup>. Transparency does not address the key issue for renters, which is the overall cost of fees.

## **Why not cap letting agency fees?**

Some have argued that letting agency fees should be capped or set at the cost of delivery. However this is problematic for a number of reasons. This measure could be questioned on legal grounds and could be subject to accusations of price fixing. As it stands there is very little public information available on the true costs incurred by agencies for the charges made, it would therefore be difficult to calculate a fair and proportionate charge. Such a measure would require legislation but also significant red tape to ensure effective application and enforcement across a currently unregulated industry. It could eliminate competition and as a result this measure could be seen as anti competitive and anti market.

## Are there existing provisions in law to protect renters using letting agencies?

Very little regulation applies to the lettings market. Whilst renters can technically challenge fees by using existing consumer legislation such as the Consumer Protection from Unfair Trading Regulations (2008) or Unfair Terms in Consumer Contract Regulations (1999), the practicalities of doing so are beyond the reach of many individuals.

Whilst estate agents have to belong to a professional membership body, and have professional indemnity insurance and client money protection, neither of these safeguards apply to the lettings market. Following extensive lobbying by Shelter and industry representatives, the government has recently indicated that it will propose that the whole lettings market needs to sign up to an independent body to offer redress to those who have a complaint. This is welcome, but Shelter does not believe that this proposal goes far enough.

## Do renters support an end to letting fees?

We believe renters will support ending upfront fees as this will reduce upfront costs to renters, which we expect to be particularly welcome when people are moving house and have a number of demands on their finances. Shelter has polled renters to understand their views. Two thirds (66%) of those with recent experiences of renting through a letting agency would support a ban on upfront fees<sup>25</sup>.

## Shouldn't renters pay their fair share for setting up the tenancy?

Renters pay their portion via rent and their deposit. Upfront fees to renters have become commonplace and often disproportionate, with renters being charged for services that are primarily for the benefit of the landlord. Some landlords too have questioned the practice of charging renters for tenancy set up costs, landlords like Dorrington, a large residential landlord who support the ending of letting fees being charged to renters. The landlord may wish to commission these services (e.g. credit checking potential renters), but they should factor these into their profit margins when setting rent levels. The payment of deposits is a fair way

of a prospective tenant indicating their intention to rent a property; additional fees should not be necessary, and service costs should be charged to the principal customer of that service: the landlord.

The OFT have highlighted that the letting agency market is unique in operating in a tripartite fashion, whereby the agency's client is the landlord, but they also charge and offer some services to the tenant. The OFT has raised concerns at practices within the industry, such as drip pricing (the gradual disclosure of charges, and the lack of transparency surrounding fees), and the conflict of interest that arises from the agency purporting to serve both the landlord and the renter<sup>26</sup>.

## Would the payment of deposits be affected by the legislation to end letting fees?

Shelter actively campaigned for the current legislation protecting renters' deposits. Paying deposits into a protection scheme acts as a fair and useful bond for both the renter and landlord, and we do not propose any changes to how this currently operates.

However, Shelter is concerned by the lack of clarity around so-called "holding fees/ "holding deposits" which may be paid by a potential renter prior to the tenancy being agreed. In some cases these fees may become part of a protected deposit after signing a contract. However until the "holding fee"/"holding deposit" is designated as part of the deposit and registered in a scheme, it is not protected and has no guarantee of being refundable. Shelter has seen cases where renters have not been allowed to see a tenancy contract before paying a holding fee. They are therefore being asked to commit to a property, at risk of financial penalty, without access or agreement to the terms of the contract.

Shelter believes costs to the renter should be concentrated on the protected deposit and payment of rent in advance, which the landlord and agency can use as reassurance of the renter's intention to let the property. We believe no other fees should be payable by the renter for setting up a tenancy.



## What impact would these proposals have on buy-to-let landlords?

If upfront fees were banned we would not anticipate that all of the costs currently charged to renters would be passed to landlords. Faced with an active consumer who can go elsewhere, agencies would not be able to apply all the charges they have been able to pass onto renters. At the moment the lettings market can compensate for competitively priced offers to landlords by increasing fees to renters. We believe the lettings market will have to reduce some of the charges issued, particularly because they will not be able to double-charge renters and landlords anymore and because landlords have greater consumer power to negotiate disproportionate and unreasonable fees.

Ultimately buy-to-let landlords do not have to use a letting agency. Renter and landlord research does not strongly suggest that renters benefit when an agency is involved. This is especially true at present because there are no minimum standards required from agencies.

## Is Shelter calling for transparency in the fees/commission rates charged to landlords?

Fees charged to landlords should be transparent. Existing consumer protection regulation should ensure that this is already the case. In addition we know that landlords have more consumer power and are more likely to negotiate and shop around on fees. We will work with landlord representatives to ensure letting agents improve their offer to landlords too.

## What impact has the enforcement of the ban on upfront fees had in Scotland?

In Scotland it has been illegal for agencies to charge 'premiums' to renters since 1984, but this law was being widely flouted. The law has now been clarified. As the law was already in place, renters have been able to reclaim illegally charged fees, and Shelter Scotland has run a "Reclaim your fees" campaign. There is no equivalent of the 1984 legislation in England, and Shelter is not proposing retrospective legislation in England.

The ability to reclaim past fees in Scotland has had a bigger financial impact on agencies than a ban on fees, as it has required agencies to issue payments

for fees received a number of years ago. As no potential for "reclaiming" is proposed in England, these consequences will not be mirrored in England. In addition, the Reclaim your Fees campaign has occurred at the same time as changes to deposit protection legislation in Scotland, which has again required agencies to produce funds which may not have been readily available.

Figures released by Citylets on rents in Scotland show that since the enforcement of the ban on fees rents have not risen disproportionately; the average rent increases across Scotland are below inflation, apart from Aberdeen and Edinburgh which are currently experiencing high levels of demand and limited supply<sup>27</sup>. Furthermore we have not seen any evidence to suggest that financially viable agencies are going out of business in Scotland and overall the number of agencies in the lettings market appears to have increased since the clarification of the law<sup>28</sup>.

## How would this proposal be introduced?

Primary legislation would be required to end upfront fees to renters and to introduce the recommendations we are calling for in terms of standards in the letting agency market. The government would need to consult with interested parties before any legislation became effective. Along with many in the industry, we are calling for an extension of the legislation that covers estate agents to also be applied to the letting agency market. This would require primary legislation to alter clauses in the Estate Agents Act (1979) and the Consumers, Estate Agents and Redress Act (2007).

## Does Shelter receive corporate support from any letting agencies?

Shelter receives donations from a number of sources, including from many in the property and associated industries. Support from corporate partners enables us to help more people, but never affects the independence of our campaigning. We have engaged with a number of our partners on this issue for some time, and have successfully worked with colleagues in the industry to lobby the government to require all letting agencies to offer independent redress. Our positions are shaped by the experiences of renters and the problems we see in our advice services. Shelter believes that everyone should have a home. We help people find and keep a home and campaign for decent housing for all. We will continue to work with corporate partners on shared activities, and we are grateful for the

generous support offered by all our corporate partners, both past and present.

## **Are there any letting agencies that don't charge fees?**

Some renters who have rented through a letting agency have not been charged fees. Although fees are common they are not universal: 70% of tenants renting from an agency were charged an admin fee; 62% an initial contract fee and 52% a credit check fee<sup>29</sup>.

There is great variation in the fees charged to renters. Citizens Advice found examples of reference checks costing from £10 to £275 and renewal fees varying from £12 to £220<sup>30</sup>. This suggests that fees bear little relation to the costs faced and some charges in the lettings market charge high fees which do not reflect the work done, simply because it is possible to do so, in a broken market where renters have little consumer power.

**For further information about Shelter's policy or campaigns please email [campaign@shelter.org.uk](mailto:campaign@shelter.org.uk)**

## Notes

1. English Housing Survey 2011–12, DCLG. Table t5.
2. Resolution Foundation, Renting in the Dark, 2011
3. Shelter, [Rent Trap](#) report, January 2013. Report used data from the Valuations Office Agency to calculate rental increases across England.
4. YouGov survey for Shelter. Sample size for England and Wales was 4724 adults. Fieldwork was undertaken between 10 – 14 August 2012. The survey was carried out online. The figures have been weighted and are representative of all English & Welsh adults (aged 18+), 24% have been charged unfair fees by a letting agent in England & Wales, equivalent to 10.6 million people. The figure for GB was 23%. [http://england.shelter.org.uk/news/previous\\_years/2012/september\\_2012/1\\_in\\_4\\_ripped\\_off\\_by\\_letting\\_agents](http://england.shelter.org.uk/news/previous_years/2012/september_2012/1_in_4_ripped_off_by_letting_agents)
5. YouGov survey for Shelter. Total sample size was 1528 adults who had dealt with a letting agent, as a tenant, in the last three years. Fieldwork was undertaken between 26 April - 1 May. The survey was carried out online. The figures have been weighted and are representative of all English & Welsh adults (aged 18+). Respondents were asked “Which, if any, of the following have happened to you/your household in the last three years as a result of letting agent fees”, list available upon request. Respondents could tick all that applied.
6. Which? Renting Roulette, Consumer experience of the lettings market, Nov 2012
7. The Property Ombudsman, Annual report 2012, 2013
8. See footnote 5. 24% said ‘I wanted to complain but didn’t think anything would get done’.
9. YouGov survey for Shelter. Sample size was 4646 adults in England and Wales living in the private rented sector. Fieldwork was undertaken between 16 November and 10 December 2012. The survey was carried out online. The figures have been weighted and are representative of the English and Welsh private rented sector (aged 18+).
10. Resolution Foundation, Renting in the Dark, 2011.
11. Royal Institute of Chartered Surveyors, Renting: Property’s Wild West, 2012
12. Citizen’s Advice Bureau, Let Down, 2009
13. Letting Away with It survey on the Shelter website. Survey ran from September 2012- December 2012, with over 1,100 responses from renters and landlords.
14. See footnote 4
15. YouGov survey for Shelter. Sample size was 541 adults in Great Britain living in the private rented sector. Fieldwork was undertaken between 2 - 5 December 2011. The survey was carried out online. The figures have been weighted and are representative of the British private rented sector (aged 18+).
16. See footnote 5. 14% of the total sample said letting agency fees were ‘a major factor’ in the financial difficulties or concerns caused by moving. 25% said fees were a ‘moderate factor’. 22% had not moved and 14% moved but had no financial difficulties or concerns.
17. YouGov survey for Shelter. Sample size was 4646 adults in England and Wales living in the private rented sector. Fieldwork was undertaken between 16 November and 10 December 2012. The survey was carried out online. The figures have been weighted and are representative of the English and Welsh private rented sector (aged 18+). Where a fee was charged (base 1931) the average was £354.70, 16% paid no fees.
18. English Housing Survey, 2011-12, table t3
19. See footnote 17
20. See footnote 17
21. Shelter commissioned the independent research agency Mystery Shoppers Ltd to carry out mystery shopping of 58 letting agents in Watford, Leeds, Sale, Wimbledon, Rutland and Gravesend in May 2013. Researchers asked letting agents for details of the fees charged to tenants, asking if the fees they were quoted were the only ones that had to be paid. The average was £350.97.
22. See footnote 17
23. Which?, Renting Roulette: Consumer experience of the lettings market, 2012.
24. The Property Ombudsman, 2012
25. YouGov survey for Shelter. Total sample size was 1874 adults, of whom 347 had dealt with a letting agent, as a tenant, in the last three years and 229 supported a ban on fees. Fieldwork was undertaken between 26 April - 29 April. The survey was carried out online. The figures have been weighted and are representative of all English & Welsh adults (aged 18+).
26. Office of Fair Trading, The Lettings Market – an OFT report, 2013
27. CityLets, Maximising Yields and Happier Tenants, Working Smarter in Scotland’s Rental Sector, Spring 2013
28. Data obtained from Companies House (available upon request).
29. YouGov survey for Shelter. Sample size was 4646 adults in England and Wales living in the private rented sector. Fieldwork was undertaken between 16th November and



10th December 2012. The survey was carried out online. The figures have been weighted and are representative of the English and Welsh private rented sector (aged 18+).

30. Citizen's Advice Bureau, Let Down, 2009: [http://www.citizensadvice.org.uk/let\\_down.htm](http://www.citizensadvice.org.uk/let_down.htm)

Shelter helps over a million people a year struggling with bad housing or homelessness – and we campaign to prevent it in the first place.

We're here so no-one has to fight bad housing or homelessness on their own.

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Until there's a home for everyone

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