Legal Requirements under the Consumer Rights Act 2015

Chapter 3, under Part 3 of The Consumer Rights Act 2015 relates solely to letting agents and came in to force on the 27th May 2015. It is now a legal requirement for all letting agents in England to (1) publicise details of their relevant fees and state with the list of fees; (2) whether or not they are a member of a client money protection scheme; and (3) give details of which redress scheme they have joined.

Fees that must be displayed

All fees, charges or penalties which are payable to the agent by a landlord or tenant in respect of letting agency work and property management work carried out by the agent must be displayed where the work is in connection with an assured tenancy of a property, or a property that has been or is proposed to be let under an assured tenancy. All fees must also be displayed inclusive of VAT.

There are some exemptions to this requirement and these are as follows:

- The rent payable to the landlord (as this is covered by other legislation)
- A tenancy deposit which is taken as security against damage or violation of the tenancy agreement; and
- Any fees, charges or penalties which the letting agent receives from a landlord under a tenancy on behalf of another person.

For example, should a letting agent recommend a gardener for a property and arrange to pass the fee from the landlord to the gardener without taking a cut or adding a fee for this service, there would be no requirement to publicise the fee charged by the gardener as the agent is simply providing a more convenient way for the landlord to pay. However, with regard to a ‘check-in’ or ‘check-out’ fee, these fees would need to be publicised as they are fees that are charged to either the landlord or the tenant as part of the agreement.

Where must fees be displayed?

Agents must display a list of the fees at each of the premises at which the agent deals face-to-face with persons using or proposing to use services to which the fees relate. The list must also be in such a place that is likely to be seen by customers, as they should not have to ask for it. The fees must also be published on the agent’s website.

The agent cannot simply put up a notice stipulating a total ‘Administration Cost’, these costs need to be specified with a detailed description and broken down as to exactly which costs will be charged for which service e.g. credit check, referencing, inventory, marketing the property etc. It should also be clear as to whether the charges are per tenant or per dwelling.

With landlord fees, there are often different levels of service provided so costs must identify charges for the level of service and whether it is a let only service, a full management service, or anything in between. Percentages quoted must also include VAT.

Client Money Protection Scheme

In addition to the above, letting agents are now required to publicise whether or not they are a member of a Client Money Protection Scheme and display a notice stipulating which scheme they are members of. A Client Money Protection Scheme is an insurance backed scheme that some trade associations such as The Association of Residential Letting Agents (ARLA), The National Approved Letting Scheme (NALS) and The Royal Institute of Chartered Surveyors (RICS) have as a compulsory part of their membership. There are other companies that offer a Client Money Protection Scheme as a separate policy such as The UK Association of Letting Agents (UKALA), Safeagent and CMProtect. Often a certificate or a door sticker, plus a logo for a website are supplied by the scheme joined, which could be used on your premises and
website. If a letting agent is not a member of a Client Money Protection Scheme then they must have a notice stipulating this with their list of fees. For example the following can be used:

“ABC Lettings are not members of a client money protection scheme”

This notice must be displayed on all premises that the agent trades from as well as any website or portal that they use. The three deposit protection schemes are not client money protection schemes, therefore if an agent is only a member of one of the three deposit protection schemes, namely My Deposits, the Deposit Protection Scheme (DPS) and The Dispute Service (TDS), then the above notice must be displayed.

It is regarded as good practice, in order to protect you as the agent, to only pass the deposits to the landlords once the landlord has protected it. If you do not do this, then legally a tenant can hold you responsible if their deposit is not returned.

Redress Schemes

Letting agents are also required to display details of the redress scheme they are members of, with the list of fees. Again, a certificate and logos are usually supplied by the relevant scheme. If this information is not displayed then this would be a breach of the legislation. This information must be displayed in every premises that the business operates from and on the agent’s website.

Penalty

The penalty for breaching this duty of letting agents to publicise fees is a fine of up to £5,000 for each breach and government guidance has suggested that £5,000 should be considered the norm and only reduced in exceptional circumstances.

How can I display the fees and other required information on my website?

As long as the fees and other information are together, clear and easy to find, that is sufficient. It is good practice to have the fees and other information one click away from your home page (two clicks at most). This can be under a tab titled ‘fees’ or a tenant tab and landlord tab. They should be easy to see without having to scroll down several pages. In addition, it is also good practice to have your tenant fees with your client money protection and redress information, accessible by clicking on a hyperlink next to the rent stated for individual properties. This could be called something like ‘fees apply’. One way of doing this is by clicking on the hyperlink and being taken to a landing page with the information the same as the page accessible through the fees tab.

For your assistance, provided with this leaflet are example templates you can use and display on your premises and website. If you would like to receive these in electronic form, please email me using the contact details below.

I also refer you to the business names legal requirements attached.

Lastly, if you are advertising the rent payable in weekly amounts when it can only be paid monthly, this may be classed as a misleading omission under the Consumer Protection from Unfair Trading Regulations 2008 as it may mislead consumers about payment terms. The average consumer does not automatically know how to calculate the actual rental amount that they would be required to pay so if you wish to stipulate the weekly rental equivalent, you would need also need to state the price per month in order to be compliant.

For further detailed advice, then it is advisable to contact your local trading standards department.
### FEES TO TENANTS

All fees to tenants and landlords are inclusive of VAT

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CONTRACT FEE:</strong> Fees for drawing up and the tenancy agreement</td>
<td>£_____</td>
</tr>
<tr>
<td><strong>ADDITIONAL TENANT FEE:</strong> Additional fee for each additional tenant in the property</td>
<td>£_____</td>
</tr>
<tr>
<td><strong>CREDIT CHECK FEE:</strong> All tenants will be subject to a credit check before the tenancy can go ahead</td>
<td>£_____</td>
</tr>
<tr>
<td><strong>REFERENCING FEE:</strong> References include employer’s reference and previous landlord if applicable</td>
<td>£_____</td>
</tr>
<tr>
<td><strong>GUARANTOR FEE:</strong></td>
<td>£_____</td>
</tr>
<tr>
<td><strong>PET DEPOSIT:</strong></td>
<td>£_____</td>
</tr>
<tr>
<td><strong>CHECK IN / INVENTORY FEE:</strong> (a cost range can be used)</td>
<td>£_____</td>
</tr>
<tr>
<td><strong>CONTRACT RENEWAL FEE:</strong></td>
<td>£_____</td>
</tr>
<tr>
<td><strong>OUT OF HOURS SERVICE:</strong></td>
<td>£_____</td>
</tr>
<tr>
<td><strong>LOST KEY FEE:</strong></td>
<td>£_____</td>
</tr>
<tr>
<td><strong>RETURNED PAYMENT FEE:</strong></td>
<td>£_____</td>
</tr>
<tr>
<td><strong>ARREARS FEE:</strong></td>
<td>£_____</td>
</tr>
<tr>
<td><strong>CHANGE OF TENANT FEE:</strong></td>
<td>£_____</td>
</tr>
<tr>
<td><strong>CHECK OUT FEE:</strong></td>
<td>£_____</td>
</tr>
</tbody>
</table>

*This is not an exhaustive list – all fees you charge must be listed.*
FEES TO LANDLORDS

LET ONLY: 10%

Let only service includes marketing the property, carrying out accompanied viewings, arranging for the inventory to be carried out, carrying out the relevant checks on the potential tenant including credit checks and referencing and finalising the tenancy agreement.

DEPOSIT PROTECTION: £50

As an additional service for we can protect the deposit on behalf of landlords for peace of mind.

RENT COLLECTION: £______ (PER MONTH)

As an additional service we can also offer a monthly rental collection, pursue non-payment of rent and provide advice on rent arrears.

FULL MANAGEMENT SERVICE: 14%

Full management includes all of the above, as well as getting quotes for repairs and arranging for repairs within the property, carrying 2 routine inspections per annum and notify the landlord of the outcome, advising all relevant utility providers of changes and hold the keys throughout the tenancy term.

CHECK OUT FEE: £______

The check-out fee will include the unprotecting of the deposit where applicable and return it to the landlord.

COURT ATTENDANCE £______

*This is not an exhaustive list – all fees you charge must be listed.*
Business Names & Scheme Membership Details

LEGAL NAME OF BUSINESS:

TRADING AS:

REGISTERED OFFICE ADDRESS OF BUSINESS:

COMPANY REGISTRATION NUMBER:

PLACE OF REGISTRATION: ENGLAND AND WALES

WE ARE / ARE NOT MEMBERS OF A CLIENT MONEY PROTECTION SCHEME: (insert details)

WE ARE MEMBERS OF THE FOLLOWING REDRESS SCHEME: