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# Research into letting agent fees to tenants

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## Research into letting agent fees to tenants

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Views expressed in this report are those of the researchers and not necessarily those of the Welsh Government

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## Glossary

<b>Acronym / Key word</b>	<b>Definition</b>
Agent	Letting and/or management agent
ARLA	Association of Residential Letting Agents
CAB	Citizens Advice Bureau
CLA	Council of Letting Agents
DCLG	Department for Communities and Local Government
EPC	Energy Performance Certificate
HMO	House in Multiple Occupation
LA	Local Authority
NALS	National Approved Lettings Scheme
NLA	National Landlords Association
PRS	Private Rented Sector
RSW	Rent Smart Wales
RLA	Residential Landlords Association
RICS	Royal Institute of Chartered Surveyors

## 1. Introduction

- 1.1 Low income households can find it difficult to access housing in the private rented sector (PRS). Fees charged by letting agents are one component of the costs involved (CAB, 2015; Shelter Cymru, 2016; Shelter Cymru, 2014; Reeve, et al., 2016; Which?, 2012). PRS tenancies can be short, so some tenants may have to move after as little as six months, facing new fees each time. This has led to calls from groups such as CAB and Shelter Cymru to ease pressure on tenants by preventing letting agents from charging fees to tenants.
- 1.2 There are challenges for legislation in defining clearly what is meant by fees and charges. Without this, legislation could be ineffective if, for instance, fees are simply re-labelled, or tenants are obliged to pay other organisations (such as credit referencing agencies) directly for the checks they undertake. Legislation also needs to be enforceable.
- 1.3 The power to ban charges by agents rests with the devolved administrations, which means that there is the opportunity to learn from experiences in other parts of the UK. There are particular opportunities, in this instance, to learn from the Scottish 2012 legislation, which banned fees and charges.
- 1.4 This study was therefore commissioned by the Welsh Government in order to broaden their understanding of the letting agent fees charged to tenants in Wales. It seeks to understand what constitutes a 'fee' or a 'charge', the levels at which these are levied and the potential impact on agents, landlords and tenants, as well as possible implications for the private rented sector market as a whole, if these fees were to be banned.

### Context

- 1.5 Under the Accommodation Agencies Act 1953, it is illegal to ask a prospective tenant for money for registering them and just to provide them with a list of properties.

Since November 2013, the Advertising Standards Authority have required agents to provide clear information about charges and holding deposits to prospective renters before they agree to take up a tenancy. The Consumer Rights Act 2015 went further and obliged agents to publicise a full tariff of their fees, with powers to impose fines of up to £5,000 for those who fail to comply. There are, however, no laws that prevent letting agencies charging fees to tenants once they have been offered a

property, subject to satisfactory references and checks, and fees can be set at any level.

1.6 Letting and management agents ('agents' hereafter) offer a variety of services to landlords, the three main ones being:

- A **let only** service, whereby they advertise the property, find tenants, carry out checks and take up references, and set up the tenancy. The landlord then undertakes the continued management of the tenancy themselves, with no further involvement from the letting agent. Landlords in Wales using agents in this manner would be required to be licensed to manage the property themselves.
- A **rent collection only** service. This involves tenant-finding, tenancy setup and collection of rent, for which a management fee is charged. The landlord retains responsibility for organising repairs and maintenance. As above, landlords in Wales using agents in this manner would be required to be licensed to manage the property themselves.
- A **full management** service. This involves tenancy setup and rent collection, as above, and also full management of the property. This includes the letting agent dealing with the tenants on a day to day basis, organising repairs and ensuring the home meets legal standards (such as obtaining gas certificates). The actual costs of repairs would still be met by the landlord.

1.7 The financial models for these services differ: the tenant-finding service is usually funded by one-off fees from both landlords and tenants, whereas the rent collection and full management services will also involve a management charge being deducted from the rent received. The ways in which agents might make up any losses they incur from not being allowed to charge tenants therefore varies between the two models.

1.8 Rent Smart Wales (RSW) was formed in 2015 in order to register and licence landlords and agents<sup>1</sup>. All landlords and management and letting agencies need to be *registered* with RSW, for which they pay a fee. In addition, agents need to have a *licence* if they set up tenancies or manage them; landlords also need a licence unless they appoint an agent to set up the tenancy and manage the properties for

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<sup>1</sup> [www.rentsmart.gov.wales/en/](http://www.rentsmart.gov.wales/en/)

them. To be licensed, landlords and agents have to have completed an approved training course.

1.9 The Renting Homes (Wales) Act 2016 sets out new rules for granting tenancies in Wales. Once enacted, landlords will be unable to charge for issuing a written statement, which could limit the extent to which they can charge for renewing contracts but does not in itself ban fees to upfront tenants.

#### *The rest of the UK*

1.10 The issue of letting agency fees to tenants has been of concern to all the devolved governments in the UK, as well as to the Department for Communities and Local Government (DCLG) on behalf of England. Scotland has gone the furthest with efforts to ban fees, and their experience is discussed in Chapter 7.

1.11 A consultation on banning fees to tenants ran in England from 7 April to 2 June 2017<sup>2</sup>. The Government announced in June that it intended to bring into effect a ban on fees to tenants in England.

1.12 Research in Northern Ireland suggests that the majority of agents charge fees to tenants, though they appear low compared to elsewhere in the UK (Housing Rights Service, 2013). As in the rest of the UK, there are calls to ban them (Housing Rights, 2015). A consultation ran from January to April 2017 on a variety of changes to the private rented sector, including a ban on fees by letting agents (DfC, 2017), and the Department for Communities Northern Ireland is expected to set out its proposals soon.

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<sup>2</sup> [www.gov.uk/government/consultations/banning-letting-agent-fees-paid-by-tenants](http://www.gov.uk/government/consultations/banning-letting-agent-fees-paid-by-tenants)

## 2. Methodology

2.1 The research comprised the following elements:

### *Interviews with key stakeholders*

2.2 The list of stakeholders to contact was agreed with the Welsh Government, with input from the Scottish Government<sup>3</sup>.

### *Welsh/UK landlords stakeholders:*

- Association of Residential Letting Agents (ARLA) (national representative)
- Association of Residential Letting Agents (Welsh representative)
- Citizens Advice Bureau (CAB)
- National Approved Letting Scheme (NALS)
- National Landlords Association (NLA)
- The Property Ombudsman
- Rent Smart Wales (RSW)
- Residential Landlords Association (RLA)
- Royal Institute of Chartered Surveyors (RICS) (Welsh representative)
- The Welsh Government

### *Scottish stakeholders:*

- Association of Residential Letting Agents (Scotland)
- Chartered Institute of Housing (CIH) (Scotland)
- Council of Letting Agents (Scotland)
- Living Rent (Scotland)
- Royal Institute of Chartered Surveyors (Scottish representative)
- The Scottish Government
- Scottish Land and Estates
- The Welsh Government
- Shelter Cymru
- Shelter Scotland

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<sup>3</sup> The Guild of Residential Landlords, Tenant Participation Advisory Service Cymru, Community Housing Cymru, Let Scotland, Crisis (Scotland), CAB (Scotland), and the Law Society of Scotland were also invited to contribute, but did not do so. The National Association of Estate Agents were invited but felt that their views had been covered by the ARLA representative.

### *Surveys of agents and landlords*

- 2.3 A comprehensive online survey of agents in Wales was undertaken. It was emailed to the 511 commercial letting agents in Wales who had applied for registration with Rent Smart Wales (RSW) as of May 2017, and had agreed to receive third party communications<sup>4</sup>. To ensure further reach, the survey was also sent to the 228 Propertymark ARLA Welsh members<sup>5</sup>. In total, 168 replies were received from agents managing properties in all parts of Wales. Between them, these agents managed 21,875 properties in Wales, around half (47 percent) of the PRS stock recorded by RSW as being managed by agents.
- 2.4 In addition, two short surveys of landlords were also undertaken, each with a random sample of 800 landlords registered with RSW, one to landlords who used an agent (115 responses), and one to those who managed their own properties (140 responses). The surveys were available in both English and Welsh. For responses by local authority, see Table 1 and Annex 1: Profile of landlords replying to the survey. The survey questions are given in Annex 2<sup>6</sup>.

### *In-depth interviews*

- 2.5 Ten telephone interviews were undertaken with letting agents and a further 16 with landlords in order to understand the key issues in more depth. The sample was selected from those who completed the surveys and agreed to be interviewed, to include a range of different types of letting agent (rural/urban, market segmentation, small/large).

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<sup>4</sup> Commercial letting agents were defined as letting and management agents who were companies OR were an individual using a 'trading as' name. In total there were 707 such agents on RSW's database in May 2017, of which 511 had agreed to receive third party communications. A filter question at the start of the survey checked whether they managed properties owned by two or more landlords and removed those who did not. A total of 13 were filtered out in this manner.

<sup>5</sup> [Propertymark ARLA](#) is the main professional body for residential letting agencies. Its members are likely to include substantial overlap with those who received the survey via RSW. However agents were asked only to complete the survey once, and checks were made for any duplicate responses, and any found were removed from the sample.

<sup>6</sup> Respondents were allowed to skip questions if they wanted, so the response rate for each question varies. The number responding has been given throughout this report.

### 3. Existing practice in Wales

#### Agents and the services they provide

##### *Letting and management agents in Wales*

- 3.1 Now that agents are obliged to register with RSW in Wales, it is possible to look at the operation of the sector across Wales. Accurate data on the number of letting agents is, however, still problematic because RSW licenses private individuals acting as agents, even though they may be managing a property on behalf of a family member or other landlord. Having tried to remove such non-commercial agencies from the list extracted from their database, RSW suggest that there are a total of 707 agencies, operating from a total of 1,083 offices. However, data from other sources suggests that this may be an over-estimate, still including some very small operations which are not really operating as high street letting agents<sup>7</sup>. Overall we would estimate there to be somewhere between 400 and 700 high street letting agents operating in Wales, and between 600 and 1,000 branches (including branches in Wales of agencies based in England).
- 3.2 Information from the RSW database on the total number of properties managed by letting agents is much better, because most of the 'grey area' letting agents manage only very small numbers of properties. This data suggests that 46,738 private rented properties in Wales are managed by agents. This does not include those let by agents but where a landlord undertakes the ongoing management.
- 3.3 Table 1 shows RSW's data on the number of agents with offices in each authority in Wales, the number of properties managed by agents in each area and the total number of private rented properties. From this information, an estimate of the proportion of the PRS managed by letting agencies has been made.

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<sup>7</sup> The Property Ombudsman supplied data for this research showing that they have 371 member agents in Wales (with 540 branches between them) and estimate that 85 percent of agents across the UK are members, which would give an estimate of 436 agents (assuming their coverage in Wales to be similar to elsewhere). ARLA/Propertymark have 228 Welsh members, though not all agents are members. The survey undertaken for this research also found that the average agent manages 148 properties in Wales, as compared to an average of 43 from RSW data, suggesting that the RSW data may still contain substantial numbers of very small agents. RSW was, unfortunately, unable to supply data on agents by the number of properties they manage.

**Table 1: Letting agents by local authority**

Local authority	Number of letting agent office bases	Number of properties managed by agents <sup>8</sup>	Total number of private rented properties registered	Proportion of private rented properties managed by agents
Isle of Anglesey	21	624	3,116	20%
Gwynedd	36	1,340	6,069	22%
Conwy	32	1,349	6,899	20%
Denbighshire	26	1,307	6,095	21%
Flintshire	31	2,006	5,561	36%
Wrexham	22	1,814	6,400	28%
Powys	34	1,477	7,217	20%
Ceredigion	23	1,476	4,696	31%
Pembrokeshire	41	1,917	5,943	32%
Carmarthenshire	30	1,663	8,788	19%
Swansea	71	4,224	13,649	31%
Neath Port Talbot	22	1,363	5,994	23%
Bridgend	27	1,778	6,696	27%
Vale of Glamorgan	32	2,099	6,446	33%
Cardiff	182	8,915	26,755	33%
Rhondda, Cynon, Taff	59	3,914	12,364	32%
Merthyr Tydfil	9	786	2,709	29%
Caerphilly	30	2,426	6,904	35%
Blaenau Gwent	9	615	3,189	19%
Torfaen	14	1,037	3,108	33%
Monmouthshire	37	1,484	3,798	39%
Newport	47	2,952	8,252	36%
Not in Wales	248	-	-	-
Not known	0	124	916	14%
<b>Total</b>	<b>1,083</b>	<b>46,690</b>	<b>161,564</b>	<b>29%</b>

Source: Rent Smart Wales (June 2017). Note that this data includes agents not yet licensed.

3.4 The proportion of the PRS managed by agents in Wales is 29 percent and varies from 19 percent in Carmarthenshire and Blaenau Gwent to 36 percent in Flintshire and Newport. It is, on average, a little higher in urban areas (33 percent) and lower in rural areas (24 percent)<sup>9</sup>. The number of agents is small in just two areas (Merthyr Tydfil and Blaenau Gwent).

3.5 Agents may, of course, manage properties located in other areas. The survey gives some insight into the frequency of this.

<sup>8</sup> This includes properties managed by agents based in a different authority, including outside Wales. It does not include properties where the agent lets the property but the landlord undertakes ongoing management.

<sup>9</sup> Rural authorities comprise the Isle of Anglesey, Gwynedd, Conwy, Denbighshire, Powys, Ceredigion, Pembrokeshire, Carmarthenshire and Monmouthshire. Valleys authorities comprise Rhondda Cynon Taff, Merthyr Tydfil, Caerphilly, Blaenau Gwent and Torfaen. Urban authorities comprise Swansea, Cardiff and Newport. 'Other' authorities comprise Flintshire, Wrexham, Neath Port Talbot, Bridgend and Vale of Glamorgan.

**Table 2: Location of agents, and areas in which they let properties**

<b>Local authority</b>	<b>Number of agents based in authority</b>	<b>Number of agents managing properties in authority</b>
Isle of Anglesey	1	5
Gwynedd	7	11
Conwy	2	10
Denbighshire	7	15
Flintshire	9	14
Wrexham	5	12
Powys	6	10
Ceredigion	7	12
Pembrokeshire	8	16
Carmarthenshire	12	20
Swansea	16	28
Neath Port Talbot	2	11
Bridgend	4	16
Vale of Glamorgan	5	28
Cardiff	42	58
Rhondda Cynon Taf	11	28
Merthyr Tydfil	1	10
Caerphilly	3	24
Blaenau Gwent	0	11
Torfaen	3	12
Monmouthshire	8	14
Newport	9	30
<b>Total</b>	<b>168</b>	<b>395</b>

*Source: Agents survey May 2017. Base = all agents answering the question. N=168*As can be seen in

Table 2, it appears to be common for properties in the areas where few agents have offices (Merthyr Tydfil and Blaenau Gwent) to be managed by agents based elsewhere<sup>10</sup>.

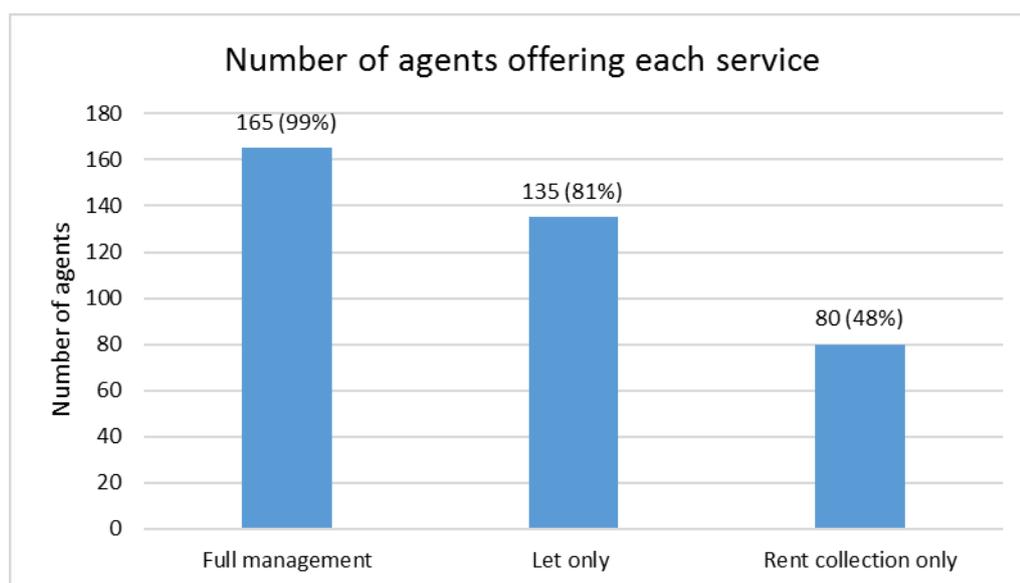
- 3.7 Most agents are locally based. Of the 167 agents responding to this question, half (82) were based just in one authority, with a third (54) managing stock in three or more authorities. Around one in six (29) also managed properties in England and just three agents also managed housing in Scotland or Northern Ireland.
- 3.8 Just under half the agents (76 of 167) were part of an estate agent business with properties for sale and the similar numbers (74 of 167) were solely a letting and/or property management agency. The remaining 17 agents were part of other businesses such as housing associations, chartered surveyors or building societies.

<sup>10</sup> Agents managing properties in Merthyr were based in Caerphilly (1), Cardiff (3), Merthyr (1), Newport (1), Rhondda Cynon Taff (3) and Swansea (1). Agents managing properties in Blaenau Gwent were based in Caerphilly (1), Cardiff (1), Newport (2), Rhondda Cynon Taf (3), Swansea (2), and Torfean (2).

3.9 Two thirds of agents (114 of 167) had just one office whilst just eight percent (14 of 167) had three or more offices. Thirteen percent of agents (22 of 167) operated online only, without a high street office.

3.10 The survey asked agents which services they offered (Figure 1). Almost all agents offered a full management service; four fifths offered a let only service and just under half offered a rent collection only service.

**Figure 1: Services offered by agents**



*Source: Agents survey May 2017. Base = all agents answering the question. N=167*

3.11 Agents surveyed had an average of 137 properties each where they were providing a full management service (ranging from 1 to 1,400). A rent collection only service was much less common with an average of only 11 properties per agent managed in this manner (ranging from 1 to 100).

3.12 In addition, those who offered a let-only service had let an average of 57 properties in the last 12 months, ranging from 1 to 850. Assuming an average 18 month turnover period (ARLA, 2017b), this would suggest that, in addition to the 29% of private rented housing managed by agents in Wales (see Table 1: Letting agents by local authority), a further seven percent is let by agencies (and subsequently managed by landlords).

*The work involved in setting up a new tenancy*

3.13 Letting agents undertake a range of tasks associated with finding tenants and managing properties, including advertising the property, arranging viewings and putting together the tenancy agreement. The survey asked agents for an estimate of staff time required per let for each of the main tasks:

**Table 3: Average typical number of agency staff hours required by task**

<b>Task</b>	<b>Median staff time per new let</b>
Advertising the property and showing tenants round	4 hours
Gaining references	1 hour
Completing credit checks	1 hour
Drawing up the contract	1 hour
Completing the inventory	2 hours
Overseeing move in	1 hour
Other administrative tasks associated with move-in	1 hour
Renewing a fixed term tenancy	1 hour
Dealing with a tenancy termination	2 hours
<b>Median total hours per tenancy</b>	<b>14 hours</b>

*Source: Agents survey May 2017. Base = all agents answering the question. N=115. Medians rather than averages (means) were used for this data to negate the effect of some outlying responses (totalling over 300 hours per tenancy) where either the question had been misread or the agents' circumstances were unusual.*

3.14 Other administrative tasks given by agents included producing tenancy information packs, managing tenant deposits through deposit protection schemes, arranging gas safety certificates and Energy Performance Certificates (EPCs), completing Right to Rent checks (although these are not yet legally required in Wales) and negotiating terms between landlords and tenants. Some agencies also corresponded with utility companies and helped tenants with benefit applications.

3.15 Agents also commonly paid some fees themselves to external agencies for some of the work associated with setting up a new tenancy. The survey asked about the costs of these activities:

**Table 4: Charges paid by agents to other agencies**

Task <sup>11</sup>	Average (mean) cost per new tenancy	Range	Source:
Credit references	£31	£0 - £300	<i>Agents survey May 2017.</i>
Bank references or charges	£7	£0 - £200	
For an independent company to produce an inventory	£40	£0 - £400	
To other external agencies	£14	£0 - £495	
<b>Total</b>	<b>£92</b>	<b>£0 - £900</b>	<i>Base = all agents</i>

answering the question. N=110.

3.16 Agents were asked whether they paid any other organisations. Twenty-two indicated that they did. This included payments to companies to erect 'To Let' signs, tenancy deposit scheme charges<sup>12</sup>, and to companies providing EPCs.

### Agency fees charged to tenants

#### *Fees or charges?*

3.17 The research explored whether there was a clear distinction between *fees* and *charges*. It was clear that most agents and stakeholders did not see a distinction between these terms and used them somewhat interchangeably. For the purposes of this report, however, the following terms have been used:

- A **setup fee** is a fee charged to tenants and/or landlords for establishing a new tenancy. It is normally payable upfront, at the point at which the property is taken off the market, though agents may sometimes deduct the landlord's fee from the first month's rent.
- A **renewal fee** is a fee charged to tenants and/or landlords for renewing a contract, e.g. for issuing a new six month tenancy.
- An **exit fee** is a fee charged to tenants and/or landlords in order to terminate a tenancy.
- **Charges** are for things that occur during a tenancy, such as a tenant requesting a new key, or being charged for a window that they have broken.

<sup>11</sup> Agents were also asked about advertising costs, but it was apparent from the answers that most were unable to assign a cost per letting as they instead paid a monthly fee.

<sup>12</sup> Tenancy deposit schemes offer free services to landlords and agents who deposit the money with them, but charge a fee to those who wish to retain the money themselves.

### *Tenancy setup fees*

3.18 Research by Shelter Cymru found that one in three tenants in Wales paid fees of over £200 to begin a tenancy (Shelter Cymru, 2016). Further evidence on fees is provided by a UK-wide survey by the Citizens Advice Bureau (CAB) which suggested that 88% of agencies charged fees (CAB, 2015). A recent survey in England by ARLA (Association of Residential Letting Agents) suggests that the overwhelming majority of letting agents charge some kind of fee (ARLA, 2017a). There is no Wales-specific data on average fees, although the following estimates of average setup fees per new tenancy have been made for the UK, or other parts of it:

- £48 (Northern Ireland) (Housing Rights Service, 2013)
- £199 (England and Wales) (NALS, 2016)
- £202 (UK) (Capital Economics, 2017)
- £223 (England) (English Housing Survey, 2014)
- £226 (UK) (Which?, 2012)
- £300 (England) (DCLG, 2017)
- £337 (UK) (CAB, 2015)
- £355 (England and Wales) (Shelter, 2013b),
- £400 (Selected LAs in England, mostly London) (Letting Fees UK<sup>13</sup>).

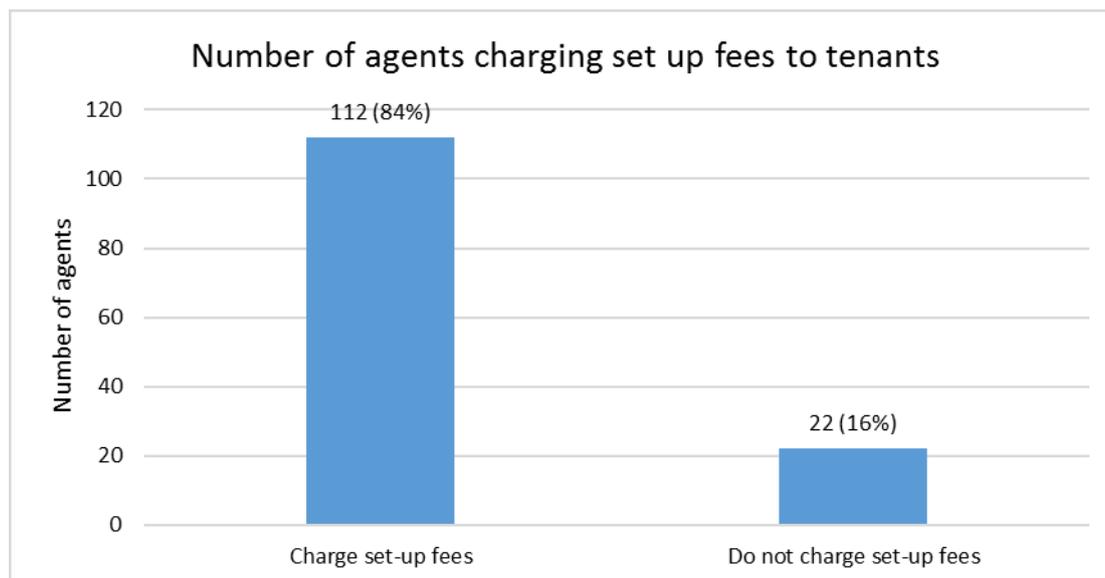
3.19 One thing that all these sources agreed on is that charges vary considerably between agencies.

3.20 The stakeholders interviewed for this research all believed that setup fees were charged to tenants by the large majority of agents in Wales, and the survey confirmed this to be the case: 84 percent of agents charged fees (112 of 134 agents) and 16 percent did not.

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<sup>13</sup> See <http://lettingfees.co.uk/>.

**Figure 2: Set up fees charged to tenants**



Source: Agents survey May 2017. Base = all agents answering the question. N=134

3.21 The average fee charged was £178, with fees varying from £20 to £500.

**Table 5: Set up fees charged to tenants (per new tenancy)**

	Number	Proportion
Under £50	2	1%
£50 - £99	15	11%
£100 - £149	19	14%
£150 - £199	28	21%
£200 - £249	20	15%
£250 - £299	20	15%
£300 +	8	6%
No charge	22	16%
<b>Total</b>	<b>134</b>	<b>100%</b>

Source: Agents' survey May 2017. Base = all agents answering the question. N=134.

3.22 It should be noted that these are fees per tenancy, not per tenant. Some of the larger fees were charged by agents specialising in student housing and Houses in Multiple Occupation (HMOs) where a referencing fee was taken per tenant, meaning that the charge per tenant was much lower than per tenancy. The analysis explored whether the difference in setup fees between agencies appeared related to the services offered, the hours of work required to set up a tenancy, the size or type of agent, and/or the housing market in which they operated. There was a statistically significant correlation between fees charged to tenants and the housing market (high or low rent) in which agents operated, as well as in the size of the agency<sup>14</sup>:

<sup>14</sup> Correlation was significant at the 0.05 level (2-tailld) (Pearsons).

**Table 6: Setup fees to tenants by housing market area and agency size**

	Housing market		Size of agency	
	High rent	Low rent	Large	Small
Number answering question	85	49	50	84
Charge setup fees to tenants	76 (89%)	36 (73%)	45 (90%)	67 (80%)
Average of typical fees per new tenancy (where charged)	£191	£151	£197	£166

*Source: Agents survey May 2017. Note, high rent and low rent areas were categorised using the latest data from the Valuation Office Agency (Welsh Government, 2017). The 11 local authorities with the highest average rents for two bedroom properties were classed as high rent areas, and the other 11 as low rent areas<sup>15</sup>. Large agencies were those with more than 100 properties in management.*

3.23 In contrast, there were no statistically significant differences between large and small agencies, or between housing market areas, in terms of the number of hours' work reported in setting up a new tenancy, nor in the fees paid to third parties. There was no correlation between the number of hours' work reported in setting up a new tenancy and the level of fees charged. This suggests that market forces and organisational overheads may be factors in determining the level of fees charged, rather than differences in the level of service provided.

#### *Itemisation of fees*

3.24 Agents were asked whether they broke down the fees by component items (referencing, drawing up the tenancy agreement, etc.). Overall, 35 percent (39 of 111) said that they did and 65 percent (72 of 111) that they did not. The interviews explored the reasons for this. Agents representatives reported that they felt it was clearer and more transparent if tenants were presented with a fixed fee that covered everything, rather than a list of charges for different items:

'We've been encouraging agents to lump the fees together – because it's much easier to compare fees between agents. At the moment, it's "if A happens, you pay B, if you then do Y, you pay X...." It's easier and more transparent to have a fixed fee.'

(Stakeholder)

<sup>15</sup> High rent areas were Bridgend, Cardiff, Ceredigion, Conwy, Flintshire, Isle of Anglesey, Monmouthshire, Newport, Swansea, Vale of Glamorgan and Wrexham.

3.25 Agents interviewed generally agreed with this view. Some presented tenants with a list of everything that was included in the fee, but rarely broke it down by task. This was partly because they felt it was clearer for tenants, who could then compare a single figure from each agency, rather than a “menu” of confusing charges. It also ensured that the fee was fixed upfront, as the tasks involved in practice could vary from one tenant to another (for instance, if a tenant fails a credit test so requires a guarantor). Breaking fees down by task serves little value in a situation where the tenant has no choice over which of the tasks are undertaken. They cannot choose, for instance, to decline the referencing service or select a cheaper option to save money.

#### *Unreasonable fees*

3.26 There appears to be some confusion as to whether there is currently any regulation in Wales around what level of fees to tenants are reasonable. An agents’ representative stated that:

‘Fees do have to be reasonable. Tenants could complain to The [Property] Ombudsman. Fees do have to be reasonable for the work undertaken.’

(Stakeholder)

3.27 It was therefore argued that extortionate fees were only charged by rogue agents, not members of professional bodies.

3.28 However, The Property Ombudsman spokesperson explained that their view of “reasonableness” is related to the specifics of an individual case, based on what each party could reasonably have assumed to be charged by the wording of the contract, etc.:

‘What we do is to make sure that the agent has been wholly transparent. Reasonable is related to the circumstances and behaviour, what they expect people to know, etc. It’s not about whether the fee is a reasonable charge for the work involved.’

(The Property Ombudsman)

3.29 Tenants could, therefore, complain if they were charged a fee which they had not known about, or for something that was not a reasonable interpretation of what their contract said they had to pay, but not simply because the fees were unreasonably high for the work involved. The Property Ombudsman also said that in practice they

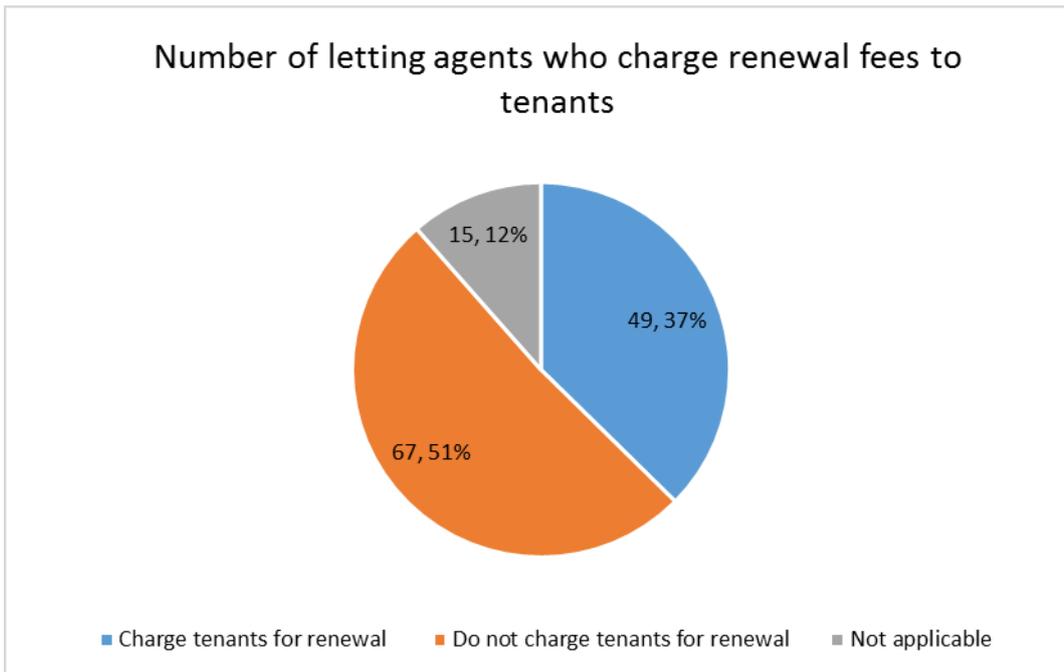
received relatively few complaints about fees. The complaints they did receive with came from landlords and tenants in similar numbers.

*Renewal fees*

3.30 Some letting agents also charged fees when a tenancy is renewed. The CAB research suggested that tenancy renewal fees were around £80-£100 (CAB, 2015).

3.31 Our survey asked agents whether they charged for a tenancy renewal:

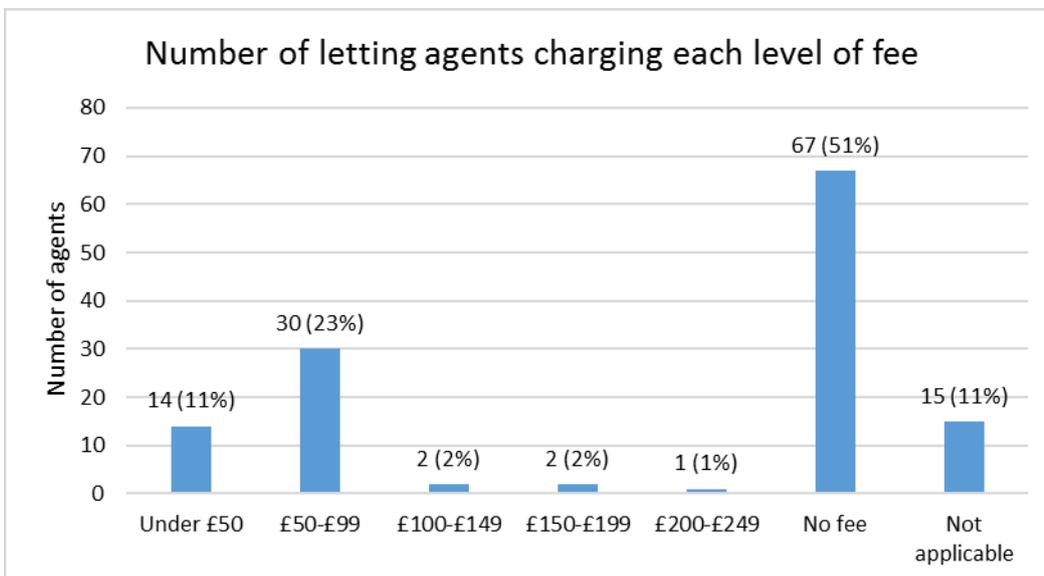
**Figure 3: Renewal fees charged to tenants**



Source: Agents survey May 2017. Base = all agents answering the question. N=131.

3.32 Of the 49 that did charge, the median charge was £60, with a range of £15 to £250.

**Figure 4: Size of tenancy renewal fees charged to tenants**



Source: Agents Survey May 2017. Base = all agents answering the question. N = 131

3.33 As with setup fees, larger agencies were more likely to charge for renewal, as were those operating in high rent areas:

**Table 7: Fees to tenants by housing market area and agency size.**

	Housing market		Size of agency	
	High rent	Low rent	Large	Small
Number answering question	84	47	49	82
Charge renewal fee	30 (45%)	10 (23%)	29 (59%)	20 (24%)

*Source: Agents survey May 2017. Base = all agents answering the question.*

3.34 Interviews explored why these fees were levied and in what circumstances. Some agents charged routinely to cover the work involved in issuing a new tenancy:

‘We charge half of the setup fee, so an eighth of a month’s rent. We have to draw up a new tenancy agreement and to extend the deposit protection.’

3.35 Some agents included work that would in fact arise anyway:

‘I go and inspect the property and redo the contract. There are new gas certificates to do, new electric certificates, etc.’

(Agents)

3.36 Some agents interviewed stated that they were happy to let tenancies lapse to a periodic tenancy and would only charge for a new fixed term tenancy if the tenant specifically requested it. Others, both in interviews and in the survey, said that they did not charge as they felt it took very little time or the work involved came within the scope of their management fee.

#### *Exit fees*

3.37 There have also been concerns raised about tenants being charged an exit fee, covering the inventory check and handing in of keys (CAB, 2015).

3.38 Our research, however, found little evidence of such charges, with the large majority of agents either saying that they never charged tenants for ending a tenancy (66 of 128 agents; 52%), or that they only charged in a situation where the tenant wished to break the terms of a tenancy by leaving before the end of their fixed term period (62 agents; 48%). Only five percent (seven agents) charged in any other circumstances. Interviews with agents suggested that they dealt with the situation of tenants wanting to leave early in a variety of ways. Some asked the tenant to find a replacement. Some allowed the landlord to decide whether or not to hold the tenant to the

remainder of their contract. Others allowed them to leave but charged the tenant the setup fee normally charged to the landlord for letting the property (so the landlord did not have to pay for the subsequent re-let). One agent said that they charged the tenant for advertising the property, and only allowed them to leave early if this was successful.

3.39 Exit charges were therefore usually beneficial for tenants, compared with the alternative of being held liable for the rent for the remainder of the contract. Most agents interviewed were pragmatic about the situation and understanding of the tenants' changed circumstances, but nevertheless felt that some charge should be payable by the tenant for breaching the terms of a contract and the resultant costs of re-letting.

3.40 There was little evidence found of tenants being charged fees routinely in Wales for terminating a tenancy in accordance with the terms of their contract. Only three percent of agents (4 out of 128) said they would charge for this, with exit fees varying from £30 to £100.

*Other charges during a tenancy*

3.41 Agents may also charge tenants for specific things during the course of a tenancy, such as for late rental payments (CAB, 2015). The survey asked agents about other charges to tenants:

**Table 8: Other charges to tenants**

	<b>Lost keys</b>	<b>Out of hours call outs regarding maintenance</b>	<b>Other call outs regarding maintenance</b>
Proportion of agencies that charge for each service	81 (62%)	52 (40%)	44 (34%)
Average cost (where charged)	£20	£36	£30

*Source: Agents survey May 2017. Base = all agents answering the question. N=131.*

3.42 In interviews, agents generally said that they would charge only the costs incurred for events such as replacing keys or unnecessary call outs. In many cases, they would simply ask the tenant to pay the contractor or key cutter directly. All of those interviewed said that tenants would not normally be charged for a callout unless they were in some way at fault (for instance, because they broke a window), though the small number of interviews means that we cannot be sure whether other agents were charging tenants more routinely.

### *Holding deposits*

- 3.43 Many agents charged some form of holding deposit to tenants who have expressed an interest in a property whilst checks and references were undertaken. It was usually put towards the tenancy deposit or first month's rent once the tenancy was signed. Many agents referred to these as "non-returnable reservation fees" in order to avoid any suggestion that they come within the remit of the tenancy deposit schemes.
- 3.44 The survey asked about whether agents charged a holding deposit, and 26 percent (35 of 134 agents) said that they did, with a further eight percent (11 of 134) doing so sometimes. However, the telephone interviews with agents found that, in practice, agents who did not charge a separate holding deposit generally asked for their fees upfront, and treated these as a deposit, taking the property off the market at the point when they were paid and only refunding them in full if the letting fell through for reasons that were not the fault of the tenant (such as the landlord having found a different tenant), although some agents said that they would consider refunding part of the fee on a case by case basis if a tenant was unable to move in.
- 3.45 This means that agency fees can in fact double as deposits, in that they ensure buy-in from the prospective tenant, deterring them from expressing interest in multiple properties and wasting agents' time. The number of letting agents charging neither fees nor a holding deposit was small (16 of 134 agents; 12 percent). Holding deposits (when charged separately from fees) were generally set at a fixed fee rather than a number of weeks' rent and averaged at £208, ranging from £50 to £820.
- 3.46 Holding deposits were used in particular by some agents in situations where tenants wanted to secure a property but did not want to move in immediately, such as students wanting to reserve a property for the next academic year. However, other agents instead required tenants to sign the tenancy in advance of moving in, placing the deposit in one of the approved deposit schemes as usual.

### **Agency fees charged to landlords**

- 3.47 Agents who offered a full management or a rent collection service were asked about charges to landlords (Table 9).

**Table 9: Median monthly management fee to landlords by service**

	Median monthly charge (as % of rent due)	Range
Full management	10%	5 - 20%
Rent collection only	7%	4 - 10%

Source: Agents survey May 2017. Base = all agents offering each service and answering the question. N=119 (full management) and 49 (rent collection only).

3.48 For full management services in particular, there was a high degree of uniformity in charges, with half of all agents charging a standard 10 percent fee.

3.49 Most agents also charged upfront fees to landlords for setting up a new tenancy. Seventy-one percent (91 of 129 agents) charged an upfront fee in all cases, and a further 16 percent (21 agents) only charging for let-only services.

**Table 10: Median upfront fee to landlords per new letting**

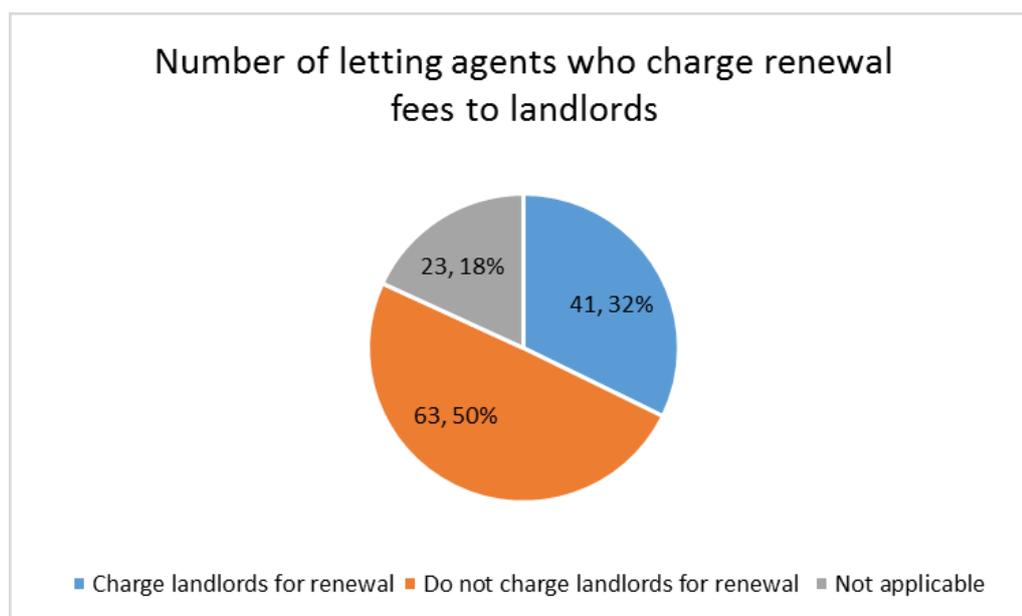
Service	Median fee	Range
Rent collection or full management	£200	£20-£650
Let only	£300	£25-£975

Source: Agents survey May 2017. Base = all agents offering each service and answering the question. N=91 (rent collection or full management) and 84 (let only).

3.50 There was no statistically significant correlation between the type of housing market and the level of upfront fees charged to landlords.

3.51 Agents were also asked whether they charged landlords for tenancy renewal. Most did not:

**Figure 5: Upfront fees to landlords for tenancy renewal new letting**

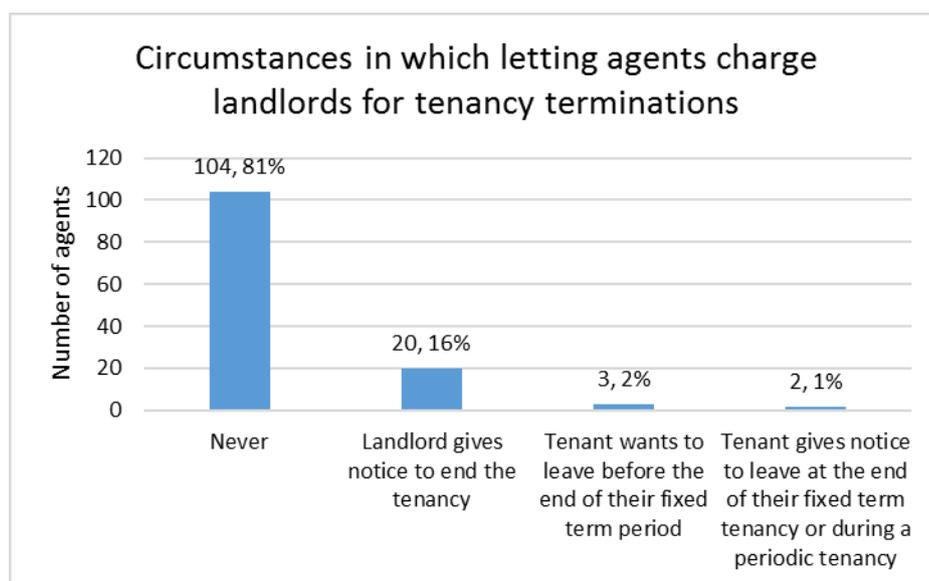


Source: Agents survey May 2017. Base = all agents answering the question. N=127

3.52 The median fee to landlords (where charged) for renewals was £75 with a range of £25 to £325. Interviews with agents suggested that some only charged landlords for renewal if they specifically requested a new fixed term contract. Otherwise the tenancy would become a periodic tenancy with no charges made.

3.53 Agents were also asked about charges to landlords for ending a tenancy:

**Figure 6: Charges to landlords for tenancy termination**

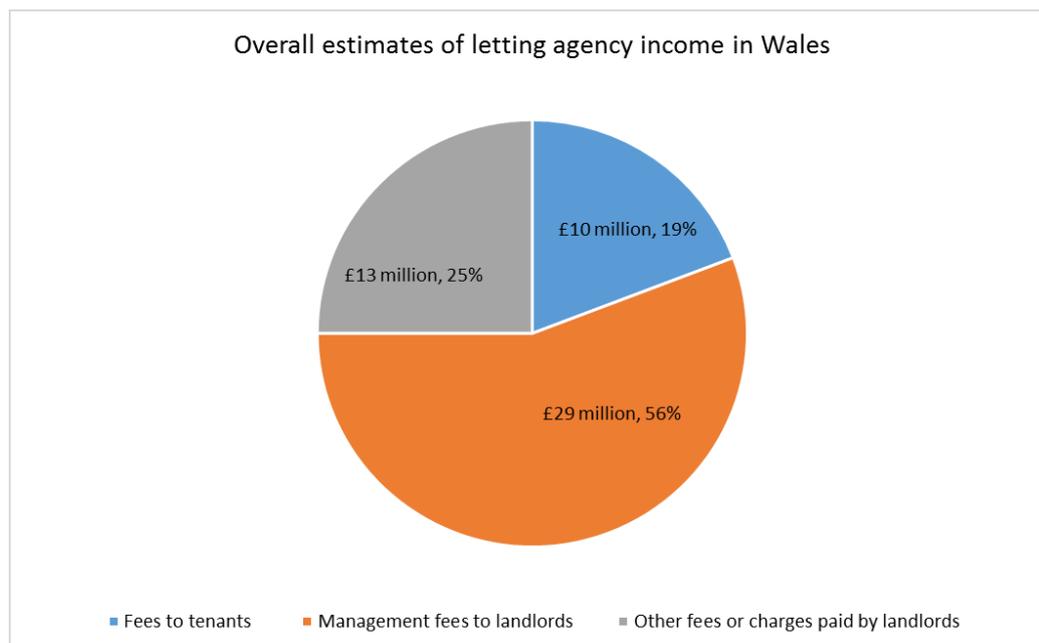


Source: Agents survey May 2017. Base = all agents answering the question. N=128. NB respondents could give more than one answer

### Overall agency income from fees

3.54 Agents were asked for the overall proportion of their income derived from fees to tenants. On average, agents said that they received 19 percent of their income from fees to tenants, 21 percent from upfront fees to landlords and 69 percent from management charges deducted from the rent collected. Only 92 out of 168 agents (55 percent) were able to provide these figures, and several commented that they were just estimates. However, a more accurate sector-wide figure can be estimated by using data from the survey and estimates of average rents and turnover rates in Wales, as shown in Figure 7. For details of how this has been derived, see Annex 3.

**Figure 7: Overall estimates of letting agency income in Wales**



Source: See Annex 3

### Landlords who use agents

3.55 Landlords who let their property via an agency did so for a variety of reasons, most often because they found it convenient or were not in a position to do so themselves as they lived elsewhere:

‘I’m a merchant seaman and I work away, I can’t be at home keeping an eye on the place while I’m away so I get the letting agency to do it.’

(Landlord using agent)

3.56 In terms of choosing which agency to use, the landlords we spoke to showed limited signs of shopping around for the best deal. One had bought a property already let and stayed with the same agency. One had stayed with the company who took over her initial agency. One went with a recommendation from a friend. Several said that, in their local area, there was limited choice of agent with any local knowledge or contacts. Upfront fees (before a let was found) had deterred one landlord from a specific agency. A local reputation and trust were the key factors considered where a choice had been made.

3.57 Landlords who used letting agents were generally unaware of what fees were charged to tenants. The survey found that 83 of 104 landlords (80 percent) did not know what their tenants were charged. Of those interviewed, some were aware that fees were charged but couldn’t say how much. Others were unaware that fees were

charged at all and thought that the fee they paid was to cover things such as tenant referencing. Some were confused between a holding deposit, a tenancy deposit and fees. The NLA reported that landlords (at least in England) had recently become more aware of the issue of agency fees to tenants, and were unhappy about the practice.

3.58 Landlords who were aware that tenants paid fees were divided as to whether this was fair and reasonable. Many of those surveyed outlined that tenants also benefit from the service, so felt it was fair to split between landlords and tenants:

‘Both parties should pay a cost which is proportionate as it stands now. It is business and in everyone’s interest, so both landlord and tenant should pay.’

(Landlord using agent)

3.59 Others felt that they were the client, that tenants were paying enough already, or that tenants were being charged for work they thought had already paid for.

‘I don’t approve of these extra charges, it is hard enough for tenants to provide a deposit and the agents fees are disproportionately high for the work required. Agents are in my view double-charging for these services.’

(Landlord using agent)

### **Self-managing landlords**

3.60 Landlords interviewed who managed their own properties generally did so to save money; because they did not have positive views of letting agents; or because they felt they had the skills to do a good job themselves.

‘We like to try and keep our money, we don’t like to hand it over to other people’.

‘I haven’t had a lot of good experiences with letting agencies to be honest. They overcharge for what they do and when things go wrong they don’t seem to do much to help. They seem to have all these get out clauses and they don’t do anything!’

‘It seems pretty stupid to be paying somebody else to be doing something I can easily do myself’

(Self-managing landlords)

3.61 The survey confirmed the views of stakeholders that self-managing landlords are much less likely than agencies to charge upfront fees to tenants. Only 11 out of 112 landlords (10 percent) charged upfront fees to tenants, with the median fee (where charged) being £125.

3.62 Self-managing landlords paid considerably less to other organisations than agencies paid, with the exception of bank references or charges, for which they paid roughly the same amount. (See Table 4)

**Table 11: Charges paid by self-managing landlords to other organisations<sup>16</sup>**

<b>Task</b>	<b>Average cost per new tenancy</b>	<b>Range</b>
Credit references	£15	£0-£150
Bank references or charges	£8	£0-£150
For an independent company to produce an inventory	£11	£0-£125
To other external agencies	£20	£0-£425
<b>Total</b>	<b>£54</b>	<b>£0-£425</b>

*Source: Self-managing landlord's survey May 2017. Base = all landlords answering the question. N=86.*

3.63 Other payments to external organisations included payments for tenancy deposit protection schemes and printing.

3.64 On average, landlords spent just over 11 hours per new let:

**Table 12: Average typical number of landlord hours per let required by task:**

<b>Task</b>	<b>Median time per new let</b>
Advertising the property and showing tenants round	3 hours
Gaining references	1 hour
Completing credit checks	20 mins
Drawing up the contract	1 hour
Completing the inventory	1 hour
Overseeing move in	1 hour
Other administrative tasks associated with move-in	1 hour
Renewing a fixed term tenancy	1 hour
Dealing with a tenancy termination	2 hours
<b>Total hours per tenancy</b>	<b>11 hours 20 mins</b>

*Source: Self-managing landlord's survey May 2017. Base = all landlords answering the question. N=84. Medians rather than averages were used for this data to negate the effect of some outlying responses and ensure comparability with the agents' answers.*

<sup>16</sup> As with the agents, the costs supplied on advertising have been omitted due to concerns about data quality (as many respondents could only supply a total annual figure).

3.65 This is a little lower than that taken by agents (14 hours (see Table 3)), possibly because some landlords let to people they know or rely on more informal assessments of tenants.

#### *Holding deposits*

3.66 Landlords who let their own properties had a very different approach to holding deposits, despite most not taking fees, which could effectively act as a deposit. Just 12 of 111 landlords (11 percent) said that they always charged a holding deposit, with a further 14 (13 percent) sometimes charging one. Where they did charge a holding deposit, the median amount charged was £200. Landlords interviewed reported that they relied on trust, or that they signed tenancies very quickly so had no need for a deposit.

#### *Renewals*

3.67 Only three of 111 landlords who managed their own properties charged for a tenancy renewal. Ninety one landlords (82 percent) reported that they did not charge for this, and seventeen landlords (15 percent) reported that they did not renew fixed term contracts or instead allowed them to become periodic tenancies.

#### *Tenancy terminations*

3.68 Seventy one of 113 landlords (63 percent) who managed their own properties reported that they never charged for a tenancy termination, with a further 40 landlords (35 percent) charging if the tenant wanted to leave early before the end of their fixed term. Just two landlords charged in any other circumstances.

## 4. Why charge fees to tenants?

- 4.1 A variety of reasons for charging fees to tenants were given by both stakeholders and agents.

### **Covering the costs of work required to set up a new tenancy**

- 4.2 Letting agents have argued that fees are justified because substantial work is required by agents in setting up a new tenancy (ARLA, 2017a; ARLA, 2017c; Capital Economics, 2017). They point out that there are fees charged to people taking out a mortgage which are often much higher (Capital Economics, 2017). Some of the work undertaken by solicitors for homebuyers is similar to that undertaken by agents for tenants (ARLA, 2017c).

- 4.3 Stakeholders representing letting agents felt that agents undertook work in order to let a property:

‘We do need to recognise that real work is involved in this. Our research suggested that eight hours’ total work is required to do all the work involved in setting up a new tenancy.’

(Stakeholder)

‘Letting agencies offer a service and would like to be remunerated for that. They’re operating a service and should be compensated for that.’

(Stakeholder)

- 4.4 The findings from the agents’ survey supports this assertion – a median staff time of 14 hours per new let was found, along with payments to other agencies averaging at £92 per let. If staff were paid £10 an hour (a figure quoted by one Cardiff agent), this would entail costs of £230 per let, before allowing for overheads or the costs of maintaining a high street office. The average charges found in the survey of around £500-600 (to tenants and landlords combined) could therefore be justified, given the need to cover overheads and make a profit.

### *Supporting different rental markets*

- 4.5 Different rental markets see different levels of turnover. A financial model of charging upfront fees allows for this better than one where agencies make their money solely from management fees.

4.6 It was argued that the business model of letting to students and others in shared housing (including HMOs) would be particularly badly hit by a ban on fees. This is because such tenancies tend to turnover more quickly (so a higher proportion of costs comes from fees), and because there are several people per tenancy who all need referencing. It was also suggested that because students are usually new to the rental market they may need more support in setting up a tenancy:

‘Students need lots of handholding because they have not used the PRS before. Students would lose out if the agent couldn’t charge the fees.’

(Stakeholder)

4.7 Some agents felt that if fees to tenants were banned, there would be less disincentive for tenants to move around frequently between tenancies. The costs of this would fall on landlords and letting agents who, in most cases, were not the ones who had chosen for the tenant to move. If agents or landlords sought to recover the costs by raising rents, this would fall on all tenants, including those in long term tenancies who were creating very little work for their agents or landlords.

### **Working on behalf of tenants**

4.8 It has also been argued by landlord bodies that it is rightly the tenant rather than the landlord who bears some of the costs, because the letting agent is acting on their behalf<sup>17</sup>. For instance, an inventory can protect the tenant from false allegations of damage to the property:

‘The service is provided and the tenant is the recipient of that service. If the tenant is wanting to query certain clauses in the agreement, the agent liaises between parties, so it is totally justified to charge the tenants for that.’

(Stakeholder)

‘A tenancy agreement is 50 percent for the tenant’s protection and 50 percent for the landlord’s protection. A poor tenancy would be a disadvantage for the tenant. A good inventory is also for the protection of both. The bond has to be registered, you have to issue prescribed information. My argument is that of these three things, 50 percent is for the tenant.’

(Agent)

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<sup>17</sup> <https://news.rla.org.uk/banning-letting-agent-fees/>

4.9 It was also argued that taking up references for tenants directly benefits tenants (The Property Ombudsman, 2017). This was an argument made strongly by most agents:

‘The tenant benefits from our time. For instance, recently a tenant saw me three times to get her referencing sorted. I don’t begrudge her that time, but I do think I should be paid for it. There are lots of conversations, and texts, which I need to recover from the tenants.’

(Agent)

#### *The need to charge tenants for work created during a tenancy*

4.10 Agent representatives drew attention to the importance of charges levied on tenants as a result of tenant behaviour, such as losing keys, or wanting to leave mid-tenancy. Leaving mid-tenancy was particularly an issue for shared housing on a joint tenancy (including students) when one tenant wanted to leave part-way through a fixed term tenancy. Most (though not all) agents and landlords let them do this and allowed a replacement tenant to take their place in order to prevent the remaining tenants from struggling to afford the rent for the entire property, but they felt that there should be a charge levied on the departing tenant to cover the extra work this entailed.

4.11 Agents felt that they should be able to charge – or at least threaten to charge - for things occurring during a tenancy that were the tenant’s fault, such as pre-arranged contractor appointments for which the tenant failed to be in, replacement keys, or unnecessary call outs for issues that the tenant should have been able to sort themselves. These were felt to be justified in order to reimburse the costs incurred and to act as a deterrent for further incidents.

#### **Ensuring commitment from prospective tenants**

4.12 Agents and landlords felt that holding deposits were necessary in order to ensure commitment from the tenant. They deterred tenants from expressing interest in several properties at once, resulting in abortive work for agents and delays in letting the property. This issue was raised frequently by agents in the survey:

‘There should be some disincentive to sign up to multiple properties, and then let landlords down.... It doesn’t need to be huge, but there’s a need for some commitment from the tenant to take a property off the market. The landlord could otherwise lose quite a bit of money whilst all the checks are done.’

(Stakeholder)

‘Once an application fee has been made, you can be more sure of the potential tenant’s intentions - without paying this fee, a tenant can back out of a tenancy at any point with no consequence.’

(Agent)

4.13 It was generally agreed that holding deposits needed to be set at a level sufficient to deter tenants from expressing interest in multiple properties, although there appeared to be little consensus as to what such a figure might be. One agent maintained that anything less than £500 was insufficient, but others said that charging £50 was sufficient and they had never seen a tenant pull out. Agents also argued that a holding deposit should cover their loss of income if the tenant pulled out (which would suggest it should be anything up to the fee level originally charged), and some argued that it should also cover the landlord’s loss of rent, though none of those we spoke to indicated that they would pass any element of the holding deposit to the landlord in a situation where a tenant pulled out.

#### **Ensuring an attractive offer to landlords**

4.14 In interviews, agents were asked about the state of the rental market in their area and whether it was harder to attract landlords or tenants. Without exception, all felt that it was easier to find tenants, as landlords could shop around for an agent and needed to be offered a good deal.

4.15 The reason agents gave for levying fees on tenants rather than just landlords was often that they were simply following existing industry practice:

‘We went along with the situation that we found when we entered the lettings market. The landlord is paying a fee and the tenant does too. It’s difficult to change overnight. .... We have to follow what others are doing.’

(Agent)

4.16 Agents felt that if they were to move to a model where landlords paid for all their tenancy setup costs, they would be uncompetitive and would fail to attract landlords because other agencies would be able to undercut them by offering lower landlord fees.

## 5. Problems with fees

### Affordability difficulties

- 5.1 Groups representing tenants and consumers have raised concerns over fees charged by letting agencies, and the difficulties they create for tenants trying to access accommodation in the PRS. Tenants themselves rank fees as the main downside of renting through an agency (Which?, 2012) and would support a ban (Shelter Cymru, 2016).
- 5.2 Shelter and the Citizens Advice Bureau (CAB) have campaigned for the abolition of fees, arguing that they are a difficult burden for tenants at a time when finances are particularly stretched (Shelter, 2013a; Shelter, 2013b; CAB, 2015)<sup>18</sup>. There is evidence that fees are a significant barrier for vulnerable tenants trying to move into the PRS (Reeve, et al., 2016). A survey of 1,141 tenants who had visited CAB's website found that 64 percent said that fees had caused them problems, 42 percent had had to borrow money from family or friends, 21 percent had had difficulty paying bills and 19 percent had gone overdrawn as a result (CAB, 2015).
- 5.3 Concerns have been raised that fees are a particularly hard burden for would-be tenants who subsequently fail their reference checks and therefore pay a fee without accessing a tenancy (CAB, 2015; Which?, 2012), leaving them without sufficient funds to find another property.
- 5.4 Stakeholders representing tenants highlighted examples of difficulties experienced in paying fees, especially by low income tenants:

'In particular, it is a concern for us in terms of the amount people have to front up to get into housing, and the debts they often get into to do this. ...Letting agency fees are a problem and we have examples of pay day loans being used to pay them.'

(Stakeholder)

'We've definitely had clients who can't raise the fees and other setup costs. That happens all the time. It's a big reason why people need to go to local authorities for help, because they can't get set up with a tenancy.'

(Stakeholder)

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<sup>18</sup> And see also: [www.thetenantsvoice.co.uk/your\\_home/letting-agent-fees-everything-you-need-to-know](http://www.thetenantsvoice.co.uk/your_home/letting-agent-fees-everything-you-need-to-know)

- 5.5 The NLA was also concerned that good quality tenants could be deterred by high agency fees.

### **Unfair or unknown charges**

#### *Charges to tenants for services provided to landlords*

- 5.6 Those opposing tenant setup fees argue that the agent is essentially providing services to the landlord (who is choosing not to manage their property themselves)<sup>19</sup>. It is the landlord who appoints the agent, and is therefore able to exercise market choice in doing so (Which?, 2012). The Which? surveys of 506 landlords' and 1,006 tenants' satisfaction with letting agents support this view:

'Landlords were more likely to think that their agent was good value for money (62%, compared with 26% of tenants), to agree that they could negotiate on fees (66%, compared with 20% of tenants) and that fees were transparent (57%, compared with 36% of tenants).'

(Which?, 2012)

- 5.7 Comparisons have been drawn to employment agencies who charge only the employer rather than the employee (CAB, 2015), and with the services of estate agents selling houses, where only the seller pays the agent (Shelter Cymru, 2016).
- 5.8 The issue of who can reasonably be considered the client of a letting agent was explored in the interviews with agents. When asked who was their client, almost all agents replied that it was the landlord. Several also volunteered that they had a duty of care to the tenant, but they were clear that they had been appointed by the landlord.

#### *Double charging*

- 5.9 One issue raised in the literature was that agents may be charging both landlords and tenants for the same activity, potentially double-charging, with each party unaware that the other is also paying for the service (Shelter, 2013b; Which?, 2012; CAB, 2015; Shelter Cymru, 2016). There is also evidence that tenants are often unclear as to what the fees they are paying for are actually for (Which?, 2012).

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<sup>19</sup> <http://act.generationrent.org/lobby/feesconsultation>

5.10 This also arose in the survey responses:

‘Agents are, in my view, double charging for these services.’

(Landlord using agent)

‘I recently let my house through an agent even though I manage the property myself. I found out from the tenants that they were being charged for a credit check as well as me paying the agents the letting fees.’

(Self-managing landlord)

#### *Charging for costs not actually incurred*

5.11 There have been concerns raised that some fees are unreasonable, in that they are fees for things that the letting agent is not actually having to pay for (Shelter Cymru, 2016). For instance, some agents charge fees to cover deposit protection but choose to use a deposit protection scheme funded from interest received, which is free, or charge for credit checks well in excess of the levels advertised by credit referencing agencies (CAB, 2015; Shelter Cymru, 2016). A survey of 602 tenants in Wales found that some had been charged for repair call outs (Shelter Cymru, 2014), which ought to be covered by rent. Tenants who rented from an agency were much more likely to say they had been charged what they considered excessive fees than those renting direct from a landlord (13 percent compared with five percent) (Shelter Cymru, 2014).

5.12 Our survey and interviews with agents and landlords found limited evidence of unreasonable charges later on in the tenancy and only second hand reports of tenants being charged more than the costs incurred for things such as losing keys. In terms of setup costs, however, costs varied widely for an apparently similar service, and some agents admitted that they had never really worked out whether their setup fees covered their costs:

‘I don’t think many agents have ever sat down to see. When I had to do your survey that was the first time I’d ever sat down and broken it down.’

(Agent)

5.13 There was also some evidence that letting was seen as the activity on which profits could be made:

‘We operate on turnover. If we don’t do enough turnover, we don’t make money. You need to get new lets. With property management, there are staff to pay, so you don’t really make money on that.’

‘There is a model at the moment that incentivises quick turnover of tenants. There’s no financial incentive for an agency to look after a tenant in keep them in the property. [Agents who charge fees] get a payday for throwing someone out and putting someone else in.’

(Agents)

5.14 Charges for renewing tenancies have been pinpointed as one type of charge that may be particularly unreasonable. There is no legal requirement to renew a fixed term tenancy as it can simply be allowed to run on as a periodic tenancy. Renewal would normally involve printing an existing document, dating and signing it, which is not likely to need substantial staff time (CAB, 2015). Some agents in the CAB survey also reported that they would charge for “switching” to a periodic tenancy, even though this requires no paperwork in law. Tenants are also in a very poor bargaining position in respect to fees for tenancy renewal as they would have to move home to avoid them, and there is evidence that this can create severe difficulties for low income tenants (CAB, 2015).

5.15 Renewal fees were strongly opposed by organisations supporting tenants, and also by some agents, who felt them to be exploitative:

‘Renewal fees are variable. They are available to tenants in advance or online, but may not have been pointed out to them. Tenants make a decision to stay, and then have to accept the fee when it comes.’

(Stakeholder)

‘We don’t do renewals because why tie someone in and charge them for the privilege? If you’re a tenant, you can’t afford to buy your own place, so why take the mick? It’s the click of a button to print off a new contract.’

(Agent)

‘Renewal fees are the ones that I find most difficult to justify and wouldn’t really object to seeing them gone.’

(Stakeholder)

5.16 Landlords who used agents were often unaware of renewal charges, and did not generally require agents to issue new contracts:

‘Typically, agents charge £50 or £100. This has been strongly resented for some time as it’s felt that it doesn’t reflect the work involved. From a landlord’s point of view, we prefer periodic [tenancies], but agents prefer to renew as that’s in their business model.’

(Stakeholder)

‘The agency I use did not advise me or the tenants of the option of putting them on a rolling periodic tenancy agreement, which meant we were both paying fees for new contracts every six months that we did not need to pay. It was only when I challenged this that they grudgingly said we could do this and therefore not pay any additional fees moving forward.’

(Landlord using agent)

5.17 Stakeholders offered little by way of defence for renewal fees, and generally supported banning such fees. The forthcoming Renting Homes (Wales) Act prevents agents from charging for issuing a written statement, and there was some speculation that this would ban renewal fees. However, this seems far from clear, as some agents currently consider a renewal fee to cover a range of services which go beyond issuing a written statement.

## **The ineffectiveness of market forces**

### *Lack of transparency*

5.18 Despite the 2015 legislation on publishing fees to tenants, there are concerns of non-compliance and of fees that are still not being made clear to tenants, meaning that tenants are not well-placed to choose an agent on the basis of their fees. Research by Shelter Cymru supported this view, with more than half of the 85 agents they surveyed found to not be displaying a clear list of fees on their website (Shelter Cymru, 2016). Their research also found that 55 percent of the 80 agents contacted by phone offered advice on fees over the phone that contradicted information on their websites, and that some refused to commit to fixed fees upfront. The research also found that agents set out their fee structure in different ways that were hard to compare, meaning that tenants “face a bewildering variety of charges which makes an informed comparison almost impossible” (Shelter Cymru, 2016).

5.19 Stakeholders interviewed for this research expressed similar concerns that prospective tenants were often still unclear as to what the fees were:

‘Some agents don’t advertise fees in order to keep tenants in the dark.’

(Stakeholder)

5.20 There was a lack of consensus as to whether a detailed list of services and prices was helpful in improving transparency. Whilst some stakeholders felt that tenants should know what they were paying for, most agents found that it was difficult to put precise prices on multiple phone calls and emails which could vary considerably from one case to another, and that it was fairer and more transparent for the tenant to be presented with a fixed fee that covered all the work required, rather than a confusing set of fees for different elements.

*The weak market position of tenants*

5.21 Tenant groups in particular felt that tenants were unable to negotiate for lower fees because housing was often in short supply and potential tenants were plentiful:

‘It’s not a balanced relationship – tenants are so desperate to get a house. Tenants will pay six months’ rent up front, because you’re competing with 15 other people to get a flat.’

(Stakeholder)

‘Competition for housing is so high, you have to go with whatever you can afford. Tenants can’t shop around.’

(Stakeholder)

5.22 It has also been argued that banning fees to tenants would leave landlords to bear more of the costs of tenants leaving properties, as they may have to pay more to find a new tenant. Conversely, the tenant will be paying less to move, meaning that tenants’ negotiating position with landlords is improved<sup>20</sup>.

*The inability of tenants to choose an agent independently of choosing the property*

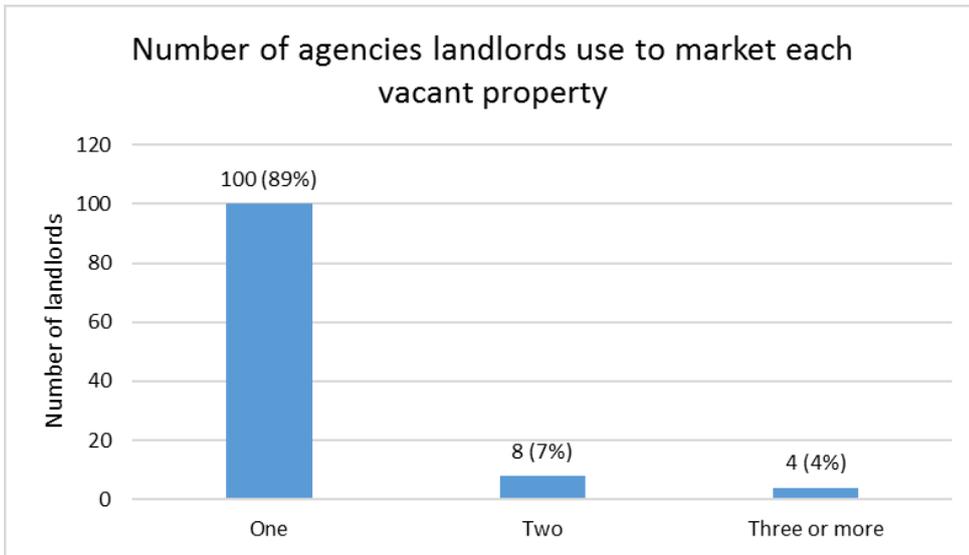
5.23 One argument for retaining fees would be that market forces should be able to control excessive fees, as tenants will shop around and avoid agents who charge high fees. It was suggested by ARLA that, in many housing markets, properties were

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<sup>20</sup> <http://act.generationrent.org/lobby/feesconsultation>

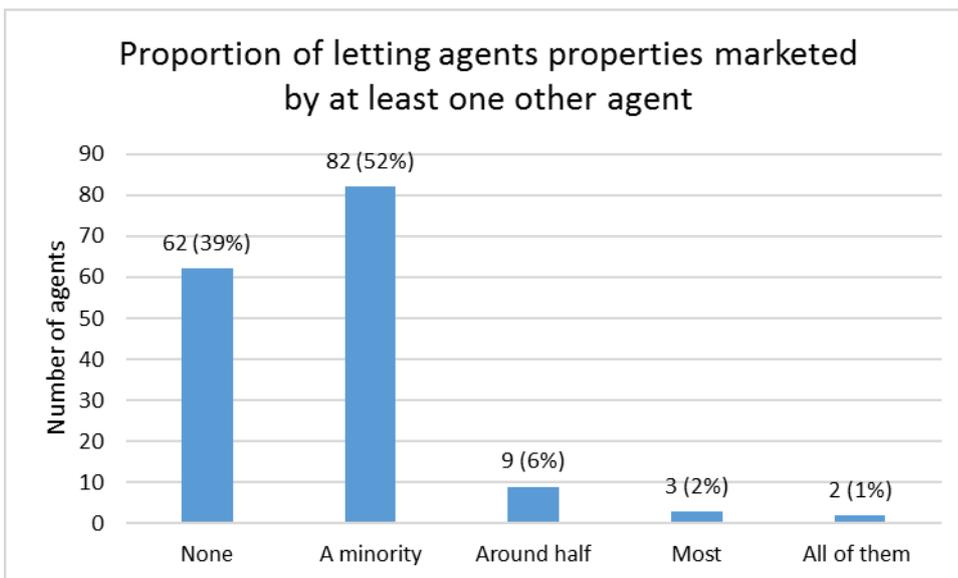
advertised by more than one agency, allowing tenants to choose the agency offering the lowest fees. However, other stakeholders said that they had never heard of this happening. The surveys therefore sought to explore this issue by asking both agents and landlords how common it was for properties to be advertised by more than one potential agent.

**Figure 8: Landlords properties marketed by more than one agent**



Source: Landlords that use an agency survey May 2017. Base = all landlords answering the question. N=112

**Figure 9: Agents estimates of the proportion of their properties which were marketed by at least one other agent**



Source: Agents survey May 2017. Base = all agents answering the question. N=158

- 5.24 Figure 8 and Figure 9 suggest that the large majority of private rented sector homes in Wales are marketed by only one agent. Tenants are therefore unable to shop around for an agency independently of choosing the property they want.
- 5.25 The weak position of tenants in the housing market overall (due to a shortage of housing), coupled with it being the landlord who chooses the agent, means that market forces are ineffective. The DCLG consultation makes this argument in the English context and argues that levying all fees on landlords improves competition because of “the stronger market position of landlords [who could] shop around for an agent that provides the quality of service they are seeking at a price they are willing to pay” (DCLG, 2017).
- 5.26 Even tenants able to exercise some choice over properties are generally still unable to choose which agent they rent through. CAB research suggested that, even if they knew the fees, tenants were not selecting agents on this basis. They prioritised other factors and only 25% of tenants took agency fees into account when choosing a property (CAB, 2015). Research by Which? also suggests that tenants exercise very little choice of agent in the rental market, with most saying that they chose the agent simply on the basis that they were listing the property they wanted, meaning that they took ‘pot luck’ over the level of fees paid (Which?, 2012).
- 5.27 It was also argued by stakeholders interviewed that landlords were more familiar with the rental market and were better placed to make well informed decisions:

‘Landlords are more business-aware and able to choose which agency to use, but tenants don’t have this choice.’

(Stakeholder)

- 5.28 Interviews with agents confirmed that the housing market across Wales is generally strong, meaning that properties are easy to let because there are plenty of would-be tenants and a shortage of landlords. Market forces therefore push agents to increase fees to tenants in order to reduce them for landlords.

*Lack of evidence of market forces working in practice*

- 5.29 Stakeholders argued that the variation in fee levels between agents for an otherwise-identical service provides evidence that market forces are not operating effectively to keep fees low:

‘There doesn’t seem to be any consumer power to create consistency in these charges. For landlords, the fees are quite consistent, about 10% [of rent],

because landlords can shop around. Tenants get stuck with whatever agent they get. You can see there's no market forces regulating fees because they vary so widely, some are charging so much more than others.'

(Stakeholder)

'We don't object to displaying fees to tenants, because they are not competitive. Fees to landlords are much more competitive...We may negotiate with the landlord about what service level he wants and what he wants to pay. So we wouldn't want to display fees to landlords, as it would be anti-competitive, but fees to tenants are not a problem.'

(Stakeholder)

5.30 There was no evidence found of the level of service provided and checks undertaken differing to any considerable extent in order to reflect the differing charges. The survey found no correlation between the number of hours' work reported in setting up a new tenancy and the level of fees charged. Nor was there a correlation between the amounts paid to other organisations (such as for credit referencing or inventories) and the level of fees charged.

*Lack of evidence of landlords considering fees to tenants when appointing an agent*

5.31 The laws brought in in 2015 mean that fees to both tenants and landlords should be on display and available for landlords to see if they look, but our survey suggests that very few landlords were aware of the fees charged to their tenants. Only 20 percent (21 of 104) of landlords surveyed (21 of 104) knew what their tenants were charged for setting up a new tenancy and none of those interviewed mentioned the level of fees to tenants as a factor when choosing an agent.

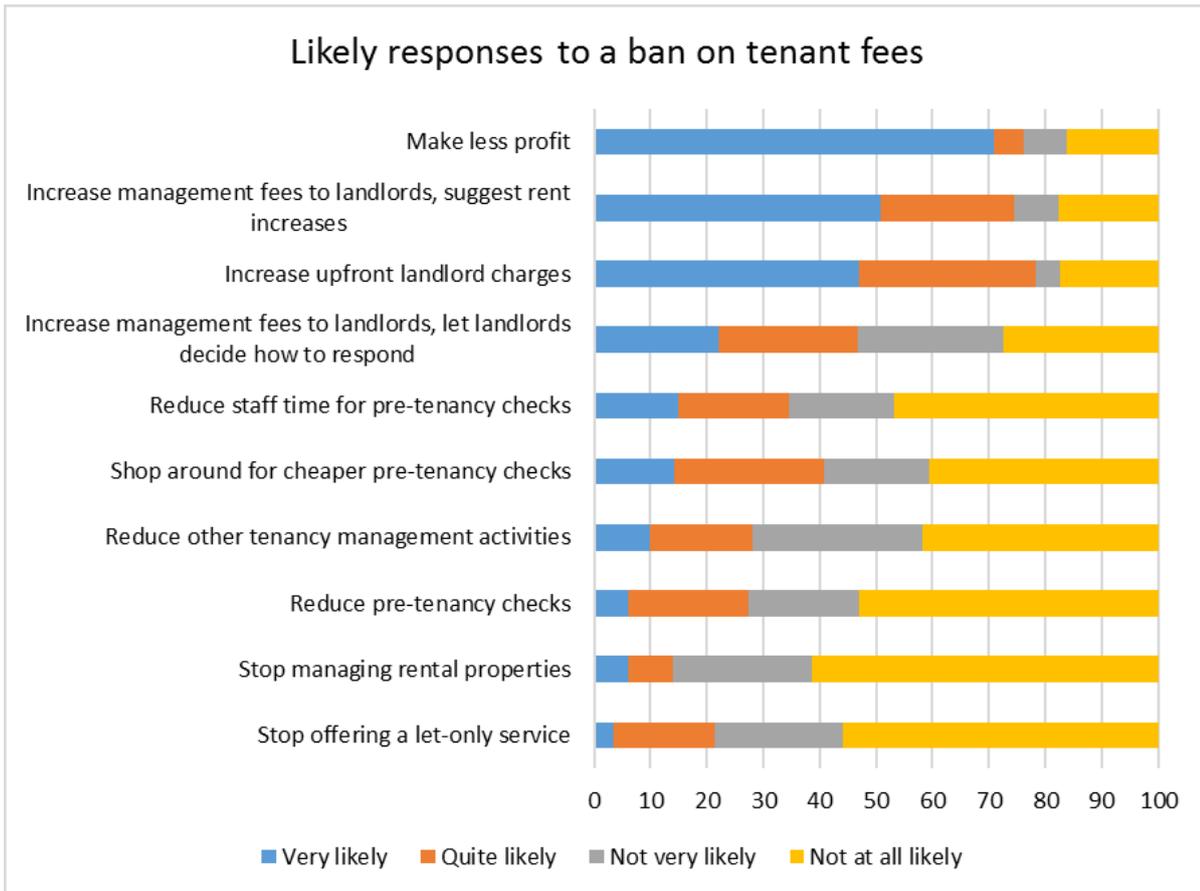
5.32 Stakeholders agreed that landlords were likely to be more concerned by the fees they would be paying themselves and the level of service being provided than by fees charged to tenants.

## 6. Possible impacts of a ban on fees to tenants

### Impact on agents

- 6.1 A variety of possible consequences of banning fees have been raised including rent increases, a decline in the proportion of properties let by agents and a decline in the overall number of properties in the PRS. A group comprising letting agent representatives and umbrella bodies, formed to campaign against the proposed ban on fees in England, has argued that if letting agents cannot charge fees to tenants they will reduce the level of service provided, to the detriment of both tenants and landlords. This could include failing to undertake activities which are legally required (such as gas safety checks) or no longer offering services to suit tenants, such as facilitating individual viewings of the property (Fair Fees Working Group, 2017). ARLA have also argued that standards of property management or the condition of properties may fall (ARLA, 2017a), and that tenants will experience more uniformity of service levels (ARLA, 2017c). The Property Ombudsman have raised concerns that any ban on fees charged by agents needs to include fees paid to landlords or third parties, in order to avoid creating a financial incentive on landlords to self-manage, or for agents to take commission from third parties (The Property Ombudsman, 2017).
- 6.2 The research sought to explore how agents would respond in practice if fees to tenants were banned:

**Figure 10: Likely responses to a ban on tenant fees**

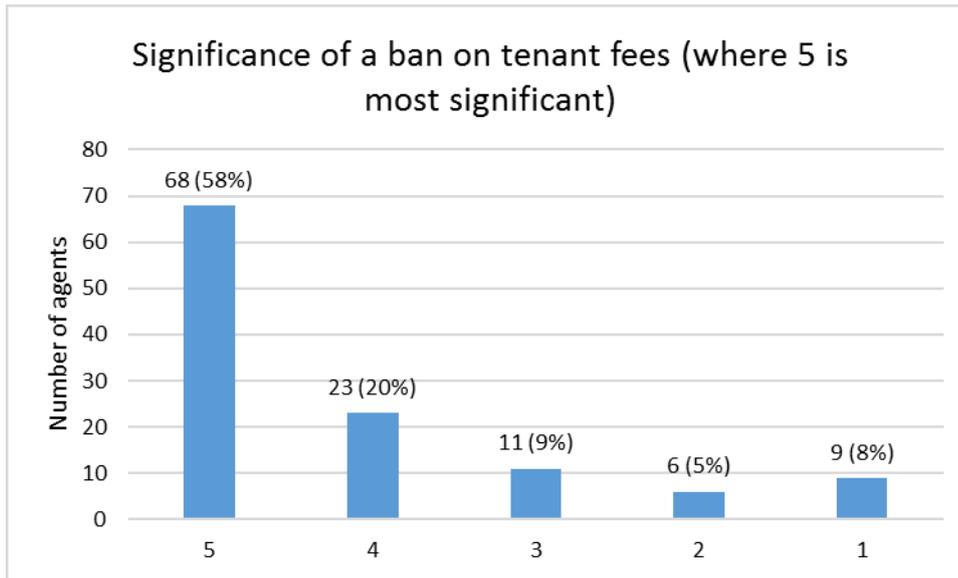


Source: Agents survey May 2017. Base = all agents answering the question. N=117.

6.3 This data suggests that agents are most likely to absorb some of the costs associated with a ban on tenant fees, and pass some to landlords in the form of upfront fees or increased management fees. If they increase management fees, they may well suggest landlords increase the rent to compensate. Only a small number of agents thought that they would reduce the checks they undertook, make other cuts to services, or cease letting properties.

6.4 Agents were asked on a scale of 1-5 (where 5 is most significant) how significant an impact they thought a ban on fees to tenants would be for their property management business:

**Figure 11: Significance of ban on tenant fees to letting agency business**



*Source: Agents survey May 2017. Base = all agents answering the question. N=117.*

6.5 Larger agents were more likely to say the ban would have the most significant impact, with an average score of 4.6, compared with 3.9 for smaller agents. This probably reflects the greater propensity for larger agencies to charge tenants fees and the higher fees charged by larger agents (see Table 6).

6.6 Agents in the open text question in the survey described potential changes to their business model if tenant fees should be banned. Responses included requiring applicants to do their own referencing, undertaking more group property viewings or restricting viewings to tenants who had been pre-screened. A common suggestion was that agencies would no longer hold properties for tenants if they were not allowed to take a holding deposit and would instead keep the property on the market until all the paperwork was signed, references completed and a tenancy deposit paid. Other proposed changes related to property management, with some agents suggesting they would reduce the frequency of inspections or do inventories in-house.

6.7 Some agents felt that if the tenant was no longer paying for the tenancy setup, they would be less likely to help tenants with tasks such as finding local schools or overseeing an international move. Others suggested that they would no longer be able to help those on lower incomes or in receipt of housing benefit as helping these tenants is more time-consuming:

'I feel, like many other agents in rural areas, that we have helped many low income tenants and housing benefit tenants to get housing but we will drastically change our business model and reduce this type of service.'

(Agent)

6.8 It has been argued that letting agents may have to lay off staff (ARLA, 2017a; Capital Economics, 2017). Some of the agents surveyed and interviewed for this research also said that they would have to lay off staff in order to eliminate fees to tenants:

'Without doubt we would have to lose at least one member of staff.'

(Agent)

## **Impact on landlords**

### *Self-managing landlords*

6.9 As discussed earlier, most landlords do not currently charge fees to tenants so it would be expected that the impact of a ban on tenant fees will be less significant for self-managing landlords than for letting agents. The small number who did charge fees to tenants were asked what the impact would be if they were no longer allowed to do so, with the most common response being that they would raise rents to compensate.

### *Landlords using an agency*

6.10 There would be no direct impact of banning fees to tenants on landlords who let via an agency, as there are not normally any fees paid direct to such landlords. It is, however, likely that some agents will increase fees to landlords in order to compensate for those they are no longer able to charge to tenants (see Figure 10:). There is concern that this could come at a difficult time for landlords alongside changes to taxation<sup>21</sup> (ARLA, 2017c; Capital Economics, 2017). Research by the Council for Mortgage Lenders (CML) explored how landlords would cope generally if their cash-flow position worsened, and found that increasing rents was the most likely strategy, followed by not buying any more properties, selling some properties and selling all properties (CML, 2016).

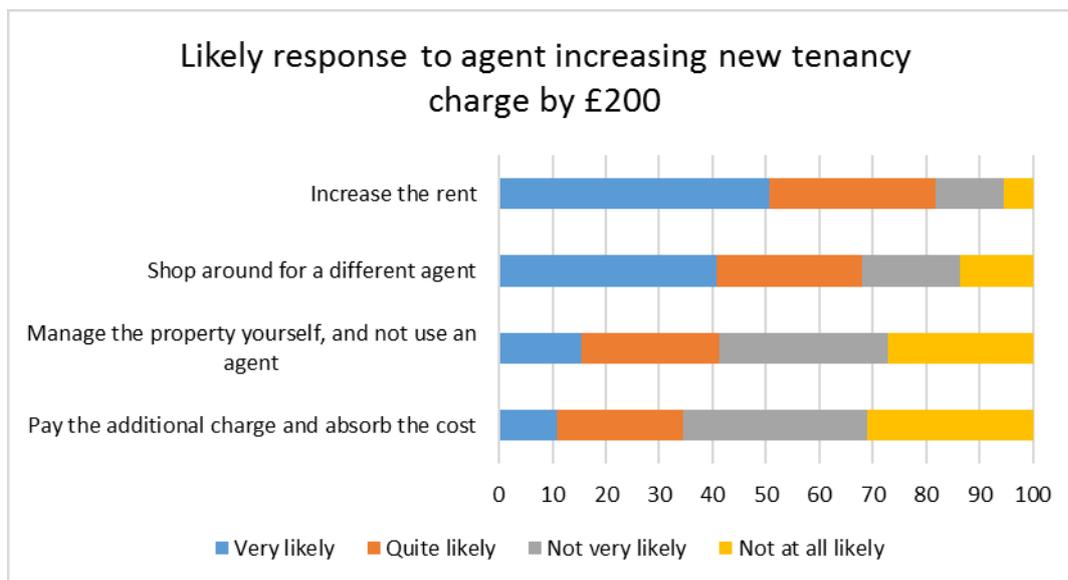
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<sup>21</sup> Tax changes include an additional 3% stamp duty charge; the abolition of the wear and tear allowance, and no longer allowing landlords to offset all their mortgage interest against profits before calculating tax due. This last reform only affects landlords whose gross income (including gross rent) is above the higher rate tax threshold, but has the potential to greatly increase the tax bill for those with large mortgages.

6.11 ARLA have also expressed concern that higher fees would encourage landlords to self-manage their properties, and that this would result in a less professional service, as landlords are more likely (though not required) to be members of professional bodies (ARLA, 2017c). This argument probably has more weight in England than in Wales, where RSW now require a license to be held by all those letting or managing a property.

6.12 The survey offered some insight into the likely response of landlords. Landlords who use an agency were asked how they might respond to an increase in fees:

**Figure 12: Likely response of landlords to agent increasing new tenancy fee by £200**



*Source: Landlords that use an agency survey May 2017. Base = all landlords answering the question. N=98.*

6.13 Landlords indicated that they were most likely to increase the rent, but may also shop around for a different agent. A minority would consider managing the property themselves, and most thought it unlikely that they would simply absorb the cost. Interviews explored further how landlords might respond to an increase in charges. Landlords indicated that they would be much more likely to avoid using agencies if a higher upfront fee was charged than if the management fee increased.

6.14 Many of the letting agents surveyed suggested that landlords may sell their properties or stop renting them out, and five of the 115 landlords surveyed mentioned in the free text question (i.e. unprompted) that they might consider selling their portfolios if their costs increased.

6.15 The surveys suggested that 36 percent of landlords who self-managed properties (49 of 136 landlords) also used agencies to set up tenancies for some properties, and eight percent of landlords who used agencies (nine of 112 landlords) also had other

properties that they self-managed. These landlords may be particularly likely to cease using a letting agent, as they already possess the skills and licence to self-manage.

### **Impact on tenants**

6.16 Rising rents and possible cuts to services provided by agents could potentially create negative consequences for tenants.

#### *Raising rents*

6.17 The most commonly raised issue in the literature, cited by 90% of the 1,008 agents polled in a recent survey by ARLA, is that rents will rise if fees to tenants are banned (Capital Economics, 2017). This could be because agents increase charges to landlords who in turn raise rents to cover them, or through market forces alone whereby tenants no longer paying fees can afford to pay higher rents.

6.18 This issue was raised by stakeholders interviewed for this research and was also acknowledged as an issue by tenant groups, as well as by landlord and agent representatives. Overall, stakeholders representing tenants felt that higher rents were easier to manage because they were known and consistent over the course of tenancy. Rents are also more transparent than agency fees. Some stakeholders raised concerns about rents rising further above the Local Housing Allowance, exacerbating difficulties for low income tenants.

6.19 Survey responses suggested that the majority of agents would be likely to pass on some of the costs to landlords. They did not expect to pass on all the costs, as most also expected to make lower profits. Most landlords facing an increased charge would look to increase rents to compensate:

‘If my agent increased his costs because he could not charge tenants a fee, I would put up the rent to recover additional charges.’

(Landlord who uses an agent)

6.20 The figures from the survey of agents suggested typical fees to tenants of £178. If these were passed on in full to tenants over the course of an 18-month tenancy, this would equate to a rent increase of just under £10 a month. In reality, it is likely that some of the costs will be absorbed by agents (see Figure 10), so the actual figure is

more likely to be no more than half that, equating to around £5 a month, or between 0.5% and 1% on a typical monthly rent<sup>22</sup>.

6.21 Nevertheless, groups representing tenant interests were overwhelmingly in support of a ban on fees to tenants. Even if capitalised into rent, it was strongly felt that eliminating upfront fees would ease access to the sector and help tenants at a time when their finances were already stretched. It would also be easier for tenants to compare rent levels between different properties than to calculate the overall costs of rents, upfront fees, and renewal fees.

#### *Lower standards?*

6.22 One issue that was raised was whether, if landlord did decide to self-manage, this would result in a poorer quality service for tenants. Agents generally felt that it would, as landlords are less often members of professional bodies, whilst landlords felt that their tenants would get a better deal and a more personal service by letting direct. Stakeholders were divided on the issue, although there was strong recognition of the value of RSW in licensing both landlords and agents in improving standards.

#### **The impact on other agencies**

6.23 Shelter Cymru raised the issue that some low income tenants currently approach local authorities' Housing Options services or charities for help in accessing a private rented tenancy. In some cases the fees are paid for them to help them gain a tenancy:

'In some local authorities, the new homelessness prevention budgets can be used quite flexibly, including to pay fees... It would help the homelessness prevention budgets to go further if they weren't having to go on agency fees.'

(Stakeholder)

6.24 A ban on fees could therefore potentially save money from the Homelessness Prevention budgets of some local authorities, and the funds of some charities. Some staff time may also be saved by both local authorities and voluntary sector groups who help people apply for grants and loans to cover their fees.

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<sup>22</sup> See Annex 3 for figures on a typical monthly rent.

6.25 Conversely, if rents do increase, several stakeholders raised the issue that this may place further pressures on the Discretionary Housing Payments funds operated by local authorities.

### **Challenges for implementation**

6.26 There have also been concerns raised by tenants and landlords groups alike about the practicalities of implementing a ban on fees, including how to cover optional fees<sup>23</sup> and whether the legislation could be adequately enforced<sup>24</sup>, given the lack of effective enforcement of the 2015 legislation about displaying fees<sup>25</sup>. It has been argued that the ban should extend to landlords and third party organisations, in order to avoid tenants still having to pay fees<sup>26</sup>. There have also been concerns raised that legislation (such as that proposed in England) that still permits in-tenancy charges for items such as lost keys or ending a tenancy could potentially be raised to recoup losses from the ending of upfront fees<sup>27</sup>.

### **Alternatives to banning fees**

6.27 Alternatives suggested to banning fees include:

- imposing a cap on fees<sup>28</sup>;
- banning upfront fees but allowing agents to recover them from tenants over the first six months of the tenancy (ARLA, 2017c); or
- banning fees associated with contract renewal or ending of a tenancy but retaining them for tenancy setup (ARLA, 2017c).

6.28 This research found strong support among letting agents for imposing a cap on fees, and this was commonly suggested by agents answering the survey.

‘Fees should be capped and what you charge for made the same across the sector.’

(Agent)

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<sup>23</sup> <https://news.rla.org.uk/banning-letting-agent-fees/>

<sup>24</sup> <https://news.rla.org.uk/banning-letting-agent-fees/>; <http://act.generationrent.org/lobby/feesconsultation> and see (Fair Fees Working Group, 2017)

<sup>25</sup> <http://lettingfees.co.uk/stats/>

<sup>26</sup> <http://act.generationrent.org/lobby/feesconsultation>

<sup>27</sup> <http://act.generationrent.org/lobby/feesconsultation>

<sup>28</sup> <https://www.theguardian.com/commentisfree/2016/nov/25/estate-agent-philip-hammond-cap-letting-fees-ban-them-regulate> ; <https://www.lettingagenttoday.co.uk/breaking-news/2016/11/online-petition-against-fees-ban-calls-for-fee-caps-instead>

‘Tenants do receive a service from agents, they should pay to be referenced, for their deposit to be protected and possibly an inventory fee...a cap on tenant fees where all tenants were charged the same regardless of the agent that the landlord chose would be welcome.’

(Agent)

- 6.29 There was, however, little consensus around what the cap should be, with agents all stating a figure somewhat in excess of what they charged, regardless of that figure. There was a common belief across agents in Wales that the issue of excessive fees was something that happened elsewhere. Agents in North Wales thought it happened in Cardiff, whilst Cardiff agents believed it to be a London phenomenon.
- 6.30 Stakeholders generally also recognised that there may be a need for refundable holding deposits. The consultation in England does not propose banning holding deposits, but instead suggests imposing limits on these. Caps of one to two week’s rent have been suggested (The Property Ombudsman, 2017)<sup>29</sup> in response. There was very strong support from agents in our survey and in interviews for retaining the right to charge a holding deposit, to prevent tenants from expressing interest in multiple properties.

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<sup>29</sup> See <http://act.generationrent.org/lobby/feesconsultation>

## 7. Learning from Scotland

### Prior to 2012

7.1 Legislation banning “premiums” being charged to tenants has been in place in Scotland since 1984, though there was confusion over the scope of the term “premium”. Evidence suggests that the large majority of letting agents were charging upfront fees of some sort (Shelter, 2011). Stakeholders interviewed confirmed that, by the 2000s at least, it was normal practice for agents to charge fees (though less common for landlords) and that the 1984 legislation was neither well understood nor enforced:

‘It was badly worded. The wording was unhelpful by using the term “premium” – and “peculiarly charge in addition to rent”. Agents didn’t know what you were talking about.’

‘There wasn’t a clear definition of what they could and couldn’t charge for.’

‘There was a general acceptance that [charging fees] was OK. It wasn’t felt that referencing fees were ‘premiums’. It was felt to be of the benefit of the tenant to be referenced.’

‘It wasn’t enforced, and the terms weren’t 100% clear.’

(Stakeholders)

7.2 Some stakeholders pointed out that much of the rental market in Edinburgh and Glasgow was aimed at students and young professionals, many of whom had moved from elsewhere in the UK, and were often unaware of the differing legislation in Scotland.

7.3 Shelter’s 2011 research suggested that the large majority of Scottish agents involved in the study did charge fees prior to 2012 (26 out of 30) but that these fees were relatively low, ranging from £16.80 to £180 with 15 of the 26 agents charging less than £120 (Shelter, 2011). These fees are somewhat lower, on average, than those currently charged in Wales, though the proportion who charged fees of some sort prior to 2012 appears similar in Scotland to that found by this research for Wales today.

7.4 Scottish stakeholders all concurred that the majority of agents were charging some sort of setup fee to tenants prior to 2012, although most believed these to be relatively modest:

‘I would say it was the case that most were charging....It was just standard practice.’

(Stakeholder)

‘I don’t have any figures, but think it would be safe to say that the majority would be [charging fees]. I do think they may have been lower in Scotland.’

‘The average fee was £80. That was from speaking to our agents.’

(Stakeholders)

7.5 The Private Rented Housing (Scotland) Act 2011 sought to clarify this situation and gave Scottish Ministers powers to use secondary legislation to outline any kinds of fees that would be allowed. A consultation on permissible fees was undertaken (Scottish Government, 2012), following which the option of not allowing any kinds of fees to tenants by landlords or agents was chosen. This came into effect in 2012.

### **The impact of the 2012 fee clarification**

7.6 Early evaluations of the impact of the new legislation were undertaken in 2013 and 2014 (Shelter, 2013a; Long, 2014). This research found that awareness of the changes in legislation were low, with only six in ten letting agents aware of the fee clarification, and fewer than one in five tenants aware shortly after it had come into effect (Long, 2014). This suggests that the full extent of the impact may not have been felt at the time of the research. Although these evaluations found that most landlords were believed to be complying, there remained concerns that some were charging fees illegally. The 2013 report (Shelter, 2013a) found that around 17 percent of renters in their study who had moved home since the law had changed, reported that they had been charged fees.

7.7 This report found that of the 23 (out of 50) agents who had made changes as a result of the legislation, 17% of had increased management fees to landlords, mostly by 1-2%. Overall, 12 percent of all agents believed that landlords had increased their rent as a result of the changes.

- 7.8 Further quantitative analysis of the impact of the ban on rents concluded that “On balance, the weight of the quantitative evidence points to a small inflationary impact of one to two per cent, at least for part of 2013, in terms as a result of the ban on agents’ fees. However, the impact seems marginal and may be short-term.” (Rettie, 2014). This same evaluation also found the letting agency business to be healthy in Scotland following the ban, with some companies expanding their businesses.
- 7.9 Implementation of the ban has been assisted by Shelter who have run a *Reclaim Your Fees* website, assisting tenants in claiming back any unlawfully charged fees<sup>30</sup>.
- 7.10 The Scottish Government itself has not undertaken any independent evaluation of the impact of the 2012 clarification legislation. The Department for Communities and Local Government (DCLG), however, set up a Select Committee to explore evidence on the ban on letting agents’ fees in Scotland in order to help decide whether to implement a similar ban in England (House of Commons and CLG Committee, 2015). This committee reviewed the evidence presented by Shelter, discussed above, along with evidence submitted by the Scottish Association of Landlords and the Council of Letting Agents (CLA), National Landlords Association, and Generation Rent. The CLA polled 103 of their members and found that 20% reported an increase in rent as a result of the change.
- 7.11 The National Landlords Association and Generation Rent both offered data on rent increases in Scotland but differed in their views as to whether these could be attributed to the ban on letting agency fees. The DCLG committee raised concerns about the quality of the methods and small sample sizes of the Shelter and CLA surveys, and commented on the problems with different data on rents used in all four submissions. They concluded that, overall, the evidence was inconclusive: “It is not adequate, in our view, to determine the impact of the decision in Scotland or how it might work in England.”
- 7.12 Scottish Stakeholders interviewed for this research concurred that a variety of factors affected rent levels and it was difficult to be sure whether the ban on fees had had an impact. There was considerable uncertainty as to whether agents had even passed on costs to landlords –many felt that the market for landlords was very competitive in Scotland and that agents had therefore kept fees to landlords low in order to avoid losing business.

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<sup>30</sup> [www.reclaimyourfees.com](http://www.reclaimyourfees.com)

7.13 Scottish stakeholders pointed out that the 2012 legislation came into effect at the same time as rules around deposit protection, which also had an impact on the cash flow of agents. Furthermore, increased health and safety legislation, requiring electrical safety checks, also hit landlords' finances at a similar time, making it impossible to disentangle the impact of the fees ban from that of the other changes.

7.14 Overall, Scottish stakeholders – including representatives of landlords, agents and tenants - felt that the 2012 legislation was working well and that most agents no longer charged fees:

'It's been very successful overall. By and large, agents are aware and are complying with it.'

'There's no evidence of impact on rent, or of landlords or agents leaving the market – the PRS continues to grow, so no real impact has been seen. Individual companies will have had to change their practices, but there's no evidence of many failing.'

(Stakeholders)

7.15 There was a feeling from tenants' groups that, as fees had been relatively low to start with, the impact of the ban was limited. It remained difficult for tenants to find accommodation in high pressured markets, and the costs associated with deposits and rents in advance were very much higher than fees had been.

7.16 Agents' representatives felt that, overall, the ban had had limited impact:

'When you speak to the agents, most of them say they just got on with it. Some agents have disappeared, but new ones turn up all the time.'

'We poll all our members on a monthly basis, monitoring the market – there's been very little comment on the issue of fees to tenants – it's not been a big issue.'

'From our point of view, this has not been a major issue. There have been other costs on landlords and agents in regards to property improvements which have been bigger issues.'

(Stakeholders)

7.17 Data from the Scottish Government on the size of the private rented sector suggests that it increased in size from 347,000 dwellings in 2012 to 382,000 in 2015. This suggests that the sector overall has remained healthy following the 2012 legislation.

7.18 One important issue to consider when learning lessons from the Scottish experience is the fact that the situation pre-2012 in Scotland was not the same as that in Wales, as the 1984 legislation had already banned premiums. This may have lessened the impact of the ban, as some agencies may only have been charging for elements they believed to be allowed. This suggests that the impact on the sector in Scotland is likely to be less than it might be in parts of Wales, where fees are somewhat higher than those charged in Scotland prior to 2012.

### **Implementation issues in Scotland**

7.19 Despite being judged by most to be an overall success in Scotland, stakeholders did identify several outstanding areas of concern, and lessons that Wales could usefully learn, if it were to seek to ban fees. These related to the enforcement, third party fees and holding deposits.

#### *Enforcement*

7.20 The issue raised most often was that of enforcement. Landlord, agent and tenant groups alike felt that more enforcement was needed because some agents were still charging fees to tenants.

7.21 This was, in part, because banning fees was contrary to market forces, which encouraged agents to do all they could to keep landlord costs down, but to charge tenants wherever possible, as there was competition for landlords but no shortage of tenants. A system that relies on tenants to report illegal fees was felt to be ineffective, because tenants were reluctant to damage their relationship with their agent or landlord by reporting illegal fees. Despite a pro-active campaign by the Scottish Government, supported by Shelter, encouraging tenants to reclaim their fees, it was reported that many tenants remained reluctant to do so until they had left the property. It was felt that Trading Standards could usefully take a more pro-active role.

7.22 Tenant groups in Scotland were hopeful that the forthcoming legislation to improve security of tenure in Scotland would help address this situation, but the issue would be likely to arise similarly in Wales (where no changes to security of tenure are planned). In contrast, one of the issues raised in Scotland was the difficulty of enforcement in an unregulated sector – many expressed enthusiasm for the forthcoming registration of letting agents in Scotland and felt that Wales should be well-placed to introduce a ban on fees to tenants, given that the registration and licencing schemes were already in place via RSW.

### *Third party fees*

- 7.23 Third party fees (for instance, those paid to a credit referencing agency) are rarely charged direct to tenants in Wales, because letting agencies can charge an overall fee and then pay these third parties themselves. However, in Scotland, tenants are now sometimes asked to provide a credit reference. This is generally felt to be within the law if the tenant has the freedom to approach any organisation (as the third party itself is then unconnected with the letting of property), but illegal if the letting agency specifies which organisation they must use. Forthcoming legislation next year will make this situation clearer, making it illegal to require a tenant to use an approved referencing agency.
- 7.24 Grey areas appeared in situations where tenants were given a list of suggested third party referencing agencies, or where there were suspicions that the letting agency may be receiving a commission for referring tenants to them. Tenant groups felt that as long as tenants were free to use any agency, these fees were not a problem because they were generally very low (under £40), or even free. Bank references were felt to be less often a problem as many agencies would accept seeing bank statements, rather than a formal reference.
- 7.25 There were also reports that the ban on charging upfront fees had led some agencies to expect tenants to be more pro-active, collecting together the references needed from employers and previous landlords, as well as getting themselves a credit check. This could mean more work for tenants, though there were no problems identified in this respect by Scottish stakeholders. It has also meant swifter lettings.

### *Holding deposits*

- 7.26 The other issue of concern related to holding deposits. Most stakeholders were unclear whether charging a refundable deposit for taking a property off the market whilst checks were undertaken was permissible or not under the 2012 legislation:

‘We think that [taking a holding deposit] is not permissible – any deposit should be lodged with one of the schemes in the usual way.’

‘Holding deposits – are allowed as long as they are returnable in all cases.’

‘Holding fees [to take a property off the market] are something that people come to us to seek advice on. There’s conflicting advice as to whether this is legal or not. We think it is unlawful, but some agents still think they can ask for this.’

‘Some are charging a holding fee – it’s debatable whether a refundable one is allowed or not.’

(Stakeholders)

7.27 There was consensus that refusing to return a holding deposit in full if a tenant failed their credit checks, or decided not to take the property, was illegal. This meant that taking a holding deposit offered limited security to agents, as the tenant could still withdraw without consequence if they chose to. For this reason, holding deposits were believed to be falling out of use, even amongst those who did still believe them to be permitted. There did not appear to be much evidence of this causing difficulties for agents, possibly because of the growing practice of expecting tenants to come prepared with their references and credit check, meaning that signing the tenancy could happen very quickly.

### **Lessons for Wales**

7.28 Scottish stakeholders were asked what lessons they felt Wales could learn from the Scottish experience. There was a strong consensus that the ban had been a success from a tenant’s point of view, and had little impact on the sector overall. No stakeholders advised against a similar ban in Wales.

7.29 Overall, the issue raised most often was the need to promote the change in legislation, to support tenants to challenge unfair practice, and to police and enforce the change independently:

‘Communication is going to be key – to make sure that people understand what the measures are, letting agents, landlords and tenants. This will help with enforcement – people need to know what the rules are so that they can comply.’

(Stakeholder)

7.30 It was felt that both agents’ representatives and tenant groups had an important role to play in getting the message out to landlords, tenants and agents about any change in the law.

7.31 It was also felt that ongoing work was needed to effectively enforce a ban on fees:

'I think this works here because there is support for tenant organisations like Shelter, Living Rent, etc. The relationship between a letting agent and a tenant is not a balanced one.... It's important to remember that tenants will not feel empowered to challenge their fees unless they are supported to do so.... You need good legislation, but it's not enough on its own.'

(Stakeholder)

7.32 Agent representatives also felt it was important not to rush new legislation to give agents time to adjust their business plans.

## 8. Conclusions

- 8.1 There is evidence that **upfront fees to tenants exacerbate difficulties in accessing the Private Rented Sector (PRS)**. Many struggle with the costs, and the fees make moving into or between PRS homes expensive. Charges for renewing a tenancy are particularly difficult because the tenant is less likely to have been aware of these upfront, or may be in a different position financially by the time a tenancy is renewed.
- 8.2 There is, however, **work involved for agents in setting up a new tenancy**. This clearly costs money and agents need to recover costs and make a profit, as does any business. Expecting them to limit fees to the charges they pay to external contractors fails to recognise staff time and overheads (RSW licence, office costs, etc.). This research suggests that agencies **do not generally make excessive profits on setup fees in relation to costs incurred**.
- 8.3 In contrast, the evidence suggests that agents may well make excessive profits on renewal fees where, by their own estimation, very little work is actually involved. Some agents tried to justify high renewal fees as paying for gas safety checks or property inspections, which clearly fall within their brief for property management and are paid for by the management fee charged to landlords. There appears **little justification for renewal fees** in any circumstances, or for exit fees, except in a situation where a tenant leaves early.
- 8.4 **Capping fees** would offer a way to limit the highest fees, but could have little impact in practice. If the cap is set at a level deemed to cover costs, fees may change little, and most agents would be able to make a reasonable case for their current levels of fees, given their overheads and varying staff time required to set up a new let. Some of the highest fees (per let) found in this research were agents letting large HMOs to groups of students, where considerably more work was needed.
- 8.5 There is, however, **no compelling evidence as to why tenants should pay the fees rather than the landlord**:
- 8.6 The large majority of the work undertaken by agents is **work that the landlord would otherwise be doing themselves**. Referencing tenants is a service to landlords, not tenants. (Checks on landlords would be a service to tenants, but this was never mentioned). Inventories and tenancy agreements do protect both parties from false accusations, but it is soon to be a legal obligation on the landlord to provide a tenancy agreement, and therefore it is a service to the landlord to do this job for them. Arranging viewings and advertising a property are also a service to landlords, just as a job advert

is paid for by the employer, and estate agents charge sellers, not buyers, to advertise their home.

- 8.7 **The landlord chooses the agent and can negotiate on fees**, or can choose a different agent if they are unhappy with the offer. Tenants are rarely able to choose the agent independently of the property. The research found no evidence of landlords taking into account fees to tenants when choosing an agent, and there was strong evidence that they lacked the knowledge to do this, as most did not know what their tenants were charged.
- 8.8 The wide range of fees charged to tenants, which did not correlate with agents' own estimations of the time or costs incurred in setting up a new tenancy, also suggests that **market forces are operating ineffectively between tenants and agents**.
- 8.9 The **Scottish experience suggests that most of the fears that agents had about a ban on fees to tenants were in the end unfounded, and this may also be the case in Wales**. The Scottish letting agent sector appears to have coped with the ban, despite most agents having previously charged fees, with business models adjusting accordingly. Agents in Wales are currently fearful of the loss of income from a ban on tenants' fees and feel that they could not charge more to landlords without losing them, but a Wales-wide ban would mean all agents were in the same position, meaning landlords would be unlikely to find a better deal from another agent.
- 8.10 If fees to tenants were banned, **agents could recoup the costs of setting up new tenancies in the fees they charge to landlords**. They are free to decide how to do this and could take a higher upfront fee or take a higher cut from the first month's rent, the first six month's rent or the entire tenancy, as they wish. However, this research suggests that landlords would be less likely to cease using agents if increased management charges were taken from the rent than if they were asked for a higher upfront fee. The ARLA suggestion that fees are charged to tenants over the first six months of the tenancy could just as easily be implemented via an additional management charge to landlords over the first six months, with lower rates charged thereafter to reflect the lower costs associated with managing longer term tenants. Landlords could, if they wish, offer a higher upfront rent, with a reduction after six months to reward long term tenants. (In a rising market, the same result could be achieved by leaving the rent alone for long term tenants). Charging any costs to tenants as rent is preferable to charging fees as it improves transparency, facilitates comparability between options for tenants, and also helps tenants on low incomes to claim support via Local Housing Allowance in areas where LHA caps permit.

- 8.11 There would be an **increased incentive for landlords to self-manage** if their fees increased. However, our research suggests that most landlords, if otherwise happy with the service their agent provides, would be **unlikely to do so**. There is no evidence from Scotland that this switch occurred following the ban there. There is also mixed evidence as to whether an increase in landlord-managed properties would be to the detriment of the sector overall. The RSW licensing scheme should help ensure that landlords who self-manage have the skills to do so.
- 8.12 An increase on charges to landlords will come at a time when many are already being hit by higher tax bills and further disincentives to increase their portfolios. This may cause some landlords to sell up and, overall, is likely to exert a **small downward pressure on the speed of growth of the PRS** in Wales.
- 8.13 There is a strong case for allowing agents or landlords to charge a **small holding deposit**, to avoid tenants expressing interest in multiple properties and causing delays in letting and additional work for agents and landlords. If there are protracted periods between a property being taken off the market and a new tenant moving in, a larger financial commitment is therefore needed (for instance, students securing a property for the next academic year), and a full tenancy deposit can instead be taken and lodged with one of the approved schemes. There is also a strong case for allowing agents to **charge tenants who cause damage** or unnecessary maintenance work, or who want to **leave part-way through a fixed term contract**.

## 9. Recommendations

- 1) The Welsh Government should consider a ban on fees to tenants, along similar lines to that being proposed by the English Government and already in place in Scotland.
- 2) Renewal fees and tenancy termination fees (excluding those for leaving early) should be included in any ban, as the Renting Homes Wales Act may not be sufficient to prevent renewal or exit fees as it is currently worded.
- 3) Any change in rents should be monitored over the two years following a ban, including the implications for tenants on LHA. The impact on the take up of Discretionary Housing Payments should be monitored to see whether higher rents lead to increased used of DHPs. There may be some savings to homelessness prevention budgets currently paying fees on behalf of tenants.
- 4) The Welsh Government should consider allowing a small holding deposit (such as one week's rent) in order to ensure tenants show some financial commitment before agents take a property off the market.
- 5) Charges for work a tenant creates during a tenancy, such as losing keys or failing to be in when a contractor calls at a time they have arranged, should legitimately be charged for at cost, along similar lines to the English consultation proposals. These could be capped at the actual costs due to third parties, with the letting agent's time in overseeing such events falling within their management fee.
- 6) Agents and landlords should be allowed to charge tenants who want to be released early from a contract, in return for a definite acceptance of a contract termination. (Tenants should not be charged upfront payments for advertising a property, with no assurance of being able to leave early unless a new tenant is found.)
- 7) Legislation should also address the likely consequence of tenants being asked to produce their own credit check and references when applying for a property. Evidence from Scotland suggests that if tenants are free to choose their own provider for checks, then these fees can be very low. It can also help to speed up the lettings process as tenants, once used to the process, can approach an agent with references and a credit check in hand. Some vulnerable tenants may need support with this process.

- 8) Any ban on fees should be well publicised. There is strong evidence from Scotland that a ban on fees to tenants should be implemented with as much publicity as possible, to tenants, landlords and agents alike. Wales is in a good position to implement this via RSW.
- 9) If a ban is implemented, there will be a need for independent enforcement that does not rely on tenants complaining if they are asked to pay a fee; tenants often struggle to find somewhere to live and will prioritise gaining a tenancy over complaining about a fee, even if they are aware it is illegal. There is likely to be a key role here for RSW.

## Annex 1: Profile of landlords replying to the survey

**Table 13: Properties owned by survey respondents by area**

Local authority	Landlords using agent	Self-managing landlords
Blaenau Gwent	3	13
Bridgend	7	5
Caerphilly	4	2
Cardiff	68	98
Carmarthenshire	19	15
Ceredigion	29	8
Conwy	35	38
Denbighshire	11	13
Flintshire	5	17
Gwynedd	9	29
Isle of Anglesey	3	2
Merthyr Tydfil	3	2
Monmouthshire	5	1
Neath Port Talbot	4	4
Newport	9	18
Pembrokeshire	6	14
Powys	11	3
Rhondda Cynon Taf	32	23
Swansea	7	21
Torfaen	0	0
Vale of Glamorgan	5	10
Wrexham	12	3
<b>Total landlords</b>	<b>287</b>	<b>339</b>

*Source: Agents survey May 2017. Base = all landlords answering the question. N=113 (landlords using agent) and 122 (self-managing landlords). Note, respondents could give more than one answer.*

## Annex 2: Surveys

### Survey 1: Letting agents

The Welsh Government has commissioned the Cambridge Centre for Housing and Planning Research to undertake research into fees charged to tenants in Wales. The aim is to broaden understanding of what constitutes a 'fee' or a 'charge' and the levels at which these are levied. The research will also seek to explore the potential impact on letting agents, landlords, tenants, if these fees were to be banned.

As part of this study we are undertaking a survey of letting agents registered with Rent Smart Wales who are involved in letting properties on behalf of different landlords.

First, we need to check whether you fit our criteria:

Do you work for a commercial letting agent, letting properties on behalf of at least two landlords? (Please answer "no" if you manage properties but have no involvement in setting up tenancies, or if you only work on behalf of one landlord or company landlord.)

- Yes - I work for, own or manage a commercial letting agent business
- No, we do not do commercial lettings

### We would like to invite you to take our survey.

Taking part in the survey is anonymous and letting agents will not be identifiable in the report. A report with the research findings will be published by the Welsh Government and available on-line later this year.

If you have any queries about the survey, please contact XXXX

Please click below if you are willing to take part.

### This first section is about your lettings business

Q1 In which of these areas do you let or manage rental properties on behalf of landlords?

- Wales
- England
- Scotland
- Northern Ireland

***For this survey, we are interested only in your business in Wales. So please answer the following questions only about properties that you let or manage in Wales.***

Q2 In which of these areas do you let properties? (Please tick all that apply)

- Blaenau Gwent
- Bridgend
- Caerphilly
- Cardiff
- Carmarthenshire
- Ceredigion
- Conwy
- Denbighshire
- Flintshire
- Gwynedd
- Isle of Anglesey
- Merthyr Tydfil
- Monmouthshire
- Neath Port Talbot
- Newport
- Pembrokeshire
- Powys
- Rhondda Cynon Taf
- Swansea
- Torfaen
- Vale of Glamorgan
- Wrexham

Q3 And in which area are you based? (Please give the area where you let or manage the largest numbers of rental properties)

- Blaenau Gwent
- Bridgend
- Caerphilly
- Cardiff
- Carmarthenshire
- Ceredigion
- Conwy
- Denbighshire
- Flintshire
- Gwynedd
- Isle of Anglesey
- Merthyr Tydfil
- Monmouthshire
- Neath Port Talbot
- Newport
- Pembrokeshire
- Powys
- Rhondda Cynon Taf
- Swansea
- Torfaen
- Vale of Glamorgan
- Wrexham

Q4 Is your property management and letting business part of a wider business?

- Yes, it is part of an estate agent business with properties for sale
- Yes, it is part of some other business (please tell us what this business does)
- 
- No, we are just a letting and/or property management agency
- Don't know

Q5 How many branches or high street offices do you have from which you manage rental properties? (Please enter 0 if you do not have a physical office)

Q6 Which of these services do you offer to landlords? (please tick all that apply)

- Full management service, where we collect the rent and organise repairs
- Rent collection, where we collect rent but the landlord organises repairs directly with the tenants
- Let only, where we find tenants and set up the tenancy but have no further involvement

Q6a How many properties do you currently provide a full management service for?

Q6b How many do you currently provide a rent collection only service for? (ie without a full management service)

Q6c And how many properties do you let on average per year that you do not receive an ongoing management fee for (ie on a "let only" basis)?

Q7 What proportion of the properties that you let were also marketed by at least one other agent at the same time?

- None of them
- A minority
- Around half
- Most
- All of them
- Don't know

**This next section is about the costs of setting up a new tenancy**

Q8 How much do you normally pay to external organisations (in £) for the following elements associated with setting up a new tenancy? (Please enter 0 if you do not pay an external agency for any of these tasks)

Advertising the property	
Credit references	
Bank references or charges	
For an independent company to produce an inventory	
To other external agencies	

Q8a What are the other external organisations that you pay, and what do you pay them for?

Q9 And what would you estimate to be the total number of hours of staff time per letting associated with the following tasks?

*Please note, if this question is difficult to answer, you may omit it and continue with the survey*

Advertising the property and showing tenants round	
Gaining references	
Completing credit checks	
Drawing up the contract	
Completing the inventory	
Overseeing move in	
Other administrative tasks associated with move-in	
Renewing a fixed term tenancy	
Dealing with a tenancy termination	

Q9a What are the other administrative tasks that you undertake?

**This next section is about fees and charges to tenants**

Q10 Do you usually charge any fees to new tenants, as one off costs, for setting up a new tenancy? (Excluding a tenancy deposit and rent in advance)

- Yes
- No

Q11 How much would these typically be in total, per new tenancy (in £) ? (Please give an average figure if this varies)

Q11a Do you break down the fees for tenants by what they are to cover?

- Yes
- No, they just pay a fixed fee that covers all costs

Q12 Do you charge a holding deposit (for taking the property off the market while checks are completed)?

- Yes
- Sometimes
- No

Q12a In what circumstances would you charge a holding deposit? And roughly what proportion of your lettings would it be taken?

Q12b How much is the holding deposit? (You can give us either a typical figure in £, or tell us how many weeks rent it represents.)

- In £ \_\_\_\_\_
- Number of weeks rent \_\_\_\_\_

Q13 Do you charge tenants for a tenancy renewal?

- Yes
- No
- Not applicable - do not renew fixed term tenancies and/or allow them to become periodic tenancies

Q13a What is the average cost of fees charged to tenants per tenancy renewal (in £)?

Q14 In which of the following situations would you charge a fee to tenants associated with ending a tenancy (please tick all that apply)?

- If the tenant wants to leave early before the end of their fixed term period, or without giving correct notice
- If the tenant gives notice to end their tenancy at the end of a fixed term, or during a periodic tenancy with the correct notice given
- If the landlord gives notice to end the tenancy
- Never

Q14a What is the average cost of fees charged to tenants per tenancy termination? (in £)? (Please include costs associated with handing back keys, completing an inventory, compulsory cleaning charges and any other fees a tenant would pay when terminating a tenancy)

Q15 Across the entire tenancy, from set up to termination are any other fees or charges levied on tenants which have not yet been mentioned?

- Lost keys £ \_\_\_\_\_
- Out of hours call outs regarding maintenance issues £ \_\_\_\_\_
- Other call outs regarding maintenance issues £ \_\_\_\_\_
- Any other fees or charges (How much, and what for?) \_\_\_\_\_

**This next section is about fees charged to landlords**

Q16 How much is your usual management charge (as a proportion of rent) for properties in full management? (%)

Q16a How much is your usual management charge (as a proportion of rent) for properties where you collect the rent but the landlord organises repairs directly? (%)

Q17 Do you usually charge any fees to landlords for setting up a new tenancy?

- Yes
- Yes for a let-only service, but not for those where we are taking a fee from the monthly rent
- No

Q18 How much would these upfront fees typically be in total, per new tenancy for properties where you will also be charging a monthly fee (in £) ? (Please give an average figure if this varies)

Q19 And how much would the charge be to landlords for let-only properties where you will not be taking a fee from the monthly rent (in £) ? (Please give an average figure if this varies)

Q20 Do you charge landlords for a tenancy renewal?

- Yes
- No
- Not applicable - we do not renew tenancies, and/or allow them to become periodic tenancies

Q20a What is the average cost of fees charged to landlords per tenancy renewal (in £) ?

Q21 In which of the following situations would you charge a fee to landlords for ending a tenancy (please tick all that apply)?

- If the tenant wants to leave before the end of their fixed term period
- If the tenant gives notice to leave at the end of their fixed term tenancy or during a period tenancy
- If the landlord gives notice to end the tenancy
- Never

Q21a What is the average cost of fees charged to landlords per tenancy termination? (in £) ?

Q22 Across the entire tenancy, from set up to termination are any other fees or charges levied on landlords which have not yet been mentioned? What are they, and how much would they typically represent? (Please do not include costs of maintenance that you pay upfront and then deduct from the rent, or pass on to the landlord)

**Overall business from fees**

Q23 Overall, what proportion of your lettings business income comes from:

- Fees or charges paid by tenants \_\_\_\_\_
- Monthly management charge deducted from rent \_\_\_\_\_
- Other fees or charges paid by landlords \_\_\_\_\_

**This last section is about how you might respond to a ban on charging fees to tenants**

Q24 If you were no longer allowed to charge letting fees to tenants how likely would you be to:

	Very likely	Quite likely	Not very likely	Not at all likely
Make less profit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase upfront charges to landlords	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase management fees to landlords, and suggest to them that the rent goes up to cover this	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase management fees to landlords and leave it to them to decide how to respond	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Shop around for cheaper organisations to undertake pre-tenancy checks	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce the pre-tenancy checks that we do	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce staff time for pre-tenancy checks	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce other tenancy management activities (eg property inspections)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Stop offering a let-only service	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Stop managing rental properties	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q25 Would you make any other changes to your business model?

Q25a What impact would it have on you if you were unable to charge a holding deposit?

Q26 Overall, on a scale of 1-5, where 5 is most significant, how significant an impact do you think a ban on fees to tenants would be for your property management business?

- 5
- 4
- 3
- 2
- 1

Q27 Do you have any other comments about fees to tenants, and how it might affect you if they were banned?

We would like to undertake a small number of telephone interviews with letting and management agents to help us understand the issues better. Would you be willing to speak to us? If so, please leave your name and phone number below.

Name

Phone number

Best time of day to contact

### **Survey 2: Landlords using agents survey**

The Welsh Government has commissioned the Cambridge Centre for Housing and Planning Research to undertake research into fees charged to tenants in Wales. The aim is to broaden understanding of what constitutes a 'fee' or a 'charge' and the levels at which these are levied. The research will also seek to explore the potential impact on letting agents, landlords, tenants, if these fees were to be banned.

As part of this study we are undertaking a short survey of landlords who use a letting and management agent.

Q1 How many properties do you let out via a letting and management agency in Wales where the agency collects the rent for you? (Include those where a full management service is provided, and also those where the agent simply collects the rent).

Q2 And how many do you let out where an agent provides a "let only" service (ie finds tenants for you and prepares the tenancy, etc, but has no further involvement, and you collect the rent yourself.)

Q3 Altogether, how many of these properties let via an agency are in each of these areas?

Blaenau Gwent	
Bridgend	
Caerphilly	
Cardiff	
Carmarthenshire	
Ceredigion	
Conwy	
Denbighshire	
Flintshire	
Gwynedd	
Isle of Anglesey	
Merthyr Tydfil	
Monmouthshire	
Neath Port Talbot	
Newport	
Pembrokeshire	
Powys	
Rhondda Cynon Taf	
Swansea	
Torfaen	
Vale of Glamorgan	
Wrexham	

Q4 When your properties have been vacant, how many agencies have you usually approached to market them for you?

- One agency
- Two agencies
- Three or more agencies

Q5 Do you also rent out any properties that you manage yourself, including finding tenants and setting up the tenancy, without the use of an agent?

- Yes
- No

Q6 How many properties do you let out that you manage yourself, including finding tenants and setting up the tenancy, without the use of an agent?

Q7 What proportion of the rent does your agent retain as a management fee, for your properties where they collect the rent? (Please give an average percentage, if different levels are charged for different properties)

Q8 How much does the agent charge to you the landlord for setting up a new tenancy? (Please give a total figure for all activities related to setting up a new tenancy - eg the inventory, tenancy signing, etc. Please give an average figure if different amounts are charged for different properties)

- £ \_\_\_\_\_
- Don't know

Q9 How much does the agent charge to the tenant(s) for setting up a new tenancy? (Please give a total figure for all activities related to setting up a new tenancy - eg the inventory, tenancy signing, etc. Please give an average figure if different amounts are charged for different properties)

- £ \_\_\_\_\_
- Don't know

Q10 If the agent increased the charge to you for setting up a new tenancy by £200 (because they were no longer allowed to charge the tenant), would you be likely to:

	Very likely	Quite likely	Not very likely	Not at all likely
Pay the additional charge and absorb the cost	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Shop around for a different agent	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Manage the property yourself, and not use an agent	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase the rent	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q11 Do you have any other comments about fees to tenants, and how it might affect you if they were banned?

We would like to undertake a small number of telephone interviews with landlords to help us understand the issues better. Would you be willing to speak to us? If so, please leave your name and phone number below.

Name

Phone number

Best time of day to contact

### Survey 3: Self-managing landlords

Welcome to the survey for landlords who manage their own properties

The Welsh Government has commissioned the Cambridge Centre for Housing and Planning Research to undertake research into fees charged to tenants in Wales.

The aim is to broaden understanding on what constitutes a 'fee' or a 'charge' and the levels at which these are levied. It explores the potential impact on letting and management agents, landlords, tenants, and the private rented sector as a whole, if these fees were to be banned. As

part of this study we are undertaking a short survey of landlords who manage their own properties. It should take no more than 10 minutes to complete.

A report with the research findings will be published by the Welsh Government and available online later this year.

Taking part in the survey is anonymous and you will not be identifiable in the report. The survey is just about properties that you own in Wales.

If you own any properties that you let out elsewhere, please ignore these ones when completing the survey

If you have any queries about the survey, please contact XXXX

Please click below if you are willing to take part.

Q1 How many properties do you rent out that you manage yourself, including setting up the tenancy and collecting rents without the use of an agent?

Q2 How many of these properties that you manage yourself are in each of these areas?

Blaenau Gwent	
Bridgend	
Caerphilly	
Cardiff	
Carmarthenshire	
Ceredigion	
Conwy	
Denbighshire	
Flintshire	
Gwynedd	
Isle of Anglesey	
Merthyr Tydfil	
Monmouthshire	
Neath Port Talbot	
Newport	
Pembrokeshire	
Powys	
Rhondda Cynon Taf	
Swansea	
Torfaen	
Vale of Glamorgan	
Wrexham	

Q3 Do you also let any properties do you own where you collect rents yourself, but where you use an agent to find tenants and set up the tenancy? (ie let via a "let only" service)

- Yes
- No

Q3a How many properties do you own where you collect rents yourself, but where you use an agent to find tenants and set up the tenancy?

Q4 Do you also let any properties where an agent collects the rent for you?

- Yes
- No

Q4a How many properties do you let out where an agent collects the rent for you?

Q5 When you are letting a property yourself, how much do you normally pay to external organisations (in £) for the following elements associated with setting up a new tenancy (per property)?

Advertising the property

Credit references

Bank references or charges

For an independent company to produce an inventory

To other external organisations

Q6 What are the other external organisations that you pay, and what do you pay them for?

Q7 And what would you estimate to be the total number of hours of your time (or other staff time) associated with the following tasks per property?

Advertising the property and showing tenants round	
Gaining reference	
Completing credit checks	
Drawing up the contract	
Completing the inventory	
Overseeing move in	
Other administrative tasks associated with move-in	
Renewing a fixed term tenancy	
Dealing with a tenancy termination	

Q8 Do you usually charge any fees to new tenants, as one off costs, for setting up a new tenancy? (Excluding a tenancy deposit and rent in advance)

- Yes
- No

Q8a How much would these typically be in total, per new tenancy (in £) ? (Please give an average figure if this varies)

Q9 Do you usually charge a holding deposit (for taking the property off the market)?

- Yes
- Sometimes
- No

Q10 How much is the holding deposit (in £) ? (Please give an average figure if it varies)

Q11 Do you charge tenants for a tenancy renewal?

- Yes
- No
- Not applicable - do not renew fixed term tenancies and/or allow them to become periodic tenancies

Q11a How much would you typically charge, in total, for a tenancy renewal (in £) ? (Please give an average figure if this varies)

Q12 In which of the following situations would you charge a fee to tenants for ending a tenancy (please tick all that apply)?

- If the tenant wants to leave before the end of their fixed term period
- If the tenant gives notice to leave at the end of their fixed term period, or during a periodic tenancy
- If I, as the landlord, give notice to end the tenancy
- Never

Q12a What is the average cost of fees charged to tenants per tenancy termination? (in £)?

Q13 If you were no longer allowed to charge fees to tenants how likely would you be to:

	Very	Quite likely	Not very likely	Not at all likely
Absorb the cost	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase rents	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce payments to external agencies for pre-tenancy checks	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce staff time for pre-tenancy checks	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce other tenancy management activities (eg property inspections)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Stop managing rental properties in the private rented sector entirely	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q14 Do you have any other comments about fees to tenants, and how it might affect you if they were banned?

We would like to undertake a small number of telephone interviews with landlords to help us understand the issues better. Would you be willing to speak to us? If so, please leave your name and phone number below.

Name

Phone number

Best time of day to contact

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Many thanks for taking part in this survey to help inform our research.

A report with the research findings will be published by the Welsh Government and available online later this year. Taking part in the survey is anonymous and you will not be identifiable in the report.

If you have any queries about the survey, please contact XXXX

## Annex 3: Estimating total letting agency income sources

**Table 14: Data on tenancy turnover, rents and fees**

Data		
Average length of tenancy (months)	18	(ARLA, 2017b)
Void weeks between lets	3	(ARLA, 2017b)
Average rent	£548	Welsh Government, stock weighted, own calculations
Number of properties managed by agents	46,738	RSW
Proportion in full management	93%	Survey
Proportion of rent collection only	7%	Survey
Average fee to tenants - setup	£178	Survey
Tenancies where setup fee is charged	84%	Survey
Average renewal fee to tenants	£63	Survey
Tenancies where tenant charged for renewal	57%	Survey
Average renewal fee to landlords	£89	Survey
Tenancies where landlord charged for renewal	32%	Survey

Sources: See Table

**Table 15: Estimates of stock, turnover and income by service**

Data by service	Service			Source: Table 14, survey
	Fully managed properties	Rent collection only	Let only properties	
Number of properties (stock)	43,264	3,474	n/a	
Average lets per year	28,843	2,316	18,000	
Average landlord setup fee	£215	£215	£319	
Average management charge	9.9%	7.1%	n/a	
Estimated renewals per year	28,843	2,316	18,000	
Management charge lost from voids	£25	£18	n/a	

and own calculations. Number of properties is based on survey data. Average lets per year is based on stock size divided by 1.5 (using turnover rates shown in Table 14. Average landlord setup fee is based on survey data. Average management size is based on survey data. Estimated renewals a year is based on an estimate of one renewal per new let per year. Management charge lost from voids is based on Table 14.

**Table 16: Estimates of income by service**

Estimated income	Landlord setup and renewal fees	Management charge	Fees to tenants
Fully managed properties	£7,022,650	£28,156,540	£6,169,768
Rent collection only	£563,862	£526,800	£495,383
Let only properties	£5,742,142	n/a	£3,204,079
<b>Total income</b>	<b>£13,328,654</b>	<b>£28,683,341</b>	<b>£9,869,230</b>
	<b>26%</b>	<b>55%</b>	<b>19%</b>

*Source: Table 15 and own calculations. Landlord setup and renewal fees is based on proportion of landlords charged for these (from survey) times average fees. Fees to tenants is based on proportion of tenants charged for these (from survey) times average fees. Management charges are based on total stock in management times percentage of rent charged, times typical rent (see Table 14, with deduction made for loss of income from voids.*

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