

**ARLA Propertymark Briefing**  
**Consultation on Banning Tenant Fees**  
**April 2017**

**Background**

On 23 November 2016 the Chancellor announced in the Autumn Statement that the Government would ban letting agents' fees to tenants in England.

A consultation was launched on 7 April 2017 seeking views on implementation. The deadline for submissions is 2 June 2017.

Average fees are currently £412 for two people or £206 per person. International comparisons show us that England is lower than France where fees are capped at 12 Euros per square metre or approximately 480 Euros or £416 for a 40 square metre Parisian apartment while in the USA tenant fees equate to one-months' rent; an average of \$1,404 or £1,132.

There are now 160 laws that apply to landlords. Legislation on residential lettings is amended regularly with new laws introduced frequently. Letting agents deliver a valuable service in ensuring that properties are safe, legally compliant and professionally managed.

**Impact of the Ban<sup>1</sup>**

In response to the Government's announcement, ARLA Propertymark surveyed 1,008 letting agents to ask what the impact of a ban on fees would be. The vast majority of agents (87%) responded with the view that rent prices will increase as a result of banning fees. 61% said that they expect property management standards to drop and 62% expect the condition of rental properties to decrease.

Research undertaken by leading consultancy, Capital Economics, found that fees charged to tenants currently account for around £700 million per year, which represents a small but vital 20% of the industry's turnover. Landlords pay the majority of the costs but would be forced to carry more of the burden if a full ban is introduced. If landlords choose to increase rents to subsidise their higher costs, tenants will end up meeting increased costs repeatedly throughout their tenancy.

Capital Economics predict that an outright ban is likely to mean that agents lose £200 million in turnover and around 4,000 jobs will be lost while landlords will lose income of £300 million.

The report predicts that tenants will pay an increased rent of £103 per year and crucially, "those that move less often will not reap the same benefits in savings. Typically, these will be working class families who move far less often than younger, wealthier millennials. For savings to accrue to tenants

---

<sup>1</sup> <http://www.arla.co.uk/media/1045478/arla-proposal-on-banning-letting-fees.pdf>

from the policy change they would need to move as often as every 2 and a half to three years.”. The independent economic research concludes that those who stay in longer tenancies will not benefit as much as those who move regularly. Rather than creating a system which encourages long-term homes in the private rented sector, the proposed ban will financially disadvantage tenants unless they move on a regular basis.

VAT (Value Added Tax) is currently charged on letting fees, so banning fees outright will result in significant loss of income for the Treasury.

If professional and part-time landlords turn away from agents due to increasing costs, they may likely be unaware of new (and existing) legal requirements; potentially causing widespread non-compliance and putting tenants in danger. This could put added pressure on local authorities as tenants look to them for help.

### **Our Proposal**

ARLA Propertymark does not support a full ban on letting agents’ fees to tenants. A full ban as outlined in the consultation paper will not achieve the government’s objectives of reducing overall housing spend by tenants. In the consultation paper DCLG has proposed that in the event of a full ban there should be exemptions which ensure that tenants meet reasonable costs for services. This includes holding deposits, in-tenancy property management charges arising because of the action of the tenant and non-standard services to tenants. In addition to this ARLA Propertymark believe that there should be exemptions for tenant referencing.

### **What is Tenant Referencing?**

Referencing checks lay the foundations for a strong tenancy by ensuring that the tenant does not take on a financial commitment that is unsustainable. Tenant referencing reduces the risk of tenants falling into rent arrears. Tenants who have rent arrears often face eviction and are subject to County Court Judgments (CCJs). A CCJ will mean that the tenant’s credit rating drops which could lead to them having difficulty sourcing other rental properties or making successful mortgage applications when they attempt to take their first step onto the housing ladder. A poor credit history also leads to difficulties in accessing low cost credit from main stream suppliers (such as high street banks or major credit card providers).

Ensuring that a tenant takes on manageable levels of financial commitment helps to ensure that they are not subsequently made homeless.

With such a chronic shortage of rental housing, a ban on fees for tenant referencing may make securing a rental home very difficult for those on low incomes or those who have a poor credit rating. Agents may also be forced to take shortcuts and take the tenant who appears to be most likely to be able to pay the rent and most unlikely to require follow up Right to Rent checks.

### **Why is Tenant Referencing a valid exemption?**

Tenant referencing is time consuming for letting agents and often involve significant time spent chasing all of the parties involved to complete the referencing process. Checks are frequently complex procedures and are in part (Right to Rent checks) required by law.

Referencing is not simply a case of forwarding a prospective tenant's details to a third party. It involves ensuring forms are completed properly, making requests to referees and guarantors, checking a tenant's credit history, liaising with an external referencing company, collecting employment information, liaising with the tenant's previous landlord, checking passport or other visa documents and storing copies securely to comply with Right to Rent checks, plus scheduling and carrying out any further checks necessary. Agents will also often assist tenants with completing benefit paperwork and Universal Credit applications to ensure they receive any state benefits to which they are entitled.

According to ARLA Propertymark research agents take an average of eight hours to fully conduct references. This is one of the most time consuming parts of a letting agent's job and can take several weeks of chasing all parties to complete.<sup>2</sup>

### **The Sensible Solution**

Tenant referencing is a vital process which requires resource and is beneficial to tenants. We urge you to support the exemption of referencing costs from the ban on tenant fees.

---

<sup>2</sup> <http://www.arla.co.uk/media/1045477/tenant-fees-research-report.pdf>