

**NATIONAL
TRADING
STANDARDS**

**Estate and Letting
Agency Team**

**Camden Private Renters Forum
Letting agents, tenant fees and
unfair practices**

29th November 2023

Overview

The session will cover:-

- Letting agent checks -
 - Redress schemes
 - Client Money Protection (CMP) schemes
 - Display of fees and membership information
- Tenant Fees Act 2019 – prohibited payments
- Unfair practices
- Unfair terms

Letting agents and property managers must...

- Be a member of a redress scheme
 - The [Property Redress Scheme](#)
 - The [Property Ombudsman Scheme](#)



- Check membership online
- Deal with a wide range of complaints about an agent and can order agent to apologise, correct their action, provide information and / or pay compensation up to £25,000
- May be able to deal with matters that the local council can't, e.g. poor communication, unacceptable delays with responses
- You must complain to the agent first
- Covers most letting / managing agents

Letting agents and property managers must...

Be a member of a client money protection scheme (**only** if they hold client money)

- [Propertymark](#)
- [RICS](#)
- [UKALA](#)
- [Money Shield](#)
- [Safeagent](#)
- [CMPProtect](#)



Check membership online

Complain to scheme if your money is lost (e.g. deposit never protected)

Covers most letting / managing agents who hold client money

Letting agent must display their fees and membership information

- Fees, redress and client money protection membership must be displayed:-
 - On their own website
 - On third party websites used to advertise property to let (e.g. Rightmove, On The Market)
 - In their office where they deal face to face with customers (and must be in a place it can be seen)
- Double check logos being displayed – websites are not always up to date and memberships may have expired.

Permitted fees for tenants

Tenant Fees Act 2019

Permitted fees

- Rent
- Security / tenancy deposit (5 or 6 week rent equivalent)
- Holding deposit (1 week rent equivalent)
- Default fees / damages, e.g. lost key, late rent
- Variation of tenancy at tenants request - £50 or reasonable costs
- Early termination at tenants request - £50 or reasonable costs / loss suffered
- Council Tax, utility bills, TV licence and communication services (phone, internet)

- Tenant [guidance](#)

Permitted fees

Security / tenancy deposit – capped at 5 or 6 weeks rent

Annual rent less than £50,000 = deposit capped to maximum of 5 weeks' rent

Annual rent of £50,000 or more = deposit is capped to maximum of 6 weeks' rent

Weekly rent calculation = monthly rent x 12, divide by 52 = 1 week

e.g. £1,250 pcm rent

$£1,250 \times 12 = £15,000$ (annual rent)

$£15,000 \div 52 = £288.46$ (weekly rent)

$£288.46 \times 5 = £1,442.30$ (permitted security deposit)

Holding deposits

Paid before you sign a tenancy to show your commitment to renting the property

- Capped to equivalent of one weeks' rent
- Landlord / agent can only take one holding deposit at a time
- 15 days from date of payment to sign tenancy, unless you agree otherwise
- If you sign the tenancy, holding deposit can be refunded to you, put against rent or deposit with your consent
- If you do not sign the tenancy, then you may lose the holding deposit but there are rules when it must be returned
- Landlord / letting agent must inform you in writing why they are keeping the holding deposit
- Before you pay a holding deposit, ask to see the tenancy you will be expected to sign and check the terms
- When you pay a holding deposit, it is good practice for you to be provided with written information confirming the payment and the date by which you should sign the tenancy.
- Tenant [guidance](#) - page 14 for useful flowchart and guide covers lots of FAQs

Default payments – e.g. lost key, late rent

Permitted if tenancy agreement requires the payment to be made

Lost key / security device given access to housing and require replacement

- Fee reasonably incurred by the landlord / agent as a result of the default
- Supported by written evidence
- Excess is prohibited payment

Late payment of rent

- If rent payment has been outstanding for 14+ days (usually stated in tenancy agreement)
- Fee cannot be more than 3% above the Bank of England's base rate for each day the payment has been outstanding
- Excess is prohibited

Damages for breach of contract can still be recovered

Unfair practices

As a tenant, you should not be treated unfairly - Consumer Protection from Unfair Trading Regulations 2008, explained on [Shelter](#) website

- Must be professional & follow fair trading practices
- Must not mislead you – either giving misleading information, or withholding important information
- Must not be aggressive – coercion, harassment or undue influence

- If their behaviour causes you to take a "transactional decision" that you would not have taken otherwise, you may have been treated unfairly.

- Covers all conduct of a business towards a consumer, i.e. you as a tenant.
 - missing / incorrect information, not protecting deposits, threatening eviction if you complain to the Council,
- Banned practices – always unfair, e.g. displaying a membership logo when they are not a member.

Unfair contract terms

Consumer Rights Act 2015

- An unfair term is not binding on a consumer (i.e. a tenant), explained on [Shelter](#) website
- A term is unfair if it creates a substantial imbalance in the rights and obligations between a trader and a consumer, i.e. in a tenancy, there is an imbalance to the tenant's detriment.
- Whether a term is unfair, can only be determined by a Court, seek advice before ignoring a term in a tenancy agreement
- Look at [model tenancy agreement](#) for example of acceptable terms
- [CMA guidance for letting agents](#)

What to do if you have a problem

- Contact your local authority – Camden private sector housing team
- Contact trading standards via the [Citizens Advice](#) Consumer Helpline - 0808 223 1133
- Contact other organisations – [Shelter](#), local charities & organisations etc
- Correspond in writing with letting / managing agent
- Follow complaints procedure of letting / managing agent
- Complain to the redress scheme
- Check letting / managing agent membership details before you pay them any money / sign paperwork
- [Check and report a landlord or agent - London rogue landlord database](#)
- View properties before transferring money
- If possible avoid cash payments, and obtain receipts and written details of arrangements in advance of payments being made

Thank you

estate.agency@powys.gov.uk

www.ntselat.uk

**NATIONAL
TRADING
STANDARDS**

**Estate and Letting
Agency Team**