

## Letting agent fees

Y Pwyllgor Deisebau | 14 Chwefror 2017  
Petitions Committee | 14 February 2017

### Research Briefing:

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**Petition number:** P-05-734

**Petition title:** Ban Letting Agent Fees to Tenants

**Text of petition:** We, the undersigned, call on the National Assembly to urge the Welsh Government to end the unfair practice of charging letting agent fees to tenants.

Earlier this year Shelter Cymru campaign supporters mystery-shopped letting agents across Wales and found that more than half (55%) are not advertising fees on their websites as required by law. The study found that a tenant could pay between £39.99 and £480 for the same service depending which agent their landlord had chosen to go with.

The reality is that there is no such thing as consumer choice in tenants' fees, and a real risk that tenants and landlords are being double-charged for the same service. We believe that Wales should follow Scotland's example and ban fees to tenants. The private rented sector in Scotland is still going strong and three-quarters of Scottish agents say the ban has had no impact, or a positive impact, on their business.

Welsh letting agents are enjoying a business boom thanks to Rent Smart Wales which is encouraging smaller landlords to sign up with agents. However, extortionate letting fees are pushing tenants into debt and making it harder for local authorities to prevent homelessness. Please act now to give a fair deal to Wales' growing numbers of private renters.

### Background

It is common practice for letting agents in the private rented sector to charge prospective tenants fees prior to the tenancy commencing. These fees typically cover the costs of referencing and other administration charges connected with setting up the tenancy. Additional fees may also be charged at a later date. For example, when a tenancy is renewed. Landlords are also commonly charged a range of fees at the commencement of a

tenancy and when a tenancy is renewed. However, this petition is purely concerned with fees charged to tenants.

The *Consumer Rights Act 2015* requires letting agents in Wales to display or publish a list of their relevant fees and charges. Local authorities enforce this legislation. They are able to impose a civil penalty of up to £5,000 on agents who fail to comply with the requirements. Agents in Wales can appeal to the Residential Property Tribunal against any civil penalty.

Letting agents in Scotland are not been able to charge tenants fees in addition to the rent and a refundable deposit when granting, renewing or allowing certain tenancies to continue. This has been the case for some time. In November 2012, existing law was clarified to make this clearer.

The UK Government recently announced in the [Autumn Statement](#) that it intended to ban letting agents from passing on fees to tenants in England:

The government will ban letting agents' fees to tenants, to improve competition in the private rental market and give renters greater clarity and control over what they will pay. The Department for Communities and Local Government (DCLG) will consult ahead of bringing forward legislation.

## Welsh Government action

The Welsh Government in the Fourth Assembly brought forward the *Housing (Wales) Act 2014*. The 2014 Act requires letting agents to obtain a licence from [Rent Smart Wales](#) and to adhere to a [Code of Practice](#) as a condition of their licence. The Code of Practice restates existing legal requirements regarding publicising fees that may be charged to tenants and suggests some areas of best practice, such as listing any additional fees that could be charged to the tenant in the tenancy agreement.

On [29 November 2016](#) during First Minister's Questions, the First Minister confirmed that a ban on letting agents' fees was "actively under consideration", in response to a question from Leanne Wood AM. However, the First Minister did emphasise the importance of analysing evidence from Scotland of the impact banning fees had there, particularly in terms of whether additional costs were being passed on to tenants through higher rents. This point was also made in plenary by the Cabinet Secretary for Communities and Children on [7 December 2016](#).

The Cabinet Secretary for Communities and Children has written to the Committee and confirmed his earlier stance, commenting:

"I am reluctant to go rushing into legislation without carefully studying all the evidence and thinking through the potential consequences first."

## National Assembly for Wales action

A Plaid Cymru amendment to the *Renting Homes (Wales) Bill* tabled at [stage 3 debate](#) in November 2015 would have allowed Welsh Ministers to make regulations restricting the fees

which may be charged by an agent for preparing a notice or document under the Bill. This amendment was defeated.

On 7 December 2016, in a [UKIP Cymru debate](#) on letting agent fees, the Assembly supported a motion that included calls for the Welsh Government to:

- (a) consider how legislation on this subject might work in light of the evidence on the impact of abolition in Scotland and the responses to the consultation in England.
- (b) consult with other parties in the Assembly and stakeholders on the best way forward for Wales.

In the recent [Member Bill Ballot](#), held on 25 January 2017, five Assembly Members proposed Bills that would have taken action in this policy area. None of those Bills were successful in the ballot.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.