



Letting
Go

Why it's time for Wales to
ban letting agent fees

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Letting go: why it's time for Wales to ban letting agent fees

Getting set up in a private tenancy can be eye-wateringly expensive. Not only must new tenants find thousands of pounds upfront for tenancy deposits and rent in advance – they also have to pay fees to letting agents, which often cost hundreds and are difficult to compare in the marketplace.

A recent survey of private renters suggests that nearly one in three households (31%) who rent their home privately do so through a letting agent¹. This means that in Wales more than 57,000 households live in homes that are let through agents.

The vast majority of these tenants will have paid letting fees. Last year, one in three tenants of letting agents paid over £200 in fees to begin a tenancy. This means that to rent an average three-bed home in Cardiff would require more than £1,600 in set-up costs, including rent in advance and bond².

Fees of this nature have been banned in Scotland following a clarification of Scottish law in 2012.

The private rented sector in Wales is in a period of change: all landlords and agents are expected to become licensed via the Rent Smart Wales scheme. However, there is still no regulation on the fees that agents charge new or existing tenants. As a result, agents charge fees to tenants that vary greatly both in their cost and nature, while also charging fees to the landlord.

The issue of transparency of fees has received a great deal of attention in recent months, with criticism that some letting agents charge hidden, unexpected and often obscure fees on their tenants³. In an attempt to improve transparency, the UK Government introduced the Consumer Rights Act 2015 which requires agents to clearly display their fees so that would-be tenants can exercise consumer choice.

These new rules came into force in Wales in November 2015. Between late January and early March 2016 we carried out a mass participative mystery shop of 85 letting agents across Wales. With the help of our campaign supporters we reviewed websites and rang agents to find out what fees they charged and how they displayed them. What we found amounts to a widespread disregard for the law.

1. All figures, unless otherwise stated are from YouGov Plc. Total sample size was 377 adults. Fieldwork was undertaken between 22nd June – 13th July 2015. The survey was carried out online. The figures have been weighted to be representative of all private renters in Wales (aged 18+).

2. Based on 2015 figures for the average rent for a 3 bed property in Cardiff of £728.82. The total of £1657.64 includes one month rent in advance, one month as a bond and the letting agent fee of £200.

3. https://www.citizensadvice.org.uk/global/migrated_documents/corporate/still-let-down-final.pdf

Displaying fees

The Consumer Rights Act 2015 requires agents to display a full list of fees in the office as well as on a website if applicable. However we found that more than half (52%) did not display a clear list of fees on their website. Of these many mentioned that 'a fee' is required to begin a tenancy, but did not provide an actual price, or provide a way to calculate the amount of fees.

Not only does this mean that more than half of the agents we mystery shopped aren't adhering to duties under the new law – it also means that people searching for a new home won't be able to work out the full cost of moving until they contact the agent directly.

One letting agent actively refused to reveal any information to the mystery shopper, stating that no information on fees would be disclosed until prospective tenants register with the agent online.

Mixed messages

Our research also found high levels of inconsistency between fees online and over the phone. Of the letting agents that offered enough information online to make a comparison with the information offered over the phone, more than half (55%) offered contradictory information. Examples of this include:

- One agent's website stated that its administration fee included a £100 registration fee for the first tenant plus £80 per additional tenant plus VAT. However the information offered over the phone by the same agent was £100 for one person or £125 for two people.
- Another letting agent's website claimed an administration fee of £120. However the fee given over the phone was explained to vary between £150 and £295.

Ad hoc approaches

Among the least transparent of all charges were late payment fees. On the phone most agents said that since rent is paid automatically – usually through standing orders – late payments of rent are rare. Many stated that as long as rent is paid within a few days of the due date then no action would be taken. However, nearly one in five (18%) agents admitted they didn't know if they charged a late fee, and some appeared to be making up a fee on the spot. For example, one agent stated that 'nothing is set in stone' and another said they 'may charge for the hassle of chasing'. This ad hoc approach by a minority of agents is clearly at odds with the need to clearly state all fees up front.

52%

More than half (52%) of agents are not displaying fees on their website as they are required to do by law.

55%

Of the agents that did display fees online, more than half (55%) gave different fees over the phone.

18%

One in five (18%) agents said they didn't know if they charged a late fee. Some made up the fee on the spot.

Vague terms

The Consumer Rights Act states that agents must display a description of each fee that is sufficient to enable a would-be tenant to understand the service or cost that is covered. Vague terms such as 'administration fee' must not be used without clarifying what services the fee includes⁴.

Our research showed a great deal in variety of how such fees were presented. Nearly four out of five (79%) made use of such terms, with nearly two-thirds of those agents (64%) providing no or almost no breakdown of what the fee included. Only 15% provided a breakdown that included services such as identity, immigration and visa confirmation; credit checks and obtaining references; among other tasks.

Of all the agents in the mystery shop, only one fully complied with best practice by stating its full fee and offering a clear and comprehensive breakdown to show how every pound will be used.

Lack of comparability

Our mystery shoppers found that general fees covered a wide variety of expenses. Some agents included credit and reference fees in the general fee, while others charged them separately. This made it even more difficult to compare prices and make an informed decision about which agent to go with.

Table 1: Examples of fees charged by letting agents

Letting Agent	General fee charged	Credit and/or reference check fees charged	Total fees payable for two tenants ⁵
A	£200 admin fee	£50 per person + VAT for both credit and reference checks	£320
B	£60 admin fee	Both credit and reference checks are included in the administration fee	£60
C	None	£50 is charged for credit and reference charged	£50
D	None	£120 is charged per applicant for credit and reference checks	£240
E	£180 agency fee	Both credit and reference checks are included in the agency fee	£180
F	£50 completion fee	£85 is charged for credit and reference checks	£135

4. http://www.arla.co.uk/media/1042826/improving_private_rented_sector.pdf

5. Calculations are made with regards to the cost of establishing a tenancy for two tenants

Table 1 compares the fees charged by six letting agents. It demonstrates the range of ways in which different agents structure their fees.

We can see that agents A and B both charge a fee described as an ‘administration fee’. However, agent A not only charges a much more expensive administration fee than B, it also charges a separate fee per person to cover the cost of credit and referencing checks.

Agent B on the other hand states that they also carry out the same checks, but includes the cost of these in the initial administration fee. It seems the only similarity between such fees is that they share a name.

The lack of any regulation means that terms used by agents to label their fees become almost meaningless as similarly named fees may cover a range of different expenses.

The outcome for prospective tenants is a potential quagmire of separate sets of fees that aren’t easily comparable.

Obscure fees

Mystery shoppers across Wales reported some fees which particularly stood out both in terms of the amount charged and what they were for. Here are some of the most remarkable fees we found:

- A minority of letting agents charged a fee for undertaking work ‘out of hours’ – these fees tended to be relatively small and aimed to recoup costs incurred.

But one letting agent charged £75 per hour to work out of hours, a fee way beyond what could be considered reasonable.

- Another fee charged by a minority of agents was a checkout fee when tenants were leaving the accommodation. The highest checkout fee found in the mystery shop was £89, this being charged despite the agent charging £175 + £25 per additional tenant to establish the next tenancy.

A notable checkout fee charged by another agent was £50+VAT, which was deducted from the security deposit. This is clearly a misuse of the security deposit which is put aside to cover any damage caused by tenants during a tenancy.

- One agent also charged £6+ VAT simply for a tenant to return their keys at the end of a tenancy.
- One agent charged a £45 ‘Saturday move-in’ fee and also offered tenants the opportunity to move into their new home within a week (subject to availability, referencing and the completion of all relevant documentation) for a fee of £60.
- Two agents charged tenants a fee to protect the deposit – which is a legal requirement on landlords. One agent charged £12 for this ‘service’ and the other charged £20.

The cost of renting through letting agents

Our research illustrates how difficult it is for tenants in Wales to predict how much money they will need to spend in agent fees to begin a tenancy. We found that the lowest total fee was £39.99, whereas the most expensive total fee was £480 - 12 times the cost of the lowest total fee.

Most tenants are of course likely to pay something between these extremes. Table 2 demonstrates the range of combined fees charged to establish a tenancy.

Table 2: Combined fees charged by letting agents

Combined fees charged ⁶	Proportion of letting agents
Less than £100	21%
£100 - £199	32%
£200 - £299	36%
More than £300	11%

Table 2 brings into question how some agents can justify charging fees so much higher than competitors. Assuming that all agents need to carry out largely the same tasks to establish a tenancy, such high differences in costs seem indefensible.

Credit checks can be carried out online for as little as £2, but the agents we surveyed charged between £25 and £90 for this service.

There was also a wide variety of approaches to charging for renewing a tenancy. More than half (55%) didn't charge as they assumed the tenancy agreement would automatically move into a periodic tenancy; a further one in ten (10%) admitted that they didn't know if they charged a renewal fee.



£480

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6. These fees include any additional credit or reference checks charged by letting agents

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Of the one-third (35%) who charged a renewal fee the lowest was £20, while the highest was £114. One Cardiff letting agent charged one-eighth of a month's rent plus VAT to renew a tenancy. This could result in a fee of £109.32 for a family renting an average priced three bed home in Cardiff; this escalates to £142.01 for a four bed home.

Conclusion

Our mystery shop has demonstrated massive problems of fairness and transparency in letting agents' fees to tenants. Renters face a bewildering variety of charges which makes an informed comparison almost impossible.

More than half of the agents we mystery shopped are not following legal requirements to display their fees clearly. Many agents gave information about fees over the phone that contradicted what was on their websites, while some appeared to be making up fees on the spot.

We found that similarly-named fees often covered different services. Bizarrely, some agents charged tenants for 'services' that are a legal requirement on landlords, such as protecting deposits. Overall, the highest fee was 12 times as high as the lowest.

The sum total of this is an uncompetitive market which is failing to drive down prices for the growing number of individuals, couples and families in Wales who rely on private rented housing. This needs to change.

The solution

In the face of these realities there is only one realistic solution – to ban letting agents from charging fees to tenants to establish a tenancy. This is necessary for a number of reasons.

An unfair barrier

The lowest general fee discovered in the mystery shop was £39.99; the highest was £480 for a joint tenancy.

A ban on charging agent fees to tenants in Wales would stop tenants facing arbitrarily set fees, sometimes paying hugely varying amounts of money for the same service.

A ban would alleviate financial pressure on students who have reported being encouraged to pay fees immediately after viewing properties to secure a home.⁸

A ban would go a long way to making the private rented sector more affordable to households on low incomes who need to seek a home in the private sector as finding one in the social sector becomes increasingly difficult.

It would also help local authorities to carry out their homelessness prevention duties by opening up more of the private rented sector to homeless households.

The irrelevance of consumer choice

Despite its admirable effort to increase transparency, the Consumer Rights Act 2015 doesn't address the crux of the matter. Our mystery shop has shown that transparency continues to be a problem in Wales; however even if this was improved, it cannot correct the lack of competition in the market.

The reality is that when looking for a home, would-be tenants choose the property itself and not the letting agent⁹. Especially in areas where properties are sparse, tenants may have to go for any property that fits their needs. Because properties rented through agents are available exclusively through the one agent – chosen by the landlord – there is no competitive dynamic to reduce the fees charged to tenants. For example: when looking to rent out a property through an agent, a landlord can research all local letting agents and choose the most competitively priced. This ability to choose creates competition which brings down costs for the agents' clients, the landlords.

On the other hand once a property is identified, a tenant cannot choose a competitively priced letting agent to rent the property through; they must rent through the designated agent.

Therefore market forces cannot and will not control the fees charged to tenants as the market conditions needed to achieve this simply don't exist. From the perspective of fees charged to tenants, consumer choice is irrelevant.

Unfairly paying for an unrequested service

Banning letting agent fees to tenants is also necessary to stop tenants from paying for a service that they haven't chosen themselves.

To compare renting property with buying property:

- If an individual wants to sell their property and decides to hire an estate agent to do this, the agent will rightly charge the seller a fee to carry out the work. The buyer is not charged by the estate agent for a service enlisted by the seller.

8. NUS Wales

9. https://www.citizensadvice.org.uk/global/migrated_documents/corporate/still-let-down-final.pdf

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- This contrasts sharply with the realities of renting where the prospective tenant – equivalent to the buyer in this case – is expected to pay for much of the fees needed to establish the tenancy.

Change is coming anyway

The Renting Homes (Wales) Act 2016 is going to force agents to change their fee structures anyway. When the Act comes into force – probably in early 2018 – letting agents will no longer be allowed to charge tenants for a copy of their tenancy contract.

The Welsh Government has made this change in order to protect an important principle: that it is in everybody's interests to ensure that tenants are given all the information they need to live up to their side of the tenancy contract.

The Welsh Government already agrees that it is unfair – and counter-productive – to expect tenants to pay to have a copy of the contract.

What about Scotland?

What might happen in Wales if charging letting agency fees was banned in Wales? In 2012 a clarification of existing Scottish law confirmed that it is illegal to charge tenants a fee to establish a tenancy in Scotland. As fees were widely charged before the clarification and have all but stopped since, it is often seen as the banning of fees in Scotland.

Many who oppose the banning of fees in Wales argue that the fee would simply be diverted and added to the rent. The outcome of the effective ban on fees in Scotland gives us some hints as to whether this would happen in Wales.

Would a ban make rents go up?

In 2015 the Communities and Local Government Committee in Westminster looked into the effect of the banning of fees in Scotland. The committee received evidence from a number of sources while carrying out this process.¹⁰

- The National Landlords Association provided evidence that suggested the clarification on tenant fees caused an increase in rent in Scotland; it was also argued that that letting agent fees still exist in Scotland but have been transferred into the rent.
- The Scottish Association of Landlords and the Council of Letting Agents on the other hand argued that the majority of their surveyed members had not seen increased rents, or the charging of higher fees to landlords. They did report that a minority of surveyed members (20%) had seen an increase in rent as a result of the change.

However, the Scottish Association of Landlords argued that although there had been an increase in rents in Scotland since the clarification, the existence of other market factors means that the rent increase cannot be solely attributed to the change in law.

10. <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmcomloc/964/96405.htm#a6>

Research carried out by BDRC Continental for Shelter England suggested that Scottish landlords were no more likely to raise rents than other UK landlords or to raise rents the next time properties are re-let. The research concluded that there is 'minimal evidence of a link between fee clarification and any increase in rental levels.'¹¹

Sector resilience

Research also suggests that the sector in Scotland remains healthy following the clarification. BDRC Continental found that three in five (59%) letting agencies in Scotland considered the clarification has had no impact on business, while nearly a fifth (17%) believed it has had a positive impact on business. A further one in four (24%) claimed that it has been negative for business, but of these all felt that the negative impact has been small.

The same research mentioned that the letting agency sector is well positioned financially with almost a quarter claiming to be making a 'large' profit.¹²

In summary, research gives us a mixed picture with some sources suggesting that it has caused rent increases, while others deny that any significant increases have happened. It seems clear that if the ban has caused any increases at all, the effect has been minimal.



Three quarters (76%) of Scottish letting agents say the ban on fees has had no impact or a positive impact on their business

What needs to happen next?

There is plenty of evidence that the letting agency sector in Scotland remains strong despite the ban on fees. Some have argued that the ban has even improved the sector overall.

There is a high level of support in Wales for a ban. The vast majority of private renters – 83% - would support this change.¹³ This strong support was identified by political parties in the run-up to the 2016 election, and a number of manifestos promised to take action.

Banning the charging of letting agent fees to tenants is the only way of correcting the unfairness faced by tenants in Wales today.

11. https://england.shelter.org.uk/_data/assets/pdf_file/0011/834833/BDRC_Scotland_fees_210514_2_-_BDRC.pdf

12. *ibid*

13. All figures, unless otherwise stated are from YouGov Plc. Total sample size was 377 adults. Fieldwork was undertaken between 22nd June – 13th July 2015. The survey was carried out online. The figures have been weighted to be representative of all private renters in Wales (aged 18+).

