

Number: **WG31810**



Llywodraeth Cymru
Welsh Government

Welsh Government Consultation Document

Fees charged to tenants in the private rented sector

Date of issue: **19 July 2017**
Responses by: **27 September 2017**

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview	This consultation seeks views on what action the Government should take to end unfair fees charged to tenants.
How to respond	Please answer the questions in the questionnaire at the end of this paper.
Further information and related documents	Large print, Braille and alternative language versions of this document are available on request.
Contact details	<p>For further information:</p> <p>Private Sector Housing Team Housing Policy Division Welsh Assembly Government Merthyr Tydfil office Rhydycar Merthyr Tydfil CF48 1UZ</p> <p>email: PrivateSectorHousingMailbox@wales.gsi.gov.uk</p> <p>telephone: 0300 062 8155</p>
Data protection	<p>How the views and information you give us will be used</p> <p>Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.</p> <p>The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.</p>

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Fees charged to tenants – are they fair?

Tenants often have little or no choice in which letting agent they use. Regardless of quality of service, or fee transparency, they will naturally be constrained by location, accommodation type and rental costs when choosing a home to rent. This restricts their options in the private rented market. Landlords, on the other hand, can exercise choice when placing their property with an agent.

When using an agent, more often than not, tenants will be required to pay at least their first month's rent up-front and a tenancy (or security) deposit which often totals more than a month's rent. Some will be charged a refundable holding deposit which will enable the agent to take the property off the market while checks on the tenant are carried out. This is all paid along with fees charged by an agent for facilitating the tenancy. The agent's fee may be a combination of different charges, sometimes itemised, but quite often a fixed charge or one based on a percentage of property rental. Often, no breakdown of charges is provided to the tenant to outline exactly what the charges cover. While one fee may make it easier to compare costs between different agencies, it lacks transparency.

Examples of the type of activities for which fees are charged are listed below:

- Accompanied viewings
- Pre-tenancy negotiation
- Producing the tenancy agreement
- Producing guarantor forms if applicable
- Completing reference reports
- Obtaining / verifying all safety certificates
- Protecting the deposit and issuing documentation
- Processing move in monies and signing documentation
- Issuing the inventory and schedule of property
- Amending tenancy agreements
- Renewing tenancy agreements
- Early termination
- Moving out

In March 2016, Shelter Cymru released the report *Letting go: why it's time for Wales to ban letting agents' fees*¹. They found that there were large variances between fees charged to tenants ranging from a lowest fee of £39.99, to a highest of £480; over 12 times the difference. The report found that one in three tenants who used letting agents paid over £200 in fees just to begin a tenancy; this is on top of the usual requirement of a month's rent up-front, and a security deposit of at least one month's rent.

Agents also charge landlords a fee for their service, the amount of which depends on the level of services they are employed to provide. It may be

¹ <https://sheltercymru.org.uk/wp-content/uploads/2015/02/Fit-to-rent-Todays-Private-Rented-Sector-in-Wales.pdf>

difficult to find the dividing line between what tenants and landlords are paying for when a tenant rents a property through an agent.

Some landlords who manage independently of an agent may also charge fees on top of up-front rent and security deposits. Some tenants may also be asked to pay a third party for services related to the letting of a property, such as the checking of references, or financial / credit checks.

The Private Rented Sector – where are we now?

In terms of reforming the private rental sector, the Welsh Government has already gone much further than other parts of the UK in regulating landlords and letting agents through Rent Smart Wales (put in place under the Housing (Wales) Act 2014).

The Renting Homes (Wales) Act 2016, when commenced, will prohibit landlords charging fees for the provision of written statements of occupation contracts (but a landlord will be able to charge a reasonable fee for providing a further written statement), or if a written statement is varied.

The private rental market is an increasingly important tenure particularly amongst young people. Between 2000/01 and 2014/15 the number of privately rented dwellings in Wales has more than doubled, and now accounts for 15% of dwelling stock. Recent data obtained from Rent Smart Wales shows that there are about 2,400 agents operating in Wales, although their definition includes anyone who is acting on behalf of a landlord. It is estimated that the number of “high street” letting/management agent branches is actually closer to 1,000.

Charges and quality of service vary across lettings agencies, as does compliance with legislation; for example the Consumer Rights Act 2015 which requires letting agents to be up-front about any fees they may charge, by clearly displaying in-branch, and on any websites through which they may advertise properties. During a mystery shopper exercise carried out as part of their research, Shelter Cymru found that over half of letting agents did not display a clear list of fees on their website.

Why do we need to make a change?

The Welsh Government believes many of the fees charged to tenants to be unjustified and arbitrary. Fees can act as a barrier to privately-rented housing. In the long run, a failure to address this issue risks making the Private Rented Sector unaffordable for some people. Together with a ban on letting agents’ fees, we propose to include a ban on fees charged to tenants by landlords and third parties.

Redressing this imbalance and addressing charges will incentivise agents to provide competitive services to attract landlords. It will also provide prospective tenants with a level playing field where they can search for potential homes with the knowledge that they will not face additional fees and charges in order to secure the property and compare on a like-for-like basis across agents.

There is concern that any decision to stop agents charging fees to tenants could have consequences; for example, an increase in charges to landlords, which in-turn could be passed onto tenants through increased rental levels.

This consultation seeks views on the nature and level of fees being charged to tenants. It seeks to determine which fees, if any, are justifiably being charged to tenants. It also seeks information on fees paid by landlords to agents, and also on the possible consequences of banning fees.

**Consultation
Response Form**

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

General Questions

1. Please choose which of these best represent you:

Letting Agent

Tenant

Landlord

Local Authority

Representative Body (please state)

Other (please state):

2. Do you agree that Welsh Government should legislate to prevent agents and landlords from charging fees, other than rent in advance and a refundable deposit, to tenants when entering into a new, or renewing an existing tenancy?

3. If no, please explain why:

4. Which fees, aside from rent in advance and refundable deposits, do you think an agent, landlord or third party should be permitted to charge? Why?

5. Some agents may charge a refundable holding deposit to take the property off the market whilst reference checks are undertaken. Do you think this is a fair charge? Please explain your answer:

6. Some agents may charge for in-tenancy property management actions that directly relate to an action or service carried out at the request of the tenant, or as a result of the tenant's actions (such as out-of-hours contact, or replacing lost keys). Do you feel that such charges are fair? Please explain your answer:

7. Agents may occasionally provide bespoke, non-standard services to tenants, for example, when arranging a property for someone currently living abroad who is relocating to Wales. Do you think there are parts of the market where a different approach to handling letting agents' fees may be allowable?

8. What do you think the main impacts of a ban on charging fees to tenants might be? Please include any unintended consequences that you believe may arise:

Please answer the section(s) relevant to you:

Tenants

9. Have you ever been charged fees before entering into a tenancy agreement? If yes, please detail your most recent pre-tenancy charges, and if possible a breakdown of the charges, here:

10. Have you ever been charged fees during a tenancy, or for renewal of a tenancy agreement? If yes, please detail the most recent amounts charged to you during the tenancy or renewal of the tenancy, and if possible, a breakdown of the amounts, here:

11. Have you ever been charged fees after a tenancy has ended? If yes, please enter the most recent amounts charged to you after a tenancy has ended, and what the charges were for here:

12. Were any fees made clear to you before any agreement had taken place? If so, how?

13. Have tenancy fees ever affected:
a. your ability to move to a new rented property?
b. your decision to use an agent?
c. your overall finances?

Letting agents

14. What fees do you charge to tenants? Please detail, with a breakdown of services provided for the charges below:

15. What fees do you charge to landlords? Please detail, with a breakdown of services provided for the charges below:

16. Do you make use of third parties as part of your activities who charge fees to tenants or landlords. If so, please detail, with a breakdown of services provided for the charges below:

17. How do you make information about fees chargeable at any point in the tenancy, or after the tenancy, available to any tenants or landlords?

18. What would be the impact of a ban on these fees?

Landlords

19. What fees, if any, do you charge to tenants? Please detail, with a breakdown of services provided for the charges below:

20. How do you make information about fees chargeable at any point in the tenancy, or after the tenancy, available to any potential tenants or tenants?

21. What would be the impact of a ban on these charges?

22. What fees does your agent (if you use one) charge you for letting or management services, in addition to commission charged?

23. Do you know how much your agent (if you use one) charges to your tenants in letting fees?

24. How does your agent make information about fees chargeable before, during or after the tenancy, available to any potential tenants or tenants?

25. If you use an agent who charges you fees, were these fees made clear to you before any agreement had taken place, and if so, how?

26. Would increased letting agent fees affect your decision to use an agent in the future? Please include reasons:

27. Do you or your agent make use of third parties as part of your activities who charge fees to tenants or landlords? If so, please detail, with a breakdown of services provided for the charges below:

Further questions

28. We would like to know your views on the effects that banning fees charged to tenants would have on the Welsh language, specifically on:

- i. opportunities for people to use Welsh and
- ii. on treating the Welsh language no less favorably than English.

29. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

30. Please also explain how you believe the banning of fees charged to tenants could be formulated or changed so as to have

- i. positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and

- ii. no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favorably than the English language.

31. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: