

Let Down in Wales

Campaigning for renters

Response: ELGC Committee inquiry into General Principles of the Renting Homes (Fees etc.) (Wales) Bill

Summary

Let Down has been campaigning since 2013 for Wales to take a lead on reforming the private rented sector. The licensing of landlords under the Housing Act made a positive first step, but the Renting Homes Act did little to improve renters' rights overall.

So we're delighted that Welsh renters will finally see a letting fees ban brought in, which will substantially change people's day to day experiences. During the Welsh Government consultation on banning letting fees, we compiled a survey of renters' experiences to inform it, available online here: <http://bit.ly/lettingfeesresponse>

For more information on our campaign, see:

- Website: <https://letdown.wales/>
- Twitter: <https://twitter.com/letdownwales>

General Principles of the Renting Homes (Fees etc.) Bill

1. Let Down very much welcomes the legislation and absolutely thinks it is necessary in order to reduce the costs faced by renters. The market is not taking any action by itself; the charging of high fees takes advantage of a shortage of supply and heightened demand. In no other business are costs added on like this at the point of purchase, or even six months after your purchase. Landlords and letting agents, in particular, are running a business and therefore the costs of the business should be borne by the one who owns it and is profiting from it. Let Down has been calling for a letting agent fee ban since 2013 and included it in our 2016 Assembly manifesto¹.

Fees

2. The costs of reference checks, inventory fees or renewal fees are not appropriate; they take advantage of renters' lack of choice and the lack of available housing in the market. Letting agents charge fees because they can and renters pay them because they have no other choice.

¹ Let Down Manifesto, 2015. 'A 2016 Manifesto for the Let Down renters of Wales'. <https://letdownincardiff.files.wordpress.com/2015/08/let-down-manifesto-2016.pdf>

3. It's **particularly important fees are banned due to the potential vulnerability of those being made to pay them**. Renting is increasingly the only option for families and the age demographic is rising. Shelter Cymru's survey² of private renters found that "*the figures shatter the stereotype of private tenants as being primarily young and child-free*". Half of renters are over 35 and 29% are over 45. 15% are over 55, which shows that more vulnerable older people need to be taken care of in this sector. Due to the Housing (Wales) Act 2014, new homelessness duties mean that more vulnerable people are being referred by local authorities to the private sector, making this particularly pertinent.
4. Particularly considering the poverty often suffered by people who have to rent, it is important for their burden to be lessened and their existing debt and low income not exacerbated by renting costs. The Joseph Rowntree Foundation found in their evidence review³ of housing and poverty that: "*Low rents are important in reducing poverty. The private rented sector is paying an increasingly important role with 18% of private tenants in poverty before housing costs are taken into account and 38% in poverty after housing costs are paid.*"
5. The description of **prohibited payments** in the Explanatory Memorandum – "*any payment, as part of the granting, renewing or continuing of standard occupation contracts (other than for rent, security deposits, holding deposits and payments in default)*" – seems appropriate. Renters tend to find the upfront fees for signing up to a tenancy as the most prohibitive and frustrating. Moving house is already costly; it doesn't need to be exacerbated with extra fees that don't seem to pay for any kind of service. Renewal fees or 'adding a tenant' fees were cited numerous times in our survey of renters, with some agents using them as a mechanism to generate more money every 6 months, by not letting renters sign up for longer contracts (therefore, paying a £50-£100 renewal fee every 6 months for no reason at all).
6. However, the lack of action on 'charging payments in default' is worrying, and we'd recommend that the Bill define default fees and put limits on these. **This could become a loophole through which agents charge default fees instead**, looking for ways in which a renter could have breached their contract or writing in new clauses to contracts and reframing them as a breach.

Deposits

7. **Holding deposits** are to be capped at a week's rent, which again, seems reasonable. Holding deposits shouldn't really be necessary, but if it helps landlords and letting agents to be assured that tenants are 'serious' about the property, then it's an adequate mechanism. It still requires renters to have funds upfront, but it at least has a clearer purpose.
8. It's very welcome that Welsh Ministers are introducing **powers to cap deposits**. Holding deposits are usually at 4-6 weeks' rent and Let Down doesn't think there's any need for them to be above 4 weeks' rent.

² Shelter Cymru, 2015. 'Fit to Rent: Today's Private Rented Sector in Wales'. <https://sheltercymru.org.uk/wp-content/uploads/2015/02/Fit-to-rent-Todays-Private-Rented-Sector-in-Wales.pdf>

³ The Joseph Rowntree Foundation, 2013. 'The Links between Housing & Poverty: An Evidence Review'. <https://www.jrf.org.uk/report/links-between-housing-and-poverty>

9. The real issue with deposits, which is possibly outside of the Welsh Government's devolved powers, is the **delay in returning them to renters after leaving a property**. Even though they're usually held in a deposit holding scheme (although renters do often have trouble in finding a record of them in one of the three schemes), there is a reluctance to return them quickly.
10. This means that **renters actually need twice the amount of holding deposit available** whilst moving house. One to pay upfront for their new property, and one to sit in the deposit scheme whilst they wait for their former landlord / agent to transfer it. Any gap to wait for its return would render renters' homeless. We would very much welcome a way of tenants' deposits being checked up on and simply transferred in name from one property to another. To allow for deductions from any potential damage, perhaps a 20% deposit could be required instead. We'd urge the Welsh Government to explore this in future.
11. Even when renters do dispute deposit deductions, they often won't because they need access to the money quickly. It also requires confidence to challenge your landlord / agent on the deduction, which many do not feel able to do.

Enforcement

12. It's good to see local housing authorities being given the enforcement powers, although we would have expected them to go to Rent Smart Wales. But it's welcome that they can fine a fixed penalty notice of £500 and that they notify Rent Smart Wales. We would urge for the withdrawal of licences to be a first rather than last resort to ensure that landlords and agents comply.

Unintended consequences

13. As repeatedly threatened by landlords and agents, rents could rise as a consequence of fees being banned. Despite no evidence showing this in Scotland when they reiterated their ban on fees, and the fact that rents are set by supply and demand, not the whim of an agent, this would still be preferable to high upfront costs through fees.
14. It is unlikely to result in the scenario of having two identical 2-bed flats at £600 a month and £700 a month, with the latter having put up the rent as an agent that used to charge upfront fees. The cheaper flat will be rented quickly and the other will have to lower the rent to what the market is willing to pay.
15. But again, if £5-£10 a month is put on the average rent, this is clearly far more manageable to renters than a lump sum and our survey reflected renters' preference for this. It also makes a lot more sense in business terms. If agents and landlords maintain the property as the contract states – i.e. making repairs, answering renters' queries, conducting safety checks – then this is an on-going cost that should be reflected in their ongoing income.