

End letting fees:

Lessons from the Scottish lettings market

Shelter

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This briefing summarises independent research conducted by Retties and Co and BDRC Continental into the Scottish lettings market. The full reports by both research agencies are available at the end of the report. The introduction contains research and analysis developed by Shelter, and does not represent the views of the independent research agencies.

Introduction

Private renting is increasingly becoming the 'new normal': nine million people in England rent their home from a private landlord, a number which has grown rapidly over the last ten years. It is also increasingly the only option for young families, with a third of all privately renting households made up of families with children – and one in five English families renting their home privately¹.

As private renting has expanded, so too has the number of people coming into contact with letting agents, with around half of all rentals arranged or managed by an agent. For many renters that means their relationship is often chiefly with an agent rather than a landlord. And with private renting overwhelmingly arranged through assured shorthold tenancies (ASTs) with fixed terms of six or 12 months, the churn in tenancies mean that renters may have significant contact with letting agents in the course of their housing career. Not least as nearly a third (31%) of renters say they expect to be renting for the rest of their lives².

As the private rented sector expands, the practices of the letting agent industry have caused increasing concern to renters, landlords and policymakers. Shelter, alongside industry bodies such as RICS and ARLA, has called for significant reform to guarantee professional standards of service to landlords and renters alike.

But in addition to the poor quality of service provided by many agents³, Shelter is concerned about the sheer cost of obtaining a private rented tenancy. The average upfront costs faced by renters using a letting agency are over £1,000 nationally and over £2,000 in London⁴. Much of this is rent in advance and deposits. But a proportion of the cost is the non-refundable fees charged by the agent. Shelter supports an outright ban on these fees – as there is currently in Scotland.

Renters in England pay an average of £300 in fees, with one in seven renters paying £500 or more⁵. Our previous research, [Letting agencies: the price you pay](#) shows the impact high and unpredictable fees can have in terms of squeezing disposable incomes and leaving some renters in debt and financial worry. One in four people using a letting agency stated that they had to borrow money to pay for fees, and one in six cut down on food or heating to meet the upfront costs⁶. Sky-high fees also impact on renters' ability to move and secure the right home: 23% of renters saying they missed out

on a home they wanted because of high letting agency fees⁷, and 60% worry about the high cost of fees each time they had to move⁸.

Letting agent fees are often spurious, as they do not relate to actual costs. They can also represent double-charging of the landlord and the renter – the renter is often paying for services, such as credit checks or check-out fees, that the landlord would expect to have covered in their fee to the agent. Fees are often not transparent to potential renters before they agree to rent the property – despite existing legislation like the Consumer Protection from Unfair Trading Regulations (2008), and the recent ruling by the Advertising Standards Agency, which requires online adverts to list the fees charged.

Shelter welcomes the plans announced by the government in May 2014 to fine letting agents who do not disclose a full breakdown of fees prior to contracts being signed. But even with more effective enforcement, renters can still expect to be hit with high one-off charges. Focusing on transparency ignores how the market operates, and fails to acknowledge that renters do not have the ability to shop around. Renters search by property, and are forced to use the agency already contracted by the landlord.

Nearly one in four people in England and Wales feel they've been charged unfair fees by a letting agent⁹. And an overwhelming 63% of the British public support a ban on letting agency fees, with only 10% disagreeing¹⁰.

Scotland provides some pointers as to how a ban on fees would work, and whether it would have unintended consequences. In Scotland it has been illegal to charge 'premiums' – fees charged at the outset of a tenancy, in addition to rent and a deposit – to renters since 1984. However, the law wasn't enforced and was flouted by many agencies until 2012, when it was clarified¹¹.

While there has been significant speculation about what impact the clarification of the law has had on the lettings industry in Scotland, there has until now been little hard evidence available. That's why Shelter commissioned independent research to assess the impact of banning letting agency fees in Scotland.

This research demonstrates that renters, landlords and the industry as a whole has benefited from banning fees to renters in Scotland. It highlights that this change could be implemented in England without significant impact on the viability of the industry, or rents.

Summary of research

Shelter commissioned this independent research to assess the impact of the 2012 clarification of the ban on letting agent fees to renters in Scotland. The lessons are important for current debates in England, where there are growing calls for an end to letting fees to renters.

Since the clarification, there have been various claims about what impact this change in law has had on the industry, landlords and Scotland's renters. A number of industry insiders had claimed that it would directly lead to disproportionate inflation in private rents¹². Establishing whether that was in fact the case was a central objective of this research, along with understanding the impact of the clarification in the law on renters, the letting agency industry and private landlords. This research sought to establish:

- the general health of the letting agency industry. Were businesses affected? If so, in what way and to what extent?
- whether the clarification benefitted Scotland's renters, and whether there was any negative impact on renters' experience.
- how private landlords are dealing with any additional costs the change in law might have brought about. Are they absorbing any additional costs, or passing any costs incurred straight on to renters?
- is non-compliance significant, and are letting agencies continuing to charge fees to renters?
- the implications of retrospective fee reclaiming on letting agents*.

The research was conducted by two independent agencies:

Rettie & Co, one of Scotland's leading independent firms of property specialists, with direct experience in the sales, lettings and land market. Their research and consultancy business has extensive experience of working in both the private and public sector.

BDRC Continental, an award-winning agency with over two decades' experience of providing insight and research to a wide range of clients. They have extensive knowledge of the private rented sector, having established a proprietary landlord panel study, in conjunction with the National Landlords Association, the UK's only quarterly, quantitative survey of the PRS from a landlord perspective.

We employed a wide range of research techniques, including statistical modelling of rent levels; interviews with fifty letting agency managers; mystery shopping of letting agents; and surveys of tenants and landlords. We also sought the views of a number of sector experts in Scotland. The full reports from both independent agencies are available on our website, with the links provided after the key findings overleaf. Due to the multiple methods we used, it is important to view this body of research in its entirety. Shelter's summary of the key findings from this research follow, and the full reports can be accessed at the end of this document.

* As the charging of premiums has been illegal in Scotland since 1984 renters have been able to reclaim fees that they have been wrongly charged in small claims courts. Equivalent legislation does not exist in England and so Shelter's call for a ban on letting agency fees in England would not permit renters to retrospectively claim back fees paid prior to a new ban coming into effect. In this research we have sought to disentangle the respective implications for letting agents of historic costs versus the changes agents in England would need to make to future business models where fees were not permitted.

Key findings

Any negative side-effects of clarifying the ban on fees to renters in Scotland have been minimal for letting agencies, landlords and renters, and the sector remains healthy.

Impact on rents and landlord management fees

Although some landlords and commentators presume that the ban on fees must have inevitably driven an increase in rents, the evidence suggests that, if this has occurred at all, the increase is small and short-lived.

The research shows that landlords in Scotland were no more likely to have increased rents since 2012 than landlords elsewhere in the UK¹³. Rents do appear to have risen more in Scotland than in other comparable parts of the UK in 2013; however, most of this rise is explained by economic factors and not related to the clarification of the law on letting fees.

The most recent quarterly figures show rents in Scotland are falling. While statistical modelling of rents in the letting agent sector indicates that between 1% and 2% of the rent rises in Scotland in 2013 could, in part, be caused by the law on fees, this is inconclusive, and appears short-lived. Historic analysis of rent levels in Scotland show that market factors such as demand and supply and wages have been far more significant drivers of rent levels than legislative changes in the past¹⁴. This is backed up by the experts interviewed as part of the research¹⁵.

Renters in Scotland were no more likely to report a recent increase in their rent than those in other comparable parts of the UK. And renters moving in Scotland in the last two years were no more likely to report an unexpectedly high rent increase than those who last moved more than two years ago¹⁶.

Increases in agency fees, or having to cover the cost of fees themselves, are only mentioned by a very small minority of landlords as a reason for upping rents, with market and other cost factors considered far more significant drivers¹⁷. Less than one in five (17%) of letting agency managers said they had increased fees to landlords¹⁸. The majority (70%) of landlords in Scotland who use agents have not noticed any increase in fees since 2012. **Only one landlord in 120 surveyed said they had noticed an increase in agency fees and had passed this on in full to their tenants¹⁹.**

Impact on letting agency businesses

Letting agencies in Scotland describe an extremely healthy private rental sector in Scotland. All key business indicators showed very encouraging growth in the last 12 months, driven mainly by increased tenant demand. The majority (59%) of letting agency managers interviewed said that the clarification in the law on fees had had 'no impact' on their business, with only 24% saying it had a small negative effect. **Not one agency manager interviewed said it had a large negative impact on their business**, and 17% considered the change to be positive for their business. Among those who had made changes to their business as a result of the clarification, most changes were administrative in nature²⁰.



When asked to spontaneously name important recent legislative changes in the sector, the clarification on fees was mentioned by less than half the agency managers interviewed. This is significantly lower than the recent change on tenancy deposits in Scotland. Sector experts felt that the clarification would have had a marginal financial impact on many letting agencies, but none were aware of any that had gone out of business chiefly due to the legislation. Some letting agency managers reported being aware of 'a few' agencies that had closed as a result of the change²¹, but evidence from Companies House data shows that there were in fact more businesses associated with the lettings sector operating in Scotland in 2013 than there were in 2012²². Additionally letting agency managers reported a growing sense of competition between agencies for landlord and tenant business in Scotland²³.

This suggests even if some agencies operating on the margins have closed as a result of the clarification in fees law or for other reasons, they have quickly been replaced.

Furthermore, landlords operating in Scotland were no less likely to be optimistic about growing their portfolio in the next five years than those in other parts of the UK²⁴.

Compliance

The consensus among sector experts and letting agency managers was that the vast majority of agents and landlords in Scotland are now complying with the law and not charging fees, with only a minority continuing to break the law. Some reported that some agencies are exploiting loopholes to comply with the letter, but not the spirit of the law²⁵.

It is not possible to be conclusive about the number who do not comply. But the research points to this being around 10% of the market.

- One in twelve agencies in the mystery shopping exercise were clearly acting in breach of the law and charging fees²⁶.
- 12% of landlords said they had experienced or heard of tenants being charged fees since 2012, and 8% were making such charges themselves²⁷.
- Renters in Scotland were far less likely to be charged fees than in other areas of the UK. But 17% of renters moving in Scotland in the last two years said they had been charged fees on top of their rent and deposit (26% among those moving with a letting agency)²⁸.

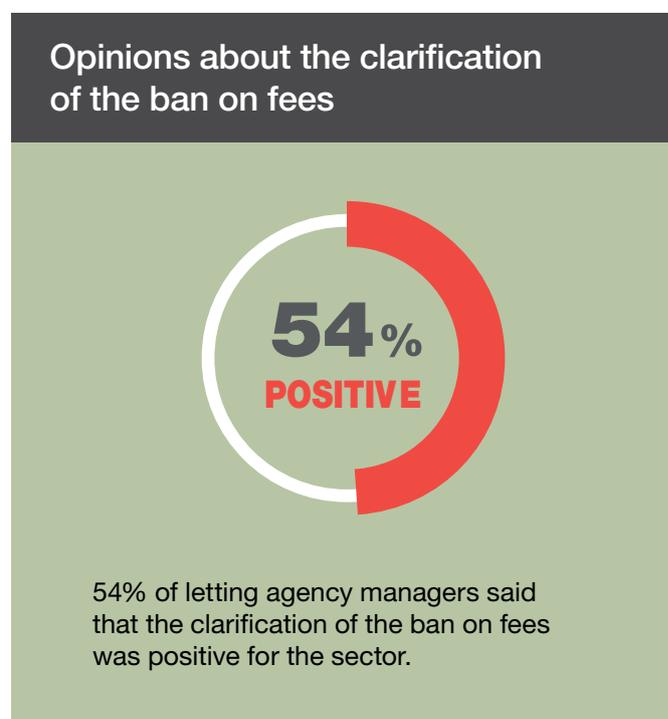
Lack of enforcement was considered to be one of the main reasons for non-compliance. Only 18% of letting agency managers said that the enforcement or penalty measures for non-compliance were robust enough. Some sector experts felt that, in common with other recent changes, such as the registration of landlords, the lack of visible regulatory enforcement was preventing full compliance²⁹.

Lack of awareness was considered to be contributing to the lack of compliance. Under a third (32%) of renters in Scotland clearly understood that there was a law banning fees, with only half of these recalling the clarification in the law in late 2012³⁰. Despite the fact landlords are also impacted by the clarification, and not allowed to charge fees to renters, only a small majority (55%) of landlords were aware of the law being in existence³¹.

Opinions about the clarification of the ban on fees

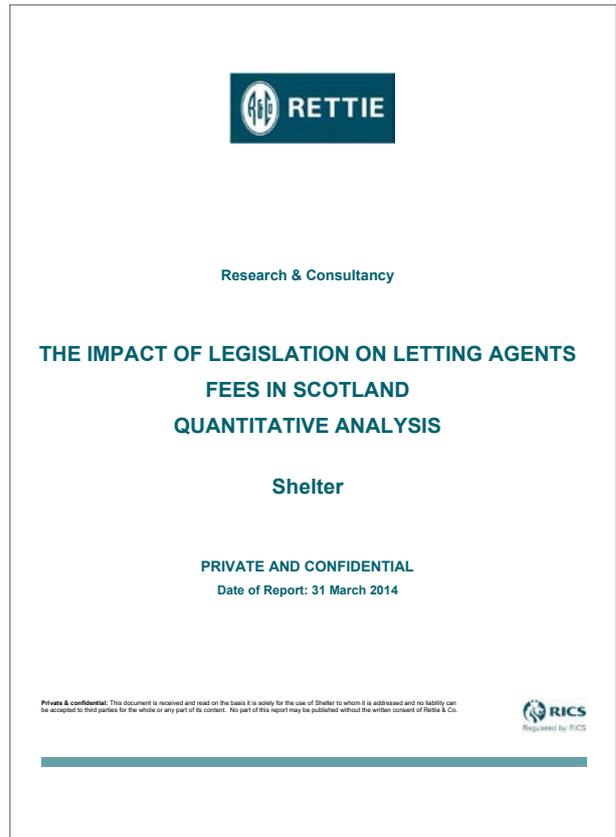
Support for the law was strong among renters in Scotland, with 56% agreeing that it improves the rental sector compared to only 5% that disagree³². While the majority of landlords in Scotland were either neutral (33%) or said they did not know if the law on fees was a good thing (23%), those landlords noting that it was positive for the rental sector (38%) far outnumbered those saying it was negative (8%)³³.

Even among letting agency managers, the majority view (54%) was that the clarification of the ban on fees was positive for the sector, with 30% seeing it as negative. The consensus among sector experts was that clarifying the ban on fees was a positive step for the industry, and any negativity focused on inadequate enforcement rather than the change itself³⁴.



Further information

The full reports by Rettie and BDRC can be found at:
www.shelter.org.uk/endlettingfees/scotlandresearch



Notes

¹ [English Housing Survey, DCLG](#)

² YouGov survey for Shelter. Sample size was 6,533 adults in Great Britain living in the private rented sector. Fieldwork was undertaken between 11 December and 14 January 2014. The survey was carried out online. The figures have been weighted and are representative of the GB private rented sector (aged 18+). Sample size for Scotland was 1,387

³ [Letting agents the price you pay](#), Shelter, June 2013.

⁴ Resolution Foundation, *Renting in the Dark*, 2011.

⁵ YouGov survey for Shelter. Sample size was 4,646 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+).

⁶ YouGov survey for Shelter. Total sample size was 1,528 adults who had dealt with a letting agent, as a tenant, in the last three years. Fieldwork was undertaken between 26 April and 1 May. The survey was carried out online. The figures have been weighted and are representative of all English and Welsh adults (aged 18+). 27% of the sample had experienced at least one of the following, due to letting agent fees, in the last three years: I/we borrowed money from friends/family; I/we went into an unauthorised overdraft; I/we borrowed money on a credit card; I/we took out another type of loan; I/we took out a short term payday loan (borrowing money for 30 days); I/we borrowed money in another way. 17% of the sample had experienced at least one of the following, due to letting agent fees, in the last three years: 17% had I/we had to cut down on food costs I/ we cut down on fuel/heating. 16% answered I/we used my/ our savings/ ate into savings for a deposit on my/our own home.

⁷ See endnote 5

⁸ YouGov survey for Shelter. Sample size was 541 adults in Great Britain living in the private rented sector. Fieldwork was undertaken between 2 and 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+).

⁹ YouGov survey for Shelter. Sample size for England and Wales was 4724 adults. Fieldwork was undertaken between 10 and 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.

¹⁰ YouGov survey for Shelter. Sample size for GB was 4,500 adults. Fieldwork was undertaken between 3 and

9 October 2013. The survey was carried out online. The figures have been weighted and are representative of all GB adults (18+).

¹¹ It has been against the law to charge 'premiums' in Scotland since 1984, yet the law was widely flouted. The clarification in 2012 and Shelter Scotland's 'Reclaim Your Fees' campaign gave many tenants the confidence they needed to ask for the return of fees previously charged by their letting agent, while also prompting agents in Scotland to conform with the law for future lettings.

¹² <http://www.scotland.gov.uk/Publications/2012/04/2045/downloads>

¹³ YouGov survey for Shelter of 1,064 private landlords, 120 letting in Scotland, carried out online between 11 and 19 December 2013. (See BDRC report for details)

¹⁴ The impact of legislation on letting agents fees in Scotland, quantitative analysis, Rettie & Co, May 2014.

¹⁵ The impact of clarification on letting agent fees in Scotland, BDRC continental Research Ltd, May 2014.

¹⁶ See endnote 2

¹⁷ See endnote 13

¹⁸ See endnote 15

¹⁹ See endnote 13

²⁰ See endnote 15

²¹ See endnote 15

²² See endnote 14

²³ See endnote 15

²⁴ See endnote 13

²⁵ See endnote 15

²⁶ See endnote 15

²⁷ See endnote 13

²⁸ See endnote 2

²⁹ See endnote 15

³⁰ See endnote 2. (32% of renters in Scotland said they were aware fees were illegal, 17% were specifically aware of the clarification in the law in late 2012.)

³¹ See endnote 13

³² See endnote 2

³³ See endnote 13

³⁴ See endnote 15

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