

Community Safety and Business Regulation
Neighbourhoods and Housing
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1 June 2019

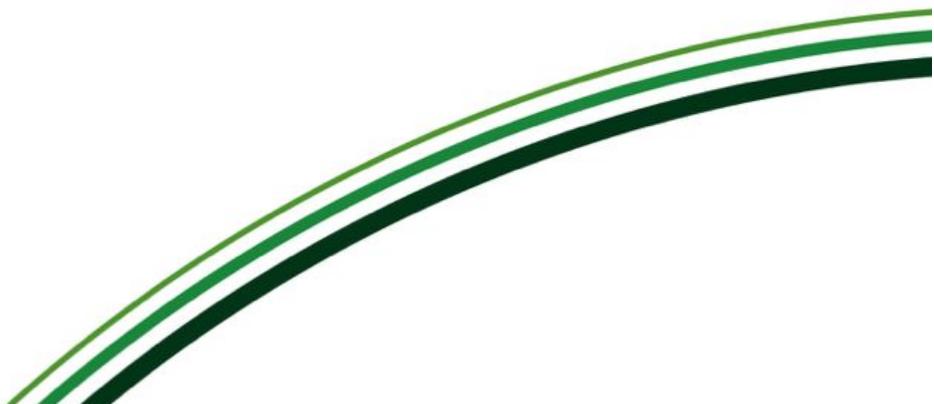
Dear Sir/Madam,

Introducing the letting fees ban and deposit caps in Hackney

Last year the government announced a ban on letting fees charged to tenants by landlords, letting agents and managing agents, as well as a cap on tenancy deposits to five weeks' rent. These new measures will be in place for all new tenancies from **1 June 2019** and will apply across England.

Alongside this, from **1 April 2019** letting agents and property managers have been required to be a member of a government-approved client money protection scheme before they can hold money on behalf of a client, for example for a holding deposit.

In Hackney we have long pushed for these changes through our #BetterRenting campaign, as part of a package of measures that we want to see to make Hackney's private rented sector fairer for tenants, landlords and agents alike. Alongside our other initiatives - like introducing new expanded property licensing in Hackney and campaigning for an end to Section 21 'no-fault' evictions - we think they will help create a fairer system by ensuring that the costs of renting are clear and proportionate, helping to build trust between tenants and their landlords. We want to encourage a responsible, professional private rented sector in the borough, and are keen to work

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with landlords, letting agents and managing agents to ensure that you understand the new requirements and know how to comply.

But, where landlords or agents are not meeting the new requirements or are failing to get clued up on their responsibilities, our enforcement team will use the powers we have to take action and help protect tenants in Hackney. We therefore strongly encourage you to take the action you need to ensure that you meet the new regulations.

Further details on the new measures are included with this letter, and you can find out more about our private sector housing work and the #BetterRenting campaign at hackney.gov.uk/better-renting

Kind regards,

A handwritten signature in black ink, appearing to read 'Sem Moema', written in a cursive style.

Cllr Sem Moema

Mayoral Adviser for Private Renting and Housing Affordability

Letting fees and deposit caps

The following is a summary of some of the main points of the ban on tenant fees, and should be read in conjunction with the Tenant Fees Act 2019. The government has also published guidance for landlords and letting agents at

www.gov.uk/government/publications/tenant-fees-act-2019-guidance

Which fees are being banned?

The ban on letting fees for tenants is intended to remove the additional costs associated with renting a property, such as fees for drawing up a contract, doing an inventory, references and credit checks, or renewing a tenancy.

Landlords and all businesses that carry out letting agency and property management work will not be allowed to request any payments from tenants, except for:

- rent
- refundable tenancy and holding deposits
- payments to change the tenancy when requested by the tenant, capped at £50, or reasonable costs incurred if higher
- payments associated with early termination of the tenancy, when requested by the tenant
- payments in respect of utilities, communication services, TV licence and council tax
- A default fee for late payment of rent and replacement of a lost key/security device, where required under a tenancy agreement

Which deposits are being capped?

Landlords and all businesses that carry out letting agency and property management work will only be allowed to request the following deposit payments from tenants:

- a refundable tenancy deposit capped at no more than five weeks' rent where the annual rent is less than £50,000, or six weeks' rent where the total annual rent is £50,000 or above
- a refundable holding deposit (to reserve a property) capped at no more than one week's rent

What does this apply to?

The ban applies to all assured shorthold tenancies, tenancies of student accommodation and licences to occupy housing in the private rented sector in England.

It is not only an offence for a landlord or letting agent to require a prohibited payment but it is also an offence for a landlord or letting agent to require a relevant person to make a prohibited payment to a third party, for example by asking a tenant to pay directly to a referencing company is prohibited.

What are the penalties for failing to comply?

Failure to comply with the letting fees ban and deposit caps rules will result in a financial penalty of up to £5,000. If a person commits a second offence within five years this will be a criminal offence and can result in a penalty of up to £30,000 and a banning order.

Any financial penalty imposed is in addition to any prohibited payments or holding deposit received. These are enforceable as an order of the county court (allowing the request of bailiffs, attachment of earnings or a charge on property etc).

What are the implications for using the Section 21 eviction procedure?

Landlords or agents cannot evict a tenant using the Section 21 eviction procedure until they have repaid any unlawfully charged fees, or returned an unlawfully retained holding deposit.

Other new measures

Client Money Protection (CMP) scheme

From **1 April 2019** letting agents and property managers have been required to be a member of a government-approved client money protection scheme before they can hold money on behalf of a client, for example for a holding deposit.

A Client Money Protection (CMP) scheme is a membership scheme designed to protect the money held by its members on behalf of their clients. This allows clients to raise a claim for compensation with the CMP where money held is lost or misappropriated.

Letting agents and property management businesses are now required to become a member of a government-approved CMP scheme before they can hold money on behalf of a client.

A property agent must obtain a certificate in respect of their membership from the scheme and display it at each of the agent's public premises and on their website, and produce a copy free of charge to anyone who may reasonably require it. They must also notify each client in writing if they have their membership of an approved CMP scheme revoked or if they become a member of a different CMP scheme.

The penalty for failing to be a member of a client money protection scheme will be a maximum of £30,000. The penalty for failing to notify each client of a change in membership or for failing to obtain, provide or display the certificate of membership is a maximum of £5,000.

Energy Efficiency standards

From **1 April 2019** landlords of privately rented domestic and non-domestic property in England or Wales must ensure that their properties reach at least an Energy Performance Certificate (EPC) rating of E before granting a new tenancy to new or existing tenants.

These requirements will apply to all private rented properties in England and Wales, even where there has been no change in tenancy arrangements:

- from 1 April 2020 for domestic properties
- from 1 April 2023 for non-domestic properties

The Council can impose penalties for breaching these regulations including:

- Up to £2,000 for a breach for a period of less than 3 months,
- Up to £4,000 for a period of more than 3 months
- Up to £1,000 for registered false or misleading information on the PRS Exemptions Register
- Up to £2,000 for failure to comply with a compliance notice.

Find out more

This letter provides limited information about the new requirements, and is intended to be read in conjunction with, and not as a substitute for, reading the legislation itself.

The tenant fees ban and deposits cap are part of the Tenants Fee Act 2019. Further guidance is available at

www.gov.uk/government/publications/tenant-fees-act-2019-guidance

The client money protection measures are part of the Client Money Protection Schemes for Property Agents Regulations 2018. Further guidance is available at www.gov.uk/government/publications/client-money-protection-for-letting-and-managing-agents

The energy efficiency standards are part of the Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015. Further guidance is available at <https://www.gov.uk/government/publications/the-private-rented-property-minimum-standard-landlord-guidance-documents>

All these new measures will be enforced by the Council's trading standards team. If you need further assistance on how to meet the required standards, then please do contact us on 020 8356 4929 or trading_standards@hackney.gov.uk. Businesses can also seek guidance from their trade bodies.