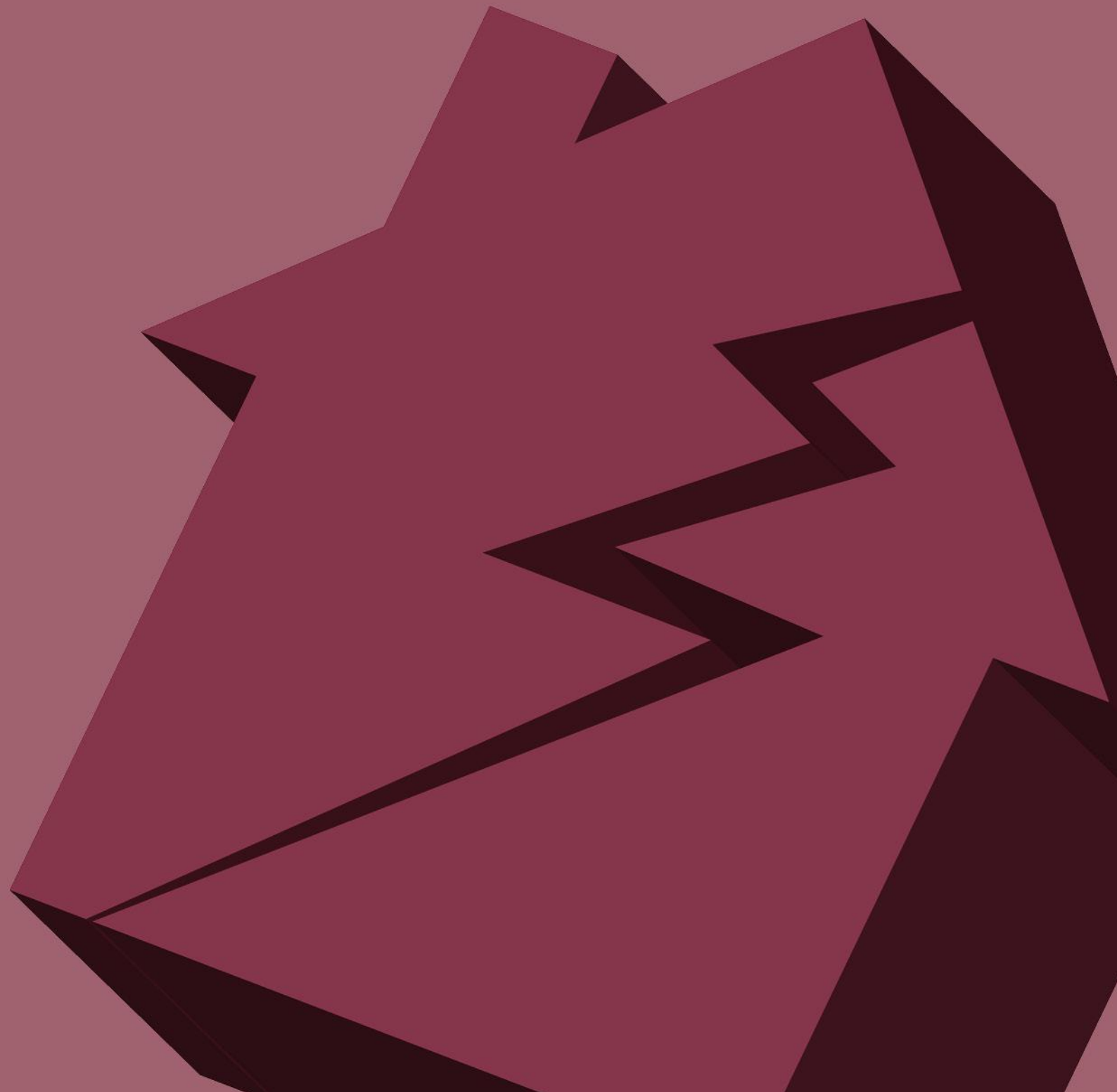
Still let down

How letting agents are still exploiting private renters - and what this tells us about consumer protection



Acknowledgements

Thank you to all those Citizens Advice Bureaux staff and volunteers who surveyed letting agents in their local area. Also thanks to all the renters who filled out our online survey and shared their experience of letting agents.

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Renting a home from a private landlord is now a long-term reality for a significant proportion of people in England. Over four million households rented privately in 2013/14 and the sector has doubled in size since 2002. This direction of travel is unlikely to change soon as rising house prices, squeezed incomes and relatively constrained credit push home ownership beyond the reach of many. Meanwhile, shortages in social housing leave many renters with nowhere else to turn.

For many private tenants, a letting agent is the gateway to renting a property. This gives letting agents a central role in shaping one of our country's most important consumer markets. It is fair to say the sector was promoted quickly into this role - and that it has failed to deliver. Numerous studies have shown that renters receive persistently and pervasively poor treatment, from exploitative charges to poor service. As a result, several attempts have been made to improve the standard of letting agents: tenancy deposits have been protected, fees have been made more transparent, and redress schemes have been created. These interventions seek to protect renters and they also serve as a useful experiment, telling us more about how renters and agents behave and about how the market operates.

So what have we learned - and what does this tell us about consumer protections? This report presents new data from three sources: an online survey of 1,141 renters, a survey of 353 letting agents (both comparable with similar surveys run in 2009) and a new review of the evidence from Citizens Advice cases. Our central finding is that there is still widespread evidence of the routine exploitation of renters by letting agents, and that this is ultimately because competition does not function in this part of the market.

Our findings on fees are the most striking. We are not surprised to find that most letting agents (88 per cent) still impose additional charges, although it is worrying that fees remain so high---the total average fee for a tenancy is now £337---and that they may even be rising. But we also find that fees vary wildly and inexplicably, with letting agents charging anywhere from £6 to £300 to check a reference and from £15 to £300 to renew a tenancy. Fees also bear no discernible relationship to the cost of the service provided; we found agents charging as much as £300 for credit checks that are widely available on the market for £25.

Our wider findings reinforce the case that letting agent fees are not governed by a competitive dynamic. Far from advertising their fees and services, and

competing on that basis, only a third (34 per cent) of letting agents willingly gave us full written details of their charges when asked. More fundamentally, only a quarter (25 per cent) of renters said they even considered letting agent fees when shopping for a property. This reveals a defining feature of the market: renters do not choose between letting agents, they choose between properties. This is why competition and transparency have no bite on tenant fees - because it is landlords, not tenants, that shop for letting agents, and because, from a tenant's perspective, fees are at best an afterthought and at worst an unavoidable imposition, arising only once a deposit, contract or living arrangement is already in place.

Our findings on standards of services are consistent with this failure of competition. Over half (56 per cent) of the renters we surveyed were dissatisfied with the service provided by their letting agent. This is an improvement on 2009 when the figure was 73 per cent, suggesting that some recent policy changes have been effective; we see particular improvements in tenant deposit protection. But other new rules, such as a requirement for letting agents to join a redress scheme, are less successful. Nearly a fifth of letting agents (18 per cent) said they were still not a member of a redress scheme, despite this being a requirement since October 2014, while only 4 per cent of renters knew the name of the scheme of which their agent was a member. Meanwhile, tenant dissatisfaction with basic services, such as delays to securing repairs, remains pervasive.

Our findings suggest a new business model is needed. On fees, **there is now a sufficient case for the government to ban letting agent fees for renters for functions that are part of the routine letting and management process.** This would limit fees to a part of the market that functions: the fees that are charged to landlords when they choose a letting agent. The result would be a business model akin to employment agencies, with fees charged on one side of the transaction and not the other. We are encouraged by lessons from Scotland, which made a similar move in 2012, with no clear evidence of an inflationary effect on rents. To tackle poor practice we also believe **letting agents should be required to belong to a trade body and trade bodies should operate a shared 'banned list' to drive the worst traders out of the industry.** And to give renters clearer routes to redress we believe **a single redress scheme should be appointed.** Together these steps would help create a better letting agent industry much closer to fulfilling its pivotal role.

Introduction

More than four million households in England were renting privately in 2013-14 (19 per cent), up from 11 per cent a decade earlier.[1] Around half of private landlords use letting agents to market and/or manage their properties.[2] As the numbers of private renters has risen, so too have the number of problems with private renting coming through the Citizens Advice service. In 2009, we published a report, *Let Down*, examining the problems renters face with letting agents. Since the publication of *Let Down*, other consumer groups have highlighted the problems that renters have with letting agents, in particular the high fees often double charged to both landlord and renter.[3] A number of studies have called for greater regulation of letting agents, including reports from government and the industry itself.[4]

Since 2009, there have been two key developments in regulations regarding letting agents. First, since November 2013, the Advertising Standards Authority (ASA) have required letting agents to provide clear information about charges and holding deposits before a renter agrees to take up a tenancy. The government have also added an amendment to the Consumer Rights Bill to place a duty on agents to publish a full tariff of their fees on their websites and in their offices backed by stronger penalties for non-compliance. Second, since October 2014, letting agents have been required to join a redress scheme, an independent service for resolving disputes between letting agents and their customers.

In light of these efforts to improve the consumer experience of letting agents, this report updates our previous analysis to see what, if anything, has changed. The report then reflects on what additional steps, if any, are needed to improve letting agent practice and outcomes for renters.

[1] *English Housing Survey: Headline Report 2013-14*
[2] *Survey of Private Landlords*, DCLG.
[3] *Letting Agents: the price you pay*, Shelter, 2013; *Renting Roulette: Consumer experience of the lettings market*, Which? 2012.
[4] *Carsberg review of residential property*, RICS/ARLA/NAEA, 2008; *The private rented sector: its contribution and potential*, University of York/DCLG, 2008.

Methodology

This study replicates the methodology of our 2009 report and is based on three sources of evidence:

- An online survey of 1,141 renters who had rented through an agent
- A survey of 353 letting agents by 35 local Citizens Advice Bureaux
- A review of the evidence submitted by bureaux as a result of helping people with letting agent problems.

In January and February 2015, visitors to the Citizens Advice Adviceguide website who had rented through an agent in the last two years were invited to complete a short survey about their experience. There were 1,141 respondents to the survey from across England. The survey repeated the questions asked in our 2009 study and added new questions about redress schemes and the basis on which renters selected their property.

The second strand of the research involved a survey of lettings agents. Thirty-five bureaux across England visited 353 letting agents in their local area and asked a series of questions about what fees were charged, whether the agent accepted people receiving Housing Benefit and whether they were members of a trade body or redress scheme. Bureaux were also asked to evaluate how willing the letting agent was to disclose the information requested, whether fees were prominently displayed as required by the ASA, and to request written details of the charges made. Again, the questionnaire was kept the same as in 2009 other than new questions about redress schemes and the transparency of fees.

Figure 1 shows the geographical spread of responses from the survey of renters alongside data from the Department for Communities and Local Government about the distribution of private rented housing. The coverage is broadly representative of the private rented sector population as a whole, although marginally over-representative of the South East outside London. However, it is important to remember that our survey results are not weighted to reflect the population. This is a self-selected survey of people who visited the Adviceguide website and, while the people surveyed are not necessarily looking for help with a rental problem, it may be that the views of this sample are not representative of the views of the population of renters as a whole.[5]

[5] Adviceguide is visited by 20.5 million people each year.

Figure 1: Regional distribution of responses and private rented housing

Region	renter survey	Distribution of PRS
North East	4.71%	4.3%
North West	11.3%	12.3%
Yorks/Humberside	6.2%	10.3%
West Midlands	7.4%	8.5%
East Midlands	7.2%	8.0%
East Anglia	7.3%	10.0%
South West	12.4%	9.9%
South East	21.1%	15.4%
Greater London	22.1%	21.3%

Source: Citizens Advice survey of renters, 2015, Dwelling Stock by tenure and region, DCLG, 2011.

The survey of letting agents by bureaux was more strongly concentrated in the East and South East of England (though not London), perhaps reflecting greater problems with letting agents in those areas.

Services and redress schemes

We start by examining the services received by renters from letting agents, their levels of satisfaction with these services and awareness of redress schemes. Firstly, we look at the services renters receive from letting agents. Renters may have contact with letting agents in three ways: signing up for a tenancy only, signing up for the tenancy and paying rent through the agent, or signing up, paying rent and having the property managed by the agent. The online survey found that the majority of renters (60 per cent) were involved with a letting agent for both signing up to the tenancy and for ongoing management and rent collection. The remaining respondents received management services from their landlord rather than an agent. A quarter (24 per cent) only used an agent for sign up and a further 16 per cent signed up and also paid their rent to the agent (Figure 2). It was slightly less common for renters to be using a letting agent that managed the property than in 2009.

Figure 2: What responsibility does/ did the letting agent have in managing the property?

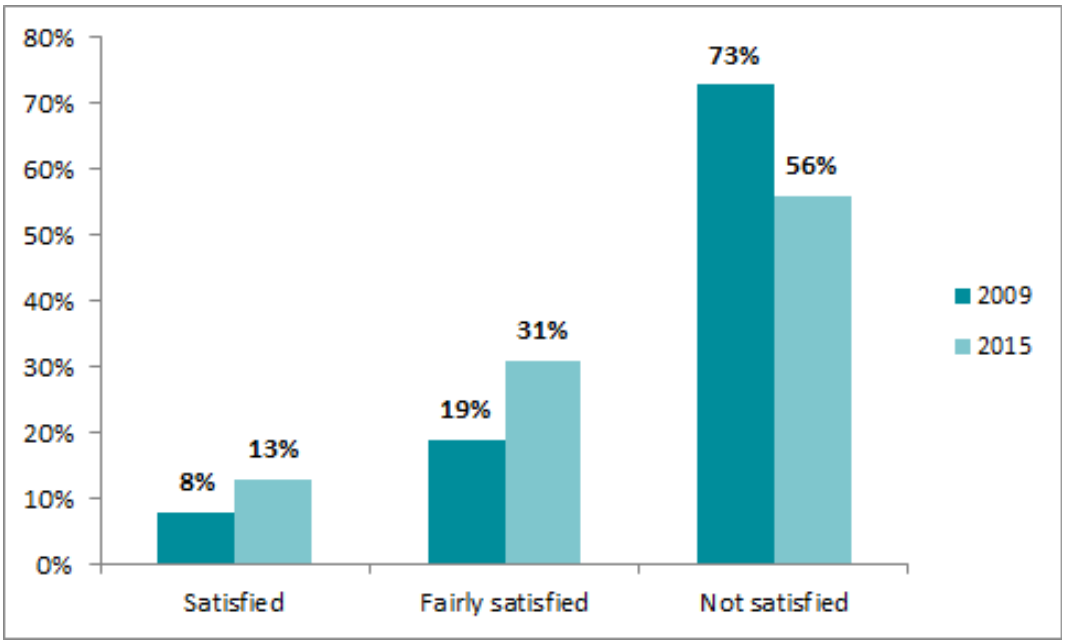
	2009	2015
The agent found the property for me but does not/ did not manage it	20%	24%
The agent found the property for me and also deals/ dealt with all management issues such as repairs and rent collection etc.	65%	60%
The agent found the property for me and collects/ collected the rent, but does not/ did not manage it	15%	16%

Source: Citizens Advice Survey of renters, 2009, 2015.

Satisfaction with letting agents services

Turning to satisfaction with letting agent services: more than half (56 per cent) of the respondents said they were dissatisfied with the service provided by their letting agent, while a further 31 per cent said they were fairly satisfied. Only 13 per cent reported being satisfied. This is an improvement on the 2009 survey in which nearly three quarters (73 per cent) of renters were not satisfied with their letting agent. Satisfaction with letting agents remains notably low but has been rising.

Figure 3: Satisfaction with letting agent



Source: Citizens Advice Survey of renters, 2009, 2015.

There is likely to be a bias towards dissatisfaction in a self selecting survey of this kind, as people who have had a bad experience are more motivated to respond. However, as with Citizens Advice evidence more broadly, this data can help us understand in relative terms where practices are failing and reform is needed.

Analysis of qualitative data from the online survey and from Citizens Advice case evidence suggests there is considerable variation between letting agents in terms of the standards of service provided. A number of respondents commented positively on the service they received from their letting agents.

> This particular agent is the best one I have ever [had]. He came across to us that he cared about my disability and our difficulties in finding a property suitable for us and that made it much easier! (renter, Greater London)

> Fantastic agents, fixed any problems right away. Could contact by email or emergency phone number if needed. (renter, North West)

Two key themes emerged from comments made by respondents to the survey of renters about their negative experiences with letting agents. The first was around inaction over repairs and the second was high fees with a lack of corresponding service.

Many renters reported being forced to cope for long periods in unacceptable, unhealthy and even dangerous conditions as a result of lack of action by agents. While some delays may be due to difficulty in securing landlord approval for repairs, letting agents should ensure that any property they let meets the required standards before it is rented, and that their agreement with landlords enables them to fulfil statutory maintenance and repairing obligations, providing renters with a reasonable standard of service. The following comments were typical of these cases:

> We've endured a five month battle because they only told us about a "damp problem which has now been fixed" when we went to pick up the keys on moving in day (after the contract had been signed). The damp had not been sorted and we have had five months of arguments and issues because of suffering furry wet walls and peeling paint. ... Shockingly bad service but I don't have the energy to take this further. Renting depresses me. (renter, Greater London)

> Been waiting six months for repairs, the kitchen in the ceiling is falling down due to damp and our food goes off really quickly because of this. When the boiler broke in winter we had to wait three weeks for a new one to be installed despite having a one year old son. (renter, North West)

It was also common for renters to report that letting agents were offering a generally poor service, particularly in the context of high fees. This extended to issues beyond lack of action over repairs to other issues such as queries about contracts and cleaning. Many renters questioned the level of fees for particular services such as credit checks or renewals.

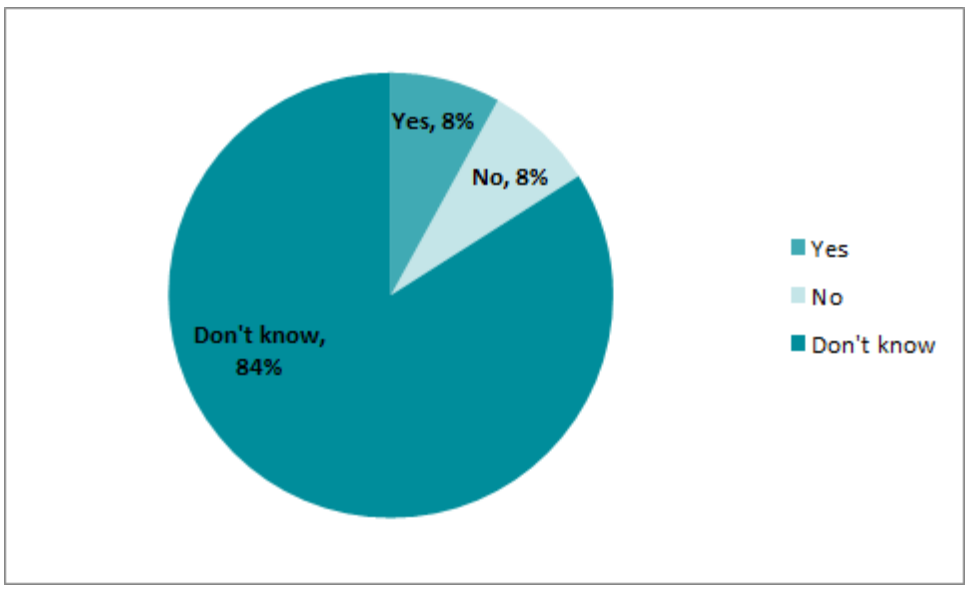
> It seems like they are just trying to get as much money from you as possible, while not offering a particularly efficient service. When we first moved into the property it had not been cleaned, even though the letting agent was meant to provide this service upon moving into the property. (renter, South West)

> The fees they charge for basic admin are absurd - I cannot see how it costs £180 to renew a tenancy agreement that is staying exactly the same as before except for a change of dates. This requires a simple printing job and for the renters to go into the office and sign a form. It is absurd to charge almost £200 for this. (renter, Greater London)

Redress schemes

In the second section of the research, we explored redress schemes, a mechanism through which renters can resolve problems they experience with letting agents. Since October 2014, letting agents have been required to be a member of a redress scheme. There are three schemes: The Property Ombudsman, Ombudsman Services Property and the Property Redress Scheme. Redress schemes should offer an avenue for renters receiving poor service to escalate complaints and receive a resolution to their problem. However, our survey revealed that only eight per cent of renters knew that their letting agent was a member of a redress scheme. Of those who believed that their agent was a member of a redress scheme, more than half (55 per cent) did not know which scheme. This leaves only four per cent of renters overall knowing which redress scheme their agent belonged to.

Figure 4: Is / was your agent a member of a redress scheme?



Source: Citizens Advice Survey of renters, 2015.

Figure 5: Which redress scheme does/did your letting agent belong to?

Ombudsman Services Property	7%
Property Redress Scheme	12%
The Property Ombudsman	27%
Don't know	55%

Source: Citizens Advice Survey of renters, 2015.

Even more worryingly, nearly a fifth of letting agents (18 per cent) visited by Citizens Advice Bureaux for this project reported that they were not members of a redress scheme, did not know whether they were members of a redress scheme or in answer to this question replied with the name of a trade body such as The Association of Residential Letting Agents (ARLA) (this is not a redress scheme).

Figure 6: Membership of a redress scheme

Ombudsman Property Services	16%
Property Redress Scheme	4%
The Property Ombudsman	54%
No / Don't Know / Trade Body	18%

Source: Citizens Advice Survey of Letting Agents, 2015. Note: answers to this question were not received in 8 per cent of responses.

As shown in Figure 7, however, membership of trade bodies is more common. Only six percent of letting agents surveyed reported that they were not members of a trade body. Membership of a trade body is voluntary, unlike membership of a redress scheme. There is considerable work to be done to ensure that letting agents are members of redress schemes and communicate this to renters.

Figure 7: Membership of a trade body

ARLA	50%
NALS	18%
NAEA	14%
Not a member	6%

Source: Citizens Advice Survey of Letting Agents, 2015. Note: answers to this question were not received in 12 per cent of responses.

Letting agents' willingness to let to people on housing benefit

In recent months we have picked up signals from our bureaux network that many people in receipt of housing benefit are finding themselves turned away by letting agents. To explore this we asked letting agents in our survey whether they let properties to recipients of housing benefit. The results were similar to our survey in 2009; in both surveys, around a quarter (23 per cent in 2009 and 26 per cent in 2015) of agents said they did not let to housing benefit recipients at all while in each year only a minority (12 per cent in 2009 and 10 per cent in 2014) let to housing benefit recipients with no special conditions.

We saw a substantial tightening, however, in the conditions placed on housing benefit recipients. In 2009, of the letting agents who would let to housing benefit recipients with conditions, 15 per cent required a guarantor. In 2014 this had risen to nearly two-thirds (63 per cent) requiring a guarantor, suggesting growing caution among agents when letting to housing benefit recipients.

Figure 8: Willingness to let to Housing Benefit recipients

	2009	2015
Yes	12%	10%
Yes, with conditions	65%	64%
…of which, requiring a guarantor	*15%*	*63%*
No	23%	26%

Source: Citizens Advice survey of Letting Agents, 2009, 2015.

As in 2009, most letting agents did not give a reason for not letting to housing benefit recipients. Of those who gave a reason, most pointed to reluctance among landlords to rent their properties to housing benefit recipients (39 per cent). Some gave other reasons, for example difficulty working with the Local Authority or problems with renting to housing benefit recipients in the past. Of those who cited landlord preference, some lettings agents noted that landlords' mortgage agreements or insurance sometimes did not allow them to rent to housing benefit claimants. We have come across a similar reluctance among banks in our work on financial services, particularly in the context of the risks of universal credit reforms. This may be worthy of further investigation.

Letting agent fees and market operation

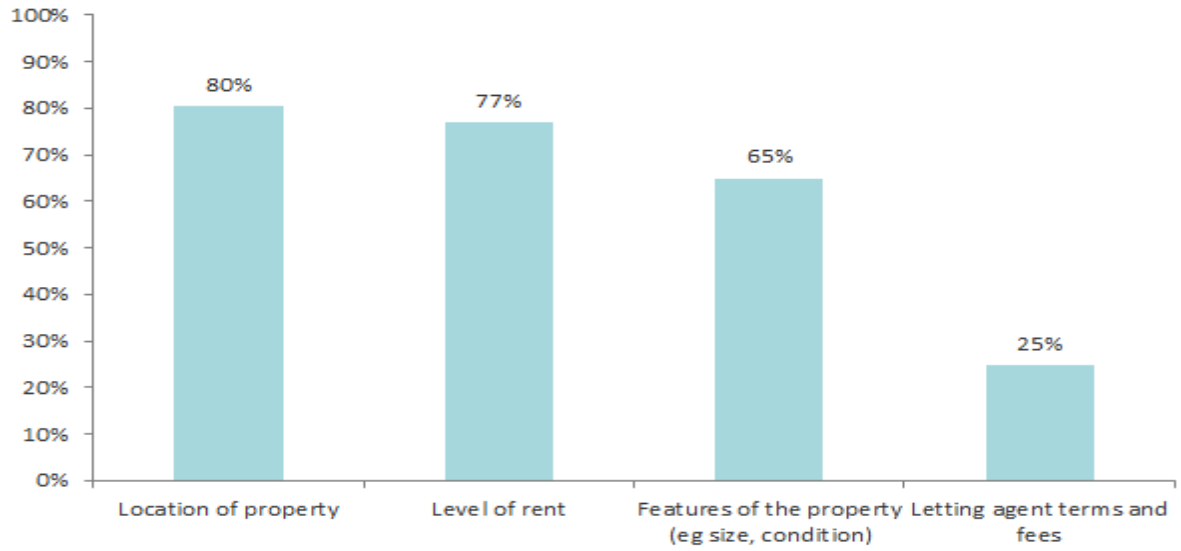
At the time of fieldwork, ASA requirements regarding transparency of letting agent fees had been in operation for just over a year. This seemed an opportune moment to test whether this was driving consumer behaviour and whether the market had now settled on a more narrow range of fees for letting agent services, as we would expect in a well functioning market. This section examines the factors renters took into account when choosing to rent a property before looking in detail at the charges made by letting agents and their compliance with regulations regarding transparency.

Factors in choosing to rent a property

One motivation for recent efforts to increase clarity over letting agent fees has been the idea that competition between agents would then hold down fees, with renters choosing properties and letting agents partly on this basis. In our survey we therefore asked renters what factors they took into account when choosing their rented property. As Figure 9 shows, the most salient factors for renters choosing a property are location (taken into account by 80 per cent of renters) and the level of rent (77 per cent), with other features of the property also playing a role (65 per cent).

Only one in four renters we surveyed (25 per cent) took letting agent fees into account when choosing their property. This could help to explain both the inflation that has been seen in letting agent charges and the staggering variations we see in fees within the market. Broadly speaking, renters do not shop on the basis of letting agents fees; they are instead a cost that arises late in the process, often after the renter has made a decision over the property, and sometimes even after a contract is signed.

Figure 9: Factors taken into account by renters when choosing a property



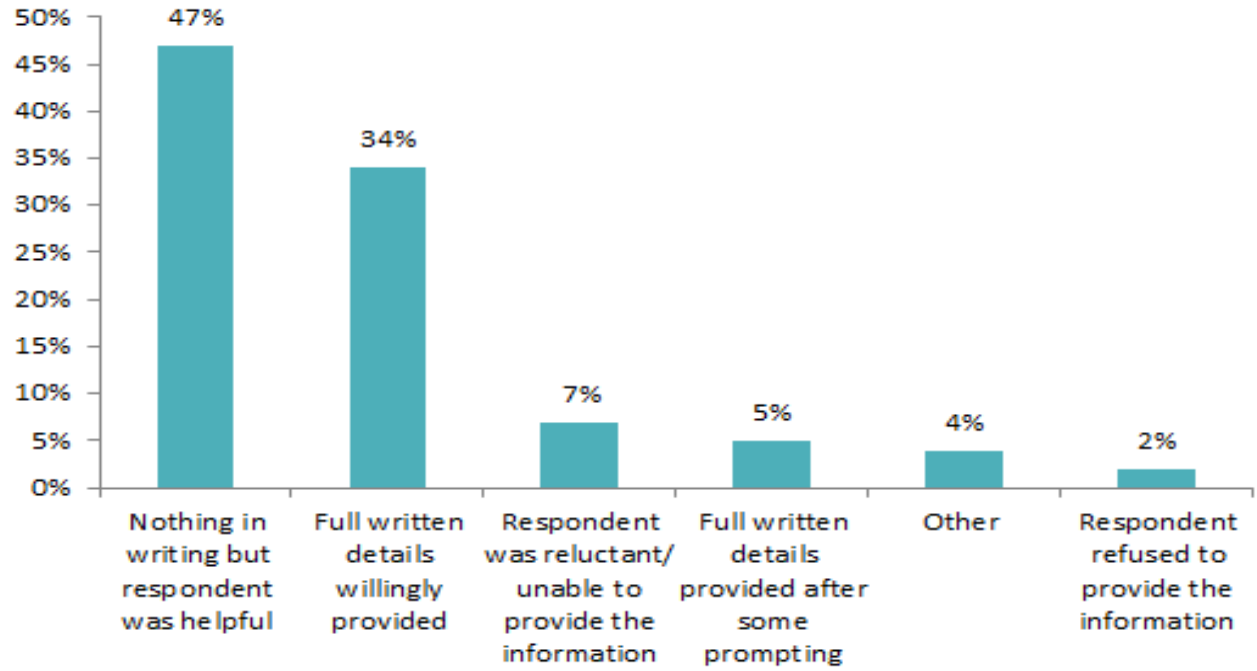
Source: Citizens Advice Survey of renters 2015.

Accessibility of information on charges

Next, we looked at the degree of letting agent compliance with requirements to be transparent regarding charges. Under the requirements of the Unfair Terms in Consumer Contracts Regulations 1999 (UTCC) regulations, information about charges must be transparent and clearly presented to the renter/consumer prior to contract. Moreover, since November 2013 the ASA have required letting agents to provide clear information about charges and holding deposits before a renter agrees to take up a tenancy. The Government have also tabled an amendment to the Consumer Rights Bill to place a clear duty on letting agents to publish a full tariff of their fees, both on their websites and prominently in their offices. Non-compliance with this duty will result in stricter penalties than currently enforced, including fines.

As part of the agents' survey, bureaux staff and volunteers asked for written details of any charges made, and subsequently evaluated how willing the agent had been to disclose this information. As Figure 10 shows, only a third (34 per cent) willingly provided full written details of their charges. Nearly half (47 per cent) did not provide a written handout but were happy to provide verbal information on charges. In nine percent of cases, the bureau reported a reluctance, inability or refusal to provide this information. This reluctance is symptomatic of the way the market operates. We do not see a dynamic of letting agents advertising their fees and services and competing for tenants on that basis. We see a dynamic of tenants choosing properties and then facing letting agent fees as an afterthought, and often only after a deposit, contract or living arrangement is decided.

Figure 10: Willingness of letting agents to provide information on charges



Source: Citizens Advice Survey of letting agents 2015.

In our survey of renters we asked whether the letting agents had provided full written information about charges before the tenancy agreement was signed. Although the majority (60 per cent) were provided with this information, a significant minority (40 per cent) were not provided with full written details of the charges they were subsequently expected to pay. Our bureaux staff and volunteers who completed the agents' survey were also asked to observe whether the letting agents published a full tariff of their fees prominently in their office. The vast majority (81 per cent) of agents' offices did not do this.

Finally, agents were also asked whether they published their charges on their website. Although the majority of agents (71 per cent) said that they did publish this information online, follow up research raised questions about the extent of this information. Some researchers struggled to find information that the agent had claimed would be there. Meanwhile, nearly a third (29 per cent) of letting agents told us upfront that they do not publish fee information on their websites. It is clear that many letting agents are not yet compliant with forthcoming requirements to publish their fees on their websites and in their offices.

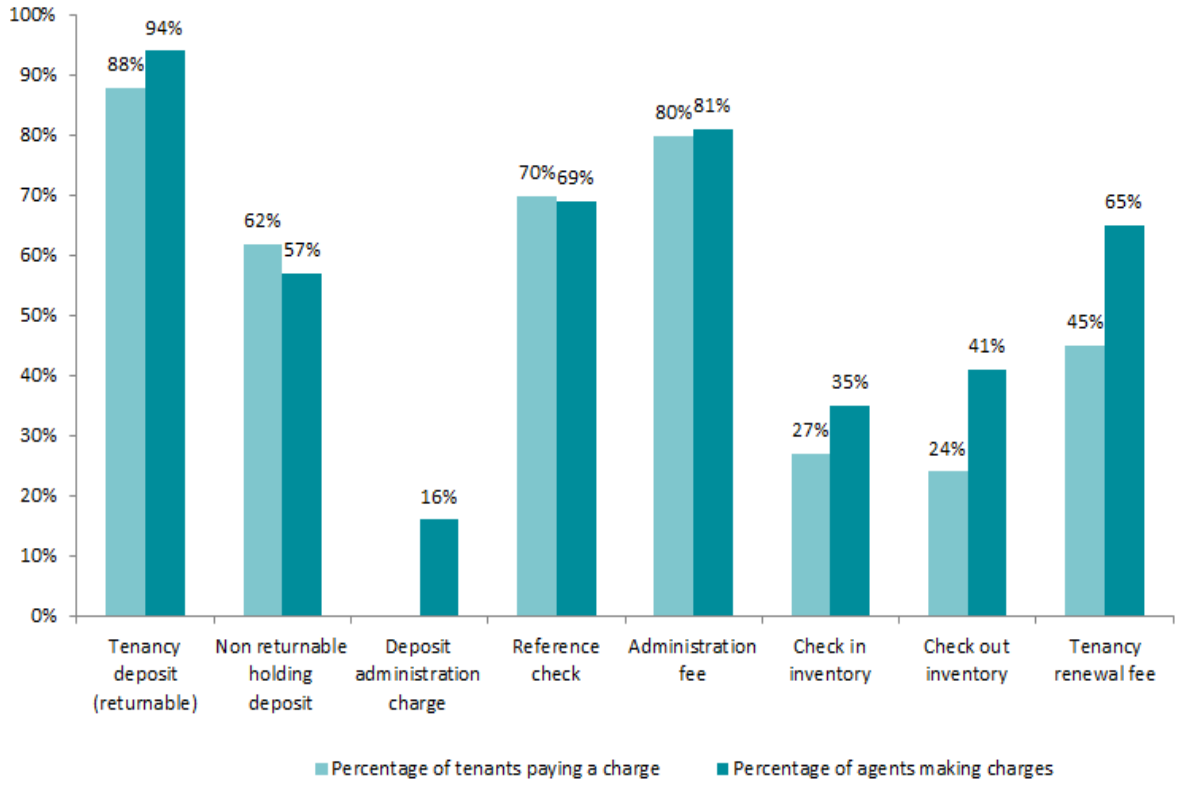
The extent and size of letting agent fees

We then went on to examine the charges levied by letting agents to renters in addition to rent in advance/deposits. If increased transparency regarding fees had helped the market to operate more efficiently we might expect to see a downward trend and a narrowing range in the size of fees charged. Under the Accommodation Agencies Act 1953, it is illegal for an agency to ask for money for registering a prospective renter and then simply provide her/him with a list of properties. However there are no limits on the fees an agency can charge once a renter has signed a contract to accept the tenancy of a property.

Both surveys of letting agents and renters indicate that letting agents are continuing to charge high fees to renters. Nearly nine in ten (88 per cent) lettings agents surveyed said that they imposed additional charges on renters and 82 per cent of the renters surveyed reported that they had to pay additional charges.

Figure 11 shows the percentage of letting agents that reported charging fees in different categories and the proportion of renters who reported paying the different charges (see Appendix 1 for the full details of the range and size of additional charges from 2009 and 2015). Reassuringly, the two surveys give a consistent picture of the range and scale of fees charged. The most common fees in addition to the returnable tenancy deposit were for administration, reference checking and a non-returnable holding deposit.

Figure 11: Percentage of letting agents making charges and renters paying a charge[6]



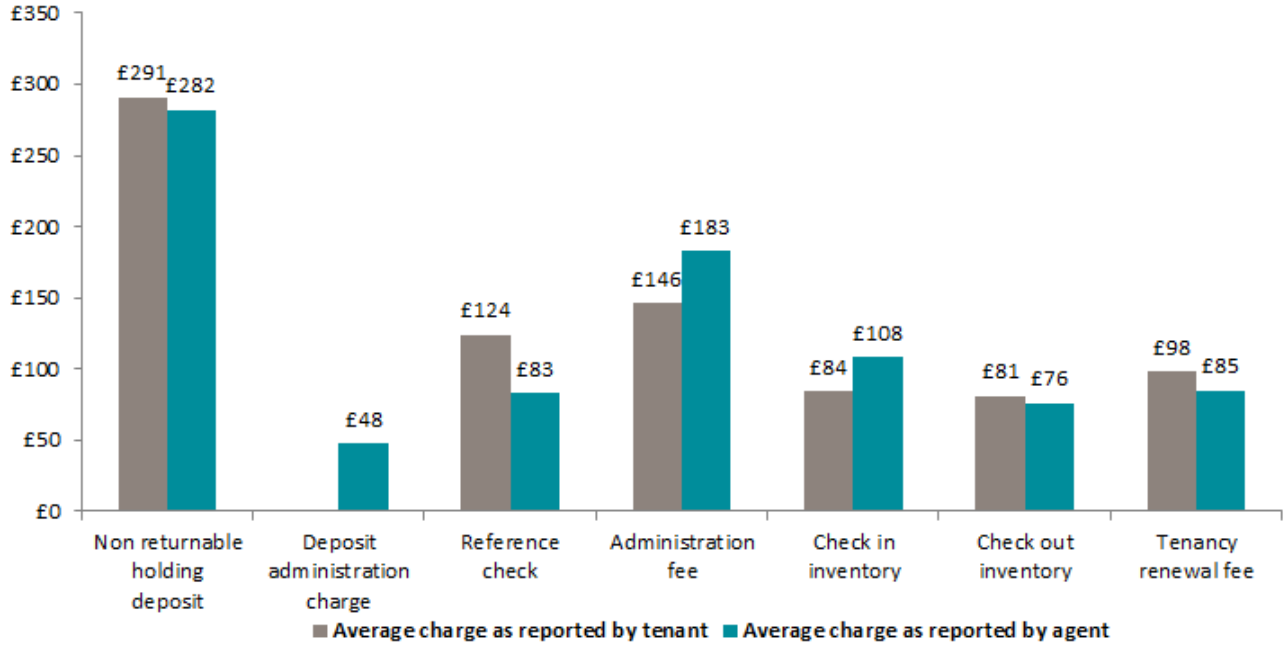
Source: Citizens Advice Survey of renters 2015, Citizens Advice Survey of letting agents 2015.

Our surveys also indicate that additional charges are high and vary widely between agents. The agents' survey indicated that the average overall charge for a tenancy was £337. Not all agents apply all categories of charges, so this figure is based on weighted averages that take into account the proportion of agents who report applying each category of charge. This figure contains wide variation with some agents charging total fees as high as £700.

Figure 12 shows the average level of charges in each category as reported by agents and renters and figure 13 shows the average charges for each category comparing 2009 within 2015.

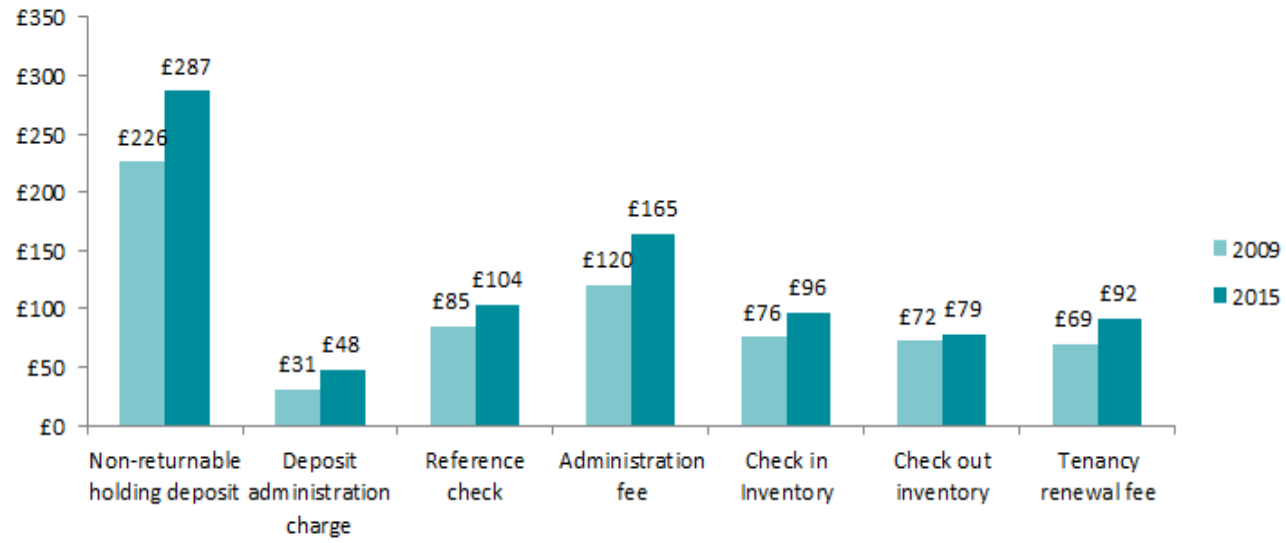
[6] Percentage of letting agents making a deposit administration charge was not recorded

Figure 12: Average charges as reported by letting agents and renters[7]



Source: Citizens Advice Survey of renters 2015, Citizens Advice Survey of letting agents 2015.

Figure 13: Average charges as reported by letting agents and renters in 2009 and 2015



Source: Citizens Advice Surveys of renters and letting agents 2009 and 2015.

As shown in Figure 13, across all the additional charges, there was an increase in the average from 2009. All of these charges except 'check out inventory' have increased above inflation, sometimes significantly so. For example, the average

[7] Average deposit administration charge as reported by renters was not recorded.

administration fee increased by 55 per cent from £118 in 2009 to £183 in 2015. Comparison with our 2009 fee data is not straightforward because the south west and south east of England are over-represented in our 2015 survey, making it possible that geographical variations are driving part of the increase in fees seen between the two waves. Nonetheless, we have no evidence that charges have fallen in response to measures to improve the accessibility of information about fees, and indeed there is reason to believe that fees may have risen. Wide variations in the levels of fees charged also remain. Each fee is examined in detail in the following sections.

Tenancy deposits

As Figure 11 indicates, the most common fee renters face is for a tenancy deposit. It is common practice for landlords and agents to require this deposit to provide some protection against financial loss due to damage to the property by the renter or rent arrears. The deposit is not an additional charge as it is returned at the end of the tenancy as long as the renter has not breached the terms on which it was charged. However, it was included in the surveys because it is usually the largest and the most common sum which renters will have to pay up front to rent a property.

The agents' survey found that the tenancy deposit was typically 1 month to six weeks rent and the renters' survey found that the average deposit was £959. Following effective campaigning from Citizens Advice and others, landlords and agents have been legally required to protect tenancy deposits in one of three government approved schemes since April 2007.[8] The agents' survey found that 41 per cent of agents used the Tenancy Deposit Scheme (the scheme specifically targeted at agents), 39 per cent used the Deposit Protection Scheme and 20 per cent used mydeposits.co.uk. No agent reported that they did not use a deposit protection scheme.

Tenancy deposit protection has generally been seen as a success with recent evaluations finding the vast majority (92 per cent) of eligible deposits being protected.[9] Despite this, Citizens Advice still sees cases where landlords and agents have failed to protect or are reluctant to return the deposit:

[8] Landlords can choose which scheme they wish to use and must safeguard each deposit and inform the renter which scheme has been used within 14 days of receiving the deposit.

[9] https://www.thedisputeservice.co.uk/independent_landlords/resources/files/Evaluation%20Report%20TDS.pdf Accessed 10/3/2015

John, from the South West of England, lived with his girlfriend in private rented accommodation. He works full-time and receives Working Tax Credit to top-up his income. He had an assured shorthold tenancy agreement and paid a £500 deposit. When the tenancy ended the landlord inspected the accommodation and confirmed that all was well. But instead of returning the deposit, the landlord argued that the couple had damaged the property and withheld the money. The couple were left in financial hardship and struggling to meet the costs of their new accommodation.

Daniella, from the West Midlands, was moving house in order to start a new job in a different area. She had paid a deposit of £725 and was told by the agent that the deposit was held by the Deposit Protection Scheme (DPS). However, when she contacted DPS and the other deposit protection schemes she found that the deposit had not been protected. The letting agent later confirmed that they had kept the deposit themselves leaving her worried that she might lose her money.

Although tenancy deposit protection has been broadly successful, Citizens Advice still sees some problems with landlords failing to protect deposits or making unfair deductions. Professionalising letting agent practice and the introduction of well-policed landlord licensing schemes should go some way to preventing these problems.

Deposit administration charge

The government was clear when tenancy deposit protection was introduced that the protection and dispute resolution should be of no cost to the renter. Lord Bassam of Brighton, the Peer who moved the amendment that introduced Tenancy Deposit Schemes in the Housing Act 2004, stated:

> *The custodial* (Tenancy Deposit) *scheme will be funded from interest on deposits. There will be no extra cost to landlord or tenant. Insurance-based schemes are likely to charge landlords fees—the trade-off for landlords keeping deposits—but there will be no charges to tenants.*[10]

As intended, the DPS is free to landlords and agents whereas the insurance-based schemes (the Tenancy Deposit Scheme or mydeposits.co.uk) do charge a fee to the landlord or agent but they then benefit from being able to retain the deposit during the length of the tenancy.

[10] During the House of Lords Committee debate on Housing Act 2004 (HL Deb 16 September 2004 vol 664 cc1373-429)

Despite the intention for deposit protection to be of no cost to the renter, a minority (16 per cent) of the agents surveyed stated that they charge a deposit administration charge. This charge was on average £48. Bureaux evidence also indicates that some agents are charging for the administration associated with protecting the deposit:

> *Sam found a property to rent in the South East for himself and his family. To secure the property he had to pay the letting agent a holding deposit of £500 as well as £24 for putting the tenancy deposit into a protection scheme.*

> *Julia has two children and is working on a low income. She decided to not have her fixed term Assured Shorthold tenancy renewed but to go onto a Periodic Assured Shorthold tenancy, as she could not afford the £60 renewal fee. She was told by her letting agent that as a result of this she had to pay £60 to re-sign her deposit protection terms and conditions, due to 'new regulations'*

Although not unlawful, this practice of charging for the administration of securing the tenancy deposit in a protection scheme undermines the government's intention that deposit protection should be free to the renter.

Holding deposit

Alongside the tenancy deposit, most of the renters surveyed (62 per cent) said they were charged a non-returnable pre-contract 'holding' deposit. This is usually offset against rent or other charges should the tenancy proceed. There can, however, be difficulties where the holding deposit is not refunded if the tenancy is not granted for reasons beyond the prospective renter's control.

The then Office of Fair Trading (OFT), now Competition and Markets Authority (CMA) guidance on unfair terms in tenancy agreements indicates that the non-return of a holding deposit may be unfair if the sum involved was 'substantial' and/or the terms precluded refunds under any circumstance (paragraph 3.41–3.43)[11]. It also states that it may be unfair to refuse to return a deposit on the grounds that a renter's reference is unsatisfactory (paragraph 3.68).

Qualitative analysis of the written information provided by agents showed that some holding deposits were refundable. However, some agents specified the holding deposit was non-refundable if the reference check is failed or if renter

[11] Under the provisions of the Enterprise and Regulatory Reform Act 2013, the Competition and Markets Authority(CMA) was established on 1 April 2014 combining many of the functions of the OFT and the Competition Commission and superseding both.

pulls out. Citizens Advice also see examples of holding deposits not being returned:

> *Nancy, a 70 year old woman paid a £260 admin and deposit holding fee to secure the privately rented property. She also paid a significant security deposit but was unable to pay the rent advance immediately due to limitations in accessing her savings and so was rejected by the landlord. The letting agent agreed to refund the deposit but refused to return the holding fee despite their website stating that all rejected applicants will receive a full refund. All of the payments were made in cash and the agent did not provide receipts.*

This suggests that some letting agents are directly breaching OFT/CMA Guidance by not returning the holding deposit where references prove unsatisfactory or when a tenant is unable to proceed for other reasons outside the renter's control.

Administration charges

The second most common fee charged in both the renters' survey and the agents' survey was an administration charge. Eighty-one per cent of agents made this charge and 80 per cent of renters had paid this charge. Moreover, this was the most expensive charge made across both surveys (excluding deposits), averaging £183 (from the agents' survey) with the highest reported charge at £420.

Renters often receive no information about what costs this administration charge (also sometimes called an 'agreement' fee) covers. Some renter respondents stated that they understood the fee was for setting up the tenancy and could include reference checks. Some agents charged a combined fee which usually included both administration and credit reference checking. The written information provided by letting agents as part of the survey found that in the infrequent cases where the administration charge was explained, it was for drawing up the tenancy agreement. For example:

> *In order to rent a property through [letting agent], would you please: Pay our fee of £120 + VAT per renter for the provision of tenancy agreements and any relevant legal documentation*

> *An administration fee of £420 incl. VAT will be payable upon creation of a legally binding tenancy agreement*

As part of the terms and conditions of their agreement with a landlord, a letting agent typically specifies that in return for a management charge they will find a suitable renter, obtain references and set up an Assured Shorthold Tenancy agreement. This suggests there is potential for double charging, with an agent charging both the landlord and renter for the administrative work involved in setting up a tenancy. Other research has found that landlords are frequently unaware that renters are also being charged fees by letting agents.[12]

Citizens Advice case evidence also indicates that administration charges are sometimes not refunded when a tenancy does not go ahead:

> *Anna was planning to rent a cottage with her partner through a local letting agent. She paid an administration fee of £250 to the letting agent and credit reference checks were started but a contract was not signed. Sadly Anne's partner died unexpectedly and this understandably caused delays and meant she struggled to come up with the deposit for the cottage in time. The letting agent has refused to return the administration fee.*

This case does not appear to comply with the OFT Guidance (now part of the Competitions and Market Authority [CMA] guidance) on unfair terms in tenancy agreements which states that:

> "…we are likely to consider a term that deprives the renter of everything paid in advance, regardless of the actual costs or losses caused by the cancellation, to be an unfair penalty." (paragraph 3.40)

Reference checks

Another common additional charge was for reference checks: 69 per cent of agents said they charged renters this fee and 70 per cent of renters reported that they had paid a reference check fee.

The issue of double charging also arises in relation to reference checks as, like setting up tenancy agreements, they are also commonly specified as part of the landlord's management charge. Other research has found evidence of this double charging finding that landlords and renters have both been charged for running credit checks, renewal charges and check in and out fees.[13]

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[12] *Renting Roulette: Consumer experience of the lettings market*, Which? 2012.

[13] http://www.directlineforbusiness.co.uk/news/landlords-and-renters-caught-by-double-dip-charging accessed 10/3/2015

The average reference check charge from the agents' survey was £83 but the range of these fees was very broad with the lowest fee being £6 and the highest £300. Bureaux also report cases of even more prohibitive fees:

> *Jess found a property that she wanted to rent in her local area and the letting agent requested charges of £600 to run credit checks and get references. This £600 was non-refundable if the landlord did not accept her as a renter. Jess was concerned about potentially losing this significant sum of money.*

It is unclear whether these charges fairly reflect the costs involved. Experian Ltd, one of the three credit reference agencies in the UK provides private landlord renter checks including an Instant Check for £15. This includes an identity check, adverse financial check and renter risk score. A Comprehensive Report costs £25 and includes the same as the instant check along with income reference and a previous landlord reference.[14] These prices make it hard to see how a reference fee of £300 can be justified.

Renewal charges

Renters often feel aggrieved at the imposition of renewal charges, which can be as frequent as every six months. There is no legal necessity to renew an Assured Shorthold Tenancy at the end of a fixed term since the tenancy can be allowed to run on as a periodic 'rolling' tenancy. Nor is a tenancy renewal likely to involve any work on the part of the agent beyond printing a new standard agreement and arranging for the agreement to be signed.

Despite this, the majority (65 per cent) of agents stated that they charged a fee for renewing the tenancy and 45 per cent of renters stated that they had paid a renewal charge. The overall average for renewal charges was £85 from the agents' survey and again this average obscures a wide range of charges, from £15 to £300.

Few of the agents we surveyed provided further details on the terms of the renewal fees. Of those that did, six of the agents specified that there was only a charge if the renter renewed their fixed term contract and no charge if the renter was moving to a periodic tenancy. In contrast, seven of the agents in the survey specifically stated that they charged for renewing both fixed term and periodic tenancies and one even charged a higher fee for 'switching' to a periodic tenancy.

[14] http://www.experian.co.uk/background-checking/private-landlords.html accessed 10/3/2015

Our local bureaux also have evidence of renewal fees being charged:

> *Roger is a 65 year old man who lives alone in private rented accommodation and is receiving Pension Credit and Disability Living Allowance. Every six months he is visited by his letting agent for a quick inspection and is charged £50 to renew his tenancy. He is on a limited income and feels this regular charge is unreasonable.*
>
> *Lucy has lived in the same private rented accommodation and paid an annual tenancy renewal fee of £50 annual for 6 years. Her letting agents' Renters' Guide states that '£50 inclusive of VAT is payable for any extension subsequently entered into whether this is by way of a signed agreement or the rolling over of an existing fixed term'. However, she was recently sent a letter asking for a £125 renewal fee and was informed by the letting agent that the fee had been increased.*

Again, renewal fees raise the prospect that agents are double charging for their services. Landlords have concerns about renewal fees with research from National Landlords Association (NLA) finding that more than two thirds of landlords with property in London have been charged a renewal fee.[15] Only one agent mentioned to our researchers that their renewal fee of £90 is split in half between the landlord and renter. Other research supports this concern, for example pointing to an example of a South London letting agent who had charged a landlord £670 for a simple contract extension, which only necessitated a change of date, while the renter was also charged £90 as a renewal charge for the same contract change.[16]

Check-in/check-out and other charges

Finally, many letting agents also charge separate fees for check-in and/or check-out costs including the taking and checking of inventories. Thirty-five per cent of agents reported a check-in charge and 41 per cent a check-out charge. The average check-in charge for renters was £108 and the average check-out charge was £76, as reported by agents.

Inventories, which are included in check-in charges, became increasingly significant after the introduction of the tenancy deposit legislation. This is because inventories can be used to justify deductions made from deposits in

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15 http://www.telegraph.co.uk/finance/personalfinance/borrowing/mortgages/2790196/Buy-to-let-landlords-paying-over-the-odds-on-renewal-fees.html accessed 10/3/2015

16 http://www.directlineforbusiness.co.uk/news/landlords-and-renters-caught-by-double-dip-charging accessed 10/3/2015

dispute resolution. However, these charges are often also charged to both landlord and renter. It is unclear why this activity is not seen as part of the routine management process and therefore reflected in the management charge paid by landlords.

Other charges reported in our surveys included paying for the addition or removal of renters, cleaning charges, fees to end the tenancy, late payment fees, missed appointment fees and fees for pets. Fourteen per cent of the renter respondents reported having paid other charges and 12 per cent of agents stated that they made other charges. The most common of the other charges reported by agents was a fee or deposit if the renter had a pet. These ranged from £20 to £150 and were charged by eight per cent of agents.

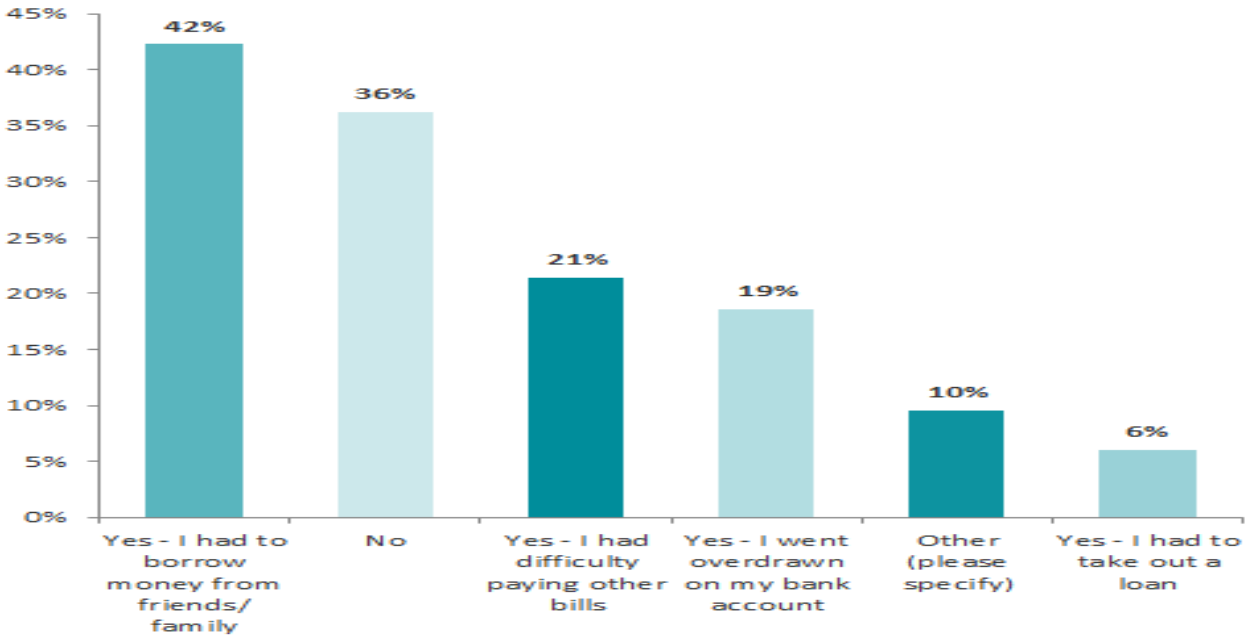
The overall burden of charges

What overall effect do charges have on renters? Our findings indicate that, on average, renters will have to pay £337 on top of rent in advance and a tenancy deposit to rent a property. In some cases additional charges can be significantly more than this, causing real harm for renters and increasing frictions in the housing market. For example:

> *Janet and her husband were informed by their landlord that they had to leave their home. Janet was in a rush to find new accommodation and was persuaded by her letting agent to pay £314 as a holding deposit to secure a property. In addition she had to pay £300 (£150 per person) for her and her husband to have a reference check. It was only after Janet had paid £614 that the terms of conditions of these fees were explained. She was left concerned that they might not be refunded the money if they failed the checks and that they would end up homeless as they had no other funds to pay for a deposit on a new property.*

In our renters' survey, respondents were asked whether paying additional charges had caused them problems. A majority (64 per cent) said that they experienced problems and many (42 per cent) had to borrow from family or friends, some (21 per cent) had difficulty paying other bills, went overdrawn on their bank account (19 per cent) or had to take out a loan (6 per cent).

Figure 14: Problems renters reported as a result of paying charges



Source: Citizens Advice Survey of renters 2015.

In the 'other' category we asked renters to specify and some explained the burden paying these charges presented alongside rent in advance and a deposit:

> *Had to live with family to save the deposit, first month rent and other fees. Who has £6000 lying around when wanting to move into a flat in London? Especially when deposit refunds from previous flats usually happen after you've moved in to a new property.* (renter, Greater London)

> *I could not afford to buy food for the first two weeks in my flat because of the agents not refunding our inventory fee as agreed. Luckily I worked in a pub so ate on shift but it was VERY tight after relocating.* (renter, South East)

> *I didn't have to borrow money but I did have to resort to working 12 days in a row, have a day off and go in for another 12 days and so on to make up the money. This caused unbelievable amounts of stress.* (renter, South West)

Even where a prospective renter is able to afford the rent, the additional charges imposed can be an overwhelming financial barrier, effectively preventing anyone who does not have a significant amount of ready cash from renting a property through an agent.

Conclusion and recommendations

This report suggests renters are still being let down by letting agents despite efforts to improve the sector. The agents we surveyed reported an average total charge of £337 for a tenancy in addition to a deposit and rent. We see no reason to believe fees have fallen in response to transparency and indeed we find some reason to believe they have risen; our results for 2015 are higher in real terms in almost every category than in 2009, although this could reflect variation in our sample.[17]

More revealing than the level of charges, though, is their distribution. Fees vary wildly and inexplicably, from £6 to £300 for reference checks and from £15 to £300 to renew a tenancy. Fees also bear no discernible relation to the cost of the service being provided, with tenants charged as much as £300 for credit checks that are widely available on the open market for £25. We also see no clear link between standards of service and the extent of fees. It is difficult to think of any functioning market that would present results of this kind.

Our wider results also show behaviours that bear no hallmarks of competition. Far from advertising their fees and services and competing on that basis, only a third (34 per cent) of letting agents even willingly provided full written details of their charges when asked. And only a quarter (25 per cent) of renters said they considered letting agent fees when shopping for a property. Put simply, renters do not choose between letting agents, they choose between properties. This is why competition and transparency have no bite on tenant fees. From a tenant's perspective, fees are at best an afterthought and at worst an unavoidable imposition, arising once a deposit, contract or living arrangement is already made.

We believe **there is now a sufficient case for the government to ban letting agents fees for renters for functions that are part of the routine letting and management process.** This is not a call we make lightly; only rarely are outright bans the best way to protect consumers. The intention is not to push good letting agents from business, but to shift the industry's business model closer to that of other agency markets, such as employment agencies, in which fees are charged only to one side of the transaction, in this case the landlord. We are encouraged by the ban on letting agent fees introduced in Scotland in 2012, where we see no clear evidence of an inflationary effect on rents.[18]

[17] In our 2015 survey of letting agents, the regions of the south west and south east are over-represented. The overall increase in fees that we record could therefore reflect higher fees in these regions.

[18] *Private Rented Sector: the evidence from banning letting agents' fees in Scotland*, DCLG, 2015.

Wider changes could also help fix the customer service failings reported by our clients and respondents. (Indeed it is notable that similar dissatisfaction has been reported by landlords.[19]) When letting agents consistently and severely breach codes of conduct they should be stopped from operating. This could be done through licensing of letting agents, as being introduced in Wales, or through a lighter-touch system of **compulsory membership of a trade association**, with a ban list shared between such associations. Our evidence suggests the latter approach would be a reasonable and proportionate first step in England, raising standards in the industry.

New steps are also needed to give renters clearer routes to redress. One in five letting agents (18 per cent) told us there were not a member of a redress scheme and only 4 per cent of the renters we surveyed knew which redress scheme their letting agent was in. **A simpler system, operating through a single redress scheme, would be better**, giving renters a clear route to redress. We see little reason to believe that competition between redress schemes (for letting agent business) would drive up outcomes for renters. Lettings agents face a complex mix of motivations when choosing a redress scheme and it is far from clear these motivations align well with what renters need. Awareness of the redress scheme should also be enforced through the information requirements of the Alternative Dispute Resolution (ADR) directive to be implemented in summer 2015.[20]

Finally, our research flashes an amber warning light about access to private rental properties for housing benefit recipients (see Box 1). We see no change in the number of letting agents accepting clients on housing benefit but we do see notable growth in the proportion requiring such clients to have a guarantor. Our work in financial services gives us reason to believe this could be linked to increasingly stringent conditions imposed by mortgage lenders on mortgagors, partly in response to Universal Credit reforms. This is not yet a high volume issue but it is one to watch. We would suggest that DWP work with mortgage lenders and insurers to understand and allay fears relating to the direct payment of housing benefit, not least by ensuring that the process for Alternative Payment Arrangements under Universal Credit is clear and easy for landlords to access.

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[19] http://news.rla.org.uk/landlords-welcome-mps-calls-to-tackle-cowboy-agents/ accessed 11/3/

[20] The directive will mean that letting agents will have to: provide information about the certified ADR scheme they are a member of on their website and contracts and inform the consumer that they are a member of an ADR scheme in the event of an unresolved dispute. It also mandates the creation of an ADR helpdesk that should be able to tell renters whether the letting agent they are enquiring about is a member of a scheme, and which one it is.

Appendix: Extent and size of charges/deposits 2009 and 2015

Figure 15: Percentage of renters paying and agents making charges

Type of charge /deposit	Percentage of renters paying a charge 2015	Percentage of renters paying a charge 2009	Percentage of agents making charges 2015	Percentage of agents making charges 2009
Tenancy deposit (returnable)	88%	91%	94%	97%
Non returnable holding deposit	62%	60%	57%	48%
Deposit administration charge	Not recorded	14%	16%	13%
Reference check	70%	70%	69%	69%
Administration fee	80%	75%	81%	75%
Check in inventory	27%	13%	35%	22%
Check out inventory	24%	14%	41%	23%
Tenancy renewal fee	45%	35%	65%	42%

Source: Citizens Advice survey of letting agents, 2009, 2015.

Figure 16: Average charge as reported by renter and agent

Type of charge /deposit	Average charge as reported by renter 2015	Average charge as reported by renter 2009	Average charge as reported by agent 2015	Average charge as reported by agent 2009
Tenancy deposit (returnable)	£959	Not recorded	Not recorded	£808
Non returnable holding deposit	£291	£220	£282	£231
Deposit administration charge	Not recorded	£101	£48	£31
Reference check	£124	£99	£83	£70
Administration fee	£146	£121	£183	£118
Check in inventory	£84	£80	£108	£71
Check out inventory	£81	£78	£76	£66
Tenancy renewal fee	£98	£78	£85	£60

Source: Citizens Advice survey of letting agents, 2009, 2015.

Figure 17: Range of charges as reported by agents and renters[21]

Type of charge /deposit	Range of charges reported by agent 2015	Range of charges reported by agent 2009	Range of charges reported by tenant 2015
Tenancy deposit (returnable)	Not recorded	£108 - £4200	£50 - £10,000[22]
Non returnable holding deposit	£25 - £700	£12 - £1137	£40 - £2,000
Deposit administration charge	£18 - £150	£23.50 - £50	not recorded
Reference check	£6 - £300	£10 - £275	£15 - £500
Administration fee	£25 - £420	£8 - £341	£10 - £585
Check in inventory	£25 - £250	£25 - £99	£15 - £180
Check out inventory	£25 - £200	£25 - £160	£15 - £150
Tenancy renewal fee	£15 - £300	£12-£220	£15 - £500

Source: Citizens Advice survey of letting agents, 2009, 2015.

[21] The range of charges as reported by renters in 2009 was not recorded
[22] The £10,000 deposit was shared between 9 renters

Our aims

- Provide the advice people need for the problems they face.
- Improve the policies and practices that affect people's lives.

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Written by Pippa Lane and Laura Rodrigues

3rd Floor North
200 Aldersgate
London EC1A 4HD
Tel: 03000 231 231

www.citizensadvice.org.uk

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