

Unfair Lettings Fees; a Guide for Agents and their Landlords



Unfair Lettings Fees

Unfair or Excessive Agent fees are one of the most common consumer complaints raised with the Property Redress Scheme.

In general, the average Consumer is expected to pay attention to fees listed in documentation, make their own enquiries about charges they do not understand and check out any publicly available facts about average prices for themselves. However, the average Consumer is also likely to trust in the Agent (as the lettings professional) and rely upon the integrity of any information provided or fee charged. As such, complaints can often arise when Consumers believe they have been misled by their Agent about the charges incurred for using their service.

It is not the role of the redress scheme to prescribe or prohibit any fee in general. However, the Agent must be able to provide evidence to support the fees that they charge. A Scheme Ombudsman may choose to make an award to the Consumer if it is decided that the Member's fees are unfair or have not been presented in a clear and transparent way.

This guide is designed for both Agents and Landlords to explain what may be deemed as an obscure, unfair or unjustifiable fee. It has been summarised from the Competitions and Markets Authority Guidance for Lettings Professionals on Consumer Protection law. If you would like to read this guide in full, you can do so [here](#).

Landlord Fees

In all circumstances, any advertising and marketing of an Agent's services to a potential Landlord client must be clear, accurate and not misleading - this extends to providing information that although correct, is presented in a misleading way.

Any advertised charges should be inclusive of VAT. An advertised tariff that excludes VAT is more likely to mislead Landlords about how much they will actually have to pay for the service. Agents should ensure that the prospective Landlord has sufficient time to familiarise themselves with the agreement before agreeing to any charges.

Agents should provide clear information about the nature and extent of the service being provided in return for any fee. This will help Landlords to form a view on the reasonableness of the charge and to decide whether or not they wish to proceed on that basis.

The description of the Agent's services should fairly reflect the way they charge for them. For example, it may be a misleading action for an Agent to state that they charge a specific percentage for a 'full management service' when they in fact make additional charges for certain management activities, such as organising maintenance work.

Optional/Non Optional Fees

Fee transparency means that there should be no surprise costs; Landlord's should know what they are expected to pay before they sign a contract with an Agent.

Some fees to be paid by the Agent are non-optional (e.g. Tenant Finder Fee) and some are optional/variable (e.g. Early Termination Fee). All fees that are non-optional should be set out up front.

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It may not be necessary to include optional/variable fees in all marketing material. However, they should be clearly set out and brought to the attention of a potential Landlord client early on and included in any contract signed.

All fee information, whether optional or non-optional, should be easily accessible and not merely included in the small print of the contract or hidden on a website.

It may be best practice to explain to potential Landlord clients how your fees are calculated, factors affecting calculation and how/when fees will be payable. It will aid clarity if the Agent provides worked examples of calculations of this kind.

Proposed Tenant Fees

The Agent should inform the Landlord of any sums they propose to charge Tenants, for example for carrying out pre-tenancy checks. This is important information since the level of any charges requested may have an impact on the number of Tenants who may be willing to rent the Landlord's property, and so affect a Landlord's decision whether to use services of that Agent.

In some cases, where a cost is shared between the Landlord and Tenant, it is important that each party knows what the other is paying, in order that each can assess whether the portion they are being asked to pay is reasonable. It is not good practice to 'double charge' – charging both Tenants and Landlords for the same service in order to increase profits.

Unexpected or Unusual Fees

Where a charge is likely to be unexpected, or to come as a surprise to a potential Landlord client, the Agent should highlight these details individually. Examples of charges that may need to be given particular prominence include (but are not limited to):

- charges for providing a tenancy agreement
- charges for the Agent familiarising himself with a tenancy agreement provided by the Landlord
- any fees the Landlord will have to pay for a minimum period
- 'check-in', or 'check-out', fees
- security deposit handling fees
- terms which require a landlord to pay 'renewal commission'
- circumstances where there is no further work carried out after the introduction of the Tenant (let-only).

Repair and Maintenance Fees

The Agent should act in the Landlord's best interests and inform the Landlord of any commission or other benefits they receive from workmen for passing work to them.

Agents should also not make any 'secret profits' from their Landlord; meaning money the Agent is paid in addition to their agreed commission from the Landlord client, and which the Landlord client does not know about.

Agents must **not** charge Landlords for work that isn't actually carried out, or claim that work is necessary when it is not.

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Termination and Cancellation Fees

The Agent should provide clear instructions to potential Landlord clients on how any contracts are to be terminated and if the Landlord is to be liable for any fees for cancellation.

It may be unfair for an Agent to charge cancellation fees in circumstances where the Landlord has terminated the contract for good reason for example where the Agent has breached the contract or has not carried out services with reasonable care and skill.

General Guidance to Agents

The **Terms of Reference** of the Property Redress Scheme make it clear that we can make an award to any Consumer if it is decided that our Member's fees are excessive, lack transparency or are misleading. If a Member continues to charge unfair fees or does not communicate their fees adequately they could face expulsion from our scheme. The consequence of this would be that, as membership of an authorized scheme is compulsory, expelled Members can no longer trade as a Letting or Property Manager.

Agents may wish to seek legal advice to satisfy themselves that their fees, charges and commissions are structured and presented in a fair and transparent way.

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