



**Brighton & Hove  
City Council**

## **VOLUME 2- PUBLIC MINUTES AND APPENDICES**

**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**

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**APPENDIX 1  
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

**APPENDIX 2**  
**BRIGHTON & HOVE CITY COUNCIL**  
**SCRUTINY PANEL ON LETTING AGENTS**

9.30am 13 JANUARY 2011

**ANNEX OF THE BANQUETING SUITE, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillor Elgood (Chair)

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

**Other Members present:**

**PART ONE**

**7. PROCEDURAL BUSINESS**

**7a. Declarations of Interest.**

7.1 There were none.

**7b. Declaration of Party Whip**

7.2 There were none.

**7c. Exclusion from the Press and Public**

7.3 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.

7.4 **RESOLVED-** That the press and public are not excluded from the meeting.

**8. MINUTES OF THE PREVIOUS MEETING**

8.1 The minutes of the previous meeting held on the 17 December were agreed.

**9. EVIDENCE FROM A WITNESS**

9.1 The witness sent their apologies.

**10. EVIDENCE FROM WITNESSES**

10.1 John Maguire (Acquisitions and Accreditation Manager- Brighton & Hove City Council (BHCC)) introduced himself and answered questions.

10.2 The Panel were informed that :

- The section had approx 40 letting agents and independent landlords which they use very regularly and many other which they use less regularly.
- The section was responsible for acquiring properties for housing people with housing needs and managing the Sussex Landlord Accreditation Scheme (SLAS)
- The Landlords Accreditation Scheme involved a one day training course and also, in Brighton & Hove's case inspections of the properties to ensure that the properties were clean, in good repair, are structurally sound, self contained and compliant to health & safety regulations
- An interactive website for landlords within the scheme was being set up for March 2011, whereby landlords could log in and download model tenancy agreements and other essential documents and have access to information which may help them to resolve any issues that they had
- The aims of the scheme was to improve the standards, condition and management of properties that belonged to the scheme
- A pack was in developed which from March 2011 would be used as a training, guidance and support resource for both landlords and tenants, advising them of their rights, responsibilities and giving advice on how to manage a tenancy from both the landlord and tenant's point of view.
- In 2007/8 there were 200 landlords and 850 properties on the Council's books, however numbers have decreased and currently there were 150 landlords and 500 properties. This is in part, due to a decline in the benefits available to landlords.
- In the past accredited landlords renting properties to students received an additional premium of £2-4 per bed per week; however this benefit had now ceased
- The landlords within the scheme were specific about marketing their own properties as they wanted to select their own tenants rather than having their properties marketed by the council.
- Portsmouth Council had a voluntary accreditation scheme for letting agents, which Brighton & Hove could look at as a basic model which could be developed to suit our needs.

10.3 In answer to a question on the feedback of letting agents from the landlords within the scheme, the Panel were informed that generally there was positive feedback and that letting agents needed to ensure that tenancies were lucrative.

It was imperative that the council ensured tenants' housing benefit was operating smoothly otherwise the tenancy could fail very early on.

10.4 In answer to a question on why the numbers of landlords had reduced, the Panel were advised that the benefits available for landlords had been reduced and that some landlords had retired and others had moved onto other business ventures. The market in Brighton is so robust that the award of accreditation does not provide the same attractiveness as it might in an area with lower private rented Sector (PRS) demand.

- 10.5 In response to a question on what proportion of landlords had tenants with housing benefits, the Panel were told that currently around 60% of accredited landlords were student landlords and nearly 99% of the letting agents who worked with the council accommodated housing benefit tenants.
- 10.6 The Panel were advised that the Council didn't want to be proscriptive about charges levied by landlords and letting agents, as the council's need for PRS properties was huge and it could be perilous for our objectives if we were seen to be heavy handed or over directive in our dealing. However, all letting agents who deal with the council are made starkly aware that funds are limited and that the council and its clients will not pay any unreasonable charges therefore agent's expectations are managed from the starting point. It is the ability to make money which attracts many people to become landlords. If that incentive is reduced, it would reduce the number of properties on the market and impact on the council's clients and the city as a whole.
- 10.7 Susanna McLaren (Housing Options Manager-BHCC) introduced herself and answered questions.
- 10.8 The Panel were informed that the service:
- Provided a comprehensive homeless prevention service
  - Faced barriers from landlords that had negative images of people who claimed housing benefit, households with children and pets.
  - In the financial quarter of October- December 2010 advice was given to 596 people, worked intensively with 362 households (who were in danger of losing their homes) and of these managed to prevent homelessness of 259 households, of which 75 households were helped into alternative private accommodation
  - Worked closely with the Acquisitions team, helped tenants apply for crisis loans, acquire references from previous landlords, work with housing benefits and refer to the Crisis Response Team.
- 10.9 The Panel were told that more accurate figures could be provided for the last quarter of 2010, that at the City Direct Centre the advice and assessment team triage and make a judgement on whether the Council has a duty of care for the person (and their family). Various people visit the Centre from people outside of Brighton walking in and wanting advice to Students who want copies of Household Multiple Occupancy regulations.
- 10.10 The Panel heard how the advisors worked holistically to maximise the chances of sustaining a tenancy, and that with the help of the Credit Union's extended services tenants could be offered the right support.
- 10.11 Further clarification was given on tenancy agreements and how the agreement was evidence of a fixed term agreement. However tenancy renewals were different and were over a statutory period and once these were signed the tenant and landlord were locked into the tenancy; a Break Clause could be activated to terminate the tenancy renewal. However tenants felt that agents were charging both the landlord and the tenant and that this was unfair and that landlords should incur the charge not tenants.

Advisors would negotiate for the tenancy renewal charge to be paid over a longer period of time eg. £5 a month.

- 10.12 Sylvia Peckham (Head of Temporary Accommodation & Allocations- BHCC) introduced herself, informed the Panel that another responsibility her team had was to lease properties for up to 10 years providing a stable unit for households.

In answer to question on the new changes to the Local Housing Allowance (LHA) which would be implemented in April 2011, the Panel were informed that a Working Group had been set up to look at the impact of the changes to the benefits system on the city. Rates for temporary accommodation wouldn't be subjected to the new LHA rates for 2 years.

The Panel were told that the greatest pressure would be for 2 bedroom accommodation. It was more than likely that tenants would need to move eastwards towards Peacehaven to find more affordable properties which would limit support from their friends and family who lived in Brighton & Hove.

## **11. EVIDENCE FROM A WITNESS**

- 11.1 Mike Stimpson (Chair of the Southern Landlords Association (SLA)) presented himself and answered questions.
- 11.2 Mr. Stimpson started by informing the Panel that the landlords in the association did not recommend that landlords issued new agreements following expiration of the initial fixed term renewal. However Mr. Stimpson was aware that some tenants and landlords requested a new fixed term agreement as reassurance of their tenancy agreement period.
- 11.3 The Panel heard how Mr. Stimpson had been a landlord in the city for 54 years, had no financial support from the Council and that he felt the Council's planning department caused barriers when putting forward ideas to create affordable housing for the city.

The city needed more affordable housing. Landlords had to purchase properties at the market rate, rather than at a cheaper rate which meant their rents reflected this and therefore this didn't help the city.

Mr. Stimpson sat on a number of national committees and circulated 400 landlord members about their views on the letting agents. Mr. Stimpson received 15 responses.

The Panel were informed that the tenants that moved into properties that were owned by landlords in the SLA may have just one charge to pay which was under £100 to obtain references and provide an agreement.

The majority of landlords with the SLA would work without using letting agents. Of those that did use letting agents, landlords would use their services to find a tenant, deal with the agreement, collect their deposit and secure the deposit into one of the schemes; of which the landlord would be charged two weeks rent.

- 11.4 Feedback from the SLA :



- was that the vast majority of landlords in the SLA were not aware of and did not ask whether letting agents charged tenants fees or at what level. There were only 3 landlords who were aware of charges made to tenants and one landlord who agreed with the letting agents that there should be no charges to the tenant. Most agents charge a fee of £100 to landlords for a finder fee
- was that the average charge to landlords was between 6% -10%, some landlords were satisfied with the service as others felt that other than collecting the rent and completing tenancy renewals the agents did not provide any other services
- was when a tenant was 2 or 3 months in arrears the letting agents would notify the landlord; if the landlord managed their own property then they would have known straight away of any arrears
- if a letting agent goes bankrupt, then the landlord could be liable to compensate for loss of rent/deposit if the agent did not have money protection
- would support a common logo that the public would understand rather than different logos that may have no merit
- inexperienced letting agents do not have good knowledge of the housing acts, other agents who are experienced and understand the regulations have high fees that reflect their service quality
- that landlords should take an interest in what letting agents were charging tenants and for landlords not just to accept letting agents with the cheapest landlord rates
- tenants tended to go to letting agents to find accommodation
- some landlords used Gumtree to link up with tenants who are seeking accommodation

11.5 The Panel heard how landlords that belonged to the SLA could own any number of properties with the minimum being one property. It was usual that landlords made a reasonable return on their lettings to ensure that they earned a reasonable return. Generally student accommodation / shared housing are more profitable and produces a return of around 5% gross. Additional to this properties were purchased as capital investments and these property owners were more than likely to use letting agents to manage their properties.

11.6 In answer to a question on how local landlords would feel about a local accreditation scheme, the Panel were told that the majority of landlords within the association would manage their own properties; however they would probably support a local accreditation scheme.

11.7 Mr. Stimpson informed the Panel that the Housing Benefit changes being introduced in April 2011 had meant that the SLA had advised their landlords not to accept housing benefit tenants from 25-35 years who were single and were applying for single self contained accommodation as they may not be able to pay their rents when the changes come into operation in April 2012. The city's rents were nearer to the 50% percentile.

It was uncertain what landlords were going to do as they were unwilling to drop their rents to accommodate the housing benefit changes. Currently there were 10 people after every property which meant that landlords did not need to accept housing benefit tenants. The Panel were made aware that towns such as Hastings, Folkestone & Margate had more affordable housing and it maybe that such towns would end up

accommodating more people on housing benefit which would affect these towns' infrastructure and economy.

- 11.8 The Panel were informed that Mr. Stimpson didn't ask for references and that tenants had a 15 minute face to face interview.
- 11.9 Many landlords in the city don't accept housing benefit tenants, which may have been due to the benefits process and landlords not being able to have direct payments (rents being paid normally to the tenant).
- 11.10 Recently Mr. Stimpson said that there was non-payment of rent from a housing benefit tenant which was normally paid direct to the landlord, however the landlord was not notified that payments had ceased which meant the landlord had to raise the issue with the Council. This can have a negative impact on the landlord which could lead to a detrimental effect on the landlord accepting future housing benefit tenants.

Other problems experienced were around housing benefit tenants who couldn't manage their finances and ended up getting into arrears, even though the rental benefit had been paid into the tenants' bank account.

The Panel were informed that the Credit Union would charge £5 to the landlord for each payment of rent paid.

The Panel were advised that the restoration of direct payments would be beneficial to landlords, which in turn were prepared to accept housing benefit tenants.

The Department for Work and Pensions (DWP) were relaxing regulations and giving local authorities more flexibility with the payment of housing benefit rents directly to landlords.

Mr. Stimpson told the Panel that Brighton & Hove's Housing Benefit team did their utmost to help landlords with any issues in relation to Housing Benefit tenants.

- 11.11 Ms. McLaren clarified that by the end of next March any tenant housed with the assistance of Housing Options would be automatically termed as being "vulnerable" and so could have their housing benefit paid directly to the landlord.

Ms. McLaren also informed the Panel that there was the potential for a perfect storm type effect with mortgage repossessions. Although there would be some help available through the Mortgage Rescue Scheme as the Government had confirmed funding for the next two years, this could result in increased pressure on the private sector.

Mr. Stimpson told the Panel that housing benefit tenants would sometimes display anti-social behaviour; which would leave advice agencies such as the Brighton Housing Trust (BHT) in a difficult situation as they were working with both the tenant and landlord to solve housing issues for the city. (These landlords worked with BHT to accept housing benefit tenants, who couldn't provide any references. Most landlords would not accept tenants without references).

## 12. EVIDENCE FROM A WITNESS

- 12.1 Jo Player (Acting Head of Trading Standards, BHCC) introduced herself and answered questions.
- 12.2 The Panel were informed that Trading Standards enforced a range of criminal protection law by advising businesses and vulnerable consumers of their rights.
- 12.3 In relation to letting agents in 2005 the Office of Fair Trading (OFT) gave guidance on unfair terms of tenancy agreements. To date Brighton & Hove City Council has not received very few if any complaints regarding unfair terms in tenancy agreements.
- 12.4 The Panel were informed that the Council's Trading Standards team would not advise on housing law as they were not experts, and would advise enquirers to contact other relevant council departments and external organisation eg. BHT.
- 12.5 The Panel were informed how over a period of two years letting agents agreements were checked to see if they were complaint with the OFT guidance. The findings were that:
- 72% of the letting agents agreements were found to be fair to consumers or required minor amendments.
  - 13% were reasonably complaint
  - 15% were found not to be satisfactory and that Trading Standards were working with these letting agents to comply with the regulations
  - Many agents used agreements issued by the Institute of Chartered Surveyors (RICS) And the Association of Residential Letting Agents (ARLA)
  - Unlike estate agents, letting agents did not have to be registered, but could be struck off by ICS or ARLA
- The Panel asked for further information on the findings and Ms. Player told the Panel a link to the OFT terms could also be provided.
- 12.6 In answer to whether Trading Standards would support a local accreditation scheme, the Panel were advised that on their website the "Buy with confidence" webpage initially provided for accredited tradesmen could be also advertise any local accreditation schemes for letting agents.
- 12.7 In answer to a question on whether Trading Standards could advice/ regulate letting agents on pricing legislation the Panel were told that Trading Standards were only authorised to work on whether letting agents contractual terms were fair. The service was not involved in the delivery of contracts, as this is a civil matter between the two parties involved. Current Price Marking legislation only requires goods to be price marked, the regulations do not apply to services.

Trading Standards only received 1 or 2 enquiries a month on letting agents.

- 12.8 In answer to how many letting agents the service surveyed the Panel were told that 82 agreements were checked, as there was no requirement for agents to register it was difficult to know the actual number of letting agents in operation.
- 12.9 Mr. Stimpson informed the Panel that they should look at the agreements between the agent and the landlord and in particular any extra clauses.

### **13. EVIDENCE FROM WITNESS**

- 13.1 The witness sent their apologies.

The meeting concluded at 12.00pm

Signed

Chair

Dated this

day of

**APPENDIX 3**  
**BRIGHTON & HOVE CITY COUNCIL**  
**SCRUTINY PANEL ON LETTING AGENTS**

**3.00pm 10 FEBRUARY 2011**

**ROOM 318**

**MINUTES**

**Present:** Councillor Elgood (Chair)

**Also in attendance:** Councillor Simpson

**Other Members present:**

**PART ONE**

**14. EVIDENCE FROM CLLR MARIA CAULFIELD, CABINET MEMBER FOR HOUSING**

- 14.1 In response to a question about regulation of letting agents, Cllr Caulfield told panel members that she would support a tighter regulatory regime. A particular issue was that agents sometimes acted as a barrier between tenants or their neighbours and landlords. For tenants, this could mean that repairs did not get carried out as quickly as they should, even in situations where the landlord might have been happy to make a speedy repair, since the landlord might not know that a problem existed. Similarly, for other local residents it might mean that they could not complain directly to landlords about tenants' behaviour etc. For landlords, this could mean that their property suffered long term damage because they were not alerted to problems that might have easily been fixed at an early stage.
- 14.2 In answer to a question on accreditation/a code of practice for letting agents, Cllr Caulfield told members that she was in favour of this idea in theory. Currently, customers have a good idea of the quality and reputation of estate agents, but little if any idea about letting agents, and more information could be of benefit here, particularly in terms of identifying untrustworthy 'fly by night' operators.
- 14.3 Cllr Caulfield told the panel that she supported Brighton Housing Trust's idea of setting up a 'social 'letting agent' for the city – i.e. a social enterprise which could supply high quality and relatively low cost letting agent services to city landlords. As well as ensuring that landlords and tenants were not exploited by their letting agent, this scheme could have the potential to reduce some rents, as landlords who were not required to pay excessive management fees might be able to reduce their rent charges. The council could support this initiative by directing landlords and prospective tenants to the service.

- 14.4 Cllr Caulfield also noted that a trusted social letting agent might be able to work with landlords to encourage them to accept tenants in receipt of housing benefit (HB), (currently many landlords refuse to house HB recipients). Similarly, it can be very difficult to get landlords to accept tenants with limited resources to pay deposits etc, and a social letting agent might have a role to play here.
- 14.5 In response to a question about informing private sector tenants of their rights, Cllr Caulfield told the panel that it would be useful for tenants to have some 'tips' on renting: identifying good and bad practice. This could include information on long term lets, what services letting agents can reasonably charge for, details about the national deposit protection scheme, and advice on what constitutes an acceptable minimum standard of accommodation.
- 14.6 Cllr Caulfield told members that there was not a very significant role for the council in *enforcing* minimum property standards, as although Environmental Health did have the power to enforce a minimum lettable standard, this was set by law at a very low level. Cllr Caulfield noted that she would welcome greater national regulation in this area. There was a particular issue for Brighton & Hove here, as the very large local market for student accommodation tended to set a norm for private rented accommodation across the city. As student housing is often of a very low standard (essentially because many students will accept a poor standard of accommodation), this can act as a drag on standards across Brighton & Hove, a problem which might be mitigated by more robust minimum standards.
- 14.7 Cllr Caulfield also told members that it might be interesting to know how many long leases were actually offered to private renters in the city. Long leases can be advantageous to both tenants and landlords, but may run counter to the financial interests of letting agents (who charge fees for creating and renewing tenancies).
- 14.8 Members thanked Cllr Caulfield for taking the time to talk to them and promised to share their report recommendations with her.

The meeting concluded at 4.00pm

Signed

Chair

Dated this

day of

## APPENDIX 4

### Letting Agents Notice of Motion - minute of Council meeting of 18 March 2010

71.6 The Notice of Motion as detailed in the agenda was proposed by Councillor Randall and seconded by Councillor Wrighton.

71.7 Councillor Simpson moved an amendment, seconded by Councillor Meadows which was not accepted by Councillor Randall.

71.8 Councillor Peltzer Dunn moved an amendment, seconded by Councillor Caulfield which was accepted by Councillor Randall.

71.9 The Mayor noted that the amendment moved by Councillor Simpson had not been accepted by Councillor Randall and therefore put the proposed amendment to the vote which was lost.

71.10 The Mayor then put the following Notice of Motion as amended to the vote:

“This council notes the findings of the national Citizens Advice report Let down (1) on the activities of private rented sector letting agents, which revealed:

- 73 per cent of tenants interviewed were dissatisfied with the service provided by their letting agent. Common concerns included difficulties in contacting the agent, serious delays in getting repairs carried out, inadequacies in the protection of clients' money and the frequency with which additional charges were made.
- 94 per cent of letting agents surveyed imposed additional charges on tenants on top of the tenancy deposit and rent in advance. The size of these charges varied hugely. The charge for checking references ranged from £10 to £275 and the charge for renewing a tenancy ranged from £12 to £200. In some cases additional charges for a tenancy amounted to over £600.
- Less than a third of agents willingly provided full written details of their charges to CAB workers when asked.
- 61 per cent of the tenants surveyed said that paying these charges was a problem. Some had to borrow the money, others had difficulty paying other bills or went into debt.

This council further notes:

- That Brighton & Hove has the sixth largest private rented sector in the country with tens of thousands of its residents having dealings with letting agents in the City.

In addition, the Citizens Advice proposals call for:

(1) 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;

(2) 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. The cost of this work should be included in the rent paid by the tenant and/or the management fee paid by the landlord. The ultimate sanction against letting agents breaching the regulations should be the withdrawal of the licence to operate.

It therefore calls on the council to request the Chief Executive to:

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

**71.11 The motion was carried.**

Note: Councillor Harmer-Strange having declared a personal and prejudicial interest in the matter withdrew from the meeting and took no part in the debate or voting thereon.



## APPENDIX 5

**Press release - published 30/11/2010:**

### **Council review looks at private letting agents**

**Private letting agent's services and charges in Brighton and Hove are to be reviewed by a cross-party group of councillors.**

The decision to create a council scrutiny panel follows concerns raised by a recent Citizens Advice Bureau report, which claimed that 94 per cent of letting agents surveyed nationally imposed additional charges on tenants.

As part of the panel's evidence gathering local housing experts and letting agents are invited to share their thoughts with the panel at a meeting on Friday 17 December at 10am at Hove Town Hall.

The chair of the scrutiny panel, Councillor Paul Elgood, said: "Brighton & Hove has the sixth largest private rented sector in the country, with thousands of residents having dealings with letting agents.

"We need to get a better picture of what the issues are locally, why these charges are being imposed and what, if anything, can be done about them."

Also on the scrutiny panel are councillors Bill Randall and Christine Simpson. The panel expects to publish a report with a number of recommendations in the spring.

If you would like to attend the meeting on December 17, or if you cannot attend but still wish to give evidence to the scrutiny panel, please email [scrutiny@brighton-hove.gov.uk](mailto:scrutiny@brighton-hove.gov.uk), phone 01273 290451 or write to Private Letting Agents, Overview & Scrutiny, Brighton & Hove City Council, Kings House, R128, Hove, BN3 2SR.

## **APPENDIX 6**

# **Brighton Housing Trust proposal for a Brighton & Hove Tenancy Centre – an alternative letting service**

### **THE CONCEPT**

To develop a “High Street” residential letting and management company operated as a social enterprise, owned and operated by BHT Enterprises Ltd (a social enterprise subsidiary of Brighton Housing Trust) . The aim would be to provide an alternative letting service which could generate financial surpluses to fund BHT’s work with homelessness of all types in the City.

### **THE CURRENT MARKET**

Brighton and Hove has one of the largest private rental markets in the UK at some 24% of the total housing market. Deregulation of the PRS through the Housing Act 1988 and subsequent revisions has lead to an explosion in the number of businesses in the City offering letting and property management services. There are over 70 companies listed as operating in the area.

There are currently no regulations relating to this market and anyone can open a letting or property management company without any form of qualification or accreditation. The government has said it will not be introducing any further regulation of the market.

This has lead to intense competition between agencies and the increased use of tenant charges as a way of generating income so landlords can be attracted by the offer of lower rates of commission.

The intensely competitive and unregulated nature of the market in Brighton & Hove has lead to increased complaints of exploitation, maladministration and sharp practices by some agencies at the cost of both landlords and tenants.

A misconception of tenants who are reliant on full or part benefits as a bad tenant risks and a lack of understanding of the benefit system has also lead to a “NO DSS” culture within the letting market in the City

### **THE OBJECTIVES**

Through it’s physical, operational and media presence within the Brighton & Hove PRS market, the Tenancy Centre would:

- Break down barriers to access to PRS accommodation for those reliant on benefits or limited incomes by challenging misconceptions and prejudices about the client group through good news stories and information

- Promote best practice and management of PRS property
- Through information, advice and guidance promote effective tenancy management by Landlords and Tenants
- Assist the market to mature to promote a more commercially balanced and mature relationship between Landlords and Tenants
- Promote tenancy sustainment through effective mediation and dispute resolution
- Provide training, volunteering and employment opportunities for service users through core activities and associated activities such as property maintenance
- Be self funding through the generation of fee income and generate financial surpluses to invest in the core charitable activities of BHT thus promoting sustainment of those activities
- To work in partnership with Landlord organisations, Landlords and Tenants to promote a “level playing field” for all

## **THE OPPORTUNITY**

There is wide mistrust of the agency market by both landlords and tenants as there is a realisation that their only reason for existence is to make a profit from their engagement with their clients. Additionally there has been an increase in reports of malpractice etc.

The Tenancy Centre’s “not for profit” basis and clear commitment to quality would give it a unique Unique Selling Point (USP) within the market. Additionally, the Centre would be able to offer competitive rates to the Landlord market without having to rely on Tenant fees as it would not have to achieve commercially acceptable profit levels and returns for investors and could control staffing costs through an effective volunteer/training programme.

## **THE OUTCOMES**

The establishment and successful operation of the Tenancy Centre in Brighton & Hove would have positive outcomes for the City and all of it’s residents:

- 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 sustainment
- Reductions in homelessness and demand on homelessness services
- Promotion of best practice within the letting and property management market

John Holmström, Assistant Chief Executive, Brighton Housing Trust  
 Phil Oakley, Private Sector Initiatives Manager, Brighton Housing Trust

January 2011

## APPENDIX 7

**From:** Graham Shipp  
**Sent:** 08 December 2010 13:36  
**To:** Scrutiny  
**Subject:** Private letting agents, Overview and scrutiny

Dear Sir/Madam,

Unfortunately I cannot attend the meeting on the 17th December 2010, however I am happy to submit evidence to assist you in this matter.

Detailed below is a breakdown of the fees we charge tenants who rent through our company:

- Referencing fee £60 plus VAT per person, Agency fee £67.25 plus VAT per tenancy, so the more people move in the cheaper the fee gets as the agency fee is split between tenants.
- Tenancy extension £25 plus VAT per person, minimum fee £50 plus VAT. This is a one off charge and is payable when a tenancy is extended after the initial fixed term. Some agents charge every 6 months when a contract expires but we do a one off payment, they could be there for 7 months or 7 years and only pay to extend once.
- Reference if vacating and another agency/mortgage company requires a reference, £15 plus VAT. If a tenant requires a reference upon vacation or they are trying to get a mortgage Property Moves forward a written reference to the relevant company. Cost quoted is per property not person, so if four people require separate references their is only one fee payable.

If you require any further information please do not hesitate to contact me.

Regards

Graham Shipp MARLA  
Associate Director

**graham shipp MARLA | associate director | property moves ltd**  
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