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Communities and Local
Government Committee

Private Rented Sector: the evidence from banning letting agents' fees in Scotland

Eighth Report of Session 2014–15

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to the report*

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Summary

This report follows up one issue left from our 2013 report on the Private Rented Sector: whether or not England should follow Scotland and introduce a ban on letting agents charging fees to tenants other than rents and refundable deposits. The change in Scotland had only been made in November 2012 and when we reported in July 2013 views on its impact were speculative and varied widely. We therefore decided to wait two years from its introduction and seek hard evidence on the impact of the change in Scotland. We sought evidence from a number of organisations representing tenants, agents and landlords in Scotland and have examined relevant published reports. We conclude that the evidence available is not strong enough to reach a view on the impact of the ban on fees in Scotland. In addition, the issues around fees that were raised in the original inquiry are more broadly based than simply fees to tenants, as they affect the overall role of agents in the market and the transparency of that market. We therefore call on the Department for Communities and Local Government to commission a comprehensive impact assessment of the effects of the introduction of a ban on agents' fees in England.

1 Introduction

Background

1. In 2013, we conducted an inquiry into the Private Rented Sector in England¹ and, as part of our inquiry, we examined the role played by letting agents in finding tenants for housing, letting properties and managing housing on behalf of landlords. We heard evidence of steep fees, sharp practice and abuses by letting agents in the amounts being charged to tenants, and of the lack of transparency on the fees tenants had to pay when looking for a property. We heard, for example, that one in seven renters who had used a letting agency had paid fees of more than £500 and of complaints about “drip pricing”, that is charges that were revealed only gradually to the prospective tenant.² We were concerned that these practices could prevent tenants from making informed choices about properties and distort the market. In particular, agents had an obvious incentive to keep tenancies short to maximise repeat fees and were also thought to be less than transparent with landlords as to what types of charges and how much was charged to tenants.³ We called for complete transparency, including a requirement for agents to publish a full breakdown of fees alongside any property listing or advertisement, the forbidding of double charging, and a requirement that landlords be informed of any fees being charged to tenants.⁴ In its response to our report, the Government agreed that fees should be “transparent and proportionate”.⁵

2. A number of witnesses suggested that the answer was to make fees and charges (other than rents and refundable deposits) to tenants illegal.⁶ Our attention was drawn to Scotland where in 2012 the Scottish Government had announced that the law would be “clarified so that all tenant charges, other than rent and a refundable deposit, will be deemed illegal”.⁷ This raised for us the question of whether what was in effect a ban on fees

1 Communities and Local Government Committee, First Report of Session 2013-14, [The Private Rented Sector](#), HC 50

2 Communities and Local Government Committee, [The Private Rented Sector](#), paras 79 - 80

3 Communities and Local Government Committee, [The Private Rented Sector](#), paras 79, 81

4 Communities and Local Government Committee, [The Private Rented Sector](#), para 83

5 Department for Communities and Local Government, *Government Response to the Communities and Local Government Select Committee Report: The Private Rented Sector*, Cm 8730, October 2013

6 See, for example, Communities and Local Government Committee, [The Private Rented Sector](#) Ev 150, para 4.2.1 [National Private Tenants Organisations], Ev w249, para 14 [Housing Law Practitioners Association], Ev w162 [Digs], Ev w191, para 22 [Housing for the 99%], Ev 275, para 25 [National Union of Students].

7 [“An end to illegal charges to tenants”](#), Scottish Government press release, 26 August 2012. In this report reference to the ban on fees does not include rents or refundable deposits. The Committee was also aware that the change introduced by the Scottish Government in November 2012 was a change to the regulation of the private rented sector in Scotland, which has been regulated since 1984 when the Rent (Scotland) Act made it an offence to charge or receive any premium or require the making of any loan in addition to rent and a refundable deposit (not exceeding two months' rent), as a condition of the grant, renewal or continuance of a tenancy.

The legislative change which came into force in November 2012 clarified that a premium “includes any fine or other sum and any other pecuniary consideration, in addition to rent, and includes any service or administration fee or charge”. See Letter to the Chair from Margaret Burgess MSP, Minister for Housing and Welfare, 21 August 2014, in [Correspondence from various organisations relating to letting agents' fees and charges in Scotland](#). This clarification has been widely seen as a ban on agents' fees and has been construed accordingly in this report.

charged to tenants in Scotland could provide evidence to inform a decision on the impact and operation of a similar ban in England.

3. At the time we considered our report, the Scottish approach to fees had been in operation for less than eight months. Some witnesses suggested that the Scottish approach should be adopted in England as the current arrangements resulted in a lack of transparency and unfair burdens on tenants.⁸ We also heard strong opinions from others suggesting that the change had led to letting agents going out of business, tenants paying higher rents and landlords paying higher fees.⁹ The representations we received about the impact that the change had had on the private rented sector market in Scotland were not supported with much firm evidence given the timing, and, in our view, they were speculative. As a result, in our 2013 report we reached no firm conclusions on charges to either landlords or tenants and their implications based on the impact of the Scottish ban on agents' fees. We did, however, make it clear in our report that we were "interested in the approach that has been adopted in Scotland" and we considered "that the impact on overall costs and the operation of market should be fully understood before a decision is made to make fees to tenants illegal in England". We stated that we intended "to gather further information on the impact in Scotland of the decision to make fees to tenants illegal, and to return to this issue in 2014".¹⁰

Our inquiry

4. This report sets out our further consideration of the specific question as to whether the effect of the decision to ban agents' fees to tenants in Scotland provides evidence upon which to make a decision on fees in England. We have therefore examined the evidence available in 2014 on the impact of the ban on fees in Scotland, including the methodologies underpinning the evidence, the questions addressed and the strength of the conclusions drawn from the evidence.

5. The first step in our re-examination was to assemble evidence on the impact of the Scottish Government's decision. In the summer of 2014 we wrote to the Scottish Government asking for an assessment of the impact of the ban. We received a response from Margaret Burgess MSP, the Minister for Housing and Welfare, which emphasised the reasons for clarifying the legislation¹¹ and described the legal changes made. The Minister

8 See, for example, Communities and Local Government Committee, *The Private Rented Sector*, Ev 150, para 4.2.1 [National Private Tenants Organisations], Ev w249, para 15 [Housing Law Practitioners Association], Ev w162 [Digs], Ev w191, para 22 [Housing for the 99%], Ev 275, para 25 [National Union of Students].

9 Communities and Local Government Committee, *The Private Rented Sector*, Ev 190 [RICS], Q 724 [Minister for Housing, Mark Prisk MP], See also, for example, Ev w97 [SpareRoom], Ev w183 [Reads Davies Estate Agents and Valuers], Ev 198, para 4.21 [The Property Ombudsman], Ev 167, para 4.5 [Association of Residential Letting Agents], Q 95 [Alan Ward].

10 Communities and Local Government Committee, *The Private Rented Sector*, para 86

11 Prior to the clarification of the law in Scotland on the charging of premiums, there were concerns about a lack of clarity regarding charges made to tenants by agents and landlords for setting up a tenancy. The Rent (Scotland) Act 1984 prohibited charges for drawing up a tenancy agreement or placing a name on an accommodation list. Furthermore, it was an offence to require any premium as a condition of the grant or continuance of a tenancy. A premium included any fine or other like sum and 'any other pecuniary consideration' in addition to rent. Although it should have been clear that this legislation prevented the making of any charge apart from rent and a refundable

said that the Scottish Government had “not assessed formally the impact of the clarification since it came into force in November 2012”. She explained, however, that “the available evidence suggests that clarification has had no adverse impact on the operation of the private rented sector, which continues to grow, and that it has not been responsible for any significant increase in rents”.¹² No details were provided of the “available evidence” referred to in the reply from the Scottish Government.

6. We are grateful to the Minister for her reply but it did not provide us with sufficient evidence on which we could make a recommendation to the Department for Communities and Local Government on whether or not a similar ban might be introduced in England. We therefore also wrote to organisations representing tenants, landlords and agents in Scotland seeking their analysis of the impact of the Scottish Government’s decision to clarify the law on fees charged to tenants. We received four responses from:

- a) Shelter Scotland (based on research commissioned from BDRC Continental and Rettie and Co.);
- b) a joint response from the Scottish Association of Landlords and the Council of Letting Agents (CLA);
- c) the National Landlords Association; and
- d) Generation Rent.¹³

7. This report focuses on our examination of the evidence we received and addresses two questions:

- a) the strength of the evidence on the impact of the decision to ban agents’ fees to tenants in Scotland; and
- b) the extent that the evidence from Scotland provides a sound basis to decide whether or not a similar ban should be introduced in England.

8. In our report we set out, in chapter 2, a summary of the evidence we received from the organisations listed above on the impact of the ban on agents’ fees in Scotland. In chapter 3

tenancy deposit (not exceeding two months’ rent), there appeared to be considerable confusion. Some agents interpreted the law as meaning that it was illegal only for a letting agent to charge a fee specifically to grant the tenancy, whereas others took the view that any fee (other than rent or a refundable tenancy deposit) charged by an agent was illegal. Many agents charged an administration fee to cover overheads, costs of background checks and references, etc. Good practice guidance within the industry set out that other administration charges must reflect actual costs incurred. However, it seemed that some agents were charging tenants unjustifiably large administration fees. Overall, tenants had very little awareness of what was legal or reasonable to pay. The Private Rented Housing (Scotland) Act 2011 clarified that a premium “includes any fine or other sum and any other pecuniary consideration, in addition to rent, and includes any service or administration fee or charge”. See Letter to the Chair from Margaret Burgess MSP, Minister for Housing and Welfare, 21 August 2014, in [Correspondence from various organisations relating to letting agents’ fees and charges in Scotland](#).

12 Letter to the Chair from Margaret Burgess MSP, Minister for Housing and Welfare, 21 August 2014, in [Correspondence from various organisations relating to letting agents’ fees and charges in Scotland](#).

13 [Correspondence from various organisations relating to letting agents’ fees and charges in Scotland](#).

we provide our assessment of the evidence received and consider whether the experience of Scotland provides a sound basis on which to reach a conclusion on how the question of a ban in England should be taken forward.

9. Finally, we put on record our thanks to the Scottish Minister and the organisations for responding to our requests for evidence on the impact of the ban. We also thank Dr Caroline Kenny¹⁴ from the Parliamentary Office of Science and Technology and University College London and Professor Christine Whitehead¹⁵ from the London School of Economics for their assistance in assessing the evidence.

14 Dr Kenny declared the following interests: Dr Kenny leads a [project studying the ways that research feeds into parliamentary processes of scrutiny, debate and legislation, including the impact of the Parliamentary Office of Science and Technology \(POST\)](#). This work is being conducted by the Social Science section in POST, which was established in partnership with the Economic and Social Research Council and with the support of University College London.

15 Professor Whitehead declared the following interests: Adviser to the Board of the Housing Finance Corporation. Fellow of the Society of Property Researchers; Member, Royal Institution of Chartered Surveyors (RICS). Adviser to Work and Pensions Committee on housing costs and welfare reforms. Independent research for Council for Europe Development Bank (CEB); the National Housing Federation; Department for Work and Pensions (completing work with the University of Cambridge on social housing and welfare); the Welsh Government (currently working on private renting in Wales via the University of Cardiff); Camden Borough Council and the National Landlords Association (on rent stabilisation and related issues); Joseph Rowntree Foundation (JRF); Realdania (Denmark); Brazilian Government and EU on affordable housing supply; and a number of Housing Associations including Peabody, Family Mosaic and Affinity Sutton.

2 The evidence on the impact of the ban on letting agents' fees in Scotland

Overview of the submissions

10. This chapter examines the methodologies used to produce the evidence we received and summarises the key findings put forward by the respondents which we consider pertinent to addressing the question about what impact, if any, the Scottish Government's decision to ban agents' fees has had on the overall costs and operation of the housing market in Scotland.¹⁶ Our assessment of the evidence is provided in chapter 3.

11. The four submissions differ in the methods they use to answer the question about the impact of the decision to ban agents' fees, on what types and sources of data they use and on the timeframe they use to base their analysis.

Submission	Methods used	Time period analysis undertaken in the submission
Shelter Scotland	BDRC	
	Telephone survey of letting agents	Dec 2013-Feb 14
	Mystery shopper exercise of letting agents	Nov-Dec 13
	Survey of landlords	Dec 13
	Follow-up interviews with landlords	Jan 14
	Interviews with 'experts'	Jan 14
Rettie	Survey of tenants	Dec 13-Jan 14
	Statistical regression analysis of data on economic performance (from the Scottish Government); employment and unemployment (from Office for National Statistics' Labour Force Survey); pay for full-time workers (from Office for National Statistics' Annual Survey of Hours and Earnings (ASHE)); number of households (from National Records Scotland); the proportion of dwellings in private rented sector (from Scottish Household Survey); the number of mortgage loans (from Council of Mortgage Lenders); house prices (from Registers of Scotland)	1963-Dec 13
	Analysis of Office for National Statistics' Index of Private Housing Rental Prices (IPHRP)	Jan 11-Dec 13
	Analysis of rents data from Citylets; HomeLet	

16 [Correspondence from various organisations relating to letting agents' fees and charges in Scotland](#)

Submission	Methods used	Time period analysis undertaken in the submission
	Rental Index; MoveWithUs Rental Index	Jan 04–Dec 13
	Analysis of Companies House data	Oct 12 and Jan 13
Scottish Association of Landlords and the Council of Letting Agents	Survey of members	Aug 14
	Analysis of rents data from Citylets	Apr 10–Apr 14
National Landlords Association (NLA)	Analysis of rents data from 'Your Move'	Jul 13 and Jul 14
	Analysis of rents data from HomeLet Rental Index	
	Benchmarking exercise of letting agents in one area in Scotland	
	Feedback from NLA members	
Generation Rent	Analysis of rents data from Lettingweb	Jul 10–Jul 14
	Analysis of Shelter's research	

Shelter Scotland

12. The submission by Shelter Scotland was based upon two reports which it commissioned from external organisations.¹⁷ The first, “The impact of legislation on letting agents fees in Scotland: quantitative analysis”, was produced by Rettie and Co., an independent firm of property specialists based in Scotland.¹⁸ The second report, “The impact of clarification on letting agent fees in Scotland”, was produced by BDRC Continental, an independent research consultancy.¹⁹ On the basis of the research in the reports, Shelter Scotland stated that there was “no conclusive evidence” that the ban on fees in Scotland led to an increase in rents. It said that the “independent analysis found that other market pressures were far more likely to have contributed to rising rents in the private rented sector”.²⁰ Shelter summarised the findings in a blog:

- landlords in Scotland were no more likely to have increased rents since 2012 than landlords elsewhere in the UK;
- fewer than one in five of the letting agency managers interviewed as part of the research said they had increased their fees to landlords; and

17 See letter from Shelter Scotland to the Chair, 29 October 2014, in [Correspondence from various organisations relating to letting agents' fees and charges in Scotland](#).

18 Rettie and Co., [The impact of legislation on letting agents fees in Scotland: Quantitative analysis](#), March 2014

19 BDRC, [The impact of clarification on letting agent fees in Scotland: Research report prepared for SHELTER](#), March 2014

20 [Correspondence from various organisations relating to letting agents' fees and charges in Scotland](#)

- many landlords opted to absorb any increase in their letting agency fees as opposed to passing it on in full.²¹

Shelter added what we have taken to be a qualification that

while this research was extremely rigorous, it still did not reveal all the answers. One part of the research showed an unexpected 1-2% rise in Scottish rents, although it could not conclude to what extent the ban had, or had not, contributed to this rise. Other sections of the research suggested wider economic factors were clearly a larger contributing factor. Ultimately, it is extremely difficult to disentangle what factors drive changes in rent levels'.²²

Scottish Association of Landlords and the Council of Letting Agents

13. In their joint response the Scottish Association of Landlords and its letting agent division, the Council of Letting Agents (CLA), reported findings from a survey they had conducted of 103 CLA members in Scotland and an analysis of average monthly rents taken from data provided by Citylets.²³ The majority of respondents to CLA's survey appear to have seen no impact in terms of increased rents, the charging of fees to landlords or the introduction of new charges to tenants. However, a considerable minority of members reported impact on the following areas:

- 20% reported an increase in rent as a result of the change;
- 9% reported the introduction of other fees for tenants;
- 34% of respondents had started charging fees to landlords that tenants previously paid; and
- 23% had increased management fees charged to landlords.

14. Data on average monthly rents from Citylets were reported to show an increase in average monthly rents in Scotland by £18 (to £672) between the second quarter of 2010 and the second quarter of 2012, with a further increase of £51 from the second quarter of 2012 to the same period in 2014. In its submission, the Scottish Association of Landlords noted that, while "this increase cannot purely be attributed to tenant fees legislation as there are a number of other factors influencing market rent [...] it is realistic to suggest that at least in part the increase has been due to the legislation".²⁴

21 ["What's really happened to rents in Scotland?"](#) Shelter policy blog, accessed March 2015

22 ["What's really happened to rents in Scotland?"](#) Shelter policy blog, accessed March 2015

23 Letter from the Scottish Association of Landlords to the Chair, 8 October 2014, in [Correspondence from various organisations relating to letting agents' fees and charges in Scotland](#)

24 Letter from the Scottish Association of Landlords to the Chair in [Correspondence from various organisations relating to letting agents' fees and charges in Scotland](#)

The National Landlords Association

15. The submission by the National Landlords Association cited two main sources. The first was data on average rents from “Your Move” and the second was data from the HomeLet Rental Index, which is gathered from HomeLet’s tenant referencing service.²⁵ The National Landlords Association said data from Your Move showed that that average rents in Scotland had increased by 2.3%, with the fastest annual increase in the South of Scotland, where the average monthly rent in July 2014 was 4.8% higher than in July 2013. It believed that this increase was “due to” the Scottish Government’s decision to introduce a ban on fees and “the letting fee still exists but has been transferred into the rent; tenants are now paying a higher rent”.²⁶

Generation Rent

16. The submission by Generation Rent cited data from a number of different sources including the research undertaken by Shelter, rents data from Lettingweb and findings from other surveys that were not specified.²⁷ Citing data from Lettingweb, the submission outlined a rise in the cost of private renting of an average of 6.9% between 2010 and 2014. However, it supported the view attributed to Lettingweb that this rise was due to increased population and a lack of supply in the private rented sector and concluded that “the change [by the Scottish Government] has had no effect at all on rent levels”. Although stating that Shelter’s report was the most comprehensive undertaken, Generation Rent said that “there has been no research that shows a causal link either way between ending lettings agents’ fees for tenants and a rise in rents”.²⁸

Concluding assessments

17. The four submissions were divided in their assessments about the impact of the decision to ban fees in Scotland and some of the evidence came with caveats.

25 Email from the National Landlords Association to the Committee, 27 October 2014, in [Correspondence from various organisations relating to letting agents' fees and charges in Scotland](#)

26 Email from Generation Rent to the Committee, 30 October 2014, in [Correspondence from various organisations relating to letting agents' fees and charges in Scotland](#)

27 As above

28 As above

3 Assessing the evidence on the impact of a ban on agents' fees

Our assessment of the submissions on the ban in Scotland

18. In this chapter we set out our assessment of the four submissions we received on the impact of the decision to ban letting agents' fees to tenants in Scotland. As we have stated, the test we set in our 2013 report was to understand the impact of the ban on overall costs and the operation of market before a decision is made whether or not to make fees to tenants illegal in England too.²⁹ Our assessment starts with the methods used in the written submissions and the evidence cited and concentrates on specifically:

- whether the methods chosen made it possible to answer the question about the impact of the Scottish Government's decision to ban fees to tenants;
- how robustly these methods were applied in the submission; and
- whether the approach taken in each of the submissions was sufficient to support the conclusions drawn.

The use of surveys in the submissions

19. We have concerns about some methodological approaches adopted. First, the surveys presented in the submissions by Shelter and the Scottish Association of Landlords, while useful, are based on small sample sizes. For example, the BDRC report produced for Shelter surveyed 50 letting agents. 58% of these agents are reported as being aware of the fee clarification legislation, which is relevant,³⁰ but this equates to 29 letting agent managers surveyed. The report then states that 17% of agencies claim to have increased fees to landlords as a result of this clarification in law.³¹ However, it is not entirely clear whether this figure is a percentage of the total agent managers surveyed (that is, nine people from the original total of 50 but nearly a third of those who actually answered) or, for example, of the 29 agents who are reported as being aware of this change (equating to five people). The first would point to some real impact, although both are too small to justify a firm conclusion.

20. Little or no information is provided with the surveys to put the responses into context by, for instance, outlining how survey respondents were identified or why they were chosen, clarifying whether certain responses were concentrated in particular geographical

29 See para 3 above.

30 BDRC, [The impact of clarification on letting agent fees in Scotland: Research report prepared for SHELTER](#), March 2014, chart 12

31 BDRC, [The impact of clarification on letting agent fees in Scotland: Research report prepared for SHELTER](#), March 2014, chart 13

areas, the types of letting agents that responded to the survey³²—for example, by size or the most common type and length of tenancy provided.

21. Moreover, as the third column of the table in chapter 2 shows some of the surveys were carried out before the full impact of the changes may have emerged, which may, for example, be reflected in the high proportion of letting agents not knowing of the changes in the report by BDRC for Shelter.³³

The datasets in the submissions

22. We also have concerns about how to interpret the datasets used. First, we note that official sources of private rented sector statistics have been criticised by the National Statistician.³⁴ Second, the evidence we received cites different sources of private rental sector data in Scotland. A range of datasets are consulted in the reports by Rettie, the National Landlords Association and the Scottish Association of Landlords. There is little or no discussion within these submissions about the degree of consistency or comparability between these different datasets in terms of how they were collected or analysed, how rent levels are measured or the scope of the data they present for example, the geographic distribution³⁵ or market focus. Third, the data on average rents used in the submissions provide a limited picture of the potential costs faced by tenants. The data are based on advertised rents and may therefore differ from the actual rents achieved and paid by tenants. Fourth, the data focused on rental costs for those people entering the private rented sector for the first time, or those moving properties within this sector and therefore do not capture rental figures for people who renewed existing tenancies.³⁶

Establishing a causal link between the ban and factors such as rents

23. As we have noted at paragraph 12, Shelter draws attention to an unexpected 1-2% rise in rents. This increase could cast doubt on Shelter's conclusions that landlords in Scotland were no more likely to have increased rents since 2012 than landlords elsewhere in the UK. Before reaching any conclusions about the impact of the decision to make fees and charges illegal, it is necessary to establish the extent to which any increase in rents is attributable either to this decision or to other factors.

24. All of the submissions, except the National Landlords Association's, acknowledge that other factors will affect rent levels—such as the other legislation introduced around the same time by the Scottish Government (for instance, the introduction of the requirement

32 An exception is BDRC, [The impact of clarification on letting agent fees in Scotland: Research report prepared for SHELTER](#), March 2014, p38.

33 BDRC, [The impact of clarification on letting agent fees in Scotland: Research report prepared for SHELTER](#), March 2014, p 5

34 Government Statistical Service, [National Statistician's Review of Official Housing Market Statistics](#), September 2012

35 As noted above, an exception is the [National Landlords Association survey](#), para 6 which notes that average rents in Scotland had increased by 2.3%, with the fastest annual increase in the South of Scotland.

36 An exception is BDRC, [The impact of clarification on letting agent fees in Scotland: Research report prepared for SHELTER](#), March 2014, chart 4.

to supply all tenants with a Tenant Information Pack, which was introduced from 1 May 2013).

25. Moreover, the focus of any assessment should not be solely on rents, but also on the wider operation of the private rented market. To assess the full market impact it would be necessary to know whether there was any change in the use of agents; the numbers of agents operating; the costs they charged to landlords; whether the length of tenancy offered had changed; whether other charges had been introduced not directly related to the contract (such as search fees that are normal in other countries); whether the changes had impacted on landlords' behaviour in other ways than the rents charged. None of the evidence examined how the market operates, only what might have happened to rents.

Calculating the net outcome for tenants

26. None of the evidence we received attempted to calculate the net impact on housing payments for tenants of the decision to clarify the legislation on letting agents' fees. We were interested that the Scottish Association of Landlords and the Council of Letting Agents found that 9% of respondents reported the introduction of other fees for tenants.³⁷ Whether or not the decision led directly to higher rents, the impact it had on tenants' overall expenditure on housing is the key question that requires working out: in short, how much tenants are better, or worse, off from paying higher rents rather than fees from letting agents. None of the submissions addressed this matter.

Conclusions on the evidence supplied in respect of the ban in Scotland

27. Our assessment of the evidence we received on the impact of the Scottish Government's decision to ban agents' fees to tenants on overall costs and the operation of market is that it is inconclusive. It is not adequate, in our view, to determine the impact of the decision in Scotland or how it might work in England.

Availability of other evidence

28. We checked whether there was other evidence available that might assist us. We made a request to the Scottish Parliament Information Centre (SPICe), which drew our attention to the research undertaken by Shelter and data from the Office for National Statistics' Index of Private Housing Rental Prices (IPHRP) as evidence that "the clarification has had no adverse impact on the operation of the private rented sector, which continues to grow, and that it has not been responsible for any significant increase in rents". We supplemented this response with a rapid search for relevant literature and contacted a number of experts working in this area.³⁸ Neither of these approaches identified any additional studies.

³⁷ See paragraph 13.

³⁸ We contacted Professor Douglas Robertson, University of Stirling and Chair of the Scottish Private Rented Sector Strategy Group at the Scottish Government, Professor Isobel Anderson at the University of Stirling, Professor Michael

Assessing the likely impact of a ban in England

29. We start from the position that, if fees are significant, their removal must have an effect, particularly on rents and operation of the market. Therefore, if the ban results in an increase in rents, such an increase should not necessarily be seen as evidence of a poor policy. Indeed, in evidence to our 2013 inquiry, the Building and Social Housing Foundation observed:

Although the Scottish approach is likely to result in higher charges to landlords by agents, which may be reflected in rent levels, it ensures that tenants are not excessively burdened at the start of a tenancy, or hit by additional charges at later stages.³⁹

30. To determine the likely impact of introducing a ban on letting agents' fees in England—or indeed in Scotland—evidence will be required to cover the matters we have identified in this chapter. The first question which needs to be addressed is the net impact on tenants in terms of rents, access to property and other costs (including agents' fees). The focus of the assessment should be on how a ban would affect the operation of the private renting market. Nevertheless, it might also need to consider the potential impact on wider housing policy, with a view to identifying unintended consequences.

31. The starting point for assessing the impact of policies is HM Treasury's Green Book,⁴⁰ which recommends that before implementing a policy, a thorough impact assessment be carried out. The guidance states that impact assessments should set out: the problem being addressed, the rationale for intervention, the policy objectives and the options considered. For us the main objectives of a change in policy in England to ban agents' fees would be the efficient and more transparent operation of the private rental sector housing and fairness to tenants. A decision whether or not to recommend a ban on fees would depend not only on its impact on rent but also on benefits in terms of consumer confidence and transparency. The research should look at all three.

32. We recommend that the Department for Communities and Local Government commission research on the likely impact of a ban on agents' charging fees to tenants (other than rent and refundable deposits) in England. This should consider and take into account the impact of the Scottish Government's decision, but it should look more widely and also consider the likely impact of a ban in England, which would include consumer confidence, costs and transparency.

Oxley, Director of the Cambridge Centre for Housing and Planning Research at the University of Cambridge and Dr Kim McKee, Director of the Centre for Housing Research at the University of St Andrews.

39 Communities and Local Government Committee, [The Private Rented Sector](#), para 85

40 HM Treasury, [The Green Book: Appraisal and Evaluation in Central Government](#), July 2011

Conclusion and recommendation

1. Our assessment of the evidence we received on the impact of the Scottish Government's decision to ban agents' fees to tenants on overall costs and the operation of market is that it is inconclusive. It is not adequate, in our view, to determine the impact of the decision in Scotland or how it might work in England. (Paragraph 27)
2. *We recommend that the Department for Communities and Local Government commission research on the likely impact of a ban on agents' charging fees to tenants (other than rent and refundable deposits) in England. This should consider and take into account the impact of the Scottish Government's decision, but it should look more widely and also consider the likely impact of a ban in England, which would include consumer confidence, costs and transparency.* (Paragraph 32)

Formal Minutes

Tuesday 10 March 2015

Members present:

Mr Clive Betts, in the Chair

Bob Blackman
Simon Danczuk

Mark Pawsey
Chris Williamson

Draft Report (*Private Rented Sector: the evidence from banning letting agents' fees in Scotland*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 32 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Eighth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[The Committee adjourned.]

Published written evidence

The following written evidence was received and can be viewed on the Committee's inquiry web page at www.parliament.uk/clg.

- 1 [Correspondence from various organisations relating to letting agents' fees and charges in Scotland](#)

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the Committee's website at www.parliament.uk/clg.

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2014–15

First Report	Devolution in England: the case for local government	HC 503 (CM 8998)
Second Report	Local government Chief Officers' remuneration	HC 191 (CM 8960)
Third Report	Child sexual exploitation in Rotherham: some issues for local government	HC 648
Fourth Report	Operation of the National Planning Policy Framework	HC 190 (CM 9016)
Fifth Report	Pre-appointment hearing with the Government's preferred candidate for the post of Housing Ombudsman	HC 877
Sixth Report	Community Rights	HC 262
Seventh Report	Litter and fly-tipping in England	HC 607
First Special Report	Further review of the work of the Local Government Ombudsman: Responses to the Committee's Fifth Report of Session 2013–14	HC 192
Second Special Report	Local Government Procurement: Response of the Local Government Association to the Committee's Sixth Report of Session 2013–14	HC 193

Session 2013–14

First Report	The Private Rented Sector	HC 50 (CM 8730)
Second Report	The work of the Regulation Committee of the Homes and Communities Agency	HC 310 (HC 863)
Third Report	Community Budgets	HC 163 (CM 8794)
Fourth Report	Post-legislative scrutiny of the Greater London Authority Act 2007 and the London Assembly	HC 213 (CM 8761)
Fifth Report	Further review of the work of the Local Government Ombudsman	HC 866 (HC 192)
Sixth Report	Local Government Procurement	HC 712 (CM 8888)
Seventh Report	Building Regulations certification of domestic electrical work	HC 906 (CM 8853)
First Special Report	Committee's response to the Government's consultation on permitted development rights for homeowners: Government response to the Committee's Seventh Report of Session 2012–13	HC 173
Second Special Report	The work of the Regulation Committee of the Homes and Communities Agency: the Regulation Committee's Response to the Committee's Second Report of Session 2013–14	HC 836

Third Special Report	The work of the Regulation Committee of the Homes and Communities Agency: the Government's Response to the Committee's Second Report of Session 2013–14	HC 973
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Session 2012–13

First Report	Park Homes	HC 177-I (CM 8424)
Second Report	European Regional Development Fund	HC 81 (CM 8389)
Third Report	The work of the Local Government Ombudsman	HC 431 (HC 615 & HC 650)
Fourth Report	Pre-appointment hearing for the Chair of the Audit Commission	HC 553
Fifth Report	Mutual and co-operative approaches to delivering local services	HC 112 (CM 8547 & HC 1091)
Sixth Report	Councillors on the frontline	HC 432 (CM 8582)
Seventh Report	The Committee's response to the Government's consultation on permitted development rights for homeowners	HC 830
Eighth Report	The role of local authorities in health issues	HC 694 (CM 8638)
Ninth Report	Implementation of welfare reform by local authorities	HC 833 (CM 8635)
First Special Report	The work of the Local Government Ombudsman: Local Government Ombudsman Response to the Committee's to the Committee's Third Report of Session 2012–13	HC 615
Second Special Report	The work of the Local Government Ombudsman: Government Response to the Committee's Third Report of Session 2012–13	HC 650
Third Special Report	Mutual and co-operative approaches to delivering local services: Further Government Response to the Committee's Fifth Report of Session 2012–13	HC 1091

Session 2010–12

First Report	Proposed Code of recommended Practice on Local Authority Publicity	HC 666 (HC 834)
Second Report	Abolition of Regional Spatial Strategies: a planning vacuum?	HC 517 (CM 8103)
Third Report	Localism	HC 547 (CM 8183)
Fourth Report	Audit and inspection of local authorities	HC 763 (CM 8209)
Fifth Report	Localisation issues in welfare reform	HC 1406 (CM 8272)
Sixth Report	Regeneration	HC 1014 (CM 8264)
Seventh Report	Pre-appointment hearing for the Government's preferred nominee for Chair of the Homes and Communities Agency Regulation Committee	HC 1612
Eighth Report	The National Planning Policy Framework	HC 1526 (CM 8322)
Ninth Report	Taking forward Community Budgets	HC 1750
Tenth Report	Building regulations applying to electrical and gas	HC 1851 (CM 8369)

	installation and repairs in dwellings	
Eleventh Report	Financing of new housing supply	HC 1652 (CM 8401)
First Special Report	Beyond Decent Homes: Government response to the Committee's Fourth Report of Session 2009–10	HC 746
Second Special Report	Proposed Code of Recommended Practice on Local Authority Publicity: Government Response to the Committee's First Report of Session 2009-10	HC 834
Third Special Report	FiReControl: Government response to the Committee's Fifth Report of Session 2009–10	HC 835
Fourth Special Report	Preventing violent extremism: Government response to the Committee's Sixth Report of Session 2009–10	HC 1951