

# **Report to the Tyne and Wear Trading Standards Joint Committee**

**27 June 2019**

## **Tenant Fees Act 2019**

---

**Anneliese Hutchinson, Service Director, Communities and Environment, Gateshead Council**

---

### **Purpose of the report**

To update the Committee on the new role of Trading Standards services under the Tenant Fees Act 2019.

1. The Tenant Fees Act 2019 came into force on 1 June 2019.

### **Context**

2. The private rented sector in England is home to 4.7 million households. Letting fees and high deposits are seen as adding to the affordability challenge for tenants seeking to access rented accommodation. The new provisions are seen as sitting within the Government's aim of "*rebalancing the relationship between tenants and landlords to deliver a fairer, good quality and more affordable private rented sector*".
3. There was previously no cap on the level of fees that letting agents can charge in England, although since 21 May 2015 agents fees have been required to display a tariff of fees.

### **Government Proposals**

4. During the Queen's Speech 2017, the Government announced an intention to bring forward a Draft Tenants Fees Bill to tackle "*unfair fees on tenants*" and "*make the private rental market more affordable and competitive*".
5. Other action the Government is involved with includes:
  - A new requirement for all landlords to be members of a redress scheme to give tenants easier access to dispute resolution;
  - A new requirement for all letting agents to be registered and members of a client money protection scheme;
  - The introduction of banning orders and a database of rogue landlords and agents;
  - Consultation on the benefits and barriers of longer tenancies in the private rented sector.

### **Reactions from Interested Bodies**

6. The announcement of the fees ban, and the capping of security deposits was welcomed by organisations such as Shelter, the Consumers Association/Which?

and Citizens Advice. These bodies have actively lobbied for the regulatory/abolition of letting agents fees.

7. Organisations such as the Association of Residential Letting Agents (ARLA), the Residential Landlords Association (RLA) and the National Landlords Association (NLA), whilst expressing support for wider regulation of letting/managing agents to drive up standards, did not support the abolition of letting agent fees.
8. These organisations argued that fees cover essential costs which must be met, and that tenant's rents will increase because of the ban. They also expressed concerns that the removal of the revenue stream will result in agency closures, job losses and less competition. There is doubt expressed within the sector that landlords will accept significant fee increases and that service levels might decline.

#### **The main provisions of the new Act:**

9. The only payments that landlords can charge in connection with a tenancy are:
  - the rent;
  - a refundable tenancy deposit capped at no more than five weeks' rent where the annual rent is less than £50,000, or six weeks' rent where the total annual rent is £50,000 or above;
  - a refundable holding deposit (to reserve a property) capped at no more than one week's rent;
  - payments to change the tenancy when requested by the tenant, capped at £50, or reasonable costs incurred if higher;
  - payments associated with early termination of the tenancy, when requested by the tenant;
  - payments in respect of utilities, communication services, TV licence and council tax; and
  - A default fee for late payment of rent and replacement of a lost key/security device, where required under a tenancy agreement
10. If the fee that a landlord is charging is not on this list, it is a **prohibited payment** and should not be charged for. A **prohibited payment** is a payment outlawed under the ban.
11. A breach of the legislation will usually be a civil offence with a financial penalty of up to £5,000, but if a further breach is committed within 5 years of the imposition of a financial penalty or conviction for a previous breach this will be a criminal offence. The penalty for the criminal offence, which is a banning order offence under the Housing and Planning Act 2016, is an unlimited fine.
12. Where an offence is committed, local authorities may impose a financial penalty of up to £30,000 as an alternative to prosecution. In such a case, local authorities will have discretion whether to prosecute or impose a financial penalty. Where a financial penalty is imposed this does not amount to a criminal conviction.
13. A breach of the requirement to repay the holding deposit is a civil offence and will be subject to a financial penalty of up to £5,000.

## **Recommendation**

14. The Committee is asked to note the information.

---

Contact: David Ellerington, City of Newcastle Council on 0191 2116119 or e.mail  
[david.c.ellerington@newcastle.gov.uk](mailto:david.c.ellerington@newcastle.gov.uk)

---