



## Tenant Fees Bill - 2nd reading

Citizens Advice helps people find a way forward.  
We advocate for our clients and consumers on the issues that matter to them.

### Overview

- The default fee clause has the potential to fundamentally undermine the government's aim to end tenant fees and prevent unfair practices.
- The government must significantly tighten this clause with a clearer definition of when a default fee is legitimate. Leaving this to non-statutory guidance risks unfair and inconsistent outcomes for renters.
- The Bill should also be amended so that deposits are capped at 4 weeks' rent, rather than 6 weeks. Setting the cap at 6 weeks will only help 8% of renters. By setting a cap above the average deposit level, it risks increasing costs further for those struggling to enter the market.
- Last year, our network of local Citizens Advice helped people with 97,000 issues relating to problems in the private rented sector. This market is now essential for the millions of people who rely on it for a home.
- Private renters do not have the same choices as people in other essential markets and have little bargaining power. The average amount they pay in fees is £400.
- With the changes above and adequate enforcement, this Bill should fix a dysfunctional feature of the rental market, helping the 4.7 million households who privately rent. It will also make it easier for renters on lower incomes to meet the upfront costs of renting.

### The need for this Bill

**In 2016-17, the private rented sector accounted for 4.7 million (20% of) households.** This market is now essential for the millions of people who rely on it for a home. Around 1.5 million households - 3 times the number a decade ago - now raise children in the sector.

**Every month renters pay over £13 million in unfair and uncompetitive fees.** [Our research](#) into letting agents found that renters are charged anything from £15 to £300 to renew a tenancy, and between £6 and £300 to check a reference. The average amount that tenants pay in fees is £400.

**Tenants do not have the same choices as most consumers in other essential markets.** They have to deal with the letting agent chosen by their landlord and incur whatever costs that entails. Homes are in short supply, putting pressure on renters to agree to fees even if they are disproportionate. Tenants have very little control over the charges they pay and minimal consumer power to contest illegitimate fees.

**Fees are often not a one-off moving cost.** Tenancies typically only last 6 months or a year, and even staying in the same property can incur repeat fees. Citizens Advice research found at least a fifth of renters (21%) expect to have to pay to renew their tenancy at an average cost of £80.

## Closing the loophole on default fees

Schedule 1, paragraph 4(1) of the Bill allows the landlord to recoup any reasonable costs caused by a 'default by the tenant', so long as 'the tenant is required by the tenancy agreement to make the payment'.

**However, the Bill does not provide a comprehensive definition of 'default fee'.** We understand that landlords can be left out of pocket due to having to pay for lost keys, or for costs associated with recouping late rent payments. However, this clause has been left open to abuse by allowing charges that should form part of the deposit arbitration process.

For example, the following types of fees would still be allowed:

- *"To open the window of the bathroom after shower to avoid mould. Charge from £50 (localised treatment) to £150 (if painting for the whole room needed) may apply if it has caused by neglect of the tenant."*
- *"To pay £100 for professional cleaners of communal areas if found dirty."*

Tenants will struggle to dispute these fees as they won't have access to the independent arbitration of the deposit schemes.

**Some tenancy agreements also contain a 'cover-all clause', which means that all breaches could have a default fee attached.** These will be particularly difficult for tenants to dispute. For example *"Pay the Landlord's reasonable legal and/or other costs reasonably incurred as a result of any breaches by the tenant of his obligation under this Agreement."*

**The potential for default fees to be abused has been acknowledged by a wide range of bodies** - the Housing, Communities and Local Government Select Committee, landlord and letting agent bodies, enforcement agencies, housing lawyers, and tenant bodies.

**The government plans to issue non-statutory guidance on default fees, but this is unlikely to adequately protect renters in the way the government intends.** We've already seen examples of where guidance doesn't work in other essential markets. For example, in the energy sector, the regulator originally issued guidance - rather than a licence - on 'back billing'. After discovering that guidance alone was insufficient to ensure that all consumers were protected, Ofgem has now put a licence requirement in place.

**This clause should be tightened, with a clearer definition of when a default fee is legitimate, to give both landlords and tenants clarity over what can be charged.**

## Capping deposits at the right level

The government is planning to cap deposits, recognising the significant burden they place on renters. This is a welcome move. **However, setting the cap at 6 weeks - as the Bill suggests - will not reduce the costs that most tenants face at the outset, as the government intends.** It will only help 8% of renters.

**Large deposits can be a significant barrier to accessing the private rented sector,** or moving within the sector. Almost 11,000 private renters came to Citizens Advice because of issues relating to their deposits in the past year.

**Our research found that the most common amount to pay for a refundable deposit is 4 weeks/1 month (34%).** By setting a cap above the average deposit level, it risks increasing costs further for those struggling to enter the market.

**For more information please contact Caroline Aliwell at [caroline.aliwell@citizensadvice.org.uk](mailto:caroline.aliwell@citizensadvice.org.uk) or 03000 231 881**