

LETTING AND PROPERTY MANAGEMENT AGENTS

DISPLAY OF FEES

Following a complaint to them the Advertising Standards Authority (ASA) issued guidanceⁱ in November 2013 on how agents should clearly advertise their fees. In their Guidance for Lettings Professionalsⁱⁱ the Competition and Markets Authority (CMA) have provided further detail on how information on fees should be presented. Lastly, the Consumer Rights Billⁱⁱⁱ is proposing a statutory duty for fees and charges to be displayed on business premises and websites.

What type of fees are covered?

Letting agents must make potential customers, both tenants and landlords, aware of all compulsory and upfront charges at the earliest opportunity. These are fees all customers will have to pay that are additional to the rent or service charge.

Not all agents pass on charges to clients but examples of these extra fees are reference checks, inventory lists, tenancy renewal fees, use of guarantors, permissions for pets and additional tenants.

You should also make reference to any fees that could be incurred at a later date such as charges for reminder letters if the tenant is late in paying the rent.

Can I pass on my administration fees?

Terms such as “Administration Fee” need to be explained. The customer needs to know the nature and extent of the service covered by the term. With the correct information the customer will be able to understand the service and be able to make a decision on whether he or she wishes to go ahead with the contract.

Should I include information on refundable deposits?

Yes, for instance if you take holding or reservation deposits, where the property is taken off the market once a tenant has expressed interest, then you must include information on this. You must also explain under what circumstances the deposit, or part of it, may be not be refunded. We have a separate guidance sheet on holding deposits.

What should I do if the fee is variable?

If the fee cannot be calculated in advance because of, for example, an individual's circumstances, then you must provide adequate information for customers to establish how the fee would be calculated.

For instance on reference checking or drawing up tenancy agreements you could quote the most frequent occurring charge with the proviso that for complex cases that take longer the extra will be charged at £X per hour.

GUIDANCE FOR BUSINESSES

When reviewing your fee structure ask yourself:

- Do the clients have all the financial information they need to work out the total cost?
- Could they be misled as to the final charge?

Why must fees be made known?

Potential tenants should have all the information they need in the first instance to help them make an informed choice and to avoid being drawn into contracts they haven't budgeted for. They will be happier clients in the long run.

If you give misleading information about fees or omit to tell a client everything you may be in breach of the Consumer Protection from Unfair Trading Regulations 2008^{iv}, for which you could be prosecuted. Also you would not be able to insist on payment under contract law.

What about VAT?

VAT should be included for fees aimed at both tenants and landlords. Not all landlords are able to reclaim VAT.

How should my fees be publicised?

We recommend you produce a list of fees for display on your business premises in a place where it can be easily seen. The list should be available on your website one click away from the details of the property. Your fees tariff should be included in any information you hand to a client.

It is advisable to put the date on the list or a valid duration period to avoid confusion should your fees change at a later date.

How can I get further advice?

If you require further information, clarification or advice on any of the above, please do not hesitate to contact the Trading Standards Service by telephone on 020 8753 1081 or via email at trading.standards@lbhf.gov.uk

In offering the above advice this Authority wishes to make it clear that only the Courts can interpret the Law.

ⁱ Advertising Standards Authority ruling <http://www.cap.org.uk/Advice-Training-on-the-rules/Advice-Online-Database/Compulsory-costs-and-charges-Letting-agents.aspx>

ⁱⁱ Competition and Markets Authority Guidance

<https://www.gov.uk/government/publications/consumer-protection-law-for-lettings-professionals>

ⁱⁱⁱ Consumer Rights Bill Section 81 onwards http://www.publications.parliament.uk/pa/bills/lbill/2014-2015/0029/lbill_2014-20150029_en_1.htm

^{iv} Consumer Protection from Unfair Trading Regulations 2008
<http://www.legislation.gov.uk/ukxi/2008/1277/regulation/6/made>