



# Overview & Scrutiny

Title:	<b>Scrutiny Panel on Letting Agents</b>
Date:	<b>13 January 2011</b>
Time:	<b>9.30am</b>
Venue	<b>Annex of the Banqueting Suite, Hove Town Hall</b>
Members:	<b>Councillors:</b>  Elgood (Chair)      Simpson Randall
Contact:	Sharmini Williams Overview & Scrutiny Support Officer 29-0451 Sharmini.williams@brighton-hove.gov.uk

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# AGENDA

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- |           |                                 |               |
|-----------|---------------------------------|---------------|
| <b>7.</b> | Procedural Business             | <b>1 - 2</b>  |
| <b>8.</b> | Minutes of the previous meeting | <b>3 - 12</b> |

Minutes of the previous meeting held on the 17 December 2010.

- 9.** Evidence from a Witness

Tenant

- 10.** Evidence from Witnesses

Sylvia Peckham – Head of Temporary Accommodation & Allocations - Brighton & Hove City Council (BHCC)

John Maguire – Acquisitions & Accreditations Manager (BHCC)

Housing Options Manager

- 11.** Evidence from a Witness

Mike Simpson – Southern Landlords Association

- 12.** Evidence from a Witness

Jo Player – Acting Head of Trading Standards (BHCC)

- 13.** Evidence from Witness

Tenant

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For further details and general enquiries about this meeting contact Sharmini Williams,

(01273 290451– email [sharmini.williams@brighton-hove.gov.uk](mailto:sharmini.williams@brighton-hove.gov.uk)) or email [scrutiny@brighton-hove.gov.uk](mailto:scrutiny@brighton-hove.gov.uk)

Date of Publication – Thursday , 13 January 2011

## Agenda Item 7

### To consider the following Procedural Business:-

#### A. Declarations of Interest

- (1) To seek declarations of any personal or personal & prejudicial interests under Part 2 of the Code of Conduct for Members in relation to matters on the Agenda. Members who do declare such interests are required to clearly describe the nature of the interest.
- (2) A Member of the Overview and Scrutiny Commission, an Overview and Scrutiny Committee or a Select Committee has a prejudicial interest in any business at meeting of that Committee where –
  - (a) that business relates to a decision made (whether implemented or not) or action taken by the Executive or another of the Council's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken the Member was
    - (i) a Member of the Executive or that committee, sub-committee, joint committee or joint sub-committee and
    - (ii) was present when the decision was made or action taken.
- (3) If the interest is a prejudicial interest, the Code requires the Member concerned:-
  - (a) to leave the room or chamber where the meeting takes place while the item in respect of which the declaration is made is under consideration. [There are three exceptions to this rule which are set out at paragraph (4) below].
  - (b) not to exercise executive functions in relation to that business and
  - (c) not to seek improperly to influence a decision about that business.
- (4) The circumstances in which a Member who has declared a prejudicial interest is permitted to remain while the item in respect of which the interest has been declared is under consideration are:-
  - (a) for the purpose of making representations, answering questions or giving evidence relating to the item, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, BUT the Member must leave immediately after he/she has made the representations, answered the questions, or given the evidence,
  - (b) if the Member has obtained a dispensation from the Standards Committee, or

- (c) if the Member is the Leader or a Cabinet Member and has been required to attend before an Overview and Scrutiny Committee or Sub-Committee to answer questions.

**B. Declaration of Party Whip**

To seek declarations of the existence and nature of any party whip in relation to any matter on the Agenda as set out at paragraph 8 of the Overview and Scrutiny Ways of Working.

**C. Exclusion of Press and Public**

To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

*Note: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is confidential and therefore not available to the public.*

*A list and description of the exempt categories is available for the public inspection at Brighton and Hove Town Halls.*

**BRIGHTON & HOVE CITY COUNCIL**  
**SCRUTINY PANEL ON LETTING AGENTS**

**10.00am 17 DECEMBER 2010**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillor Elgood (Chair)

**Also in attendance:** Councillor Randall and Simpson

**Other Members present:** Councillors

**PART ONE**

**1. PROCEDURAL BUSINESS**

**1a. Declarations of Interest**

1.1 There were none.

**1b. Declaration of Party Whip**

1.2 There were none.

**1c. Exclusion from the Press and Public**

1.3 In accordance with section 100A(4) of the Local Government Act 1972, it was considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in section 100I (1) of the said Act.

1.4 **RESOLVED-** That the press and public not be excluded from the meeting.

**2. EVIDENCE FROM WITNESSES**

# BRIGHTON & HOVE CITIZENS ADVICE BUREAU

## Social Policy

### Letting Agents – Fees & Services

Report for Scrutiny Panel 17 December 2010

the charity for  
your community



In 2008 Brighton & Hove Citizens Advice Bureau surveyed 11 local letting agents within walking distance of Hove Town Hall. This included the major agents which have branches elsewhere.

In November 2010 we updated the information held in relation to fees of all but 2 of them telephone (These 2 were unavailable at the time). One of them has gone out of business

We found the following fees in addition to a deposit, which in nearly all cases is 6 weeks' rent. In 2008 one of the agents set out the fees at the top of their Lettings List and one had a list of charges which they gave to tenants. **We recommend this as good practice.**

The tendency from 2008 to 2010 was to simplify the fees. (Was this under threat of regulation?)

**HOLDING DEPOSIT:** all except one agency charge a non-refundable holding deposit, ranging from £79 to £400, with most exceeding £200. This amount is taken from the fees charged if the client proceeds with the tenancy.

**ADMINISTRATION FEE:** this varies, the highest being £245 + VAT per person and the lowest £110 per person. One agent charges £125 + VAT per person, and charges no other fees.

**CREDIT REFERENCE:** 3 agents make separate charges for carrying out credit references. These are: £165 per person plus £30 for checking a guarantor; £110 per person and £45 per person.

**RENEWAL OF TENANCY AGREEMENT:** All except one agent makes a separate charge for renewing a tenancy, ranging from £15 per person to £100.

**CHECKOUT FEE:** one agent makes a checkout fee of £50 + VAT.

**LATE PAYMENT FEE:** 3 agents charge £20 - £25 for sending a late payment letter.

**NON ATTENDANCE FEE:** One agent charges £25 if a client does not attend a pre-arranged visit.

### **RECENT COMPLAINTS REGARDING LETTING AGENTS FROM CAB CLIENTS;**

Housing is the second highest category of cases sent on to the Citizen's Advice Bureau's Social Policy team. Over the last 3 months, from 1 Sep to 30 Nov, there were 28 cases in the housing category of which 16 related to the behaviour of letting agents.



- In 3 cases clients had suffered a second rent rise in one year. The agent told each of them that if they agreed to the rise within one week there would be an admin fee of £25 but that this would rise to £90 if they did not agree in time.
- A client paid the rent by cash into the agent's account for the first 2 months. The agent charged a fee of £25 each time.
- A client left a property and found a new tenant apparently accepted by the agent. The tenant defaulted on the rent and the agent told the client he was responsible. Similar situations are familiar to CAB as causes of complaint and are an example of bad practice in terms of tenancy management by agencies.
- A client paid £1600 deposit. When he left the agent would not refund the deposit because the utilities bills were not supplied within 1 month.
- In 2 cases clients were being charged large amounts from their deposits for cleaning and repairs. There had been no inventory so it was harder to contest. In another case £1000 was to be taken from the deposit but there were no itemised estimates.
- One agent had given no notice re the Tenancy Deposit Scheme.
- Other cases were complaints about lack of repair and apparent indifference by the agent. In one case the HSE served a Category 1 Health Hazard Notice on a 4 –bed house. They said that was very unusual and we query whether an agent should ever agree to let a property which is in this state.

Ann Johnson  
Social Policy Worker  
December 2010

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2.1 Ann Johnson, Social Policy from the Citizen's Advice Bureau (CAB) presented the above written information and informed the Panel of the following information:

- how Social Policy was one of the twin aims of the CAB and how an Adviser would pick out issues of particular importance and pass them on for consideration for forwarding onto the central London Office
- the view of the CAB was that tenants should not be charged fees by letting agents as they provided a service for landlords and the tenants paid the rent. A landlord could ring round to find the letting agent which would charge the lowest fee, but a tenants priority is to find a property and then be informed of the fees payable
- that the "holding deposit" can cause issues for the prospective tenant in that if they decide not to rent the property then the deposit is non-refundable

2.2 The witness informed the Panel how the Brighton & Hove CAB had written Rt. Hon Grant Shapps MP inviting the MP to sign the early Day Motion 223 which calls for the statutory regulation of letting agents and a register of landlords. The response from Baroness Hanham was that national regulation was not the only answer and that work was being carried out with partners on how best to counter poor performance by letting and managing agents.

A suggestion was made to prospective tenants to check that the agents belonged to a trade body or accreditation scheme.

2.3 In answer to a question on whether tenants' charges had accelerated over the past few years, it was confirmed that this was the case.

2.4 In response to how many residents came into the CAB with housing issues, the Panel were informed that there were 28 Social Policy problems from 1 September to 30 November 2010 which came under the category of Housing, and that 16 of those problems related to letting agents.

2.5 In answer to a question on whether there was a pattern regarding charges, the Panel were told how the CAB couldn't understand why the fees varied and how it was felt that one agent had only one fee which was seen as good practice.

2.6 In response to a question on whether it was the most poor and vulnerable in society who were suffering as a result of problems with letting agents, the Panel were informed that it was a cross section of people and that no-one could have afforded to have had a problem with any deposit as tenants needed it to rent another property.

### **3. EVIDENCE FROM WITNESSES**

3.1 Phil Oakley (Brighton Housing Trust Private Rented Sector Initiatives) and John Holmström (BHT Deputy Chief Executive) introduced themselves, talked about proposals that BHT was working towards and answered questions.

3.2 Mr. Oakley informed the Panel that he had worked in the private rented market since 1988 and at BHT for the last two and half years. The market had become highly competitive, due to the buy-to-let boom. As the industry was not regulated it had meant that more businesses had opened, increasing competition (with around 70 letting agents currently operating in the city). 24% of the city's population lived in the private rented sector.

Prior to the recent expansion in the lettings market, most lettings agents had charged landlords a standard 10-15% of rents collected as a management fee. However, as more agents entered the market there was considerable downward pressure on fees, with some newer agents offering to manage properties for 2-5% of rental income. This figure is considerably less than the actual cost of managing a property, and agents charging such low fees have to make money from additional sources – typically by charging tenants for a variety of services.

Since low management fees are obviously attractive to landlords, other lettings agents have been forced to adopt similar practices – lowering their fees to landlords and

recouping costs by increasing charges to tenants. Therefore, although letting agents are not necessarily making higher profits than in former years, there has been a significant adjustment in the way they do their business.

- 3.3 Mr. Holmström informed the Panel that he had worked for BHT since 1984. Historically, the Brighton & Hove private rental market was characterised by over-demand – i.e. there were more people looking to rent than properties available.

The Panel heard that the recent Rugg Review of the Private Rented Sector had recommended that the lettings industry should be better regulated but the government rejected this recommendation. Some agents were actively campaigning for statutory regulation, as they felt that less responsible agents were unlikely to agree to effective self-regulation. There was also a ‘knowledge gap’ which caused problems locally – with inexperienced agents not understanding how the industry operated, and inexperienced landlords unsure of what a lettings agent should reasonably charge for managing properties.

- 3.4 The BHT offered 4 proposals that would help tenants:

- To work closely with landlords to improve their knowledge of what services letting agents should be providing and the typical costs involved in providing these services. This should include explaining to landlords that agents operating on very low percentages would almost certainly be charging tenants for services and that some of this charging might run counter to landlord interests (e.g. landlords have an obvious interest in encouraging long term tenancies, but agents dependant on fees charged to incoming tenants may have an interest in encouraging a ‘churn’ of tenants).
- To question why agents impose a tenancy renewal fee as this would seem to operate to the benefit of neither the tenant nor the landlord (unless either actively wanted to sign a new short term tenancy agreement rather than let the tenancy roll-on on a monthly basis).
- The local authority to take a lead on promoting an accreditation scheme which was bought into by the Association of Residential Letting Agents (ARLA) and other local partnerships and was vigorously monitored by Trading Standards. Promoting in the “Latest homes” magazine to empower tenants to utilise accredited agencies only. Trading Standards to put persistent pressure on agents who were not complying to conform to fair trading. The Panel felt that there may be a resource issue regarding this.
- To offer a positive alternative to landlords through BHT developing a “social letting agency” as a social enterprise, which put focus on setting up long term successful tenancies, which were well managed, and did not rely on additional tenant charges. This would also have the aim of opening up more of the Private Rented Sector to people on Housing Benefit, as virtually no letting agents will offer tenancies to people on Housing Benefit.

- 3.4 In response to whether the former Private Sector Housing Forum should be reformed, the Panel were told that although the Strategic Housing Partnership (SHP) did take up some of the issues dealt with by this former body however, the SHP (and the City more widely) would benefit from a more strategic approach to the Private Rented Sector..
- 3.5 In answer to a question on the response that the CAB received from the Department for Communities and Local Government on regulating agencies and how there were a variety of accreditation schemes, the Panel were informed that there was not enormous confidence in accreditation schemes as they did not regulate charges to tenants.
- 3.6 The Panel were interested in having further information on the local accreditation scheme that had been proposed, the Panel were told how a private sector working group, which consisted of landlords, landlords associations, the Council, BHT and the SHP would aim to promote using agents within the accreditation scheme, engage in developing affordable housing by making optimal use of current housing stock and to capture the city's housing needs.

#### **4. EVIDENCE FROM WITNESSES**

- 4.1 Paul Bonett (Director) and Murray Kerr (Manager - Lettings) for Bonett's Agents introduced themselves and answered questions.
- 4.2 The Panel heard how agent's charged landlords between 12% and 4% for managing their property. Agents who charged lower fees found it unsustainable and charged tenants to make up their costs.
- 4.3 Bonett's charged landlords a fee of 10% + VAT, which is seen to be a fair charge for their services. This fee enables the agent to operate at a high standard.

Tenants have a set fee of £150 + VAT for referencing, tenancy agreements and multiple tenancies have a fee of £125 + VAT; there were no charges for tenancy renewals.

There is a checkout fee of £50 + VAT for vacating the property, which was passed onto another company who carried out this service.

- 4.4 In answer to a question on how many landlords and properties the agency manages, the Panel were told there portfolio consisted of 220 landlords and 100 properties. Bonett's saw themselves as a medium size company within the letting agents industry in the city.
- 4.5 In response to a question on how prospective tenants were informed of their charges, the Panel were told how information on the agents' charges was provided to the tenant at their first viewing.
- The agent also informed the Panel that they had never changed the charges with a tenant.
- 4.6 In answer to a question as to who the agents' clients were it was confirmed that it was the landlord, as the agent looked after their tenancy. Bonett's were a member of the Property Ombudsman and ARLA.

- 4.6 In response to a question on how Bonett's worked with tenants who had genuine financial difficulties, the agents told the Panel how the landlord makes the decision, (as the agents worked for the landlord) and there had been cases of successful renegotiations made in the past.

The Panel were informed how there was more demand than supply and in some cases there were 2 or 3 people trying to rent the same property.

- 4.7 The Panel were told how the turnaround of tenants was approximately a 100 per year, and that people were renting for longer and the average tenancy was one year. It was important to have a good client agent relationship and find the best tenant for the property who maintained the property to a high standard, than finding new tenants. Landlords preferred longer tenancies, rather than problematic short tenancies.

Agents who charged lower fees would find it more lucrative to have new tenants; these agents may have had a higher turnover of properties.

- 4.8 The Panel heard how Bonett's would encourage a local accreditation scheme, so that agents would compete on a level playing field; on experience, the quality of their service provided rather than on the fees of agents.
- 4.9 In answer to a question on how the Council could help landlords make the right decisions in the selection of a letting agent as there were different levels of service with varying operators, the Panel were told that all agents should have itemised charges for tenants and that landlords should look at the tenants charging structure.
- 4.10 Bonett's recommended that the Council should lobby landlords to increase landlords' understanding of tenants' fees, to make more informed decisions on selecting the right agent.

## **5. EVIDENCE FROM WITNESSES**

- 5.1 Tim Nicholls (Head of Environmental Health & Licensing) and Annie Sparks (Divisional Environmental Health Officer) told the Panel that they had heard all the evidence and felt that the Panel would be focusing on services and charges of agents and that their responsibilities did not deal with these elements of the lettings industry.
- 5.2 An area that the Panel initially wanted to investigate was around the environmental issues such as noise complaints and how agents liaised and responded to Council and neighbours' concerns. However it was agreed that the Panel would not require this information now and that these Officers were unable to contribute to the Panel's proceedings any further.

## **6. EVIDENCE FROM WITNESSES**

- 6.1 Carole Charge (Technical & Compliance Director ) and David Thorne (Branch Manager of the Brighton Western Road) for Leaders introduced themselves, presented information and answered questions.

- 6.2 The agents informed the Panel how they prided themselves on providing a good quality service by training their staff to a high level. Their policy was to not accept properties that did not meet their standard. Tenants were given an information leaflet at the initial stages, with details of the proceedings, charges and terms and conditions of the tenure, to ensure they were well informed before signing any agreement. The agents felt that they had a dual role; as their client must have a return on their property and therefore to ensure that the tenant can pay their rent.

The Panel were informed that Leaders were a member of ARLA, the National Federation of Property Professionals and the Property Ombudsman (which can fine up to £21,000 for malpractice).

Leaders prided themselves on offering good service to both tenants and landlords. There was a close commercial and ongoing relationship from the initial stages of the tenure with both the landlord and the tenant to minimise any potential issues that could crop up.

- 6.3 In answer to a question on why cash was not taken for deposits, the Panel were told that this was to reduce any security risks and bankers drafts were the preferred option. If prospective tenants arrived with cash, tenants were asked to pay the money into their bank and bring the receipt before the keys to the property were released.
- 6.4 In response to what support was provided for people who didn't have English as their first language, the Panel were informed that the information was available in different languages and that there were staff available who were multi lingual to talk through the terms and conditions. The documents were also available in larger font and Braille if required and a hearing loop was there for people with hearing difficulties.
- 6.5 In relation to charges the Panel were told that Leaders charged 12.5% for a full management service and that their service would not be able to operate if they charged 5%. Their one administration fee was competitive but fair and the only other fee was a checkout fee for tenants.

In answer to whether the landlord was charged for cleaning costs, the Panel were told that the landlord must provide a clean property to let and the only time the landlord may incur cleaning costs is if the property had been empty for a while.

- 6.6 The Panel were informed that the administration charge increased with the amount of people renting the property due to the amount of references and additional work this created. Leaders also highly recommended that tenants take out insurance, which protected the tenants' contents and also insured the tenant for any accidental damage that they may cause to the landlords possessions in the property.
- 6.7 An administration fee covered the cost of the processing of the tenants information and references, it also acted as a financial commitment to the tenancy from the tenant as it is non- refundable.
- 6.8 Leaders welcomed the potential for a city wide accreditation scheme that tenants and landlords could choose from which would raise the industries standard.

- 6.9 Leaders worked towards having long term tenants, as both the tenant and landlord were satisfied.
- 6.10 It was uncertain as to how many agents were members of ALRA and the Ombudsman but Leaders felt that the membership increased professionalism, it ensured that staff were trained to a high standards and it also protected landlords and tenants from unfair practices.
- 6.11 Leaders confirmed that their average tenancies were for 12-18 months and that Brighton had a different “churn” to other areas.
- 6.12 In answer to a question on the 12.5% that Leaders made and that these fees were the higher end of the market, Leaders advised that they provided a 24 hour service which covered all maintenance issues and that they visited the properties more regularly than other agents. The agents had longevity, couldn’t provide the level of service for a smaller fee, and ensured that their properties are invested in by landlords so that the landlords would get a return.
- 6.13 In answer to question on how landlords were informed of their fees, Leaders confirmed that their landlord received a folder with their agreement and how to prepare the property for a tenancy.

The meeting concluded at 1.00pm

Signed

Chair

Dated this

day of

