



**Brighton & Hove  
City Council**

**Report of the Adult Social Care & Housing  
Overview and Scrutiny Panel**

**Date: March 2011**

## **Scrutiny Panel on Letting Agents**

### **Panel Members**

**Councillor Paul Elgood (Chairman)  
Councillor Bill Randall  
Councillor Christine Simpson**

## Chair's Foreword

This has been an incredibly interesting and rewarding scrutiny panel which has been a privilege for me to chair.

Our city has a unique rental property market where the demand for homes is particularly high. The vast increase in buy to let properties has led to an upsurge of letting agents in the past few years: this can clearly be seen by the number of lettings agents on Church Road and Western Road. There is intense competition between letting agents within our city, which has led to agents reducing their fees to attract landlords, but then charging tenants for a range of services. The Panel agreed that, with the limited time available, these fees would form the focus of our enquiry.

The most useful and interesting part of the scrutiny process were the public and private meetings where witnesses gave evidence concerning their businesses. We heard about lots of excellent practice, with witnesses speaking constructively and passionately about their work and experiences.

Equally we received private written submissions from tenants which often offered a very different point of view. The Panel had a difficult challenge making recommendations with no government regulations to back them. However, the Panel agreed six recommendations to support tenants on a local level and to assist in the trying to eradicate unfair practices.

I would like to finish by expressing my gratitude to the other members of the Panel: Councillors Bill Randall and Christine Simpson. I know that the Panel was most grateful for the time of all the people who gave evidence, including: tenants, Brighton & Hove Citizens Advice Bureau, Brighton Housing Trust, local letting agents, officers from the council's Housing and Trading Standards teams, the Chair of the Southern Landlords Association, and the council's Cabinet Member for Housing.



*Paul Elgood*

Councillor Paul Elgood  
Chair of the Letting Agents Scrutiny Panel

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# Executive Summary

## **Brighton & Hove's Private Rented Sector**

Brighton and Hove has one of the largest private rented sectors in the country, comprising 28,000 homes: almost a quarter (23%) of the entire city's housing stock. The city faces several challenges in terms of the private rented sector, including problems of supply, of high rents, of poorer than average housing quality and of pockets of overcrowding.

## **Rental market and market trends**

The national expansion of the private lettings market was driven, in part, by the Housing Act (1988) which encouraged the growth of small-scale private landlords. In later years the emergence of 'buy to let' as an investment vehicle, the expansion of the city's two universities, and increasingly unaffordable property purchase prices gave further local impetus to this trend. The growing number of rental properties in the city presented an opportunity for more letting agents to enter the market, which they rapidly did: there are now over 70 letting agents operating in Brighton & Hove, many of them recently established concerns.

## **Letting Agent Regulation**

There is currently no statutory regulation of letting or property management companies, and the Government has recently stated that it does not plan to introduce regulation. This means that anyone can open a letting or property management business without any qualification or accreditation.

## **Additional Charges**

Traditionally, letting agents made their money by charging landlords a 'management fee' – typically a fixed percentage of the rent – for finding tenants and administering the tenancy. However, there is intense competition for business between agencies and a number of agents have responded by offering to manage properties for very low rates, a move which has proved understandably popular with landlords. Agencies charging relatively low fees to landlords need to generate additional income to ensure they remain profitable. They typically do this by charging tenants 'additional' fees – for checking references and credit status, for taking property inventories, for renewing or ending contracts etc.

This practice of imposing additional charges has proved controversial for several reasons:

- Because the charges for services often seem wholly out of proportion with the service provided – e.g. up to £200 to renew a tenancy, when the only apparent work involved is to print out a new standard tenancy agreement and get it signed.
- Because tenants are being charged for services which would more logically be charged to the landlord – e.g. it seems reasonable for

landlords to request references if they so choose, but why should prospective tenants pay for these references to be checked?

- Because it is often not clear to new tenants that they will be expected to pay significant fees (in addition to rent/deposit) to secure the property and at various points through the tenancy – e.g. fees to check references, to check credit worthiness, to provide a property inventory, to end a tenancy etc.
- Because letting agent charges would appear to act as a perverse incentive for agents to act in ways counter to the interests of both tenants and landlords – e.g. many landlords want long term tenants and many tenants want long term lets; but will agents who stand to gain more from bringing in new tenants work to encourage long term landlord-tenant relationships?

### **National Context: Citizens' Advice Bureau (CAB) report "Let Down"**

The national CAB report "Let Down"<sup>1</sup> was published in 2009. Focusing on letting agents' fees and charges, the report made the following recommendations:

- The licensing of letting agents – who should be required to demonstrate professional competence, have adequate client money protection arrangements and operate a system for handling complaints and redress;
- The introduction of regulations specifying that no additional charges should be made to tenants for activities that are part of the routine letting and management process.

### **Local Context: Brighton & Hove City Council Notice of Motion**

On 18 March 2010, the Council considered a Notice of Motion<sup>2</sup> relating to the CAB report. Members agreed that the council's Chief Executive should be asked to:

1. Write to the Government and the major political parties seeking their support for the Citizen's Advice proposals; and
2. Ask the Office of Fair Trading to carry out an investigation into the activities of letting agents.

Members also agreed that a working group should be established to examine the issue in more detail. The working group decided to refer the matter to Scrutiny. (There was a caveat to this referral: that Scrutiny should not seek to duplicate the extensive work already undertaken by the Strategic Housing Partnership in terms of the city's student accommodation market.)

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<sup>1</sup> [www.citizensadvice.org.uk/let\\_down](http://www.citizensadvice.org.uk/let_down)

<sup>2</sup> Notice of Motion – Appendix 4

## **Scrutiny Panel Terms of Reference**

Members agreed to concentrate on the following issues:

- Dissatisfaction with letting agents' services, including difficulties in contacting agents, delays in getting repairs carried out, inadequacies in the protection of clients' money and the frequency with which additional charges were made
- Charges imposed by letting agents in addition to the tenancy deposit and rent in advance. (The size and nature of these charges can vary hugely from agent to agent, with the fee for checking references ranging from £10 to £275 and the fee for renewing a tenancy ranging from £12 to £200. In some cases additional charges for arranging and managing a tenancy may amount to over £600.)

### **Matters not Considered: Quality of Stock**

There is a significant problem in the city in terms of the quality of some private rented housing stock, perhaps exacerbated by the large student housing market – student housing is often characterised by its poor quality, and its dominant role in the local market may effectively 'set the trend' for the private rental market in general.<sup>3</sup> However, Panel members were conscious that this important issue is already being actively addressed by the council, and decided not to make it a focus of this review.

### **Meetings**

The Panel held two evidence gathering meetings in public and one meeting in private (for tenants who did not wish to speak publicly). Panel members also met with the Cabinet Member for Housing.

### **Witnesses**

Witnesses included representatives from the Brighton & Hove Citizens' Advice Bureau (CAB); Brighton Housing Trust (BHT)<sup>4</sup>; Environmental Health Officers; Housing Officers – from Acquisitions & Accreditations and from Housing Options; the Southern Landlords' Association and Trading Standards. A number of letting agents were invited to come and speak at the meetings, and two accepted: Bonett's and Leaders. A tenant also gave evidence in person.

### **Written Submissions**

There were 25 written submissions from tenants, as well as information in writing from the University of Brighton, Brighton & Hove CAB, Brighton Housing Trust and city letting agents. Where this report quotes from tenant submissions, the names of individuals and of specific letting agencies have been omitted.

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<sup>3</sup> See evidence from Cllr Maria Caulfield, Brighton & Hove City Council Cabinet Member for Housing, 10/2/2011, Appendix 3.

<sup>4</sup> BHT's mission is to combat homelessness, create opportunities and promote change

# List of Recommendations

As a general point, Panel members agreed with the Citizen's Advice Bureau that it was hard to see how the practice of letting agents charging tenants additional fees was justifiable. However, there would probably be limited value in a Scrutiny Panel recommending to city letting agents that they refrain from making additional charges to tenants. Therefore the Panel has made a series of more practical recommendations:

1. The council should develop a local letting agents' accreditation scheme (with an official logo) which focuses on:
  - a. providing transparent charging structures for tenants;
  - b. information on 'good practice' in terms of charging fees (including reasonable fee levels);
  - c. providing an efficient repairs and maintenance service;
  - d. training on housing and equalities issues.
2. The council should launch an information pack for private sector tenants, highlighting letting agent good practice and procedure. This should be made available on the council's website and via libraries, CityDirect centres etc. The web pages should include information on letting agent accreditation and a list of agents signed up to the scheme.
3. The council should ensure that the current landlords' accreditation scheme provides advice on choosing letting agents. This should include explaining that letting agents deriving most of their income from tenant charges may not be acting in the best interests of landlords.
4. The council should support Brighton Housing Trust in developing a "social letting agency" as a social enterprise
5. The council should consider including details of homes to let by accredited letting agents in its Homemove lettings scheme web pages/ magazine alongside council and housing association properties.
6. The council should continue to lobby government for better regulation of the private rental market. Specifically:
  - a. that tenants should not be faced with 'hidden' additional charges at the beginning of their tenancy;
  - b. that all tenants' fees are fair and transparent;
  - c. that letting agents should be licensed;
  - d. that letting agents should be able to charge fees only for a prescribed range of services, and that fees levied should only cover the reasonable cost of performing particular tasks (e.g. checking references etc).

## Monitoring of these recommendations

Once agreed by the Adult Social Care and Housing Overview & Scrutiny Committee (ASCHOSC), the report will be considered by the council's Executive and will then go to Full Council for information. The implementation

of the agreed recommendations will be monitored at 6 monthly intervals for the first year. After the first year, the recommendations will be monitored annually until the relevant Scrutiny committee is satisfied that all the agreed recommendations have been implemented.

## Introduction

Brighton & Hove had a fast moving rental market in which demand typically outstrips supply. The 'buy to let' boom had increased the number of letting agents and property management agencies in the city, and this has created stiff competition amongst agents. City agents charge landlords between 4% and 12.5% of property rental prices for their services. Letting agents charging lower fees typically top up their income by charging tenants for a range of 'additional services'. It is clear that there is a widespread belief amongst tenants that some of these charges are unjustified. For instance, a witness informed the Panel that *"the charging seemed arbitrary as there were no explanations of what this consisted of and tenants would not receive any extended level of service for these additional charges"*.

After considering evidence from a range of witnesses, the Panel agreed on six recommendations to support tenants, to raise awareness amongst letting agents of industry best practice, and to educate landlords about the implications for them of additional charges. Details of each of the recommendations and the evidence underpinning them are given below.

## **Recommendation 1: Accreditation**

### **Brighton Housing Trust (BHT)**

- 1.1 BHT proposed that the council should take a lead on promoting a local accreditation scheme for letting agents. The promotion of such a scheme in the 'Latest Homes' property magazine and in other places may encourage tenants to use agencies within the scheme. However, BHT's proposal would involve the council vigorously monitoring agents to ensure compliance; realistically the monitoring of agents would need to be prioritised alongside other work.

### **Witnesses' views**

- 1.2 Witnesses who attended the Panel's meetings supported a local accreditation scheme. These witnesses included council housing officers, the Chair of the Southern Landlords Association, BHT and letting agents.

Trading Standards told the Panel that the accreditation scheme could be advertised on their "Buy with Confidence" webpage<sup>5</sup>.

### **Sussex Landlord Accreditation Scheme (SLAS)**

- 1.3 The SLAS is an initiative via which Brighton & Hove City Council signposts available private sector properties for people in need of housing (e.g. people who have applied for local social housing). To join the scheme, landlords must undergo a day's training course and agree to have their properties inspected. The aim of the scheme is to improve the standard, condition and management of private rental stock in the city and to help people with housing need access suitable accommodation when social housing is unavailable. The Panel was impressed by the SLAS and thought that a similar scheme could potentially be introduced for letting agents.

### **Cabinet Member for Housing**

- 1.4 Cllr Caulfield told members that she was in favour of accreditation as renters currently had few means of telling whether a particular agent was reputable or not. Accreditation might therefore help in identifying untrustworthy 'fly by night' operators.

### **Government**

- 1.5 The CAB informed the Panel that a response to its request for statutory legislation of letting agents had been received. This stated that the Government does not currently favour regulation, preferring instead to encourage prospective tenants to check that agents belonged to a trade body or accredited scheme<sup>6</sup>.

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<sup>5</sup> See evidence from Jo Player, BHCC Acting Head of Trading Standards, BHCC, 13/1/2011, Appendix 2

<sup>6</sup> See evidence from the Brighton & Hove Citizens Advice Bureau, 17/12/2010, Appendix 1

## **Letting Agents**

- 1.6 Agents who gave evidence to the Panel spoke about how some letting agents charged very low fees to landlords in order to gain custom. It was felt that landlords were generally unaware that these low cost agents would typically impose a range of additional charges on tenants.

The letting agents who gave evidence to the Panel supported a local accreditation scheme. These agents charged higher fees to landlords which ranged from 10% to 12.5%. They believed that it would be fairer if landlords selected agents on experience and service quality rather than on the competitive fees of agents. They also felt that a local accreditation scheme would raise industry standards<sup>7</sup>.

## **Tenants**

- 1.7 The Panel heard from a witness who thought that transparent charges would be useful, ensuring that tenants were aware from the beginning of the tenancy what costs they were expected to pay<sup>8</sup>.

## **Other Matters Considered: Training day**

- 1.8 The Panel was aware that an effective agent accreditation scheme would have to offer some benefits to letting agents in order to encourage them to join. Members felt that the 'sell' should be that, via a training opportunity, agents could gain a better knowledge of how the council operated, and hence, potentially, a better chance of building advantageous working relationships with the council. Training could include advice from Trading Standards on ensuring that contracts were fair and Office of Fair Trading (OFT) legislation was complied with, as well as advice from Housing officers on which departments/ officers to contact in relation to specific tenants' issues and information on housing benefits.

## **Other Matters Considered: Logo**

- 1.9 A witness felt that accreditation schemes and their logos were not really considered when people were selecting a property, as the property was the prospective tenant's focus rather than which agent managed it<sup>9</sup>.
- 1.10 The Southern Landlords' Association (SLA) told the Panel that prospective tenants might be better placed to react to a single, universal logo rather than having to deal with several different accreditation schemes. Something similar to the "Scores on the Doors" restaurant star rating scheme might be particularly useful.

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<sup>7</sup> See evidence from letting agents, 17/12/2011, Appendix 1

<sup>8</sup> Evidence from private minutes 20/1/2011

<sup>9</sup> Evidence from private minutes 20/1/2011

1.11 **Other Matters Considered: Private Sector Housing Forum**

The Panel also did consider whether it would be useful to reconstitute the Private Sector Housing Forum if it proved the best way to engage with private sector tenants, landlords and letting agents etc. However the Panel did hear evidence from the BHT who felt that a more strategic approach was needed for the Private Rented Sector. After reconsidering, the Panel suggest that further thought is given to whether or not the Private Sector Housing Forum or something similar is still required<sup>10</sup>.

1.12 After hearing all the evidence the Panel decided to recommend that:

**The council should develop a local letting agents' accreditation scheme (with an official logo) which focuses on:**

- **providing transparent charging structures for tenants;**
- **information on 'good practice' in terms of charging fees (including reasonable fee levels);**
- **providing an efficient repairs and maintenance service;**
- **providing training on housing and equalities issues.**

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<sup>10</sup> See evidence from Brighton Housing Trust, 17 December 2010, Appendix I

## Recommendation 2: Information Pack

### Tenants

- 2.1 From the written evidence submitted to the Panel from tenants it was evident that many renters were unaware of their rights in relation to their tenancy. Some tenants wanted legal advice about how much letting agents could charge and whether it was legal for letting agents to charge for tenancy renewals<sup>11</sup>.

Tenant comments included:

*“Charges that were listed and displayed were useful”*

*“We were told the reason for the name change charges (£188) was that we had to be referenced - which is fair enough for someone new moving in - but I had to pay to be re-referenced even though I’d been living there a year and six months which I think is completely ridiculous and unfair”*

*“Each time my rent is increased, the letting agents charge a £25 admin fee which had to be paid within seven days or the fee goes up to £90”*

*“For a 6 month contract renewal I have been asked to pay just under £60, which seems extortionate”*

*“I understand that they may need to charge something in the way of administration fees, but I am also sure the landlord himself will be paying fees etc. so I am not sure they can justify what they charge”*

*“I have not found them particularly helpful or organised... it took them 25 days to respond to an email regarding tenancy renewal”*

*“I really don’t know how some of them justify what they charge: how does printing out the same tenancy agreement again with different dates justify £60.00?!!”*

*“They have all charged me a fee to renew my tenancy. Is this not right?”*

*“I had to pay an admin fee of around £150 on top of my deposit and rent. I honestly can’t understand how this amount is justified. Letting agents say it’s for processing references, forms, etc. Isn’t this their normal day to day job?”*

- 2.2 It may also be the case that some private sector tenants are reluctant to complain directly to their letting agents or landlords for fear of jeopardising their tenancy. Unsurprisingly, the Panel did not directly

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<sup>11</sup> Private evidence from tenants

receive evidence to this effect, but it is something that all panel members have encountered in their work as ward Councillors.

### **Students**

- 2.3 Both city universities have Housing Advice services which provide information and support to students living in private lettings<sup>12</sup>.

### **Trading Standards**

- 2.4 Many tenants would find it useful to have information on where to go if they have an issue with regard to unfair contractual terms. Trading Standards (TS) may be able to support tenants with such an issue. However, the Panel heard that tenants with housing issues tend not to go to TS very often<sup>13</sup>. A survey was carried out by TS on letting agent's contractual terms, it was found that 72% of agents were found to be fair to consumers, whilst another 13% were reasonably compliant and 15% were unsatisfactory.

### **Cabinet Member**

- 2.5 Cllr Caulfield told members that she supported the idea of providing tenants with information on renting, potentially including details on long term lets, minimum standards of accommodation, reasonable levels of agent charges and the national deposit protection scheme.

### **Other Matters Considered: Landlords' details**

- 2.6 A witness told the Panel that they always tried to get their landlord's contact details when renting, as they had found that it was often easier and quicker to deal directly with landlords rather than via the letting agents<sup>14</sup>. Letting agents often have no particular interest in making a repair or resolving a problem promptly, whereas the property owners may have.
- 2.7 Tenants would find it useful to know their landlords' contact details so that they could resolve issues sooner rather than later. Although some landlords would prefer tenants to deal with the agents rather than themselves, other landlords are happy to deal with the tenant directly.

### **Other Matters Considered: Accreditation schemes**

- 2.8 Organisations such as BHT and Citizen's Advice Bureau would typically advise renters to use agents belonging to accredited schemes such as the Association of Residential Letting Agents (ARLA) or the Institute of Chartered Surveyors (ICS). These agents should be credible and should have working practices that comply with the Office of Fair Trading (OFT) regulations.<sup>15</sup>.

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<sup>12</sup> Private evidence from a University

<sup>13</sup> See evidence from Jo Player, BHCC Acting Head of Trading Standards, 13/1/2011,

Appendix 2

<sup>14</sup> Evidence from private minutes 20/1/2011

<sup>15</sup> See evidence from letting agent, 17/12/2010, Appendix 1

- 2.9 Agents who are members of schemes covered by ARLA, ICS and the Property Ombudsman can be struck off the scheme and fined if there is evidence of any malpractice<sup>16</sup>. Once again this could be potentially useful information for tenants to be aware of when selecting a property.

**Other Matters Considered: Good practice**

- 2.11 An agent gave evidence as to how his business did not charge tenancy renewal fees or make other additional charges, but had a single, set fee for obtaining references and setting up the initial tenancy agreement.

Another letting agent showed members a list of charges which was given to prospective tenants before they signed contracts.

Another agent told the Panel that they made a single charge for tenancy renewal – i.e. for the first renewal, with renewals being free of charge thereafter. The Panel and the CAB considered all of the above to be examples of good practice<sup>17</sup>.

**Other Matters Considered: Council Housing Advice Services**

- 2.12 The council's Housing team is currently developing a pack for tenants with housing needs who are placed in private rented accommodation. This pack will explain tenant rights and obligations in clear English, provide advice on how to maintain and renew a tenancy etc. However, this pack will be specifically targeted at a particular group of renters and may not therefore be relevant to people in the broader private rental market.<sup>18</sup>

- 2.13 After hearing all the evidence the Panel decided to recommend that:

**The council should launch an information pack for private sector tenants, highlighting letting agent good practice and procedure. This should be made available on the council's website and via libraries, CityDirect centres etc. The web pages should include information on letting agent accreditation and a list of agents signed up to the scheme.**

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<sup>16</sup> See evidence from letting agent, 17/12/2010, Appendix 1 & John Macquire, Acquisitions & Accreditations Manager, 13/1/2011, Appendix 2

<sup>17</sup> See evidence from the Brighton & Hove Citizens Advice Bureau on Social Policy, 17/12/010, and letting agents, Appendix 1 & Appendix 7

<sup>18</sup> See evidence from John Macquire, Acquisitions & Accreditations Manager, 13/1/2011, Appendix 2

## Recommendation 3: Information for Landlords

### CAB

- 3.1 The Panel heard from the CAB<sup>19</sup> that agents charged varying fees for referencing, administration and the renewal of tenancy agreements. These were the most common fees charged to tenants.
- 3.2 The CAB argued that tenants should not be charged fees by letting agents, as these fees, if they need to be levied at all, should be paid by landlords. The CAB also provided the Panel with the following statistics:
- From April 2010 to 17 December 2010 out of 875 enquiries on private rented sector (PRS) accommodation, 112 were in relation to rent and other charges;
  - In 2009/2010 out of 995 enquiries on PRS accommodation, 118 were in relation to rent and other charges.

### Tenants

- 3.3 Tenants made the following comments:

*“Basically they keep creating obstacles between different departments. I am unable to talk to my landlord. The agents don’t interact with their renewals team, so I’m left being threatened with eviction whilst I’m trying to claim compensation from another department”*

*“Agents also get a fee from their owner/landlord to ‘administrate’ the property...this means that the agents maybe ‘double charging’”*

*“The administration fee the agent charged was £176.25 each, and I am still unclear as to what this is for.”*

*“To renew the tenancy at a cost of £50 each...at the time I argued with the agent that £100 was a very costly administrative charge. We had no choice but to accept it in the end or we would lose the tenancy”*

### Southern Landlords Association (SLA)

- 3.4 A survey undertaken by the SLA found that landlords were generally unaware of whether letting agents charged tenants fees or of what the costs were. Of the landlords who took part in the survey, only three were aware of their letting agents charging tenants.
- 3.5 The Panel heard that tenants who moved into properties that were owned by landlords within the association (i.e. properties directly managed by their owners rather than letting agents) would typically have just one charge to pay to cover obtaining references and the

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<sup>19</sup> See evidence from the Brighton & Hove Citizens Advice Bureau, 17/12/2010, Appendix 1

provision of a tenancy agreement. This would generally be around £100<sup>20</sup>.

**BHT**

- 3.6 The Panel heard that BHT was planning to work closely with landlords, to explain to them the potential issues relating to the use of letting agents, including making landlords aware that agents might be imposing additional charges on tenants.
- 3.7 After hearing all the evidence, the Panel decided to make the following recommendation:

**The council should ensure that the current landlords' accreditation scheme provides advice on choosing letting agents. This should include explaining that letting agents deriving most of their income from tenant charges may not be acting in the best interests of their landlord clients.**

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<sup>20</sup> See evidence from Mike Stimpson, Chair of the Southern Landlords Association, 13/1/2011, Appendix 2

## Recommendation 4: A Social Letting Agency

### Brighton Housing Trust (BHT)

4.1 The Panel heard a proposal from BHT<sup>21</sup> relating to the establishment of a 'Tenancy Centre'. The service would be run by BHT Enterprises Ltd (a social enterprise subsidiary of the Trust). It would provide an alternative letting service which could generate income to fund BHT's work with homelessness of all types in the city.

4.3 The aims of the centre would include providing/enabling:

- Improved access to PRS accommodation for those reliant on benefits or on limited incomes;
- A more equitable market for both landlords and tenants;
- Promotion of best practice in housing and tenancy management;
- Improved tenancy sustainability;
- Reductions in homelessness and demand on homelessness services.

### Letting agents

4.4 The Panel heard how agents charged landlords between 4% - 12% for managing their property. Agents who offered lower fees to landlords typically imposed charges on tenants to make up their income<sup>22</sup>.

### Cabinet Member

4.5 Cllr Caulfield told the Panel that she supported the idea of a city social letting agent. The council could support this initiative by directing landlords and prospective tenants to the service. Cllr Caulfield thought there might be a particular opportunity here for a social letting agent to work with landlords to encourage them to accept tenants in receipt of Housing Benefit or people who were unable to provide references etc.

### Tenants

4.6 The Panel heard from the CAB that tenants were often dissatisfied with the additional charges that were imposed on them by letting agents.

4.7 After hearing all the evidence the Panel decided to recommend that:

**The council should support Brighton Housing Trust in developing a "social letting agency" as a social enterprise.**

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<sup>21</sup> See evidence from Brighton Housing Trust, 17/12/2010 Appendix 1 & Appendix 6

<sup>22</sup> See evidence from a letting agent, 17/12/2010, Appendix 1

## Recommendation 5: Homemove webpage/magazine

### Tenants

- 5.1 The Panel heard evidence that tenants effectively had limited choice as the market was property-led rather than agency-led. A prospective tenant would choose a property to view rather than an agency to let from. Tenants had to move quickly to acquire a rental property, as demand was high. Some tenants felt that letting agents knew this and deliberately offered a limited service.
- 5.2 The main issue that tenants had was the fact that they paid additional charges on top of their tenancy deposit and rent/rent in advance. These charges were typically for checking references, tenancy renewals and administration fees<sup>23</sup>.

### Homemove

- 5.3 Panel members agreed that tenants did have a very limited choice when selecting a property to let, which led to the Panel asking whether there were any other resources available that could be used to advertise private lettings.
- 5.4 The Panel was aware that the council already operates “Homemove”, a choice-based lettings system for council and housing association properties in Brighton & Hove. This allows tenants and prospective tenants to bid for the available properties that they are interested in. All available properties are advertised in a fortnightly free magazine and on the Homemove website.
- 5.5 The Panel agreed that, to increase the choice of where private lettings were advertised for tenants, the council could investigate whether it was possible to advertise approved private lets on their Homemove webpage, or another similar site, and to investigate good practice from other authorities.
- 5.6 The Panel decided to recommend that:

**The council should consider including details of homes to let by accredited letting agents in its Homemove lettings scheme web pages/magazine alongside council and housing association lets.**

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<sup>23</sup> See evidence from the the Brighton & Hove Citizens Advice Bureau, 17/12/2010, Appendix 1 and private minutes.

## Recommendation 6: Lobbying Government

### Citizens Advice Bureau's national "Let Down" report

- 6.1 The Let Down report<sup>24</sup> calls for the licensing of letting agents so that agents are required to demonstrate professional competence, have adequate client protection arrangements and operate a system for handling complaints and redress.

Further to this, CAB recommends that no additional charges should be made to tenants for activities that are part of the routine letting and management process. The cost of this work should be included in the rent paid by the tenant and/or the landlords' management fee. The sanction for breaching such regulations should be the withdrawal of the letting agents' licence to operate.

- 6.2 The Let Down report points out that, with no statutory regulations for letting agents, using an agent can be very costly for tenants. 73% of tenants (from a total of 1,330 surveyed) were dissatisfied with the service received from letting agents; one of the common issues was the frequency of which additional charges were made. Out of 424 letting agents, 94% imposed additional charges on tenants. The charges varied from £10 to £275 for checking references and tenancy renewals costing from £12 to 200. In some cases additional charges amounted to over £600.

### Notice of Motion

- 6.3 The recent Notice of Motion to Council<sup>25</sup> requested that the council's Chief Executive write to the Government and the major political parties seeking their support for the CAB proposals and asking the Office of Fair Trading to investigate the activities of letting agents. A response supportive of the CAB proposals was received from the previous Government. However, this stance has altered following the May 2010 General Election, and the Government does not now favour regulation.

### Brighton & Hove CAB

- 6.4 The Panel heard that the Brighton & Hove CAB carried out a survey of 11 letting agents in 2008 which was updated in November 2010. The findings<sup>26</sup> were that tenants had to pay the following charges:

1. *Holding deposit: to secure the property, which was paid in advance, and was non-refundable if the prospective tenant decided not to proceed with the tenancy. If the tenant did proceed with the tenancy then the holding deposit was taken from the fees charged. The amount charged was from £79 - £400.*

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<sup>24</sup> [www.citizensadvice.org.uk/let\\_down](http://www.citizensadvice.org.uk/let_down)

<sup>25</sup> NOM - Appendix 4

<sup>26</sup> See evidence from the Brighton & Hove Citizens Advice Bureau Social Policy – Letting Agents- Fees & Services Report 17 December 2010, Appendix 1

2. *Administration fee: a charge for the initial tenancy agreement and typically charged per person (although sometimes at a reduced rate for multiple tenancies). The amount charged was from £110 - £245 per person. Some agents only had this one charge and no other fees.*
  3. *Credit reference fee: a charge for carrying out credit references per person. The charges were from £110 plus £45 for checking a guarantor to £165 plus £45 per additional person.*
  4. *Renewal of tenancy agreement: an additional charge to renew the tenancy, ranging from £15 to £100.*
  5. *Checkout fee: a charge that tenants had to pay at the end of their contract which was for inspecting the property so as to release the tenant's deposit. This fee was around £50 +VAT*
  6. *Late payment fee: a charge for sending out a letter notifying that the tenant's rent was overdue, with fees varying from £20-25.*
- 6.5 Brighton & Hove CAB emphasised to the Panel that additional charges paid by tenants and also the varying levels of charges imposed by letting agents to tenants were significant local issues.

### **Response from Government**

- 6.6 Brighton & Hove CAB wrote to the Minister for Housing asking for statutory regulation of letting agents. However the response was that national regulation was not the only answer and that work was being progressed with partners on how best to counter poor performance of letting and managing agents.

The CAB and Panel found this information disappointing as they both felt strongly that national regulation was required to cap letting agents' fees to tenants.

### **Letting Agents**

- 6.7 Evidence heard from letting agents who attended the public meetings was that their charges were competitive but fair<sup>27</sup>.

A letting agent also spoke about how they worked with tenants who had genuine financial difficulties and how there had been cases of successful renegotiations<sup>28</sup>.

- 6.8 Letting agents told the Panel it was important for agents to have a good relationship with their landlord clients. It was in the interest of the landlord to find long term tenants and a good letting agent should facilitate this.

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<sup>27</sup> See evidence from a letting agent, 17/12/2010, Appendix 1

<sup>28</sup> See evidence from a letting agent, 17/12/2010, Appendix 1

- 6.9 Letting agents' fees to landlords varied from 4% to 12.5% and it was argued that agents who charged lower fees might find it more lucrative to have new tenants rather than renewing tenancies (as these agents derive a large percentage of their income from charges made to tenants when setting up a contract, but receive relatively little income from managing long term lets). It was also argued that letting agents who charged higher fees to landlords were likely to be more established agents offering a high degree of service, and relying on a clientele who were eager to have their properties well maintained and to encourage long term tenancies<sup>29</sup>.

### **Southern Landlords Association (SLA)**

- 6.10 Landlords who had responded to the SLA survey were not aware of and did not ask whether letting agents charged tenants fees or at what level. One landlord had agreed with his letting agent that there should be no additional charges to the tenant.
- 6.11 The Panel felt that most landlords would probably not want tenants being charged additional fees and would probably question why both they and the tenant were being charged for the same administration work.
- 6.12 Charges to landlords within the association ranged from 6% -10%; some landlords were satisfied with the service whilst others felt that other than collecting the rent and completing tenancy renewals, the agents didn't provide any other services.
- 6.13 Feedback from landlords who had responded to the survey was that inexperienced letting agents did not have good knowledge of housing law; agents who were experienced and understood the regulations had higher fees that reflected the quality of their service<sup>30</sup>.

### **Cabinet Member**

- 6.14 Cllr Caulfield told the Panel that she would support a tighter regulatory regime for letting agents, particularly if it included measures to enable tenants and other local residents to communicate directly with property owners rather than communicating solely via letting agents.

### **Tenants' views**

- 6.15 Witnesses who submitted evidence to the Panel commented that letting agents were powerful and could charge what they wanted to. Charges varied enormously from agent to agent and tenants felt that they had little but to pay these.

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<sup>29</sup> See evidence from letting agents, 17/12/2010, Appendix 1

<sup>30</sup> See evidence from Mike Stimpson, Chair of the Southern Landlords Association, 13/1/2011, Appendix 2

6.16 Tenant comments included:

*“The charging seemed arbitrary as there were no explanations of what this consisted of and tenants would not receive any extended level of service for these additional fees”*

*“It would be fairer if letting agents charged just one fee”*

*“There should be better and more transparent practices in place for tenants “*

*“Agents should be regulated as tenants had no redress if they were dissatisfied”*

*“I think there is also an issue with transparency on fees ...Agents charge varying amounts and in my case, it wasn't clear exactly what costs the fees covered”*

*“These fees were only pointed out to us once we had already sent a (forfeitable) holding deposit to the letting agents to secure the property”*

*“I'm left wondering if letting agents charge this for the sake of making additional revenue”*

6.17 The Panel felt that the consequences of having unregulated letting agents were that many tenants found their letting agents' services and charges unsatisfactory and unfair. Evidence from the SLA showed that most landlords were not aware of tenants' additional charges and therefore the tenant was not protected by the landlord either. Action is required by the government to introduce statutory regulation to protect the interests of tenants and landlords.

6.18 After hearing all the evidence the Panel decided to recommend that:

**The council should continue to lobby government for better regulation of the private rental market. Specifically:**

- a. that tenants should not be faced with 'hidden' additional charges at the beginning of their tenancy;**
- b. that all tenants' fees are fair and transparent;**
- c. that letting agents should be licensed;**
- d. that letting agents should be able to charge fees only for a prescribed range of services, and that fees levied should only cover the reasonable cost of performing particular tasks (e.g. checking references etc).**