

Local Government Association briefing

Tenant Fees Bill

Report Stage, House of Lords
11 December 2018



Briefing

KEY MESSAGES

- We welcome the Tenant Fees Bill and we are pleased that the Bill has received cross-party support. The Government's intention to make private rented accommodation more accessible is positive. Excessive letting agent fees are a concern for many tenants and councils.ⁱ
- Councils will have responsibility for enforcing the ban in their areas, and require additional resources to do so. We are pleased that the Government has listened to our calls and recognised the need for up-front funding, by committing £500,000 for the first year.ⁱⁱ
- The Government intends councils' enforcement work to be funded through fines recouped after the first year. Allowing councils to keep money from fines is helpful, but may not address the cost of the proactive work necessary to ensure letting agents are complying with the ban.
- Councils will require clear and timely guidance from the Government in order to enforce the ban effectively. Local authorities want to bring about consistency in enforcement across the country. There should also be a national information campaign to make tenants and landlords aware of the new rules.

NOTE ON THE AMENDMENTS

- **We support the amendment to Clause 1, tabled by Lord Bourne of Aberystwyth**, to insert a new subsection (10) on "a relevant person". This amendment seeks to remove local housing authorities from within the definition of "relevant persons" who are prohibited from providing certain payments to landlords.
- We have been working with Parliamentarians and the Government to avoid any negative unintended consequences as a result of the Bill. We are pleased the Government has brought forward this important amendment, and look forward to supporting the implementation of the legislation.

ADDITIONAL INFORMATION

The Bill

The Tenant Fees Bill will abolish most upfront fees for tenants in England and cap security deposits at the equivalent of six weeks' rent.ⁱⁱⁱ We welcome the Bill and the Government's intention to make private rented accommodation more accessible. Letting fees and high deposits are seen as adding to the affordability challenge for the 4.7 million households in the private rented sector.^{iv}

Councils' role in enforcing the ban

In order for councils to enforce the ban, it is vital that the Government provides adequate up-front funding. Councils will want to take a proactive approach to compliance work, but local trading standards teams are under severe financial pressure. Since 2009, the number of trading standards officers has reduced by 56 per cent.^v

It is positive the Government has recognised the need for up-front funding of enforcement action by councils, in the first year of the legislation. We are therefore pleased that the Government has listened to our calls and committed to providing £500,000 in funding for the first year.

The Government intends councils' enforcement work to be funded through fines recouped after the first year. Allowing councils to keep money from fines is helpful, but may not address the cost of the necessary proactive work. For example, it would not fund any up-front or proactive work that does not lead to any civil penalties being issued.

The use of lead enforcement authorities is a helpful way of ensuring that funding is appropriately targeted at the organisations enforcing specific areas of activity. National Trading Standards (NTS) already provides lead authority expertise on a range of issues, including estate agents, and we would therefore support NTS providing the lead enforcement role.

Councils will require clear and timely guidance from the Government in order to enforce the ban. This will help local authorities to bring about a consistency in enforcement across the country, ensuring that there is a level playing field for tenants and letting agents throughout different areas.

Any penalties issued for infringement of the ban should be commensurate with the level of offence, and heavy fines should not be used as income generators by councils. A commitment to greater funding for local trading standards across England – rather than relying on the proceeds of penalties - would also help to bring about a more consistent level of enforcement across different local authority areas.

Raising awareness of the ban

Enforcement must be supported by a national, Government-led information campaign to make tenants and landlords aware of the new rules. Ensuring that tenants and landlords are aware of the ban will reduce the potential for non-compliance, so it is important that central government undertakes a national awareness-raising campaign, backed with both funding and non-financial resources.

ⁱ LGA, Queen's Speech 2017: On the day briefing, June 2017

(https://www.local.gov.uk/sites/default/files/documents/Queen%27s%20Speech%20On%20the%20Day%20Briefing%20-%2021%20June%202017_0.pdf)

ⁱⁱ House of Commons Hansard, Tenant Fees Bill (consideration of the Budget), 5 September 2018

(<https://hansard.parliament.uk/commons/2018-09-05/debates/92853076-D53D-4EB7-A525-OC5141FA0726/TenantFeesBill#contribution-03EFCAF4-832C-43E6-A305-F96C1DB5C10B>)

ⁱⁱⁱ Tenant Fees Bill (HC Bill 203), May 2018 (https://publications.parliament.uk/pa/bills/cbill/2017-2019/0203/cbill_2017-20190203_en_1.htm)

^{iv} House of Commons Briefing Paper, Tenant Fees Bill 2017-19, May 2018

(<http://researchbriefings.files.parliament.uk/documents/CBP-7955/CBP-7955.pdf>)

^v National Audit Office, Protecting consumers from scams, unfair trading and unsafe goods, December 2016

(<https://www.nao.org.uk/report/protecting-consumers-from-scams-unfair-trading-and-unsafe-goods/>)