

Proposals for a Ban on Letting Fees to Tenants
From the Association of Residential Letting Agents (ARLA)
January 2017



About ARLA:

The Association of Residential Letting Agents (ARLA) was formed in 1981 as the professional and regulatory body for letting agents in the UK; representing nearly 9,000 members. ARLA agents are professionals working at all levels of letting agency, from business owners to office employees.

Our members are regulated and operate to the highest professional standards. They are fully qualified and required to hold Client Money Protection (CMP) to safeguard both landlords and tenants.

ARLA is recognised by Government, local authorities, consumer interest groups and the media as the leading professional body for letting agents in the private rented sector.

We actively campaign for wholesale regulation of the private rented sector, more enforcement in this growing and increasingly important market and to make it compulsory for all letting agents to be members of a Client Money Protection (CMP) scheme.

Proposal in Brief:

ARLA does not support the banning of letting agents charging fees to tenants. We believe fees should be open, transparent and reasonable. They represent legitimate costs to business that need to be covered. When renting a property, a tenants is taking a legal interest in land for the duration of their tenancy and the fees charged to tenant are broadly similar to those charged when purchasing a property (referencing checks equate to mortgage application fees, contract negotiation charges are akin to conveyancing, and Inventory costs are similar to a survey). The only difference being when purchasing a property, the fees are paid to three different parties and generally cost the purchaser much more, whereas when renting a property, the letting agent acts in a quasi-legal capacity, undertaking these tasks on behalf of the tenant.

Nonetheless, we accept the will of Government and their intention to ban fees to tenants as outlined by the Chancellor of the Exchequer in the Autumn Statement 2016. However, in order to mitigate the unintended consequences outlined in this document, we recommend to the Government that they should implement this policy by banning upfront fees to tenants; allowing agents to spread the costs associated with these essential services over the first six months of the tenancy.

The fact that this sector is lacking over-arching regulation means that every tenant will have a different experience of letting a property and therefore, in the absence of comprehensive regulation of the sector, this proposal may lead to increased uniformity for tenants within the market.

The Announcement in Context:

On 23 November 2016 the Chancellor of the Exchequer, Philip Hammond MP, announced “[t]he Government will ban letting agent’s 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 legislation¹”.

Politically, the decision to ban letting agent’s fees to tenants by a Conservative Government will blunt Labour, the Liberal Democrats and the Greens who are all calling for a ban at a time when the Resolution Foundation say that real weekly earnings are forecast to grow by just 1.6% over the decade, compared to 12.7% in 2000s and over 20% in every other decade since the 1920s². The economic reality means that many people, those Just About Managing (JAMs), have less money to spend and will struggle to save for their first home. But this policy, although aimed at helping the JAMs, will likely make their situation worse, and put the dream of home-ownership further out of reach.

Below are some key dates and events leading up to the Autumn Statement 2016:

November 2012: The ban on letting agents charging fees to tenants comes into force across Scotland.

May 2014: Labour tried to add a clause to the Consumer Rights Bill that would have scrapped nearly all letting fees – Theresa May and Philip Hammond voted against it. The Coalition Government introduced the fee transparency rules into the Consumer Rights Bill as a result.

March 2015: The Communities and Local Government Select Committee publishes its report “Private Rented Sector: the evidence from banning letting agents’ fees in Scotland” in which it concluded that the current evidence from Scotland was inconclusive and called on the Government to commission research on the likely impact of a ban on agents’ charging fees to tenants in England³.

General Election 2015: The Labour Party pledges in its General Election manifesto to scrap tenant fees. Shadow Housing Minister, Emma Reynolds MP, details this pledge in her film to ARLA Conference.

27 May 2015: The requirements on letting agents to publicise their fees under the Consumer Rights Act 2015 comes into force. It was to be reviewed after twelve months in operation. This review has never taken place and therefore the effectiveness of this legislation has never been evaluated.

March 2016: Features Editor of The Debrief, Vicky Spratt, launches a petition to get letting fees scrapped⁴. The petition gained 258,887 signatures.

London Mayoral Election 2016: Labour’s candidate and subsequent Mayor of London, Sadiq Khan, was elected on a pledge to scrap letting fees. The Liberal Democrats echoed this pledge and Conservative candidate, Zac Goldsmith, brands letting fees “almost a scam”⁵.

¹ https://www.gov.uk/Government/uploads/system/uploads/attachment_data/file/571559/autumn_statement_2016_web.pdf

² <http://www.bbc.co.uk/news/business-38089190>

³ <https://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-Government-committee/news/report-prs-letting-agents-fees-scotland/>

⁴ https://www.change.org/p/gavin-barwell-make-renting-fair-in-england?source_location=minibar

⁵ <http://www.propertyindustryeye.com/libdem-mayor-candidate-vows-to-scrap-unfair-letting-agent-fees/>

3 May 2016: During an Adjournment Debate in the House of Commons from Maria Caulfield MP, Parliamentary Under-Secretary of State for Communities and Local Government, Marcus Jones MP, stated “I do not believe, therefore, that a blanket ban or cap on letting agent fees is the answer to tackling the small minority of rogue letting agents who exploit their customers by imposing inflated fees for their services. Banning or capping letting agent fees would not make renting any cheaper for tenants – tenants would still end up paying but through higher rents⁶”.

23 May 2016: Liberal Democrat Peer, Baroness Greender, introduces the Renter Rights Bill, a Private Members’ Bill into the House of Lords calling for the banning of letting agent fees⁷. The Bill has finished its Report Stage in the House of Lords with the date for the Third Reading yet to be announced.

4 July 2016: Green MP, Caroline Lucas, introduces a Private Members’ Bill, the Housing (Tenant’s Rights) Bill into the House of Commons calling for, among other things, the abolishment of letting fees to tenants⁸. The Bill will come before the House for its Second Reading on 24 March 2017.

13 July 2016: Liberal Democrat MP, Tom Brake, tables an Early-Day Motion calling for, among other things, letting agents charging fees to tenants to be abolished. The EDM has 54 signatories as of 30 January 2017⁹.

20 July 2016: Housing Minister, Gavin Barwell MP, convenes the first meeting of the DCLG Private Rented Sector Affordability and Security Working Group (the group being established under his predecessor, Housing Minister Brandon Lewis MP). ARLA has played a constructive part in this Group, which we believe has now been undermined.

19 September 2016: Housing Minister Gavin Barwell MP tweeted that banning fees was a “Bad idea – landlords would pass costs to tenants via rent. We’re looking at other ways to cut upfront costs & raise standards”¹⁰.

18 November 2016: During the debate on Baroness Greender’s Renters Rights Bill, Parliamentary Under-Secretary of State for the Department for Communities and Local Government and Wales Office, the Lord Bourne of Aberystwyth stated “[t]he Minister for Housing, Planning and London in another place has also been clear that we must be mindful of the potential impact on rents from banning fees paid by tenants ... This is not as straightforward as it might at first seem”. He then went on to state “we are awaiting the outcome of both the working groups looking at the issue. They will provide important evidence and will have looked at this issue in far greater detail than I have, so I anticipate looking at that when we have the report”¹¹.

⁶ <https://hansard.parliament.uk/Commons/2016-05-03/debates/1605041000002/LettingAgentFeesAndDepositsPrivateRentedSector>

⁷ <http://services.parliament.uk/bills/2016-17/rentersrights.html>

⁸ <http://services.parliament.uk/bills/2016-17/housingtenantsrights.html>

⁹ <https://www.parliament.uk/edm/2016-17/326>

¹⁰ <https://www.theguardian.com/uk-news/2016/nov/22/philip-hammond-letting-fees-ban-autumn-statement-affordable-housing>

¹¹ [https://hansard.parliament.uk/Lords/2016-11-18/debates/DF19B1B-3A2F-4A8D-B203-FB239457ADC8/Renters%E2%80%99RightsBill\(HL\)](https://hansard.parliament.uk/Lords/2016-11-18/debates/DF19B1B-3A2F-4A8D-B203-FB239457ADC8/Renters%E2%80%99RightsBill(HL))

Possible Options and Timescales:

Following the announcement ARLA believes there are four different options which the Government could pursue in order to introduce a ban on letting fees to tenants.

1. Use an existing Bill such as Baroness Greender's Renters Rights Bill in the House of Lords or Caroline Lucas MP's Tenant's Rights Bill in the House of Commons to enact the primary legislation. This will then be followed by a full consultation and the final details of the ban being set out in Statutory Instrument. This could mean that legislation is in force by October 2017.
2. Introduce a short Government Bill, such as a one line Bill, and then consult to seek the views of the sector as in Option One above. This could also mean that legislation is in force by October 2017.
3. DCLG could include the consultation on the lettings fee ban as part of the Housing White Paper soon to be published and make it one facet of the wider reforms the Government plan to introduce in the housing sector. The Government then includes the fees ban as part of the Bill that comes out of the Housing White Paper; possibly introducing it into Parliament through the Queen's Speech at the next State Opening of Parliament. As a larger Bill, it will take more time for it to complete its passage through Parliament and then may require further Statutory Instruments in order to bring the ban fully into force once the primary legislation has received the Royal Assent. This option will take the longest and may result in the ban not coming into force until October 2018 or April 2019.
4. The final option, is for DCLG to undertake a stand-alone consultation on the proposals and then either introduce a single-issue Bill into Parliament or combine the Housing White Paper and the Fees consultation into a wider Bill as outlined at Option Three above. If they introduce a single-issue Bill, this will likely speed up the time it takes for the legislation to go through Parliament and could see the ban coming into force in October 2018 but this approach is slightly unorthodox for a Government Bill.

Based on comments made by the Parliamentary Under-Secretary of State for the Department for Communities and Local Government and Wales Office, the Lord Bourne of Aberystwyth, during Oral Questions in the House of Lords on Thursday 19 January 2017¹², as well as comments made by civil servants at several DCLG and other industry events, it appears the Government favours the full consultation followed by legislation as outlined in Option Four but it is not yet clear how any subsequent legislation will be introduced into Parliament.

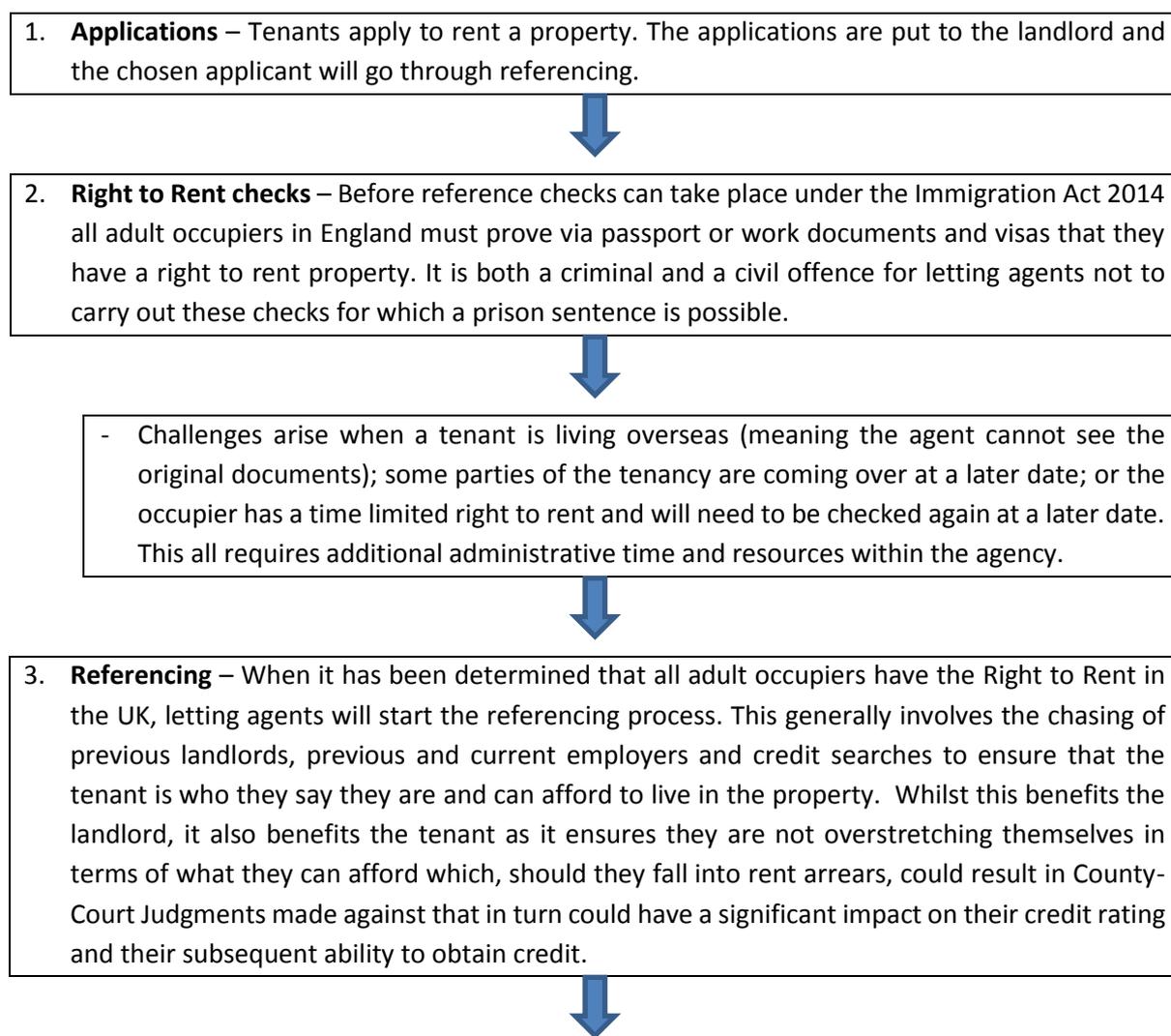
¹² <https://hansard.parliament.uk/Lords/2017-01-19/debates/34C66E6B-53CF-4891-963D-1348B0405B25/HousingLettingsFees>

Tenant Fees – The Process:

Letting agents deliver a hugely valuable service to tenants by:

- Ensuring the property is in a condition suitable for letting;
- Guaranteeing all Health and Safety requirements are met and landlords adhere to the raft of regulations governing the sector;
- Correctly administering financial transactions;
- Substituting as a quasi-legal advisor to tenants on tenancy agreements, their rights and obligations under the tenancy;
- Acting as the first port-of-call for tenants during the tenancy (irrespective of whether the landlord has instructed the agent on a full management service).

The Flow Chart below considers some of the main tasks undertaken by a letting agent at the start of a tenancy and should be read in conjunction with our member research undertaken during December 2016, published together with this report, where 1,008 agents detailed the work they undertake for the fees they charge.





4. **Prepare the Agreement** – A tenancy agreement (AST) is the contract between the tenant and the landlord. They are prepared by letting agents and set out the legal terms and conditions of the tenancy. Due to the ever-changing nature of the legislative environment, these need to be kept up-to-date and agents regularly incur legal costs to ensure their ASTs remain legally compliant.



- The agreement will outline what has been agreed between the landlord and tenant, for how long, how much rent will be paid, the deposit, correct names and addresses for service of notices, any specific or individual arrangement or special clauses, pets clauses, break clauses. Letting agents act for both the landlord and tenant. Therefore, should tenants wish clauses amended, agents must negotiate between the parties until a set of terms are mutually agreed. They must then update the AST to reflect the agreement.



5. **Protecting the Deposit** – Most private tenancies are created as Assured Shorthold Tenancies (ASTs) under the Housing Act 1988 (as amended by the Housing Act 1996). This means that the tenant's deposit must be protected in one of the three Government-authorized Tenancy Deposit Protection schemes. This is a requirement under the Housing Act 2004 and the certificate together with the Prescribed Information must be issued to the tenant and any other relevant party (such as a Guarantor or any anyone else who paid the deposit – a parent for example).



6. **Safety checks** – It is a legal requirement that all properties are safe and free from hazards. Letting agents will organise the gas certification, check the electrics as well as the fire safety checks within HMO properties.



- Since 1 October 2015 it is a requirement that smoke alarms and carbon monoxide detectors (where necessary) are fitted in all private rented property and these must be tested on the first day of the tenancy. This involves the agent (or an appointed third party) visiting the property irrespective of whether the tenant is moving in that day.



7. **Arranging the Move In** – Letting agents will organise when tenants move into the property; often undertaking a Check-In themselves or using a third party contractor. This will have been preceded by time taken to gather and check keys and respond to queries from the tenant.





8. **Inventory** – It is best practice, particularly around the return of deposits, for an Inventory and Schedule of Condition of the property to be prepared. In order to fully comply and offer the tenant protection for their deposit, this needs to be extensive. The Inventory includes photos, meter readings, key descriptions, décor and condition, location of items, age and quality.



9. **Prescribed information** – Under the Deregulation Act 2015, there is now a responsibility on the letting agent to issue certain documents to the tenant at the start of the tenancy. These are:

- The latest version of the Government’s ‘How to Rent Guide’;
- The deposit protection certificate together with the completed Prescribed Information;
- Proof that the smoke alarms and carbon monoxide detectors were tested on the first day;
- A copy of the latest Energy Performance Certificate (EPC) for the property;
- Any applicable License from the local authority.

Tenant Fees – The Work Involved:

In response to the Government's announcement, ARLA surveyed 1,008 agents to ask what they charge for and how long it takes them to do each task. Our results show that 96% of agents asked said they charge for collecting references, 89% said they charge for creating tenancy agreements and over half of agents (56%) said they charged for conducting an Inventory.

An agent in Brighton's perspective – November 2016

"Our fees cover services. For tenants, we provide comprehensive referencing, a full Inventory to safeguard deposits, a legally binding tenancy agreement, registering of the deposit with a Government approved scheme and ensure the property is ready to be moved into. Stripping it back as a consumer, you expect to pay for goods and services, and this is what is being provided".

Other services charged for include the Check In/Check Out, administration, credit checks, application and setup, amendments, deposits, viewings, fines for missed appointments / late payments.

An agent in London's perspective – November 2016

"My Company pride themselves on not charging extortionate fees to our Tenants and charge £100 +VAT per application (shared between all the applicants per tenancy) and £60 each for their credit check. The credit check charge has a zero mark up and is what the credit referencing agency charge us".

These costs enable letting agents to carry out various critical checks on tenants before letting a property as well as providing them with the legally required documentation.

Another agent in London's perspective – November 2016

"I am a letting agent in London. I charge £180 or £240 inclusive of VAT. This fee covers all referencing, right to rent checks and the administration such as drafting up tenancy agreements. These fees covers the stationary and advertising costs, such as printer ink, paper, business cards and manual leaflet drops. All completed tenancies always receive a brochure containing the AST, the How to Rent guide and all other required information regarding letting property."

It is also important to note that where a tenant requires a guarantor, full referencing checks also need to be undertaken on that guarantor; incurring additional resources in time, administration and credit searches. The same is true for when a tenant changes during the tenancy; whilst it may seem that one tenant moves out and another moves in, all the same checks that were undertaken on the original tenant at the start of the tenancy need to be undertaken on the new tenant. It is not a simple process and can involve a significant amounts of time and resources to change a tenant. After all, it is a legal assignment of an interest in land and the Government must not forget that many other business charge for changing names; particularly the travel industry where they are also have legal and security considerations in changing parties to a contract.

Tenant Fees – The Time it Takes:

Time is incurred by letting agents in setting up and carrying out the referencing process which may or may not be via an external provider and can include interview time, manually completing application forms, submitting applications and collating the necessary accompanying documentation. This regularly involves additional time chasing the documents from tenants, guarantors, employers, former landlords and previous agents. Our results show that letting agents spend:

- Over eight hours on credit checks;
- Nearly eight hours on viewings and references as separate tasks;
- Seven and half hours on administration;
- Over seven hours on application and set-up.

An agent's perspective from Gloucestershire – November 2016

"Proponents should realise that acceptability is established by due research into a prospective tenant ... Proponents may not have experienced people who say they can satisfy all of these things, but in fact they cannot, which means that they are not acceptable. This work takes time and costs money. It also means that another tenant has to be selected and the entire process conducted from the start".

In addition to these tasks on average it takes between four and five hours to do amendments, carry out the Check In/ Check Out, compile tenancy agreements, deposits and conduct an Inventory.

An agent in Scarborough's perspective – November 2016

"Our average Check In process takes an hour, going round the property with the tenant and checking for damage etc. with a detailed Inventory and Schedule of Condition. This is explained that this is as much for their benefit as the landlord to avoid any disputes over the bond at the end of the tenancy and enable the return of their bond as quickly as possible".

Our results show that letting agents are also spending on average between one and two hours updating utility providers and following up on late payments, missed appointments and helping them understand their rights and responsibilities.

An agent in London's perspective – December 2016

"As things stand there is, on the whole, a pretty good relationship between agent and tenant. Yes we act for the landlord, but aside from having a certain responsibility to the tenant, we also give up a fair amount of our time explaining things to them, answering their questions and helping them wherever possible when they have a query about their tenancy".

Tenant Fees – The Impact on Rents:

Our survey shows that 87% of ARLA members think that rent prices will increase in the medium to long term as a result of banning tenant fees.

An agent in North Devon’s perspective – November 2016

“[I]f the charges are passed on via rent increases, a large proportion of our tenants are in receipt of housing benefit, many of whom already struggle to pay their top up. An increase in rents to cover the costs will only lead to more rent arrears and evictions”.

An agent in Derby’s perspective – November 2016

“The landlord will pass on his increased costs to the tenant by way of rent increase. There is a very large percentage of low income tenants who will not be able to bear this increase and will have to resort to finding cheaper alternative accommodation, though with an ever decreasing number of council properties available this could also mean an increase in the homelessness statistics”.

An agent in Leicestershire’s perspective – November 2016

“We have had no investment landlord since April this year. There are no new landlords; why should they buy a house which has so many costs involved? They might as well keep their money in a pot. They don’t have to adhere to the vast amount of legislation and pay the fees”.

An agent’s perspective in London – November 2016

“All tenancies require checks and agreements to be processed before a tenant can move into or renew a lease on a property. These processes incur necessary costs that need to be covered. A ban on fees is likely to lead to these costs being passed on to landlords. In turn, landlords may reflect this rise in overheads in their rental prices, hitting tenants’ pockets even harder in the long-term. There is also the risk that further increasing landlord overheads will make the private rental sector a less attractive investment option. Both outcomes will reduce the levels of rental property in the market and lead to upward pressure on rents”.

Tenant Fees – The Impact on Staff:

The cost of running a letting agency – an office, staff, travel expenses, advertising properties and administration costs all mount up. Over 40% of ARLA members think that a ban on letting agent's fees to tenants will mean staff numbers will reduce in the medium to long term.

An agent in Newbury's perspective – November 2016

"Licensed agents will not be able to absorb tenant fees due to the already mounting administration costs which have already been absorbed to comply with countless layers of legislation ... As a result of the complex legal nature of our sector we are required to train more staff and as a result require our team to operate at the highest level and quite understandably that cost to the business is therefore increasing both from a training and subsequent salary point of view".

Some letting agents may not be able to absorb the loss of income created by tenant fees and will close.

An agent in Dorset's perspective – November 2016

"... [I]n truth we have bills to pay, the 'standard' agreement – which it never is – is produced from software that cost me over £5,000 on computers that cost several hundred pounds each by staff that earn more than the minimum wage who drive cars that need fuel. The copier that the tenancy agreement is printed on costs money as does the paper and toner and that's before we start to pay the rent on the office £12,000 a year and the business rates at £200 a month".

Others may have to cut staff and costs

An agent in London's perspective – December 2016

"A loss in revenue may result in a reduction of staff and agents will have to be more conscious. I can see this potentially creating animosity towards tenants, certainly some loss of good will. Over-stretched managing agents will look at the tasks they can put back onto tenants and where they can save time – fact".

Tenant Fees – The Impact on Property Conditions and Management Standards:

Most landlords are private individuals with 89% of landlords in England being private individuals rather than companies or organisations¹³. In England, 92% of landlords are part-time; with just 2% having a portfolio of more than ten properties¹⁴. Furthermore, property standards in the private rented sector, whilst improving, still have some way to go, with statistics from the English Housing Survey showing that 28% of private renters in 2014 were living in dwellings that are classified as non-decent¹⁵.

The recent raft of legislative changes mean that many landlords are feeling the squeeze with higher taxes and increased compliance costs. This means that any ability to offset taxation and compliance costs that landlords incur through increased legislation is likely to be passed on through rent rises. After successive Governments have effectively focused on increasing property standards for those living in the private rented sector, policies such as this ban could well see the good work of the last two decades undermined as landlords struggle, with some failing, to make ends meet. The result will be a reduction in property conditions and an increase in poor management practices with the use of the professional services provided by letting agents reserved for only those who can afford it; leaving the most vulnerable tenants in the hands of inexperienced and/or unscrupulous landlords and agents.

An agent's perspective in Oxfordshire – November 2016

"My other fear is that if we try to pass these missing fees onto landlords, landlords will try to let their own properties themselves, and neglect to observe the compliance work needed, which will ultimately undo all the recent legislation brought onto our industry".

The private rented sector is now the largest housing tenure outside of owner-occupation, set to grow and with an increasing numbers of families and longer term tenants. Therefore, the professional services that letting agents provide will become even more important as a growing percentage of the population, from increasingly diverse demographics, rent their homes within an ever more complex legislative framework.

An agent's perspective in Huddersfield – November 2016

"Given that there is no regulation of any letting agents nor estate agents in the UK, one man bands are popping up like wild fire in the town and the market share is dwindling ... It would be better to licence all landlords and all agents. This would eradicate the rogues in the profession and give better credibility to all. We would welcome this for both lettings and sales.

There are now over 145 laws that apply to a landlords¹⁶. Legislation on residential lettings is amended regularly with new laws introduced frequently. Letting agents deliver a hugely valuable service in ensuring that properties are safe, compliant and professionally managed. There are a significant number of common concerns from agents about the ban – most notably the loss in business costs for the vital services that they provide. This includes the increasing legislation mounted on the sector in

¹³ https://www.gov.uk/Government/uploads/system/uploads/attachment_data/file/7249/2010380.pdf

¹⁴ https://www.gov.uk/Government/uploads/system/uploads/attachment_data/file/7249/2010380.pdf

¹⁵ https://www.gov.uk/Government/uploads/system/uploads/attachment_data/file/570848/Private_Rented_Sector_Full_Report.pdf

¹⁶ <http://www.arla.co.uk/news/october-2015/radio-4s-you-and-yours-programme-on-arla.aspx>

the past 18 months with little investment in policing these new laws. Over 60% of ARLA members think that the ban on tenant fees will cause quality to decline; both in terms of property conditions and management standards.

An agent perspective in Harrogate – November 2016

“...agents now have to physically check smoke alarms on the first day of the tenancy – it sounds simple enough, but a logistical nightmare in a busy office. He failed to mention that Inventories are there for the protection of both parties, and a ban on Inventory charges is going to lead to disputes between landlords and tenants the like of which we have not seen since the dark old days”.

ARLA's Proposal – Banning Upfront Fees to Tenants:

Whilst we do not agree with it, ARLA accepts the will of the Government to ban letting fees. Since the announcement, there has been much talk about what does banning letting fees to tenants actually mean. A common theme since the creation of the DCLG Private Rented Sector Affordability and Security Working Group (A&SWG) that has continued after the announcement in the Autumn Statement has been around banning “upfront” fees. However, the term “upfront” has not been defined.

Therefore, ARLA now re-iterates the call it made during the A&SWG on 19 September 2016 and recommends to Government they should enact the announcement by banning upfront fees to tenants. By this, we mean:

- Banning letting agents charging anything to a tenant before entering into a tenancy agreement (save for a holding deposit to take the property off the market which will then form part of the refundable tenancy deposit);
- Allowing agents to spread the legitimate costs outlined above over the first six months of a tenancy through a charge added on top of rental payments over that period;
- Banning any charges levied for tenancy renewal or end of tenancy services.

Transparency Rules which Work:

One of the reasons the fee transparency rules contained with the Consumer Rights Act 2015 have not been as successful as hoped is because every agent charges their fees in a different way. This makes comparing one agent to another more difficult for tenants.

An outright ban will mean these costs get buried as part of the rent and become entirely opaque. Further, if rent increases as a result, tenants will effectively end up paying the fees again, through the rent, every time they renew their tenancy. This is not in anyone's best interests.

By spreading the costs of these services over the first six months of the tenancy, it will force agents to consolidate all charges into a single monthly sum that is can be easily and transparently displayed. This will allow tenants to see exactly what they will be expected to pay and make it easier for them to compare agencies.

Better for Tenants:

ARLA believes this proposal will result in a better deal for tenants for the following reasons:

- An outright ban on fees is unlikely to result in tenants being asked for less money at the start of the tenancy. If rents increase as a result of the ban, the subsequent costs associated with providing the first month's rent and deposit will likely result in the same figure as the deposit, rent and fees to at present: To use an analogy, the pie will remain the same – it will merely be sliced differently. By spreading the costs over the first six months of the tenancy, the issue of fees causing affordability problems at the start of a tenancy is removed; therefore lowering barriers to entry for tenants.

- Costs would be spread over the first six months of the tenancy and collected as part of the normal Standing Order on top of the rent. From month seven and beyond, the monthly Standing Order reduces and tenants will be able to enjoy their home knowing there will be no further agency related costs.
- Banning all fees will increase rents as the cost burden is passed onto the landlord. The tenant then effectively pays the fees over and over, every time they renew their tenancy. ARLA's proposal mitigates against this outcome.
- Importantly, letting agents will be able to retain current service levels to tenants.

Improving the Industry:

There is still no compulsory regulation of letting agents. Renting a home is, for most people, their single largest monthly expenditure and yet they could be dealing with an agency run by someone with little or no experience or professional training.

It is therefore vital, rather than merely looking at this one issue in isolation, in addition to the work on letting fees, Government should take this opportunity to create a professional, trained, lettings industry in order to eradicate the tiny minority of unscrupulous agents who bring the industry into disrepute.

Following the approach taken by the Scottish Government, ARLA recommends in the strongest possible terms, that Government seizes the momentum that has been built with the fees announcement and simultaneously legislate to create an industry which everyone can be proud of; requiring agents to hold professional qualifications and undertake regular Continued Professional Development (CPD), mandating Client Money Protection and the independent auditing of client accounts for anyone managing other people's homes, and creating a public register of banned or blacklisted letting agents to safeguard the public from those who think they can operate with impunity.

Better for Landlords:

Landlords will not see their costs increase at a time when they are already being burdened by increased compliance costs and significantly rising taxation. Further, with fees spread over the first six months of a tenancy, landlords and letting agents will share the risk of non-payment for the first time; providing extra security and comfort to landlords.

If less professional and part-time landlords turn away from agents due to increasing costs, they will likely be unaware of new (and existing) legal requirements, causing widespread non-compliance and putting tenants in danger. This could well result in more tenants having to seek assistance from their local authority. In the current fiscal climate, many local authorities are dispensing with their Tenancy Relations Officers and their Housing, Environmental Health and Trading Standards teams, which are already over-stretched and under resourced, will struggle to enforce the laws; leaving tenants, particularly vulnerable tenants, living in substandard conditions with nowhere to turn.

Reducing the Impact on Local Authorities:

By spreading the cost of these services across the first six months of a tenancy, letting agents will be able to continue offering a full service to tenants; particularly Local Housing Allowance tenants who often require the assistance of their agent to fill in increasingly complex benefit applications. If agents withdraw the services they currently provide, the Department for Work and Pensions will likely see an increase in the number of failed Housing Benefit and Universal Credit applications because tenants have been unable to complete the forms on their own.

Better for the Economy and Exchequer:

By allowing the costs of these services to be spread over the first six months of the tenancy, jobs in the lettings industry will be saved. Furthermore, unemployment will not increase as a result and may even reduce further as the small businesses which represent the majority of the industry can continue to grow, train their existing staff and take on properly-trained apprentices who will become the next generation of professional, qualified letting agents.

It is also important to note that Value Added Tax (VAT) is currently charged on letting fees. Banning Fees outright will result in a loss of income to the Exchequer. Our proposal will allow the Exchequer to retain VAT receipts.

Further, tenant fees are not currently paid for through the Local Housing Allowance (LHA) or housing element of Universal Credit. If rents do increase as a result of an outright ban, this will in turn increase the LHA rates requiring an increase in the Housing Benefit budget. ARLA's proposal will not cause rent inflation and therefore will not impact the Housing Benefit budget.

In essence, by spreading the fees over the first six months of the tenancy, there will be no increase in unemployment support required by central Government for agents who lose their jobs, no increase in Housing Benefit costs, and a retention of tax receipts for the Treasury.

Reducing the Impact on Tax Receipts:

The average letting fee as outlined in the English Housing Survey was £223, which equates to £185.83 to the agent and £37.17 in VAT to the Exchequer¹⁷. The Treasury will lose significant income through an outright ban.

¹⁷ https://www.gov.uk/Government/uploads/system/uploads/attachment_data/file/570848/Private_Rented_Sector_Full_Report.pdf

Conclusion – A Solution that Works for Everyone:

Fees are not arbitrary or unnecessary; they represent legitimate costs to business which need to be covered. A blanket ban would put additional pressures on landlords, with fewer tenant checks and a lower quality of service. Spreading the cost of these services will allow letting agents to retain current service levels to tenants.

We believe that banning upfront fees to tenants and spreading the costs of these vital services both complies with the spirit of the Chancellor's announcement during the Autumn Statement whilst providing a practical solution that will avoid the unintended consequences of:

- Removing transparency from the market altogether;
- Increasing rents and homelessness;
- Reducing service levels, property conditions and management standards;
- Damaging small business growth and increasing unemployment;
- Reducing income to, and increasing expenditure from, the Exchequer.

ARLA therefore recommends this approach to the Government as the most suitable option for taking forward these proposals.

Association of Residential Letting Agents (ARLA)
January 2017