

**Northern Ireland Assembly – Unfair Letting Fees Consultation**

**Private Members’ Bill**

**Response from Propertymark**

**May 2025**

**Background**

1. Propertymark is the UK’s leading professional body of property agents, with over 19,000 members representing over 12,500 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.<sup>1</sup>

**Consultation – overview**

2. In February 2025, Ciara Ferguson MLA for Foyle, submitted a Private Members’ Bill on banning unfair letting fees charged by landlords and letting agents. The Bill aims to ensure renters do not face unreasonable costs so that housing can be more accessible and affordable for tenants. A consultation was launched that sought clarity on the fees tenants were most subject to and what both agents and tenants believed were reasonable. On 13 May 2025, members from Propertymark’s Policy and Campaigns Team as well as property agents from Northern Ireland met with Ciara Ferguson to discuss her proposals and to raise concerns from agents. The following response includes some of the points raised during the meeting but also a summary of responses from a survey of Propertymark members that was launched in line with the consultation.

**Propertymark response – summary**

3. Propertymark welcomes the opportunity to respond to the consultation on unfair letting fees. Propertymark and our members understand that financial pressures impacting tenants and so are receptive to some regulation on fees. Any action taken to control fees however has to take into consideration the financial impact it will have on landlords and letting agents. Our concern is that if letting agents cannot charge for services that incur a cost on their business, they will seek alternative means of recovering these losses. Ultimately this may lead to letting agents increasing

---

<sup>1</sup> <https://www.propertymark.co.uk/>

fees to landlords who are likely to pass the costs on to tenants through higher rents, or the agent will directly raise rents themselves. This therefore would have a negative impact on all parties involved. Considering this, Propertymark's response can be summarised by the following three points:

- **Ensure that evidenced costs to letting agents can be recovered** – there are a variety of services that tenants request and have to pay for due to the cost incurred by the agent. This includes where a tenant ends a tenancy early, replacing lost keys, and changes to a tenancy agreement part way through the tenancy. These represent legitimate costs for letting agents. If these cannot be recovered, all tenants face potential rent increases or a decline in the quality of service an agent can provide.
- **The primary focus of any legislation should be on improving transparency rather than a broad ban on all fees** – mandating that additional fees on top of rent and deposits must be clearly demonstrated to the tenant would enable tenants to make more informed decisions, preventing unforeseen costs and illegal charges without preventing agents from recovering genuine business costs.
- **Ensure sufficient enforcement to produce a level-playing field within the Private Rented Sector** – without sufficient enforcement, the ban could create a system where compliant agents are unable to recover their legitimate costs while some continue to charge unfair fees. Relying on tenants to report fees is unreliable since tenants would be concerned that they'd lose their home or would face lengthy, expensive legal battles.

4. Our response has been partially informed by a survey to our members in Northern Ireland, the results of which will be included where relevant.

### **Consultation Questions**

**Question 1: Are you responding as an individual or on behalf of an organisation?**

5. We are responding as an organisation.

**Question 2: Do you consent to your comments being attributed to you as an individual and/or to your organisation?**

6. We consent to our comments being attributed to Propertymark rather than any individual.

**Question 3: Please indicate which category best describes you.**

7. Propertymark is a membership organisation.

**Question 4: Do you support the ambitions of the proposed Bill?**

8. We are supportive of methods to improve the quality of the rental experience for tenants; however this largely depends on how letting fees are reformed. We are aware of the Loughran V Piney Rentals Ltd & F5 Property Ltd (2017) case and the decision made; that letting fees charged at the start or renewal of the tenancy, where the tenant is being charged for services that the agent would have carried out on behalf of the landlord, are illegal and can be claimed back by the tenant. We also understand that the ruling has left uncertainty around tenants who are charged application fees but are not successful and that there are agents who continue to charge application fees. Therefore, any legislation that seeks to further clarify what cannot be charged and that improves enforcement of agents already charging illegal fees is welcome.
9. While we support these efforts, it is important to ensure that legislation does not prevent agents from recovering legitimate business costs. Fees charged when agents are asked to perform an additional service such as replacing lost keys, amending tenancy agreements or when a tenant ends a tenancy early presents a legitimate cost to the agent. Our concern is that, if agents are not able to recover these costs, they will seek to recover costs through alternative means, such as increasing rents or increasing their charges to landlords (which would also increase rents). When asked about the unintended consequences of banning all fees aside from rent and a refundable holding deposit, 100% of respondents to our survey said that agents would increase rents and take action to recover lost income. 77% also stated that agents would increase landlord fees.
10. Due to this, a blanket ban on all additional fees would ultimately increase costs for tenants, more so than they would if they paid fees. At the same time, we acknowledge that tenants could be charged more than is reasonable in these situations. It is therefore important to make it clear

that these additional costs can be charged but the cost to the agent must be clearly demonstrated to the tenant with a breakdown of costs to the agent that justify the charge.

**Question 5: Do you have experience of either charging letting fees to tenant(s) or paying letting fees to a landlord or letting agent?**

11. Propertymark does not directly charge letting fees but represents members who do. 94% of our members charged some kind of additional fee beyond rent and the deposit, with only 46% charging application fees. This fee is often used to cover the cost of external reference checks. Our members also charge the following fees:

- Processing the tenancy deposit – 15%
- Requiring tenants to pay a non-refundable holding deposit – 15%
- Late rent payments – 31%
- Replacement of lost keys – 77%
- Alterations to the tenancy agreement – 46%
- Early termination of tenancy agreement – 54%
- Setting up the tenancy agreement – 15%

12. 85% of members also reported that they charged up to £25 in additional fees during the average tenancy, with 15% charging on average up to £50. This demonstrates the bespoke nature of individual charges, that they are only charged when the situation arises to recover costs. It is therefore important that agents retain the ability to charge tenants when these costs arise, while ensuring legislation requires fees to be transparent and capped to evidenced costs. Doing so would prevent situations where fees are charged at great cost to the tenant without good reason for doing so. A blanket ban would increase rents for all tenants rather than fees for those who require additional services.

**Question 6: Do you believe that landlords and estate agents should still be permitted to charge any of the tenancy fees listed below:**

- A refundable tenancy deposit that is no more than one month's rent.
- Payments associated with early termination of the tenancy at the tenant's request, capped at £50 or the demonstrably reasonable costs incurred if exceeding this amount.
- Payments related to utilities, communication services, television licenses.

- **A default fee for late rent payments, or Replacement of a lost key or security device providing access to the housing.**
- **None of the above**

13. The majority of the listed fees arise from genuine costs for the agent. As a result, we think that agents should still be permitted to charge these fees as long as they can present evidence of the costs. Only 8% of our surveyed members believe payments associated with early termination, a default fee for late rent payments, replacement of lost keys or alterations to the tenancy should be banned.

**Question 7: If you disagree with any of the above, could you outline your reasons why:**

14. Yes, we would encourage the banning of fees related to the setting up of utilities, communication services and TV licenses. Our concern is that if not banned, agents could seek to recover costs through charging to set up these services, even when the cost to the agent is minimal, for example if they have already set up these services at the property. We do not consider this to be a cost for the agent as there are ways to avoid setting up utilities at the property, such as asking for tenants to set up utilities themselves or including bills within the rent.

**Question 8: Aside from the fees outlined above, which if any other fees do you think a letting agent, landlord or third party should also be permitted to charge? Please list and provide your reasoning/justification for such fees**

15. Since the Loughran V Piney Rentals Ltd & F5 Property Ltd (2017) case, it has been illegal to charge application fees as they are considered for the benefit of the landlord and should not be charged to the tenant. Currently however, tenants who fail applications can be charged. We would argue that this should be reversed, that the successful applicant benefits from having a successful credit reference check as it enables them to live at the property. There are also clear benefits for the landlord and agent for conducting these checks, as a tenant who passes landlord, employer and credit checks is more likely to pay their rent. We do however understand that there are concerns that some agents are charging beyond the cost to conduct a landlord reference and credit check. We would therefore suggest that these pre-application checks be capped and form part of the deposit payment, on top of the one month rent cap. This will enable the agent to recover the costs in of conducting the checks if the tenant damages the property or fails to pay their rent. If the

tenant maintains the property well and pays their rent on time every month, then the checks would pay for themselves through the tenant's behaviour.

**Question 9: Some letting agents may charge a refundable holding deposit to take a property off the market whilst reference checks are being undertaken. Do you think this is a fair charge?**

16. We support the idea that a refundable holding deposit is a fair charge, as it enables tenants who intend to live at the property to put forward an offer. It is important that the holding deposit is refundable for applicants who meet the checks, so that applying for a tenancy does not come at a cost. For those who fail checks, the deposit should be retained by the agent as a means of recovering their costs.

**Question 10: Some letting agents/landlords may charge payments for work associated with changing a tenancy, if requested by the tenant. Do you think this is a fair charge?**

17. Yes, work associated with changing a tenancy requires time and work from the agent to complete and therefore should be considered a fair charge. This charge should be clearly demonstrated within the Landlord Notice so that the tenant is aware of any legal fees so that they can plan for any additional costs they might incur.

**Question 11: Letting agents/landlords may occasionally provide bespoke, non-standard services to tenants, for example, when arranging a property for someone currently living abroad who is relocating to the North of Ireland. Do you think this should be excluded from the ban on letting agent fees?**

18. As with all fees, we agree that any work that can be clearly evidenced that has been requested by the tenant should be able to be charged, therefore bespoke services should be excluded. Our concern is with the transparency and upfront requirement to display fees. Any bespoke service should be discussed with the tenant, with costs demonstrated and shown beforehand so the tenant can make a more informed decision.

**Question 12: Should any type of tenancies, licensees, bodies be exempt from the Bill?**

19. We are unaware of any tenancies that should be exempt from the bill.

**Question 13: It is proposed the new Act would apply immediately to all new tenancies entered into after the legislation is enacted. Do you agree with this proposal?**

20. We do not agree that the Act should apply immediately as that would not provide sufficient time for agents to set up new systems for displaying fees and for establishing how they calculate their fees. When our members were asked this question, 15% said the legislation should be enforced six months after being enacted, 21% said 24 months and 64% said 12 months.

**Question 14: Do you think there will be any challenges or issues in enforcing the proposed legislation?**

21. We think there will be challenges enforcing the legislation, beyond resource challenges, especially since we understand that there are agents who continue to charge application fees even though they have been banned since 2017. There are steps to mitigate the challenge, by requiring fees to be displayed within Landlord Notices or tenancy agreements. However, considering that agents seeking to avoid complying with the legislation may publish fees on their website but charge tenants more than the advertised fees, enforcement would largely rely on reporting from tenants.

22. To ensure greater enforcement, we would recommend establishing a way to report landlords or agents who charge unfair fees through the Landlord Registration Scheme. Resources on what is considered a “fair” fee, and the steps agents need to take to inform tenants should be included. These resources should also provide links to report non-compliance. Enforcing through the Landlord Registration Scheme has four clear benefits. Firstly, the database includes all agents who have registered. Secondly, the scheme has resources for landlords and tenants, enabling them to identify their rights and report non-compliance through the same scheme. Thirdly, the scheme is monitored at a local authority level, meaning that enforcement can be spread out and not be reliant on a larger less reactive regulator. Fourthly, if an agent is not registered on the scheme, requiring tenants to report agents through the scheme would be a way of capturing agents who aren’t registered.

**Question 15: Can you outline the extent to which you think the proposed changes would affect you or your organisation?**

- **A great deal**
- **A lot**
- **A moderate amount**
- **A little**

- **None at all**

23. The changes would likely not impact Propertymark a great deal but will impact the majority of letting agents in Northern Ireland. We will expand more on this in our response to question 17.

**Question 16: Do you envisage any unintended consequences arising from this Bill?**

24. Yes, we envisage that there will be unintended consequences arising from the Bill. There are three main concerns that we have if the Bill would ban all letting agent fees aside from taking deposits and rent payments. The first of which we have covered extensively in paragraph 9, that agents will seek to recover costs through alternative means, these means being to raise rents directly or to raise landlord fees which will in turn increase rents. Without being able to charge tenants to recover legitimate costs, agents will have to assess the potential loss of income and charge all tenants as a result. The second consequence is that agents will be less likely to offer additional services to tenants, some of which are important to provide. This may include establishing that they are unable to end a tenancy early or amend it part-way through the tenancy due to being unable to charge tenants to do so. Lastly, without sufficient enforcement there is a risk that the Bill will fail to achieve its aims. While Propertymark members who sign up to a greater standard of service will be under greater scrutiny and therefore comply, if some agents do not face consequences for charging fees, they will continue to do so. This creates a situation where agents would be penalised for following their legal responsibilities.

**Question 17: What do you believe the financial impact of the Bill's implementation will be on Landlords/Letting Agents?**

- **Prohibitively expensive**
- **Manageable financial impact**
- **Minimal financial impact**
- **No financial impact**

25. We fear that the Bill will negatively impact letting agents. 31% of survey respondents stated that the ban would have a significant negative impact on their finances. 31% stated it would have a minor impact on their finances and 38% said it would have no impact. However, if we consider the percentage who stated that it would mean agents would increase rents or landlord fees, those

who stated “no impact” could be taking methods to make up for lost income into consideration. While costs could be recovered, it is very likely that agents will recover the costs by raising rents.

**Question 18: What do you believe the financial impact of the Bill’s implementation will be on Government Departments?**

- **Prohibitively expensive**
- **Manageable financial impact**
- **Minimal financial impact**
- **No financial impact**

26. As mentioned in our response to question 14, sufficient enforcement will likely require substantial resources from Government Departments and local authorities. Enforcement must take advantage of professional bodies, tenant and landlord support organisations and existing schemes (such as the Landlord Registration Scheme) in order to reduce costs. For example, Propertymark can spread awareness of any restriction on fees and include a requirement to review fee structure within compliance visits. Housing Rights can provide useful guides and advice to landlords and tenants about fees. The Landlord Registration Scheme can also service as a useful tool to highlight what are unfair fees and to signpost how tenants can report potential breaches.