



Submission

Unfair Letting Fees Consultation

May 2025

homelessconnect.org

Unfair Letting Fees Consultation

Introduction

1. Homeless Connect has been working to prevent and alleviate homelessness in Northern Ireland since 1983. As an umbrella body, we represent over forty organisations working in the independent homelessness sector. We also support people with lived experience of homelessness to have their voices heard. We provide services that directly benefit people and communities, helping to sustain tenancies and diverting surplus nutritious food to charities and other not for profit groups.

Consultation

2. We welcome the opportunity to respond to this consultation. It is well known that affordability is proving an increasing barrier to households accessing high-quality housing in the private rented sector which is suitable to their needs. Private sector rents have been rising rapidly in this society. The most recent edition of the “Performance of the Private Rental Market in Northern Ireland” identified that average rents across this jurisdiction stood at £903 per month, up 6.4% on the previous year.¹ For households at the bottom of the income scale looking for housing in the private rental sector, letting agent fees are an additional cost which can pile pressure on households who are already struggling.
3. Our understanding of the case law and current guidance regarding letting fees is in accord with that provided by the Bill Sponsor in the background provided to the consultation. The Departments of Communities and Finance were right when they outlined the following: “the court rulings reaffirm the guidance to all those involved with the granting of a lease or letting of land, and that a landlord, or an agent of the landlord, cannot oblige a tenant to pay for the professional services provided by their agent. Such a practice is inequitable, unlawful and inconsistent with the normal business principle that he who engages an agent should pay for that agent’s services.”²
4. The legal position consequently should be clear to all landlords and letting agents. However, in spite of this reality, there is strong evidence that letting agent fees continue to be charged by several letting agents. We note with deep concern the results of the research completed by the Chartered Institute of Housing (CIH) on

letting agent fees in 2024. The fact that in a “mystery shopper” exercise conducted by Renter’s Voice for the purposes of the CIH research it was identified that 36% of letting agents (43 out of 120) contacted were charging some form of letting agent fee is illustrative of the fact the law in this area is not being followed.³ A similar exercise conducted in 2013 found that 24 out of 40 letting agents contacted were charging such fees so unfortunately it is evident that there has not been much progress in this space over the last decade.⁴

5. The fact that letting agent fees are still being levied on such a widespread basis is indicative at the very least of a regulatory process which is failing to protect tenants. As the CIH report outlines, the levying of these fees has deleterious consequences for tenants including restricting options in terms of rental properties and seeing costs incurred simply for looking at properties, let alone letting them. As the report succinctly notes, “The lack of enforced regulations has negatively impacted tenants. Fees limited choices, caused financial strain, and forced some to rely on social networks for finding financial support.”⁵

6. As the representative body for the homelessness sector, our primary concern is the prevention and alleviation of homelessness in this society. It is our view that letting agent fees can have a negative impact on households at risk of or experiencing homelessness through the creation of barriers to accessing private rental sector properties. Consequently, we support steps which would see the levying of these fees ended.

7. The crucial question about legislative reform in this space relates to enforcement. When considering this issue around enforcement, we believe it is important to keep in mind the wider context of the need for action on the introduction of an Alternative Dispute Mechanism (ADR). Homeless Connect believes that the current enforcement measures in place for the private rented sector, including issues around Letting Agent Fees, are not fit for purpose. It is widely accepted that the court system currently operating is under-resourced and slow with many tenants not knowing what their rights are. While there are other enforcement bodies beyond the courts who tenants can turn to, it can be difficult for people with vulnerabilities to navigate who they should turn to and to access the support they need. Unfortunately, even if they do know their rights, tenants can live in fear of retaliatory action on the part of landlords if they seek to assert them.

8. We believe it is important for policymakers to consider options around the introduction of ADR. There is considerable evidence from different jurisdictions that alternative dispute resolution mechanisms are an effective way of preventing disputes developing between landlords and tenants as well as resolving them after the fact.⁶ However, the current legislative and regulatory framework in place sees tenants and landlords left with fewer options outside of litigation than are available in other jurisdictions.
9. The Department for Communities has previously given consideration to the introduction of such mechanisms (see for example the “Review of the Role and Regulation of the Private Rented Sector” published in November 2015⁷ and “Private Rented Sector in Northern Ireland- Proposals for Change”⁸) and the work which has already been conducted in this space should be built on.
10. It is understood that a range of options are open to the Bill Sponsor to consider when it comes to an effective enforcement mechanism. Whatever course is taken, we would stress that it is of critical importance that a clear and straightforward enforcement mechanism is identified to prevent letting agents from levying unfair fees on tenants. The active support and financial backing of the relevant Executive Departments will be required for such an enforcement mechanism to be workable.
11. It is understood that as a Private Member, the Bill Sponsor cannot compel Departments to support proposals in this space. However, we would hope that if the Assembly outlines support for the principles of a Bill clarifying or tightening regulation in this space that the Department will then work with the Bill Sponsor to ensure the legislation has the intended effect. As we know the Bill Sponsor will agree, any new legislative and regulatory framework should seek to avoid replicating the problems of the current system. To be clear, we are firmly of the view that a better approach is possible. We commend the Bill Sponsor for seeking to identify the ways in which this can be achieved and look forward to engaging with her throughout the legislative process.
12. We note that the research produced by the Chartered Institute of Housing in 2024 considered the introduction of a wider regulatory framework for Letting Agents operating here. The report makes seventeen recommendations which would introduce, as the report puts it, “a comprehensive regulatory framework to transform the letting agent sector in Northern Ireland. This framework prioritises creating a fair, transparent, and professional environment that protects tenants and fosters a healthy business climate for letting agents.”⁹ It is beyond the remit of Homeless Connect to

assess the efficacy or practicality of the recommendations set out. However, we believe the report and the recommendations raise several points of note which the Bill Sponsor will no doubt wish to consider as she considers the right course to take going forward.

13. If and when the Bill Sponsor brings forward her Bill to the Assembly, we would recommend that the Bill Sponsor includes a clause in the Bill requiring the Department of Communities to commission a report to assess the impact of the new legislation at least three years after the legislation is given royal assent. This will allow the impact of the legislation to be assessed and will provide reassurance that if unintended consequences result that they will be identified and ameliorated.

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References

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- ² Departments of Communities and Finance, "Joint Ministerial Communique on Letting Agency Fees," 5 March 2020, <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-joint-ministerial-communique-on-letting-agency-fees-mar20.pdf>
- ³ Chartered Institute of Housing, "Regulation of Letting Agents and Letting Agent Fees in NI," June 2024, <https://cih.org/publications/regulation-of-letting-agents-and-letting-agent-fees-in-northern-ireland> 47
- ⁴ Housing Rights, "The Hidden Costs of Private Renting in Northern Ireland: An Investigation into the Practice of Letting Charges," May 2013, accessed 29 April 2025, https://www.housingrights.org.uk/sites/default/files/documents/policy-research/housing_rights_the_hidden_costs_of_private_renting_in_northern_ireland_0613.pdf
- ⁵ Chartered Institute of Housing, "Regulation of Letting Agents and Letting Agent Fees in NI", 54-5.
- ⁶ See for example Jennifer Harris, "Alternative approaches to resolving housing disputes," 7 February 2020, accessed 29 April 2025, https://housingevidence.ac.uk/wp-content/uploads/2024/04/200227-ADR_Report_c.pdf
- ⁷ Department for Social Development, "Review of the Role and Regulation of the Private Rented Sector," November 2015, accessed 20 January 2025, <https://www.communities-ni.gov.uk/sites/default/files/consultations/dsd/review-role-regulation-of-private-rented-sector-consultation.pdf> 21.
- ⁸ Department for Communities, "Private Rented Sector in Northern Ireland - Proposals for Change", 2021, accessed 20 January 2025, <https://www.communities-ni.gov.uk/sites/default/files/consultations/communities/private-rented-sector-proposals-for-change-consultation-response.pdf>
- ⁹ Chartered Institute of Housing, "Regulation of Letting Agents and Letting Agent Fees in NI", 9. See pp62-66 for the list of recommendations.



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