

Letting agents display of fees etc.

Trading Standards information

www.southwark.gov.uk

1. Introduction

Anyone carrying out letting agency work must publicise their fees to clients and potential clients (i.e. landlords and tenants) in premises and on websites. They must also state other information in that list.

Note that tenant fees, except for certain prescribed matters, were banned from 1st June 2019 by the Tenant Fees Act 2019. Any breach may result in a £5,000 penalty and repeated breaches could result in a £30,000 penalty.

2. Main legal requirements

- Letting agents must display a fees list at each premises where lettings customers, or potential lettings customers, are dealt with face to face
- The fees list must be displayed in those premises where they are likely to be seen by those persons
- If the agent has a website the fees list must also be shown on that website

Where letting agents deal with letting agency work or property management work relating to dwelling-houses in England they must also state in the list;

- Where client money is held that they are a member of a client money protection scheme (this has been compulsory since 1st April 2019).

Note that the certificate of membership must also be shown in your premises and on your website under separate client money protection legislation. The definition of holding client money covers many situations including taking holding deposits, collecting rent from tenants to pass on to landlords and dealing with tenancy deposits before they are protected in a tenancy deposit protection scheme.

- That they are a member of a redress scheme and the name of that scheme (letting agents have been required to be a member of an approved redress scheme since 1 October 2014)

Note it is also an offence under unfair trading regulations to make false claims, for example about membership of any schemes or trade associations etc. This includes displaying logos on websites, premises or paperwork without the required authorisation or where membership may have lapsed.

Continues/...

3. What fees have to be listed?

Any fee, charge or penalty (however expressed) payable to the agent by a landlord or tenant for;

- Letting agency or property management work
- Anything else in connection with an assured tenancy of a dwelling-house or a dwelling-house that is, has been or is proposed to be let under an assured tenancy

4. What should the fees list include?

- i. VAT - the amount of each fee shown must be shown inclusive of VAT or any applicable tax.
- ii. A description of each fee so that it is clear what service or cost is covered and its purpose
- iii. The amount of each fee, or, if that fee cannot reasonably be determined in advance, a description of how that fee is calculated

The only tenants fees now legal are;

- i. Late rent fees which are capped at up to 3% plus the Bank of England base interest rate
- ii. Lost keys costs
- iii. Changes to tenancies – these are capped at £50 (or reasonably incurred costs, if higher) but no fee may be charged for renewals or changes to the length of the tenancy

Note that tenancy deposits, also called security deposits, are to be limited to five weeks' rent for annual rents under £50,000 and holding deposits are capped at one weeks rent

5. What happens if I don't comply?

The duty of letting agents to publicise fees etc. is contained in the Consumer Rights Act 2015 (Chapter 3) and local authority trading standards officers have a duty to enforce them.

Where a breach is found a council may impose a financial penalty on the agent in respect the breach. The maximum financial penalty is £5,000 and government guidance is that this is the amount to be imposed unless there are any extenuating circumstances.

Before imposing such a penalty the council will serve a notice of intent on the letting agent which will include details of how written representations can be made by the agent.

If a final notice is served by the council the agent must pay the penalty within 28 days. The final notice will contain information including why the notice has been served and rights of appeal.

Note that Councils may issue notices to agents that are not in that Council's area, as well as in their area, but only one notice can be issued for the same particular breach.

Offences under the Consumer Protection from Unfair Trading Regulations 2008 are dealt with in the criminal courts where on conviction the maximum penalty is a fine and/or two years imprisonment.

Continues/.....

6. Additional requirements - Electronic Commerce Regulations 2002 and Companies Act 2006

If you have a website e-commerce rules require you to provide other information, for example the geographic address where your business is based; your contact details to enable consumers to communicate with you, and details of professional bodies or trade associations you belong to.

Company law requires you, amongst other things, to display your registered company name prominently at the places where you carry out business and your registered company name and registered office address on all of your company correspondence, documents and websites.

7. Display of weekly rental costs

If a tenancy agreement provided for monthly rent to be paid then you should advertise the monthly rent on your website and in your premises. You may also choose to show a weekly rent if desired alongside the monthly one.

To show a weekly rent alone when rent must be paid monthly is potentially misleading under unfair trading regulations. You should only advertise a weekly rent on its own if the tenancy agreement requires a weekly rent payment.

7. Further information

The Competition and Markets Authority have published a detailed guide for lettings professionals on consumer protection law. You can download it from the [GOV.UK](https://www.gov.uk) website.

GOV.UK also has further information on redress schemes, Tenant Fees Act and client money protection requirements. The Consumer Rights Act 2015 can be found online at www.legislation.gov.uk.

You may also wish contact a relevant trade association. Some have produced template lists to assist their members with compliance.