



Subject:	Response from the Minister for Communities and Minister for Finance re: Application fees in the Private Rented Sector.
Date:	13th April, 2021
Reporting Officer:	Sara Steele, Democratic Services Officer
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Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues
1.1	To consider responses from the Minister for Communities and Finance Minister in relation to Application fees in the Private Rented Sector.
2.0	Recommendation
2.1	The Committee is asked to <ul style="list-style-type: none">• note the responses.
3.0	Main Report
3.1	<u>Key Issues</u> The Committee is reminded that the Council, at its meeting on 1st March, passed the following motion which had been proposed by Councillor Flynn and seconded by Councillor Kyle:

“This council notes that tenants in the private rented sector are still being charged illegal letting fees by letting agents despite the June 2018 legal case of Loughran v Piney Rentals Limited and F5 Property Limited having determined the illegality of these fees under The Commission on Disposals of Land Order 1986.

Council further notes that the “Joint Ministerial Communiqué on Letting Agency Fees” published by the Ministers for Communities and Finance in March 2020 has been helpful, but ineffective in stopping the illegal practice of letting agents charging tenants for professional services that would normally be carried out by them.

This council believes:

- The charging of illegal letting fees by letting agents restricts access to the private rented sector while placing a heavy financial burden on low income households, particularly in the context of a global pandemic and looming economic/housing crisis’.
- There is a need to strengthen regulation of the private rented sector, including legislation regarding the charging of illegal application fees where adequate penalties and enforcement arrangements are put in place to deter those who seek to continue to charge these fees.
- Enforcement of any new legislation regarding the charging of illegal application fees should be carried out by local councils across Northern Ireland with adequate resources provided for by government.
- Council agrees to write to the Minister for Communities and the Minister of Finance, outlining concerns above and pledging council’s support for the regulation of the private rented sector.”

3.2

Letters were subsequently forwarded to both the Minister for Communities and the Minister of Finance and responses have now been received, copies of which are attached.

3.3	<p>The Department for Communities (DfC) advises that the court ruling referred to was based on Department of Finance legislation - The Commission on Disposals of Land (Northern Ireland) Order 1986. This legislation prohibits letting agents from charging a tenant any fee for a service that should be paid by the landlord. It states that the Department welcomes the protection this provides to private tenants, and advises that steps have been taken to advise those living in the sector of their rights under the Department of Finance legislation.</p>
3.4	<p>The correspondence goes onto state that the 2017 Review of the Role and Regulation of the Private Rented Sector examined the broader issue of introducing a regulatory framework for all letting agents. It advises that the Minister had recently recommitted to this work and that the Department would pursue this objective in the longer term.</p>
3.5	<p>The Finance Minister advised that his Department had responsibility for substantive land law matters and in the absence of specific legislation relating to letting agent fees, tenants had been able to rely on the provisions of the Commission on Disposals of Land (NI) Order 1986. He explains that those provisions highlight a general rule of land law that the buyer (or tenant) is not liable to fees that should be paid for by the seller (or landlord). With this in my mind he advises that he, along with the Communities Minister, issued correspondence to remind such agents of the law in relation to such fees. He states that he is disappointed that there is evidence of continuing practice by agents in charging fees that have been ruled unlawful by the courts.</p>
3.6	<p>He advises that it appears that further targeted action might be required, including steps to regulate letting agents, and states that Department of Finance officials will liaise further with officials in the Communities Department in the context of that Department's remit over the private rented sector.</p> <p><u>Financial and Resource Implications</u></p>
3.7	<p>None associated with this report.</p> <p><u>Equality or Good Relations Implications</u></p>
3.8	<p>None associated with this report.</p>
4.0	Appendices - Documents Attached
	<p>Appendix 1 - Copy of responses from the Minister for Communities and Minister for Finance.</p>