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## The lettings market

November 2012

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# Renting roulette

Consumer experience  
of the lettings market

# Renting roulette

**The growth of the lettings market, wide-scale poor practice and limited consumer protection mean that tenants and landlords can find themselves taking a gamble when choosing an agent. Which? research sheds light on consumers' experience of this process**

The private rented sector is becoming an increasingly important market for consumers. It provides a home to 4.7million UK households, and an investment for more than 1.2million consumer landlords who are letting as a part-time activity, for example to pay the mortgage or provide a pension.

Letting agents play a critical role in managing consumer experiences of this process. 66% of all private tenancies involve an agent. From the landlord's perspective they are responsible for managing a valuable investment, their property. From the tenant's perspective they can determine how comfortable and secure they feel in their home. This makes choosing the right agent an important consumer decision. It is particularly important given the levels of poor practice in the market. The Property Ombudsman found that complaints were up by a quarter this year compared to last.

Which? conducted research between May and October of this year to see how tenants and landlords make this decision. We wanted to listen to the experiences of the typical consumer landlord and tenant, and to understand how problems in the market impact on both sides.

### Tenants are disempowered and dissatisfied

The report finds fairly high levels of dissatisfaction among tenants. One in five were dissatisfied with their agent. When we applied Which?'s customer satisfaction score - which allows comparison across 50 consumer markets - letting agents ranked second from the bottom, with only financial comparison websites worse.

Our investigation revealed that tenants are disempowered throughout the process. With the growth of internet portals, and in a market where demand outstrips supply, tenants shop for a property rather than an agent. The majority of tenants in our research didn't have a particular preference to use an agent and hadn't chosen to use their agent over any other. 73% approached whichever agent was listing the property they liked. This meant that whether tenants ended up with a good or bad agent was a gamble. Where tenants ended up with a bad agent they were unable to switch agents, and were

reluctant to complain, without risking the loss of their home.

### Problems in the market include:

- agents not safely or fairly handling the security and holding deposits, which could result in tenants losing large sums of money through no fault of their own;
- missed appointments, aggressive sales tactics, poor customer service and out of date and misleading adverts all of which hampered rather than helped the search process;
- opaque and variable fees which tenants thought were unfair given that they also thought that renting through an agent meant paying higher rent, and that they could end up paying frequently because of high levels of churn in the market. 36% of tenants didn't think fees were value for money. 41% thought upfront fees weren't fair. Our mystery shopping exercise found that out of 32 agents none had information about tenant fees on their website. We estimate that tenants are paying in the region of £175 million in agent fees each year, and that the potential loss from not shopping around is in the region of £76 million.<sup>1</sup>

### Landlords could lose thousands

Problems with letting agents were not exclusive to tenants. The landlord customer satisfaction score was sixth from the bottom across 50 markets. While landlords had more power to choose their agent, few landlords were considering the level of consumer protection their agent offered. Just

**73%**  
of tenants searched for the property rather than the agent

**41%**  
of tenants think that upfront fees are unfair

**37%**  
of landlords checked whether their agent was a member of a professional body

<sup>1</sup> Total fees calculated as (Geometric mean for upfront fees x Number of agents tenancies per year). Estimate on potential loss of not shopping around calculated as (Geometric mean - Lowest available fees) x Number of agents tenancies per year. Sources: DCLG, 'Private Landlords Survey 2009-10', 2011; English Housing Survey 2012; Which? Money mystery shop, 2012.

37% checked whether their agent was a member of a professional body. In a market where approximately 40% of agents are not signed up to a professional body, are not a member of a redress scheme, and don't have insurances in place in the event that the agent misappropriates their money, landlords and their tenants are both vulnerable when things go wrong.

**Problems in the market include:**

- agents not passing on rent to landlords and then disappearing;
- agents not putting the tenant's deposit in the protection scheme and then the landlord being liable;
- agents not carrying out tenant vetting procedures, or carrying out inadequate procedures, which can result in 'bad tenants' being let the property;
- agents not conducting regular inspections of the property, or adequate check-out procedures, resulting in serious disrepair going unnoticed.

These issues could result in thousands of pounds worth of losses. Many landlords were also carrying out activities that they had paid the letting agent to do as a means of 'keeping them on their toes' and to check that the terms of the contract were being met. 60% of landlords we surveyed were fully or partially carrying out activities the agent was paid to.

**Policy recommendations**

At a time when the rented sector is growing and access to home ownership and social housing has become more constrained it is vital that consumers, both landlords and tenants, can be confident that agents are providing a professional service.

■ To increase price competition in the market and help inform choice fees need to be available to tenants at the point of sale alongside the rent in a clear and standardised format, for instance in adverts and on agent websites. Landlords should also be provided with information on fees charged to the tenant so that they can assess the full cost of the service.

■ In order to increase consumer protection in the market and to create consistency with protection in the estate agency market, legislation relating to estate agents should be extended to cover letting agents. In particular all agents should be required to sign up to a redress scheme, but the OFT should also have the power to give an agent a warning or ban them from practicing. To help protect against losses it should be a condition of an ombudsman's code for agents to have Client Money Protection.

■ In order to reduce the likelihood of tenants unfairly losing upfront fees, agents need to provide full details of the terms of the agreement before any fees are paid, and there needs to be much greater clarity on the conditions under which, and the amount of, money that might be withheld or refunded.

■ Awareness needs to be raised among both landlords and tenants to help them make informed choices in the lettings market. Local authorities, universities, colleges and central government should more actively disseminate information to help raise levels of awareness particularly among first-time renters.

**We estimate that tenants are paying in the region of £175 million in agent fees each year, and that the potential loss from not shopping around is in the region of £76 million.**

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**Which?**

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# Introduction

The private rental market has become increasingly important for consumers, providing homes to 4.7 million UK households<sup>2</sup>, and an investment for over 1.2 million<sup>3</sup> consumer landlords who are letting part-time, perhaps to pay the mortgage or provide a pension<sup>4</sup>. The trend has increased over time and is forecast to rise further: it is estimated that the private rented sector will account for 22% of all stock by 2025 under a weak economic recovery, and as much as 37% in London<sup>5</sup>.

The lettings market has evolved in response to this growth. Estimates of the number of agents operating in the UK range between 14,000 to 17,000<sup>6</sup>. In 2010 agents were involved in 66% of all private rented tenancies<sup>7</sup>. This has been driven by demand from landlords for a hassle-free, professional means of letting their property and has also traditionally helped tenants with the search process. But the development of the lettings market has not come without its problems. Limited consumer protection, alongside poor practice and opaque fees has

resulted in both landlords and tenants getting burnt<sup>8</sup>. The Property Ombudsman found that complaints about agents were up by over a quarter in the last year, evenly split between tenants and landlords<sup>9</sup>.

These issues make it all the more important that people are engaged and informed as they look to let or rent through an agent. Which? has researched consumer experiences of the process. We wanted to explore how landlords and tenants look for an agent or property to rent, how informed they are and how satisfied they are with the role of the letting agent. The report details the findings from that research and sets out recommendations for change.

## Our research

**Which? conducted a programme of research between May and October 2012. It consisted of several elements:**

### ■ Qualitative diaries with tenants and landlords

We recruited 15 tenants and six landlords who were in the process of looking for a property to rent or agent to manage the let. Participants were asked to complete an online diary for a month and to record their experiences. Participants were drawn from three areas – London, Nottingham and Mansfield.

### ■ Qualitative focus groups

Which? conducted four focus groups among landlords and tenants who were renting or letting a property through a letting agent. The groups were held in London on 11 July 2012 and in Nottingham on 17 July 2012.

### ■ Quantitative research among tenants

Populus, on behalf of Which?, conducted an online survey of 1,006 tenants who had rented through an agent in the last two years, between 4 and 10 September 2012.

Populus is a founder member of the British Polling Council and abides by its rules.

### ■ Quantitative research among landlords

Populus, on behalf of Which?, conducted an online survey of 506 landlords who had let their property through an agent in the last two years, between 4 and 6 September 2012.

### ■ Secondary analysis of Citizens Advice complaints data

In May 2011/ May 2012 CABs in England and Wales advised

on 5,181 enquiries relating to letting agents. CAB staff also recorded 181 qualitative case studies about cases which they considered highlight an underlying social policy problem. Which? conducted detailed analysis of these 181 cases.

### ■ Mystery shopping exercise

Which? Money conducted a mystery shopping exercise of landlord and tenant fees across 32 letting agents in Nottingham, London, Birmingham and Leeds in October 2012.

<sup>2</sup> CLG live table 101: By tenure, England (historical series) <sup>3</sup> DCLG, 'Private Landlords Survey 2009-10', 2011 <sup>4</sup> The OFT define consumer landlords as landlords who are individuals rather than companies and are acting for purposes 'outside his trade, business or profession' <sup>5</sup> Resolution Foundation, 'Housing in transition: understanding the dynamics of change', 2012 <sup>6</sup> Falkner, K, 'Which? Renting & Letting Guide: a complete guide to the financial and legal essentials', 2011 <sup>7</sup> DCLG, 'Private Landlords Survey 2009-10', 2011. <sup>8</sup> See Phelps, L 'Let down', 2009 and Darian, L 'Renting in the Dark', 2011 <sup>9</sup> The Property Ombudsman, 'Annual Report 2011', 2012

# The lettings market

The private rented sector has more than doubled in size over the last 20 years. We look at what this means for landlords and tenants

## The private rented sector is expanding

A combination of high house prices, rising debt, limited mortgage availability and a declining social housing sector have contributed to the private rented sector doubling in size over the last 20 years - the private rented sector accounts for 17% of all housing stock today up from 9% in 1991<sup>10</sup>.

As well as continuing to house students, young professionals and lower-income households, the sector accommodates a new demographic, including many more working families and older professionals. According to Shelter there are now one million families with children renting privately, almost double the number five years ago; nearly half of tenants are 35 or older and there has been a significant growth in households earning more than £50,000 since 2008<sup>11</sup>.

## Moves within the private rented sector are frequent and unplanned

While many of these households are likely to find themselves renting for longer than they may have in the past, there continues to be considerable churn in the sector. More than half (54%) of private renters have lived in their current home for less than two years, compared to just 6% of owner occupiers and 15% of social renters. People often move into the sector following a change in personal or employment circumstances, rather than it being a longer-term, planned move after saving for a mortgage or being on a social housing waiting list. This can mean that they are moving quickly, making the search process more fraught.

## Consumer landlords play an important role

The growth in demand for private rented accommodation has been facilitated by the entry of consumer landlords: individuals, rather than companies, who are renting out a small number of properties to contribute towards their pension or pay off their mortgage. Recent figures suggest there are approximately 1.2 million consumer landlords. The growth in recent years is partly a result of the emergence of reluctant landlords who are intending to sell but waiting for the market to recover.



fig 1: Trends in tenure 1918-2010/11

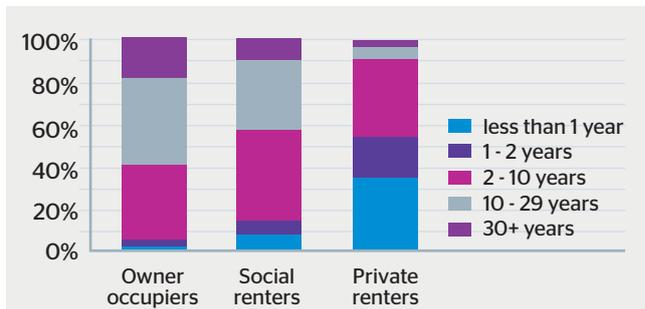


fig 2: Length of residence by tenure, 2010-11

Landlord type	2001	2003	2006	2010
Individuals/couples	65	67	73	87
Companies (public & private)	22	13	17	4
Organisations/Partnerships/Other	19	22	16	9
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

fig 3: Trends in type of landlord

<sup>10</sup> CLG live table 101: By tenure, England (historical series) <sup>11</sup> Shelter, 'A better deal: towards more stable private renting', 2012 fig 1 Sources: 1918: Estimates by Alan Holmans of Cambridge University Department of Land Economy, 1939 to 1971: 'Housing Policy in Britain', Alan Holmans, Table VI; 1980 to 2008 ONS Labour Force Survey; 2008-09 onwards English Housing Survey, full household sample. fig 2 DCLG Private Landlords Survey, full house sample. fig 3 2001-2006 Rugg and Rhodes, The Private Rented Sector: its contribution and potential 2008; 2010 DCLG Private Landlords Survey

## The lettings market

### The changing face of letting agents

In order to meet demand from landlords for a professional hassle free way to let their property, and the need from tenants for assistance in finding suitable accommodation, the letting agent market has also evolved over time. There is no precise figure for the number of agents in the UK, but a 2009 report for DCLG<sup>12</sup> estimated that it was in the range of 10-12,000. Some estimates suggest it is as high as 17,000<sup>13</sup>. Letting agents are employed by the landlord and provide a number of types of service from simply arranging the let, right through to full management. In 2010 agents were involved in 66% of all private rented tenancies<sup>14</sup>.

### Variable agent fees

As the primary customer of agents, landlords pay the bulk of fees. Landlords can expect to pay annual set up and management fees of approximately £1,000 for a fully managed service outside of London, increasing to £1,500-2,000 in London<sup>15</sup>.

In addition, both landlords and tenants can pay a range of other fees. These can include upfront costs (eg administration fees to set up the tenancy), fees during the tenancy (eg a tenancy renewal fee) and fees at the end of the tenancy (eg a check-out fee). Tenants also usually pay a security deposit which is refundable at the end of the tenancy and protects against damage to the property. In some cases a separate holding deposit is also required to secure the property while

the paperwork is organised and credit checks carried out, which is repayable provided that the tenancy goes ahead. A mystery shopping exercise by Resolution Foundation in 2011 identified a range of potential fees or costs that could be charged to tenants and considerable variation here. Which? Money conducted a separate mystery shopping exercise in October this year to provide a snapshot of fees that tenants might have to pay when renting through an agent.

### Limited consumer protection

The level of consumer protection in the letting agent market has been a long-standing issue. General consumer legislation applies, including The Consumer Protection from Unfair Trading Regulations (2008) and The Unfair Terms in Consumer Contracts Regulations (1999), but there is no legislation that specifically relates to letting agents. This is inconsistent with the sales market. For example, there is no requirement for agents to be signed up to a redress scheme, which also

Fee	Amount 2011 <sup>16</sup>	Amount 2012 <sup>17</sup>
Holding fee	0-500	1 week's rent-£400
Administration fee	90-375	120-420
Deposit administration fee	0-30	0-29
Deposit	1 month's rent to 6 weeks rent	1 month's rent to 6 weeks rent
Rent in advance	1 month's rent	1 month's rent
Credit reference check	50-54	43-90
Cost to add an additional person to the agreement	0-102	-
Tenancy renewal	0-90	-
Check-in	144	0-60
Check-out	0-120	-



fig 4: Range of fees and charges for tenants based on one person on the tenancy agreement

<sup>12</sup> Jones, C 'Government review of regulation and redress in the UK housing market', 2009 <sup>13</sup> Falkner, K, 'Which? Renting & Letting Guide: a complete guide to the financial and legal essentials', 2011 <sup>14</sup> DCLG, 'Private Landlords Survey 2009-10', 2011. <sup>15</sup> Falkner, K, 'Which? Renting & Letting Guide: a complete guide to the financial and legal essentials', 2011 <sup>16</sup> See Darian, L (2011) Renting in the Dark. <sup>17</sup> Which? Money mystery shop, 2012

means that agents do not have to follow a code of practice. There is no requirement to have Professional Indemnity Insurance and, perhaps most importantly in the case of letting agents who often hold client money, there is no requirement to have Client Money Protection (protection for the client in the event that the agent misappropriates their money). The Office of Fair Trading also does not have the power to ban a letting agent from operating if they have been found to have committed certain offences or if they have failed to meet the requirements placed on them as part of the Estate Agents Act 1979 (EEA).

## Professional bodies and schemes

As a result of these gaps, a number of industry schemes have been developed to try to establish best practice. Approximately 40% of agents are not covered by any one of these schemes. While there are variations between the different schemes common characteristics include:

- a published complaints procedure
- membership of an approved independent redress scheme
- Client Money Protection
- separate bank accounts for client money
- Professional Indemnity Insurance
- and adherence to a code of practice.

The considerable variation in both the fees that agents charge, and the levels of protection and standards mean there is good reason for consumers to shop around. The next section of this report looks at the consumer experience of looking for a property or agent to rent or let out a property to explore what the reality is for consumer landlords and tenants.

## Professional memberships

### ■ Association of Residential Letting Agents (ARLA)

The only professional self-regulating body to be solely concerned with lettings and letting agents. It has nearly 6,000 individual members, representing 3,500 member offices throughout the UK. ARLA members are required to join an approved redress scheme.

### ■ National Approved Letting Scheme (NALS)

An independent licensing scheme for letting agents. Members of affiliated bodies ARLA, RICS, NAEA or the Law Society can be automatically licensed. To be accredited by NALS, agents must have certain measures in place including Client Money Protection, and membership of an approved redress scheme.

### ■ The Property Ombudsman (TPO)

The largest redress scheme with nearly 10,000 letting agent members voluntarily agreeing to act in accordance with the TPO Code of Practice for Residential Letting Agents.

### ■ Royal Institute of Chartered Surveyors (RICS)

With 9,000 residential members, RICS is a professional body for those involved in land, property, construction and the associated environmental issues. Most RICS members are registered with the Ombudsman Services: Property (OS:P) redress scheme.

### ■ Safe Agent

Safe Agent is a mark denoting that an agent protects their clients' money through a client money protection scheme. Agents regulated by ARLA, the Law Society, NALS and RICS are eligible to apply for Safe Agent status.



Regulatory area	Estate Agent	Letting Agent
Membership of independent redress scheme	Yes (CEAR Act 2007)	No
Providers may be banned for bad practice	Yes (EEA 1979, strengthened by CEAR Act 2007)	No
Professional indemnity insurance	Yes (Condition of membership of redress scheme (required by CEAR Act 2007)	No
Must have an approved complaints procedure	Yes (Condition of membership of redress scheme (required by CEAR Act 2007)	No
Code of Practice for members	No The Property Ombudsman has a voluntary code of practice which is signed up to by the large majority of its members. Those who are not signed up to it are assessed on the basis of what is fair and reasonable.	No
Entry requirements	No	No
Professional qualifications	No	No

fig 5: Legislation relating to estate agents versus letting agents

# A poor reputation

## One in five tenants dissatisfied with their agent

One of the most striking findings from the research was the low level of satisfaction particularly on the part of tenants. 62% of tenants in the survey were satisfied and one in five dissatisfied. There was most agreement among tenants on the downsides of using an agent, which were largely financially related. 54% cited fees as the biggest downside and 45% stated that rents were higher.

The most commonly cited benefits of letting agents were that they are more likely to follow procedures and that they help with the search process, but these benefits were cited by less than half of tenants (44% and 34% respectively). This dissatisfaction was not unique to tenants with 17% of landlords

also stating that they were dissatisfied with their agent. When we used these scores to develop a customer satisfaction score, based on satisfaction data that Which? collects across fifty markets, the tenant customer score was the second lowest score above just financial comparison websites. The landlord figure was the sixth lowest.

So why is it that letting agents have poor customer reputations? These next sections explore the views of tenants and landlords.



Q What do you see as the downsides of renting through a letting agent?

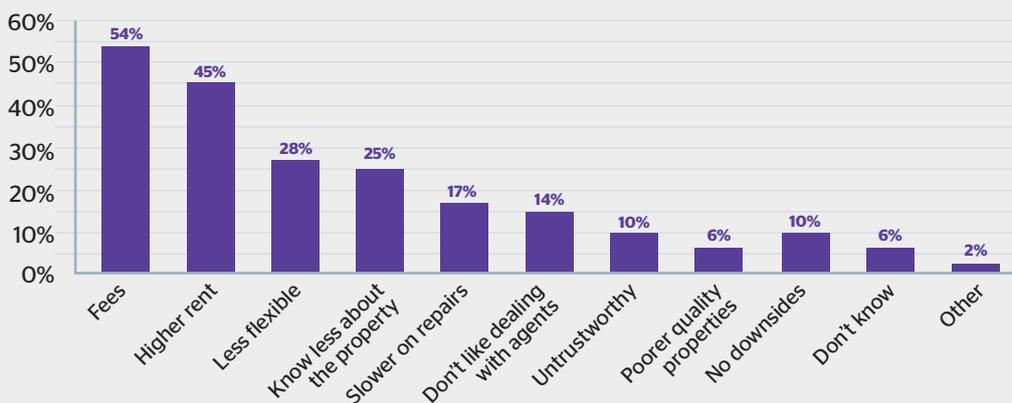


fig 6 Base: All tenants (1,006)

Q What do you see as the benefits of using a letting agent?

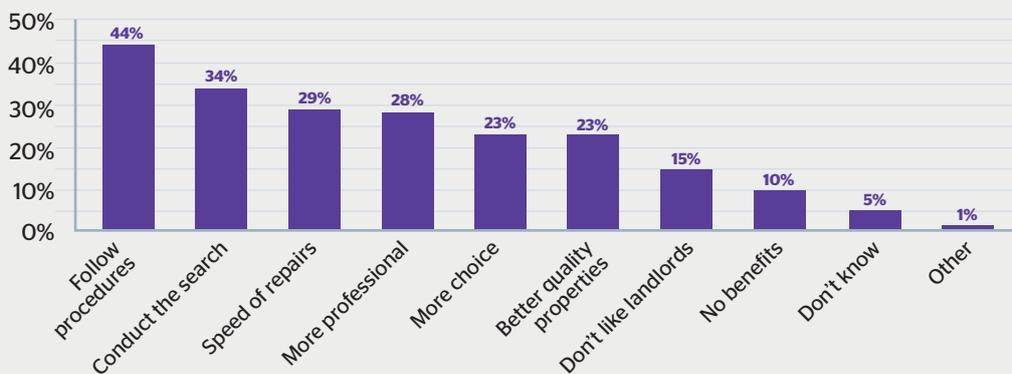
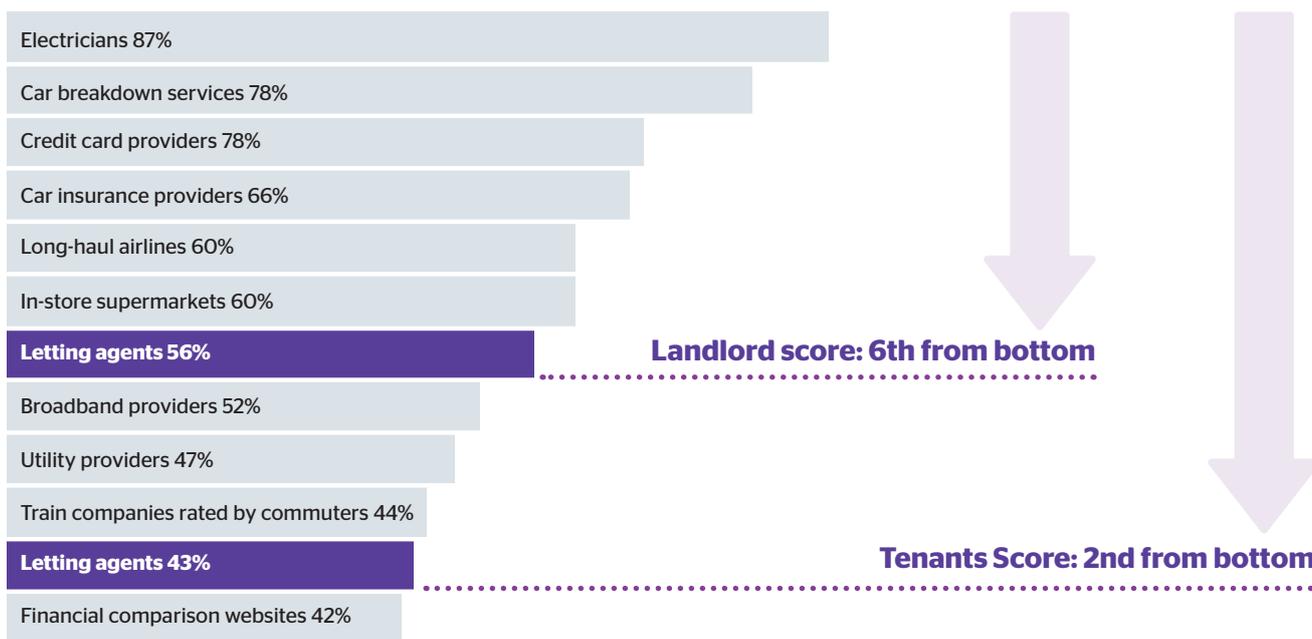


fig 7 Base: All tenants (1,006)

One in five tenants were dissatisfied with their agent



## Customer satisfaction scores in different markets<sup>18</sup>



<sup>18</sup> This score is based on consumer responses to two questions: overall satisfaction with the brand and endorsement (likelihood to recommend the brand to their friend)

# Disempowered tenants

Few tenants we surveyed chose whether to use an agent or which agent they used, leaving their experience down to pot luck – and bad experiences were not uncommon. Fear of complaining, in case it affected their tenancy, and an inability to switch agents without losing their home, also meant that tenants felt particularly vulnerable

## Tenants don't choose to use an agent

Most tenants are primarily concerned with finding the right property; whether it is let direct with a landlord or via an agent is a secondary concern.

This was true for 57% of tenants and, in part, reflects the lack of suitable private rented property in the market: just 47% of tenants thought that it was easy to find a property that met their needs. Limiting the search to just agents or just private landlords further limited choice, particularly for families and people on Housing Benefit, for whom choice was already limited where agents or landlords were not willing to let to them.

This meant that some tenants ended up renting through an agent even if their preference was to rent direct with a landlord (17% of tenants). Just 24% of the tenants in our survey who had ended up renting through a letting agent had a preference to do so from the outset.

## Tenants don't choose which agent they use

As a result, tenants were not making a considered choice about the agent they approached. 73% of tenants in the survey said that, in the main, they approached whichever agent was listing a particular property.

When tenants were directly approaching agents, rather than going via adverts, location was the most important

consideration, over brand or membership of a professional body. Just 6% had done research into different agents and then approached the one they liked the most. This meant that whether a tenant ended up with a good or bad landlord or agent was 'pot-luck'. This helps to explain tenants' indifference to renting direct with a landlord over an agent because this in itself was no guarantee of getting a better service.

Some tenants conducted checks on the agent after they had found a property that they liked, but in most cases these were informal, for example asking friends and family. Just 17% of tenants checked for membership of a professional body. So it is not surprising that 62% did not know whether their agent was a member of one. This has the greatest financial detriment for landlords, where agents collect the rent, but can also affect tenants where the agent does not protect the deposit and the tenant has to try to reclaim it from the landlord.

**62%**  
of tenants did not know if their agent was a member of a particular professional body

Q What determined which agents you approached when looking for a property?



fig 8: Base: All respondents (1,006)



### Agents hampering, not helping the search

With many tenants now using internet portals to find properties they are relying less on letting agents to conduct the search for them. Any one agent has a limited number of properties on their books so portals are a means of broadening the search across multiple agents. Where tenants ended up signing up with an agent some complained that agents didn't tailor the search to their requirements which resulted in them being sent details of, or being taken on visits to, unsuitable properties.

A number of tenants in the diary exercise also cited ways in which agents were making the search process more difficult, expressing:

- difficulties getting through to agents on the phone or getting calls or emails returned
- inflexibility over the timing of visits which didn't fit with working hours
- poor advertising practices, including inaccurate or misleading photos of properties and out-of-date information on agent websites and portals. Some tenants thought that agents did this on purpose as a means to get them signed up
- not informing existing tenants that a visit was going to take place, which meant the property was not presentable or accessible
- not turning up at visits – some tenants said that the agent turning up was a success in itself.

Tenants also cited specific downsides of the visit being done through an agent rather than direct with a landlord, including not being able to answer questions about the property or not being able to access parts of it. Students were well represented in the group that experienced poor practice.

19/05/12

“ I went to see a house today and was disappointed as it did not look anything like the one in the picture. That one looked as if it had just been re-furnished. Apparently, the picture they used on the ad is the one that was taken years ago, when they had just done the house up. I felt deceived. ” Female, 32

### ■ £600 DEPOSIT LOST

A CAB in the south east reported the case of a tenant who had signed up for a 12-month tenancy with a six-month break clause with letting agency X. The landlord has subsequently informed her that the letting agency has gone out of business and her £600 deposit has been lost. The landlord claims no responsibility for the deposit and gave the tenant no information about where or if the deposit was lodged with any deposit protection scheme. The tenant is at a loss to know how to go about recovering the deposit without lengthy court action.

### Diary entry, Male student, 20

■ This property was somewhat of a shambles, the agent did not have the keys and the current tenants weren't in, so we couldn't view it – this was disappointing.

■ We had a long walk to visit this property. The agent used aggressive selling tactics, informing us of several interested potential renters and that the property was going to be snapped up soon. Subsequently, the viewing was short and we did not ask any questions further to viewing the house.

■ We entered a flat which was at the back of a newsagents and immediately the exterior looked grotty and poorly kept. As we entered it was clear that the existing tenants were not

expecting us. We were with several other groups so the letting agent did not say anything, probably due to the embarrassment.

■ Further shambolic organisation from the letting agents. We were viewing with several other groups. My friend and I were left to view the property on our own, loosely aided by a current tenant in her dressing gown – at this point the process was becoming quite embarrassing. Once again, the tenants did not seem to have been informed and the house was quite a mess. We asked the tenant a couple of questions, though did not want to invade her privacy much more than we already had.

19/05/12

“ I rang up one place and was told the agent will get back to me as he needs to get the keys from the owner. Another took a message and said someone would call me back but they never did. I wish places would be taken down as soon as they are rented to keep me from wasting my time! ” Female, 38

## Tenants' perspective

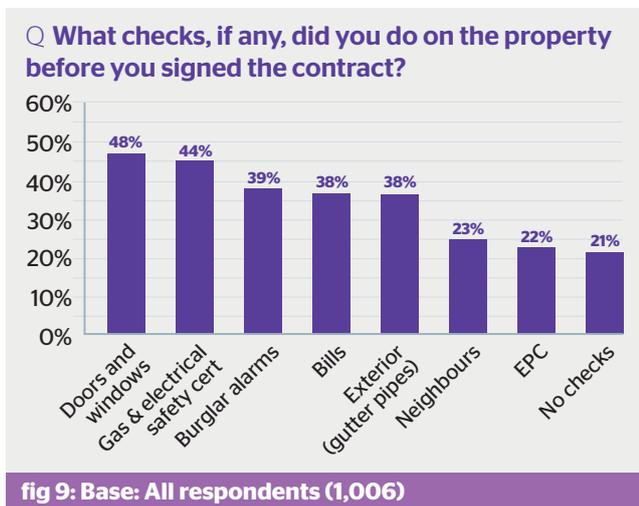
### Agents letting properties in poor condition

The general condition of properties at the visit was a common cause for complaint among tenants in the diaries and also came out in the survey: only 40% of tenants agreed that conditions in the sector were good. This, in part, reflects the quality of properties in the private rented sector as a whole but also the fact that some agents don't ensure that the property meets certain conditions or standards when it is let. Many tenants thought that agents should play a greater role in letting properties in good condition if they are offering a professional service.

### Tenants feeling rushed into a decision

It was also clear from the research that tenants can feel rushed to make decisions about a property because of demand in the market. Tenants said that when you were fortunate enough to find a suitable property you had to snap it up quickly. This, in addition to limited knowledge of the types of questions to ask and checks that they should be doing on the property, meant that tenants risked moving into properties that they later found had problems which could be difficult to get resolved. Nearly a fifth reported doing none of the recommended checks on the property before renting it.

Group viewings were a common experience and, alongside aggressive sales tactics on the part of agents, added pressure to make a quick decision. They also made it more difficult for tenants to ask the agent questions about the property.



### POOR CONDITIONS

A CAB in the south west reported the case of a student tenant who has rented a property with five other students from letting agency X. They each paid £180 to the agency as an administration fee. On entering the property the tenants found it to be severely affected by damp and mould in nearly every room and consider the property to be a health risk. The letting agent said that the condition of the property is a matter for the landlord. The landlord is aware of the problem but unwilling to provide any assistance. Tenants feel that the letting agent has some responsibility to vet the properties that they are letting, especially when they charge the tenants a large fee for finding them a suitable property.

02/07/2012

“ Today I viewed a property I enquired about after seeing a sign outside. As I arrived, I was surprised to be greeted with two letting agents and five other viewers. This started the afternoon off badly as I was not warned that I would be viewing the property with other people. I felt as though I didn't want to ask many questions as the letting agents did a lot of talking and I seemed to lose interest as the other viewers had a lot of questions to ask. I decided that the property was unsuitable for my needs and therefore declined to make an offer on the property. I also did not enjoy feeling pressured to make a swift decision after the viewing was over. ” Female 22

## The tenant checklist - asking the right questions

- Check the exterior of the property - are the gutters or any pipes leaking?
- Check inside - do the lights work? Taps produce water? Windows open?
- Security - do windows and doors

- open easily and close securely. Are there adequate locks on the doors?
- Are there enough electric sockets?
- Are burglar alarms fitted?
- Are smoke alarms fitted?

- Ask to see the Energy Performance Certificate
- Ask to see the Gas and Electrical Safety Certificates?
- How is the deposit protected?

### Unexpected fees

In not shopping for a particular agent, tenants not only have less power to choose the level of consumer protection or standards of service that an agent might provide, but also less power to choose what fees they pay. In our survey of tenants, just 3% reported paying no fees and there was considerable variation in the fees that they had paid, and what the fees were charged for.

Tenants find these fees unfair - only one in five thought that upfront fees were fair. Just 26% of tenants in the survey agreed that letting agents represent good value for money. This may be connected to the fact that tenants also thought that agents charged higher rents, which was recognised as a downside of using an agent by around half of tenants in the survey. But it was also clear from the focus groups that tenants found the variation and array of fees charged confusing and couldn't understand how the figures had been calculated.

Tenants also had to be quite proactive in finding information about fees, in most cases asking the agent themselves: 37% of tenants had to ask their agent about upfront fees, just 29% of agents provided information on fees before the tenant asked. Only a small number said that the information about upfront fees was available in adverts or on the agent's website - 7% and 8% respectively.

This means that many don't find out about upfront fees until they have made a commitment to the property by going to see it. 66% of those who had paid upfront fees found out about these at or after visiting the property. Of these 14% only found out about upfront fees at the point of signing the contract or on paying the fees.

This, alongside the lack of supply in the market, means that agents have little incentive to reconsider their fees. While 32% of tenants said they would have, or may have, used a different agent if they had found out about fees earlier, more than half said they would not have changed their mind (55%). There was also some evidence of quite obscure charges like a fee to arrange for repairs to be carried out on moving out.

Fee	% Reporting
Deposit	76
Administration fee	64
Holding deposit	47
Credit reference	34
Tenancy renewal	19
Cleaning cost	16
Check-in	14
Check-out	11
Fee to administer the deposit in the protection scheme	10
Guarantor	8
Other	2
Paid no fees	3

fig 10: Base: All respondents (1,006)

#### HIGH UPFRONT FEES

A CAB in the south west reported the case of a couple who applied to rent a property through letting agent X. The couple were shocked by the high level of upfront fees they had to pay. They were charged a Tenancy Agreement and Referencing Fee (incl. VAT) of £270 and a check-in fee (incl. VAT) of £210. This was in addition to their security deposit of £550 and one month's rent in advance of £550. The tenant was previously unaware that he would need a guarantor but was told that as his job was on a renewable six month rather than permanent contract he would in fact need one and was charged an additional £90 to the letting agent for providing this. The couple were at the time living in separate residences so were having to pay rent on two additional properties on top of all the landlord fees and costs.

**£1,670**  
in upfront costs charged to the tenant

#### UNEXPECTED FEES

A CAB in the east reported a case where tenants were told by their letting agency that they would have to take out contents insurance arranged via the letting agency for a full year regardless of the length of their tenancy. When they moved out they were hit with an unexpected fee for an inventory check of £143 + VAT. They were also told that for any repairs by contractors that would need to be arranged by the letting agent following the inventory check, an additional charge of £35+VAT would be due.

**£35+vat**  
for repairs carried out by contractors

## Tenants' perspective

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### Agents not safely or fairly handling deposits

Our analysis of CAB complaints revealed instances where letting agents were not following legal procedures, for example by not placing the tenant's deposit in the deposit protection scheme. This could result in tenants struggling to get money back at the end of the tenancy.

In addition to this a frequent complaint from tenants was unfair handling of the holding deposit and upfront fees. This resulted in tenants losing quite considerable sums of money where the tenancy did not go ahead even if it was no fault of their own, for example where the landlord pulled out of the agreement, where the tenant withdrew because commitments to carry out repairs were not met, or because the tenant was not given a copy of the terms and conditions before paying the money and subsequently disagreed with them. 18% of tenants in the survey who had paid a holding deposit said that they paid it without having seen the terms of the agreement.

### Tenants are reluctant to complain

In addition to feeling disempowered during the shopping phase, tenants can also feel disempowered during the tenancy because, unlike landlords, if they decide they do not like the letting agent they cannot choose to switch agents without losing their homes. The issue of retaliatory eviction, where agents or landlords respond to complaints from tenants by asking or putting pressure on them to leave also means that tenants can be reluctant to complain. In our survey 38% of tenants said they would be confident about making a complaint about their agent without it having repercussions for their tenancy agreement.

This is connected to the lack of security in the private rented sector which can stem from the use of the Assured Shorthold Tenancy. This entitles the tenant to a six-month period during which the tenant can't be evicted without taking the matter to court; after this period the landlord can give two months' notice requesting a tenant to leave. 45% of tenants in our survey said they do not worry about having to leave before they want to.

### Tenants are not the customer

Part of the reason for the problems here is that the tenant is not the agent's primary customer. The primary contract is between the letting agent and the landlord rather than the letting agent and the tenant. Confusion over the nature of this relationship is likely to be underpinning some tenants' dissatisfaction with agents. They think that the agent is serving them, that they are the customer, when in fact the agent is representing the landlord: 43% of tenants thought that they represented both sides and 9% thought that they primarily represented the tenant. This confusion was also apparent among landlords.

The nature of this relationship, where agent is a middle man between the tenant and the landlord, could also result in tenants feeling that they are passed from pillar to post, with neither agents nor landlords taking responsibility for an issue. An example of this is repairs where permission may need to be sought from the landlord rather than the agent. 17% of tenants felt it was slower to get repairs done when an agent was used.

### ■ LOST HOLDING DEPOSIT

*A CAB in the south east reported the case of a tenant who wanted to move into private rented accommodation sourced by letting agent X. She paid a deposit of £1,000 plus a holding fee of £360 to prepare the paperwork and take the property off the market. The landlord subsequently changed his mind and the offer was withdrawn. The tenant's deposit was returned but not the £360. When the client queried this, the agent told her that she would have to take it up with the landlord and not them as it was not their fault. The tenant feels this is unfair as she paid a considerable sum of money to the letting agent in good faith and it was not her fault that the tenancy was not completed.*

**£360**  
holding  
fee lost

### ■ RELUCTANCE TO COMPLAIN

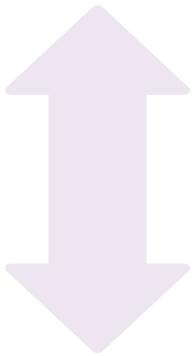
*A CAB in the south east reported the case of a tenant who rents a property on a month-by-month basis through letting agency X. Nine months ago they noticed a leak in the corridor and a damp patch in the reading room. Many emails were sent to the letting agency but no action was taken. The water leak has since worsened and there is mould throughout the house, as well as water dripping onto the electrics. Inspectors were sent round by the letting agency but no repairs have been made. The tenant is trying to get a mortgage to buy her own property and is reluctant to make any more complaints to the agency for fear she will be evicted.*

**9+**  
months wait  
for a repair

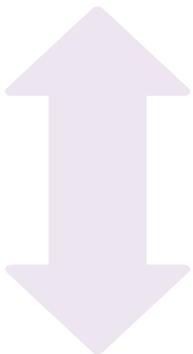
**43%** of tenants thought that letting agents serviced both parties equally

**9%** of landlords thought that letting agents represented the tenant

**Landlord**



**Agent**



The relationship, within which the agent is a middle man between the tenant and the landlord, could also result in tenants feeling that they are passed from pillar to post

Q Do you think your letting agent is primarily responsible for representing your landlord/tenant or you as the tenant/landlord, or do they have equal responsibility towards both?

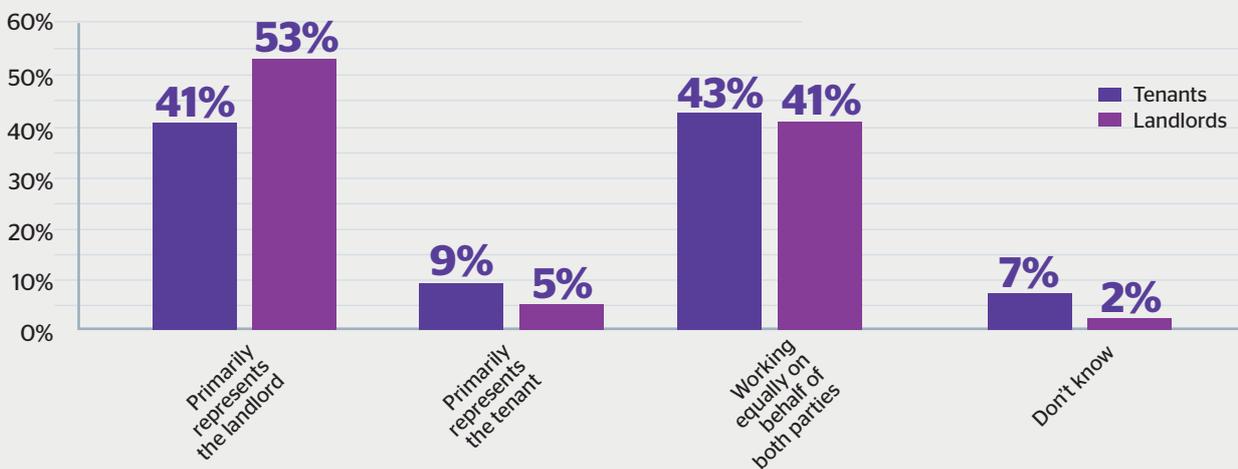


fig 11: Base: All tenants (1,006), Landlords (506)

# The landlords' perspective

The landlords in our research were generally more satisfied than tenants. However, they weren't always making informed decisions – few were checking whether the agent was a member of a professional scheme, and many were carrying out work that they were paying the agent to do

## Landlords use agents for different reasons

The most common reasons given in the survey were to reduce the hassle of being a landlord (60%); to ensure that they were meeting their legal requirements (48%) and to ensure that tenants were reliable (45%). Many landlords were also using an agent because they couldn't do it themselves, for example if they didn't have time or lived away from the property.

Landlord's reasons for employing an agent may depend on the type of service they're paying for. For landlords who employ an agent to arrange the let, the primary motive may be tenant vetting, while a landlord who employs an agent to manage the property may do so because they don't live in the area. However, it was striking that half of landlords didn't mention tenant vetting as a reason for using an agent, or that more didn't refer to it as being a good way to ensure they were meeting legal requirements.

## Unlike tenants, landlords shop around

Location was the most important factor when it came to choosing an agent, with 46% of landlords approaching local agents. About a third (31%) conducted research into different agents, while personal recommendation (30%) and a previous relationship with an agent (25%) were also very important.

This last point helps to explain landlords' higher levels of satisfaction, as many have been involved in letting for a long time and will have built up a relationship with a particular agent. 49% of private individual landlords have been letting for 4-10 years and 18% have been letting for 11-20 years<sup>19</sup>.

In terms of what landlords were looking for from their agent, the most important factors were the agent's customer service skills (95%), their fees (92%) and their marketing ability (91%). Landlords wanted to be kept informed about their property and wanted to use an agent with good communication skills who would market their property well. Many were keen to ensure that agents had access to the main internet portals (Right move, Find a Property etc) which weren't available to private landlords.

<sup>19</sup>DCLG, Private Landlords Survey, 2010

Q Why did you decide to use an agent, rather than letting or managing the property yourself?

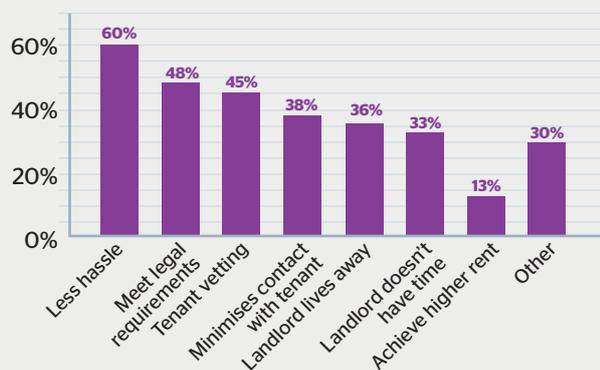


fig 12: Base: All respondents (506)

Q Thinking about choosing a letting agent, what determined which agent (s) you approached?

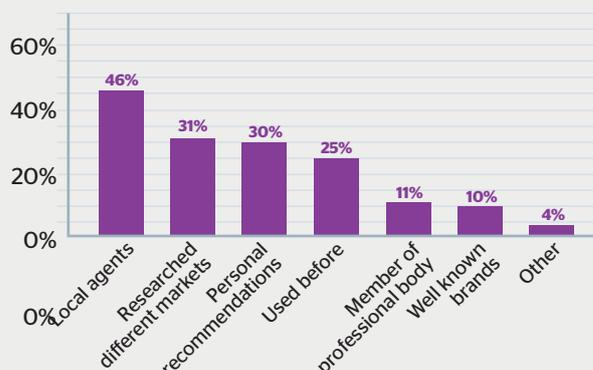


fig 13: Base: All respondents (506)



**Only 37% of landlords checked whether their agent was a member of a scheme**

**Landlords don't always make 'good' decisions when it comes to choosing an agent**

While we found that landlords were playing a much more active role than tenants in selecting an agent, few were checking whether their agent was a member of a professional body. Although 65% of landlords said that this was important, only 37% actually checked. Landlords who were members of a professional group themselves (eg the Residential Landlords Association or National Landlords Association) were much more likely to say they'd made this check than landlords who were not.

As with tenants, informal checks were more common - 54% of landlords said they had a detailed look at the agent's website, 42% asked whether the agent was known to friends and family, 30% checked the agent's credentials, 23% looked at ratings websites and 13% got the terms of the contract checked by a legal expert. 14% did no checks on the agent before signing the contract.

It's not surprising, therefore, that 45% of landlords did not know whether or not their agent was a member of a particular professional scheme. They gave similar reasons to tenants for not checking this - lack of awareness was an important factor for both tenants and landlords, but a considerable proportion simply didn't think it was important.

Landlords appear to have high expectations and misplaced confidence in the level of consumer protection they have access to should something go wrong. While 45% didn't know whether their agent was a member of a professional body, 69% thought that their agent followed a code of practice and 60% thought that they'd be able to access independent redress.

Q Which of the following apply to your agent?

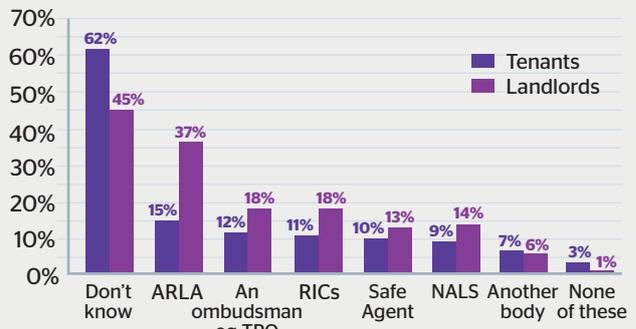


fig 14: Base: All landlords (506) All tenants (1,006)

Q Which of the following describes why you did not check whether the letting agent was a member of a professional body?

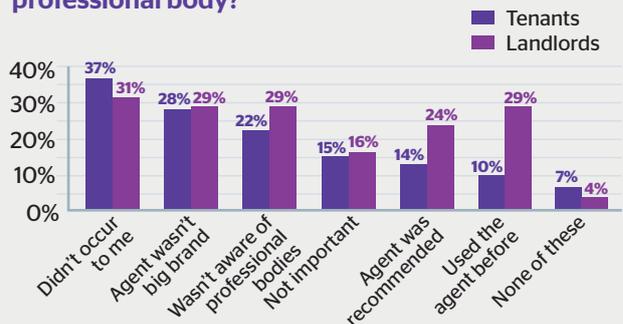


fig 15: Base: All landlords (314) All tenants (840)

## Landlords' perspective

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### Bad decisions and a lack of protection can result in big financial losses

Not making informed or 'good' choices could result in landlords experiencing quite serious financial losses if things were to go wrong. Where agents don't have certain protections in place, such as access to the ombudsman or Client Money Protection, landlords can find themselves in a particularly vulnerable position.

We uncovered examples of poor practice including:

- agents not passing on rent to landlords and then disappearing;
- agents not putting the tenant's deposit in the protection scheme and then the landlord being liable;
- agents not carrying out tenant vetting procedures, or carrying out inadequate procedures, which can result in 'bad tenants' being let the property;
- agents not conducting regular inspections of the property, or adequate check-out procedures, resulting in serious disrepair going unnoticed.

### Landlords have more power to negotiate on fees

Landlords also expressed some issues with fees, particularly where agents' renewal terms were preventing them from switching agents.

But overall they had fewer problems than tenants, partly because they were playing a more active role in choosing their agent, and partly because fees played an important part in determining their choice of agent. Landlords were more likely to think that their agent was good value for money (62% compared with 26% of tenants), agree that they could negotiate on fees (66% compared with 20% of tenants) and that fees were transparent (57% compared with 36% of tenants).

On this last point, some landlords complained that they had to call around different agents to obtain information on fees because these were not available on websites. This was time consuming and made it more difficult to ensure they were getting competitive rates.

### ■ NOT RECEIVING RENT

*A Citizens Advice Bureau (CAB) in the south-east reported the case of a landlord who owns a house that he rents out using letting agency X. For the last three months, tenants have been making payments to letting agency X, but the landlord has not been receiving any rent. She sent emails to the agency, phoned it and visited its offices. The agent has not responded and the office is always shut. The landlord is out of pocket on rent by up to £2,400 and is liable for the tenants' deposit of £1,200.*

**£3,600**

Rent owed to landlord

### ■ DAMAGED PROPERTY

*A CAB in the east reported the case of a landlord who decided to rent out her house using letting agency X. The agency found a tenant to rent the property for one year. The landlord paid 10% of the rent as a management fee to the agency every month. The tenant caused considerable damage to the property and even took the curtain rails with them when they moved out. The letting agency failed to produce an inventory when the tenant moved in. It did not carry out any inspections and returned the tenant's deposit without checking the property. The landlord complained to the agency, which admitted negligence but failed to offer compensation or mediation, saying she would have to take it to court. In addition to the fees paid to the agency for 'management', the landlord has had to pay £7,897 in repair bills to restore the property to a rentable condition following damage by the tenant.*

**£7,897**

Amount landlord had to pay in repair bills

### ■ ID CHECKS NOT CARRIED OUT

*A CAB in the south-east reported that a landlord hired a letting agency to manage a new intake of tenants to her property, including carrying out reference and ID checks. The landlord discovered that the reference checks had clearly not been carried out correctly, as the tenant's stated previous address was in fact a shop. The tenant has now sublet the property to at least two other people, the landlord is no longer receiving rent for the property and it is in a state of disrepair. He is now faced with the prospect of legal procedures to get his property back because of the letting agent's negligence.*

Inadequate reference checks result in tenants sub-letting property

### ■ PROBLEMS TERMINATING CONTRACT

*A CAB in the south east reported the case of a landlord and his brother who own a house jointly in London which they rent out. They used an agency to find the original tenant but have found all successive tenants themselves. They continued to use the agency to issue tenancy agreements. They now want to terminate this arrangement but the agency wants to continue to charge them. The landlord sent a letter to the agency more than a year ago giving a year's notice to terminate the contract, but the agent is still trying the charge fees for the current year.*

Agent still trying to charge fees after a year's notice

**Lack of awareness about fees**

From the focus groups it was apparent that many landlords weren't aware that their tenants were likely to be paying fees to the agent, too. Some landlords had children with first-hand experience of renting a home, which they said provided good insight into the tenant's experience. These landlords showed empathy for tenants in terms of the fees they pay and their rights within assured short-hold contracts. Only half of landlords (49%) agreed that tenants should pay a contribution towards agent fees.

Where landlords don't know what fees their tenants are paying, this calls into question whether they would still view agents as good value for money, especially when the agent is charging both sides for the same activity. It was clear from our mystery shopping exercise that some agents are charging both tenants and landlords administration fees to set up the tenancy. Roughly half of the agents were charging tenancy set-up fees to both landlords and tenants. In our survey, 46% of landlords reported paying these fees.

**Landlords doing agents' work**

Many landlords referred to having to do 'checks on checks' to ensure that the terms of the contract were being carried out, and a need to 'keep agents on their toes'. This was reflected in the survey, with many landlords reporting that they were carrying out a number of activities, either fully or partially, that the agent was paid to do. Just 39% were leaving it entirely up to the agent.

However, some of these checks were also done to try to keep costs down, particularly on repairs, which some landlords thought was where agents made their money. 27% were carrying out routine inspections of the property and 21% said that they were meeting their legal requirements.

02/07/2012

“ I do feel that the fees for prospective tenants are very high - they have to pay for a credit check, a tenant fee, the deposit once they move in, and the first month's rental. As the rental market is so buoyant they have little choice but to pay all this, however I do feel that agents are taking advantage of this. I'm sure it's never been so hard for tenants to find a property and go through the rigorous process, but from a purely selfish view you do feel that they have been thoroughly vetted. Makes me very grateful to be a homeowner! ” Female 44

Fee	% Reporting
A management fee	63
A letting fee	60
An administration fee to set up the tenancy agreement	46
A check-in (inventory) or check-out fee	32
Renewal commission when the tenancy is renewed	26
An administration fee to renew the tenancy	24
A fee for services to prepare the property to be let eg EPC certificate	23
A fee to administer the deposit in the deposit protection scheme	21
Other fees	2

fig 16: Base: All respondents (506)

Q Do you/have you carried out any of the following activities, in full or in part, which your agent is meant to as part of the contract?

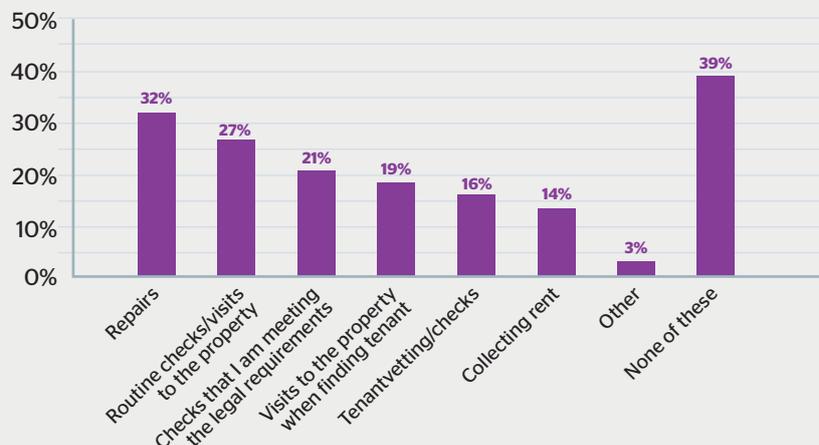


fig 17: Base: All respondents (506)

# Policy implications

The research highlights a number of problems in the lettings market, some of which are related to the overall housing shortage. On the tenant side the letting agent plays a significant role in determining the experience of their home environment and yet a lack of choice over whether to use an agent, which agent they use, or the choice to switch agent without losing their home means that tenants are disempowered during the process. On the landlord's side agents are being entrusted with a significant financial investment and yet few landlords base their decision of which agent to use on an assessment of the level of consumer protection they provide meaning that they, and their tenants, are vulnerable to poor practice. The research leads us to make the following potential solutions or change.

## Agent fees paid by the tenant

As the research highlighted, tenants experience a range of fees outside of the rent and deposit as a result of renting through an agent rather than direct with a landlord. This includes a range of upfront fees, averaging £226<sup>19</sup>. In addition to these fees, which tenants may pay frequently given the levels of churn in the market, tenants can also pay a tenancy renewal fee (averaging about £65) when the contract is renewed<sup>20</sup>. With the widespread use of Assured Shorthold contracts, tenants may find that they pay this fee every six to 12 months.

The above are averages and the precise level of fees and activities charged for can vary from agent to agent. For example, the administration fee can be £400 or more for some tenants and the tenancy renewal £90 or more. While some agents charge a tenancy renewal fee, others don't. From the tenants perspective this can be confusing, but can also seem unfair given that many of these activities appear to be low cost. For example a basic credit check and standard tenancy agreement can be accessed for free online. This feeling was widely held by consumer tenants. 36% thought that agents' fees were not value for money. 41% thought upfront fees were unfair.

The variation also means that there is a good reason for tenants to shop around. However, it was clear from the research

that tenants aren't doing this, for a number of reasons. A lack of transparency means that few tenants found out about fees before they had invested considerable time and energy in a particular property by arranging and conducting a visit. 66% found out about upfront fees at or after the visit. This is in part a result of lack of information on websites or in adverts with just 7% saying information was available in adverts and a further 8% said information was on the agent's website. From the 32 agents that Which? Money mystery shopped, just two had landlord information on fees on their websites. None of them showed information on tenant fees. We estimate that the potential loss to tenants from not shopping around is in the region of £76 million per year.<sup>21</sup>

Some countries have responded to this issue by banning tenant fees entirely.

**0/32**  
Out of 32 agents, none had information on tenant fees on their website

<sup>19</sup> Average derived from 2012 Which? Money mystery shopping exercise. <sup>20</sup> Average based on 2011 Resolution Foundation mystery shopping exercise.



**1/3 of tenants would have considered using a different agent if they had found out about fees sooner**

For example, in parts of Canada and Australia there is a ban on tenant fees for making, renewing or ending a tenancy and in Scotland, the Rent Scotland Act 1984, prevents agent and landlords from charging premiums on tenancy agreements. This has been open to broad interpretation, resulting in enforcement issues, and as a result the Scottish Government has recently announced that it will be clarifying the law under the Private Rented Housing Act 2011. Under this, any fees outside of the rent and deposit, which cannot exceed two months, will be illegal.

Part of the rationale for doing this is that pressures in the housing market and the emotional nature of a home purchase mean that tenants are less able to screen out particular agents on the basis of cost: while nearly one third of tenants (32%) said they would have considered using a different agent if they had found out about fees sooner over half (55%) said that this would not have affected their choice. But it also seems that agents appear to already be benefitting from charging higher rents and can be double charging landlord and tenant. Nearly half of tenants (45%) in our survey agreed that agents charge higher rents and there is some indication of this from government data. According to the DCLG Private Landlords Survey, the mean

weekly rent charged by private landlords is £117 per week compared to £166 per week where an agent was involved in arranging the let<sup>21</sup>.

Our concern with banning fees is the implication this might have on rents, particularly at a time when household incomes are already being squeezed. Without this, there is a need for full transparency in fees at the point that tenants shop for a property, presented in a clear, simple and standardised format – for instance in the advert and on websites. Tenant fees would also need to be presented to the landlord so that they could assess the full cost of the service. This should be a requirement of an ombudsman's code. In our survey, half of landlords didn't think tenants should pay fees and it was clear that many aren't aware that their tenants are paying them.

The report also identified a range of

**45%**  
of tenants think that renting through an agent means paying higher rent

<sup>21</sup> Estimate on potential loss of not shopping around calculated as (Geometric mean - Lowest available fees) x Number of agents tenancies per year. Sources: DCLG, 'Private Landlords Survey 2009-10', 2011; English Housing Survey 2012. Which? Money mystery shopping exercise, 2012. <sup>22</sup>DCLG, Private Landlords Survey, 2010

## The lettings market

issues with the treatment of holding deposits and upfront fees, including cases of tenants losing this money, even where the tenancy did not go ahead through no fault of their own. For example, this may happen where the landlord decides not to go through with the tenancy or where the agent had not provided the tenant with the full terms and conditions of the agreement at the time, and tenants later discovered they did not agree with these.

In order to address this, agents need to provide tenants with full details of the terms of the agreement before any upfront fees are paid and alert them to the conditions under which, and how much, money might be withheld or refunded.

## Consumer protection and good practice in the market

The lettings market is not formally regulated. There are no barriers to entry to becoming a letting agent, which means that anyone could set up in business with no specific qualifications and without abiding to any rules on how they govern themselves or handle client money.

In a market where demand significantly outstrips supply, it is all the more important that consumers have access to redress and protection when things go wrong. While there are a number of pieces of legislation covering estate agents - including the power for the OFT to ban an estate agent where it is found to have committed specified offences, and the requirement that agents provide compulsory access to a redress scheme - this does not apply to lettings. This creates disparity in the market whereby agents that are involved in both sales and lettings are subject to two separate sets of rules. If the OFT were to ban them from operating as an estate agent, there is nothing stopping them from continuing to trade on the lettings side. This is confusing for consumers who won't see the distinction. Arguably there is a need for more protection in the lettings market because the agent holds client money - the rent - and because there is an ongoing relationship over the course of the tenancy.

A voluntary system of regulation also means that in lettings, consumer protection is incredibly patchy. In the absence of this, a number of industry schemes have come into existence to promote best practice and provide access to independent redress. The Property Ombudsman (TPO) - the largest of the two ombudsman schemes in the sector - provides redress and access to compensation, up to £25,000, but also provides a code of practice setting out how letting agents should operate. Roughly 60% of lettings agents are members of the TPO, meaning that around 40% of the market is excluded. This is despite an obvious demand for this service: complaints to the TPO increased by a quarter last year, significantly outstripping complaints in sales. There were 4,186 complaints relating to sales in 2011 compared to

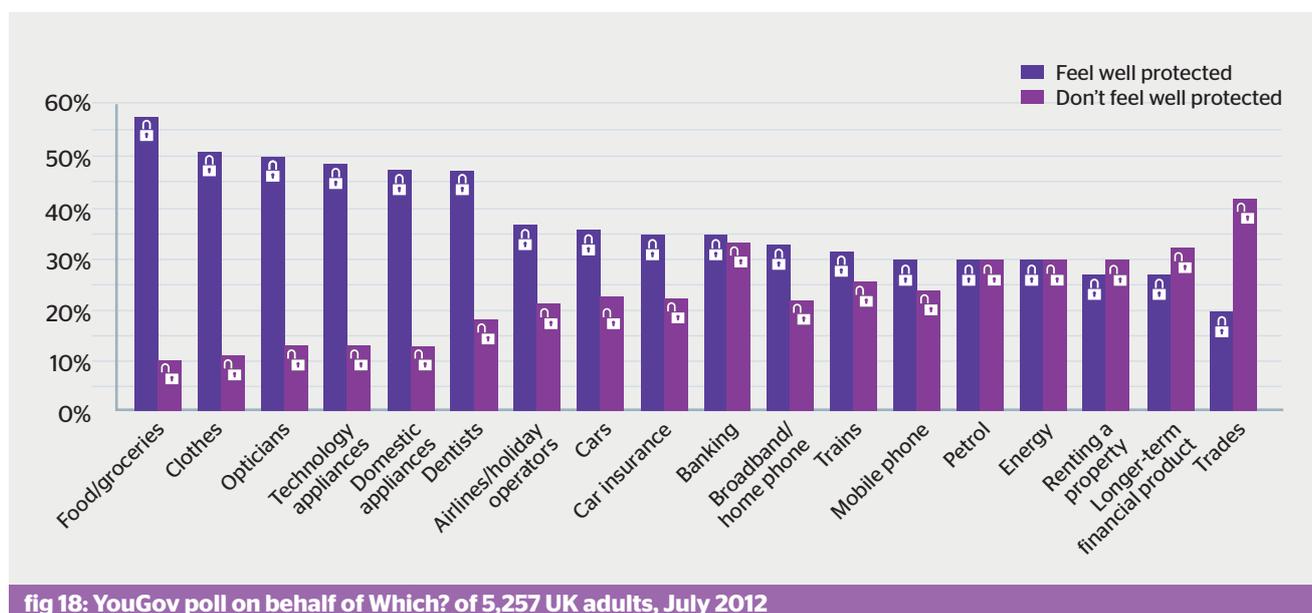


fig 18: YouGov poll on behalf of Which? of 5,257 UK adults, July 2012

7,641 in lettings, which came in equal numbers from landlords and tenants. Of the complaints about letting agents, 25% could not be dealt with because they related to agents who were not a member. The TPO is currently considering adding the requirement for agents to have Client Money Protection to their code which would provide valuable protection where agents misappropriate money.

The existing system of voluntary self regulation requires consumers to be very engaged and to make informed choices about who they let from. The government has supported the 'Safe Agent' mark to support consumers to do this. In shopping for the property, rather than the agent, tenants have less power here, placing all of the onus on the landlord as customer to make good decisions. However, our research showed that this is a dangerous assumption to make. Just 65% thought that membership of a professional body was important and just 37% said that they checked whether their agent was a member of a scheme at the time of employing the agent. In these cases bad decision-making by the landlords not only has implications for them but also their tenant. This can affect consumer confidence in the market, and the market's reputation, which also has implications for the willingness of people to invest. Wider research for Which? found that the private rented sector came near the bottom of a list of markets in terms of how well protected consumers felt.

In order to help address patchy consumer protection, and inconsistency with estate agents, legislation relating to estate agency should be amended to include letting agents. In particular it should be a requirement for all agents to be a member of a redress scheme. But the OFT should also have the power to ban an agent from acting where it has been found to commit an offence. It should also be a requirement of the Ombudsman code for agents to have Client Money Protection.

## Tenant and landlord information and advice

Tenant and landlord information and advice is important for a number of reasons. If tenants and landlords know what they can expect from their agent they can more effectively act as whistle-blowers, and where they make well-informed decisions their experience of the private rented sector will be better. But it will also encourage greater competition and raise standards. It was striking from the research that there was a lack of information on both sides, with few tenants conducting thorough checks on properties and very few landlords or tenants checking that their agent was a member of a professional body. At the same time, both parties placed quite a lot of confidence in their ability to manage the process: 74% of the tenants felt they were knowledgeable during the process and 76% of landlords.

**Which?**

Which? produces a range of products to help consumers with the renting and letting process. As well as the Which? Renting and

Letting book, we are also in the process of developing a free website to help tenants and landlords understand their rights in the market, see [www.which.co.uk/consumer-rights](http://www.which.co.uk/consumer-rights).

The biggest challenge is getting this information out to tenants and landlords in an accessible and engaging format. In order to help consumers access and act on information, tenants and landlords need better signposting to information. This is particularly important for first-time renters. Appropriate channels might be universities and colleges to reach students, but the local authority also needs to play an important role to target a broader range of tenants including those who move into the rented sector following repossession or separation.

**The biggest challenge is getting this information out to tenants and landlords in an accessible and engaging format**



**Key contacts**

For more information, please contact Louisa Darian on the Which? policy team on 020 7770 7561 or email [louisa.darian@which.co.uk](mailto:louisa.darian@which.co.uk)