

Research Briefing

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The regulation of letting and managing agents (England)



Summary

- 1 Letting and managing agents: current requirements
- 2 The case for and against additional regulation
- 3 Government approaches to regulation

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Contents

Summary	4
1 Letting and managing agents: current requirements	6
1.1 What is a letting or managing agent?	6
1.2 Are letting and managing agents regulated?	6
1.3 Requirement to join a redress scheme	7
1.4 Complaining about a letting or managing agent	8
1.5 Letting agent fees	8
The Tenant Fees Act 2019	8
Consumer protection legislation	9
Transparent fee tariffs	9
1.6 Client money protection	10
1.7 Enforcement options under the Housing and Planning Act 2016	11
Banning orders & a database of rogue landlords and agents	11
Civil penalties	12
Rent Repayment Orders (RRO)	12
2 The case for and against additional regulation	13
3 Government approaches to regulation	17
3.1 Labour Government 2005 to 2010	17
3.2 Coalition Government 2010 to 2015	17
3.3 Conservative Governments 2015 onwards	18
An intention to introduce regulation	19

Summary

No overarching regulation

The private rented sector is the second largest tenure in England behind owner occupation. The growth of the sector has prompted an increased focus on management standards and on the activities of letting and managing agents.

There is currently no overarching statutory regulation of private sector letting or managing agents in England, although they are subject to consumer protection law and specific provisions in relation to the charging of fees and membership of redress schemes.

A commitment to introduce regulation

After 2010, Governments resisted calls for increased regulation of letting and managing agents in England. Instead, they pointed to an existing range of powers under consumer protection legislation.

There was a change of direction in 2017 when the Sajid Javid, then Secretary of State at the Ministry of Housing, Communities and Local Government (MHCLG), announced that action would be taken to regulate letting agents during the Conservative Party's 2017 Conference.

[A call for evidence](#) was issued in October 2017 with submissions invited up to 29 November. The [outcome](#) was published in April 2018. The Government restated the intention to regulate letting and property management agents. Minimum entry standards would be set, and an independent body would carry out the regulatory function.

The Regulation of Property Agents Working Group chaired by Lord Best was established in 2018. Their remit was to develop the regulatory model. [The Group reported in 2019](#) and included recommendations on:

- a model for an independent property-agent regulator, including how it will operate and how it will enforce compliance
- a single, mandatory and legally-enforceable Code of Practice for property agents
- a system of minimum entry requirements and continuing professional development for property agents

- clarifying processes and charges for leaseholders

On 15 May 2023 the [Housing Minister responded to a PQ on plans to take forward the Group's recommendations](#) saying:

The Government is considering the recommendations in the final report on the regulation of property agents from Lord Best's working group. We will continue to work with industry on improving best practice. Announcements will be set out in the usual way.

1 Letting and managing agents: current requirements

1.1 What is a letting or managing agent?

A landlord might appoint a letting agent to find tenants and/or a managing agent to manage property on the landlord's behalf. Many letting agencies will offer both letting and full management services. Managing agents include organisations managing long leasehold properties, particularly blocks of leasehold flats.

The Consumer Rights Act 2015 defines a letting agent as:

...a person who engages in letting agency work. The Bill makes it clear that a letting agent doesn't have to exclusively engage in letting agents work but so long as they undertake it they are a letting agent regardless of what else they do.¹

1.2 Are letting and managing agents regulated?

There is currently no overarching statutory regulation of private sector letting agents in England, although they are subject to consumer protection law and specific provisions in relation to the charging of fees and membership of redress schemes.

There is no legal requirement for a letting agent to belong to a trade association but many submit to voluntary regulation. In May 2009, the Labour Government said around half of the estimated 8,000 managing and letting agents in England at that time had joined an industry led organisation such as the Association of Residential Letting Agents (ARLA).² The Government determined that the voluntary approach to regulation had not been successful.³

¹ Department for Communities and Local Government (DCLG) [Improving the Private Rented Sector and Tackling Bad Practice \(PDF\)](#), March 2015

² DCLG, [The private rented sector: professionalism and quality The Government response to the Rugg Review Consultation \(PDF\)](#), May 2009

³ As above.

1.3

Requirement to join a redress scheme

A Government amendment to the Enterprise and Regulatory Reform Act 2013 gave the Secretary of State power to make an order requiring letting and managing agents of privately rented and residential leasehold homes to belong to an approved redress scheme.⁴ The purpose was to give tenants and landlords a procedure through which a complaint against an agency could be lodged and considered independently.

[The Redress Schemes for Lettings Agency Work and Property Management Work \(Approval and Designation of Schemes\) \(England\) Order 2013](#) (PDF)⁵ came into force on 13 December 2013.⁶

The Order sets out the procedure that applies where an application for approval of a redress scheme is made; the conditions that must be satisfied before the Secretary of State may approve a redress scheme; the conditions that must be satisfied before the Secretary of State may designate a scheme as a Government administered redress scheme; and the procedure that applies where the Secretary of State decides to withdraw the approval of a redress scheme, or revoke the designation of a Government administered redress scheme.

The Government fleshed out the meaning and purpose of the various articles in the Order in: [The redress schemes for lettings agency work and property management work: conditions for approval](#) (PDF).⁷ Guidance on how to apply for approval of a redress scheme was also published in December 2013: [Instructions for redress schemes covering lettings agency work and property management work seeking government approval](#) (PDF).⁸ Applications had to be submitted by 28 February 2014.⁹

On 15 April 2014 the then-Housing Minister, Kris Hopkins, confirmed that three compulsory redress schemes had been approved: The Property Ombudsman; Ombudsman Services Property; and The Property Redress Scheme. On 6 February 2018, Ombudsman Services Property announced its intention to withdraw from handling property sector complaints.¹⁰

⁴ HC Deb 16 April 2013 c223

⁵ SI 2013/3192

⁶ The Order was subject to the affirmative procedure and was considered in [Grand Committee in the House of Lords on 26 November 2013 cc518-28](#) and by the [Sixth Delegated Legislation Committee \(2013-14\) House of Commons on 26 November 2013 cc3-8](#).

⁷ DCLG, [The redress schemes for lettings agency work and property management work: conditions for approval](#) (PDF), December 2013

⁸ DCLG, [Instructions for redress schemes covering lettings agency work and property management work seeking government approval](#) (PDF), December 2013

⁹ As above, paras 2.3-2.4

¹⁰ [QS Press Release](#), 6 February 2018

[The Redress Scheme for Lettings Agency Work and Property Management Work \(Requirement to Belong to a Scheme etc\) \(England\) Order 2014](#) made membership of a scheme a legal requirement with effect from 1 October 2014.

The Order provides for complaints against members of the scheme to be investigated and determined by an independent person. The statutory instrument empowers local authorities to enforce compliance by imposing a fine of up to £5,000 for non-compliance, with a right of appeal to the First-Tier Tribunal.

1.4 Complaining about a letting or managing agent

The housing charity Shelter provides online guidance on [how to complain about a letting agency](#). Tenants are advised to raise issues directly with the agent in the first instance. If this is not successful, a complaint can be lodged with the agent's approved redress scheme.

If the agent is a member of a professional association, such as the Association of Residential Letting Agents (ARLA), a complaint may be made to these bodies if the agent's complaints procedure has been exhausted.

Complaints can be made to the local authority's Trading Standards officers if the agent is not registered with an approved redress scheme, or if their practices appear to be unfair.

Complaints can also be made direct to the landlord – the landlord may not be aware of the agent's service standards.

Sections 4-6 of this paper explain local authority powers to tackle 'rogue' agents under the Housing and Planning Act 2016.

1.5 Letting agent fees

The Tenant Fees Act 2019

The Tenant Fees Act 2019 abolished most upfront fees for tenants in England. The provisions have applied to all assured shorthold tenancies (ASTs), tenancies of student accommodation and licences to occupy housing in the private rented sector in England since 1 June 2020. Unless a fee is 'permitted' it will not be lawful. The Government has published [guidance on the Tenant Fees Act 2019](#). Enforcement is by Trading Standards Officers with ultimate oversight by the [National Trading Standards Estate and Letting Agency Team](#).

Consumer protection legislation

Consumer protection legislation may apply in certain circumstances. In the parliamentary answer reproduced below the Minister provided information on challenging unfair agency fees. The PQ predates the introduction of approved redress schemes and the Tenant Fees Act 2019:

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): Letting and managing agents are already subject to consumer protection legislation. Consumer protection legislation covers issues such as giving false or misleading information, not acting with the standard of care and skill that is in accordance with honest market practice and claiming falsely to be a member of a professional body or approved redress scheme. For tenants or landlords who are charged unfair or unreasonable fees by an agent, this means that they are able to report this to their local trading standards officer or to the Office of Fair Trading which has both civil and criminal enforcement powers.¹¹

The Competition and Markets Authority (CMA) published [Consumer protection law guidance for lettings professionals](#) (PDF) in 2014 alongside [Key principles for lettings professionals](#) (PDF).

Transparent fee tariffs

On 13 May 2014 the Coalition Government said it would table an amendment to the Consumer Rights Bill to:

...require all letting agents to publish a full tariff of their fees - both on their websites and prominently in their offices. Anyone who does not comply with these new rules will face a fine - a much stricter penalty than currently exists.¹²

The provisions are contained in Chapter 3 of Part 3 to the Act (sections 83 to 88). Since 27 May 2015 letting agents have been required to display:

All fees, charges or penalties (however expressed) which are payable to the agent by a landlord or tenant in respect of letting agency work and property management work carried out by the agent in connection with an assured tenancy. This includes fees, charges or penalties in connection with an assured tenancy of a property or a property that is, has been or is proposed to be let under an assured tenancy.¹³

The Government said it intended to review the requirement for greater transparency over fees after 12 months of operation "to confirm it is delivering the expected benefits, and review whether any further steps are needed."¹⁴ The Tenant Fees Act provisions have overtaken the requirement for transparency in some regards but it is still relevant for charges landlords may pay and for permitted tenant fees.

¹¹ HL Deb 15 October 2012 WA444-5

¹² DCLG Press Release, [Fees transparency to ensure a fair deal for landlords and tenants](#), 13 May 2014

¹³ DCLG, [Improving the Private Rented Sector and Tackling Bad Practice \(PDF\)](#), March 2015, Annex D

¹⁴ DCLG Press Release, [Fees transparency to ensure a fair deal for landlords and tenants](#), 13 May 2014

1.6

Client money protection

The Consumer Rights Act 2015 (section 83(6)) introduced a requirement for agents to declare if they are a member of a client money protection (CMP) scheme.

Letting agents should publicise whether they are a member of a client money protection scheme and which redress scheme they have joined. Letting agents who are not members of a client money protection scheme must make this clear, silence on this will amount to a breach of the legislation. As with fees, this information should be prominently displayed in every office and on the website.¹⁵

Amendments were made to the Housing and Planning Act 2016 to enable the Secretary of State to make regulations (subject to the affirmative resolution procedure¹⁶) to require letting and property management agents to belong to a client money protection scheme and to provide an enforcement mechanism.¹⁷

Lord Palmer of Childs Hill, who had put his name to the amendments, set out why rent money paid to an agent needed to be protected:

Some 80% of the lettings agency sector—these are the figures used by the Minister—have client money protection. The new amendment and the original amendment are for the 20% who put tenants and landlords at risk. If a letting agent goes bust or goes walkabout in a liquidation, tenants' money held and the rights of landlords and tenants are at the bottom of the creditors' queue in a liquidation or bankruptcy.

[...]

Perhaps the best way of illustrating the need for this amendment is by telling horror stories, of which there are many. This month, it was reported that a company called Whitefield Properties took rental money due to landlords and tenants' deposits over a four-year period. The money was paid into the firm's bank account and was, perhaps carelessly, not protected. It was reported that £123,000 of customers' money went missing. The Staffordshire firm, with branches in Milton, Leek and Crewe, went into administration in 2014. If we were still arguing for this amendment, I would give many more examples to try to make my case.¹⁸

The Government established a working group to look at how CMP was operating and to consider whether to go further by making use of the powers taken through the Housing and Planning Act 2016 to make CMP mandatory. A [call for evidence](#) took place between 22 August and 2 October 2016. The report of the working group, [Client Money Protection](#) (PDF), was published in

¹⁵ DCLG, [Improving the Private Rented Sector and Tackling Bad Practice \(PDF\)](#), March 2015, Annex D, p58

¹⁶ Approval is required from both Houses of Parliament.

¹⁷ [HL Deb 20 April 2016 cc641-6](#)

¹⁸ [HL Deb 20 April 2016 cc643](#)

March 2017 and on 28 March 2017 the Parliamentary Under-Secretary of State at DCLG, Lord Bourne of Aberystwyth, confirmed the Government's intention to make CMP mandatory "in line with the recommendation of the review".¹⁹

He said the Government would consult on how mandatory money protection should be implemented and enforced. This consultation took place between 1 November and 13 December 2017.²⁰ The relevant sections of the 2016 Act were brought into force on 19 March 2018²¹ and regulations setting out the detailed requirements came into force on 1 April 2019.²²

1.7

Enforcement options under the Housing and Planning Act 2016

Banning orders & a database of rogue landlords and agents

Since 6 April 2018, local authorities have been able to seek banning orders against landlords and agents who commit certain offences.²³ The Government consulted on what might amount to a banning order offence. [The Housing and Planning Act 2016 \(Banning Order Offences\) Regulations 2018](#) came into force on 6 April 2018. Regulation 3 and the schedule list the offences amounting to banning order offences.

The 2016 Act also contains provisions which mean that someone who has been convicted of a banning order offence or who has received two or more civil penalties as an alternative to prosecution for banning order offences within a 12 month period, can be included in a database of rogue landlords and property agents.

[The Housing and Planning Act 2016 \(Database of Rogue Landlords and Property Agents\) Regulations 2018](#) came into force on 6 April 2018 and prescribe the information that must be included in the database, including the name of the banned person, the offence which led to the ban and the length of the ban. The database is not accessible to the public but is accessible to HMRC, the Department of Levelling Up, Housing and Communities and local housing authorities, it "enables local authorities to keep track of, and focus their enforcement activity against those landlords and property agents on the database".²⁴

¹⁹ HL Deb 28 March 2017 c466

²⁰ DCLG, [Mandatory Client Money Protection Schemes for Property Agents \(PDF\)](#), 1 November 2017

²¹ [The Housing and Planning Act 2016 \(Commencement No. 7 and Transitional Provisions\) Regulations 2018](#)

²² [The Client Money Protection Schemes for Property Agents \(Requirement to Belong to a Scheme etc.\) Regulations 2019](#)

²³ [The Housing and Planning Act 2016 \(Commencement No. 8\) Regulations 2018](#)

²⁴ DCLG, [Proposed banning order offences in the Housing and Planning Act 2016](#), (PDF) December 2016

Civil penalties

The Housing and Planning Act 2016 introduced a power for local authorities in England to impose a civil penalty of up to £30,000 as an alternative to prosecution. Penalties can be imposed on landlords and/or letting agents. This power came into force on 6 April 2017. The sort of offences under the Housing Act 2004 that might attract a civil penalty include:

There is [statutory guidance](#) for local authorities (updated 2018).²⁵

Rent Repayment Orders (RRO)

The Housing and Planning Act 2016 also extended the circumstances in which an authority can apply to a First-Tier Tribunal (FTT) for a RRO to cover illegal eviction, breach of a banning order and certain other specified offences. This power came into force on 6 April 2017. RROs can be sought against letting agents. There is [guidance for local authorities](#) to which FTTs are expected to have regard when dealing with applications.²⁶

²⁵ [Civil penalties under the Housing and Planning Act 2016 - GOV.UK](#), 2018

²⁶ [Rent repayment orders under the Housing and Planning Act 2016 - GOV.UK](#), 2017

2

The case for and against additional regulation

Research into standards within the private rented sector has long highlighted issues. For example, the Resolution Foundation published [Renting in the dark: creating a lettings market that works for tenants](#) in December 2011 which referred to “a lack of consumer confidence and professionalism in parts of the market” which have resulted in “numerous calls from the industry, tenant and landlord groups for regulation.”²⁷ In November 2012, the consumer organisation Which? published research into the consumer experience of the lettings market, [Renting Roulette](#) (PDF), which identified the following “widespread” problems:

Tenants disempowered and dissatisfied: three quarters of tenants (73%) search for a property not the agent, yet lettings agents are ranked second from the bottom in our comparison of markets and one in five tenants told us they are dissatisfied with their agent.

Unexpected and unfair fees: we found less than a third of tenants said agents (29%) provided information about fees before they asked, 41% of tenants thought upfront fees were unfair and none of the 32 lettings agents we looked at had information on tenant fees on their website.²⁸

Widespread bad practice: we found evidence of agents using aggressive sales tactics, poor customer service, missing appointments and misleading tenants through out-of-date advertisements.

Tenants and landlords losing money: both tenants and landlords were found to have lost money through agents not passing on rent, unfairly handling holding deposits or failing to put deposits into protection schemes, as they are required by law.²⁹

Which? called for increased consumer protection for renters akin to that which applies to people buying and selling properties.³⁰

Office of Fair Trading’s [Lettings Market](#) (PDF) report (February 2013) highlighted a growing number of complaints received by the Property Ombudsman:

In 2011 the Property Ombudsman dealt with 7,641 letting enquiries, an increase of 26 per cent on 2010 figures. Our Intelligence Report based on Consumer Direct complaint analysis identified that ‘fees and charges’ represented the main area of concern for landlords and tenants as almost a third (30 per cent)

²⁷ Resolution Foundation, [Renting in the dark: creating a lettings market that works for tenants](#), 2011

²⁸ Note that this report was written before the requirement to publish fees came into force.

²⁹ Which? [Press Release](#), 24 November 2012

³⁰ As above.

of all complaints fall into this category. Agents tend to charge fees to both landlords and tenants for their services. 'Agents providing poor service' was the second most complained about area, with 23 per cent of complaints being about this.³¹

OFT (now CMA) said that, to work more effectively, the market required the following steps to be taken, some of which have subsequently been addressed:

- improved up-front information provision – particularly in relation to fees and charges;
- initiatives to help in assessing quality and compare letting agency services;
- a general redress mechanism;
- more consistency within the industry (for example in the way a tenant's suitability is assessed);
- mechanisms to protect money; and
- an agreed enforcement strategy.

The OFT report called for “the UK Government, industry, enforcers, and those involved in consumer empowerment and education to work together, to devise and deliver an agreed strategy to raise standards within the lettings sector.”³²

[The Property Ombudsman's 2012 Annual Report](#) (February 2013) expressed support for strengthened regulation of letting agents. Looking back over previous years, the Ombudsman drew attention to growing issues around the work of letting agents. He referred to the fact that his 2008 Annual Report had highlighted an increasing number of consumers “who were expressing dissatisfaction about the agent with whom they had dealings” and to the presentation of “disquieting issues relating to the security of rents.” The 2009 Annual Report called for the new government after the 2010 General Election to “address the inconsistency between the legislation relating to the way sales agents are required to conduct business and that relating to letting agents.” The 2010 and 2011 reports returned to this theme and the fact that the Association of Residential Letting Agents (ARLA) had supported increased regulation of agents for 20 years:

...over the lengthy period I have been expressing views on the subject, it has become clear to me that consumer organisations and those sector professional / trade associations such as ARLA and RICS share my view that a form of regulation is very necessary to set a level playing field for those operating in the private rented sector. The only silence outside this consensus is from those agents (estimated to represent about 40% of the lettings sector

³¹ [OFT1479](#) (PDF) para 2.5

³² As above.

in the UK) who have so far declined to register voluntarily with TPO or to affiliate themselves to bodies such as ARLA or RICS. Clearly, for them a lack of control or the ability to act without adhering to any set of standards is serving them advantageously, even if the landlords and tenants of the properties they look after are potentially at risk with no access to free redress or, importantly, no protection of clients' money.³³

The Ombudsman referred to the desirability of setting consistent standards across the sector to better serve consumers and to provide a level playing field in which agents could compete. He said: “realistically legislation is the only vehicle that can bring 100 per cent of letting agents within the fold.”³⁴

The Property Ombudsman's Annual Review 2021 (published in November 2022) recorded a 15% increase in enquiries in 2021 (45,007 in total) and a 48% increase since 2019.³⁵

The Communities and Local Government Select Committee published the report of an inquiry into the private rented sector in the 2013-14 Parliamentary Session. The Committee received evidence from industry bodies such as the Residential Landlords Association (now the National Association of Residential Landlords) and Royal Institution of Chartered Surveyors in support of increased regulation of letting/managing agents:

The Residential Landlords Association stated that the letting and managing agent part of the sector had “remained unregulated far too long and as such is on occasion unprofessional”. The Royal Institution of Chartered Surveyors (RICS), which has described the lettings sector as “the property industry's Wild West”, considered that the “the regulatory framework in the lettings market and the ever-increasing number of registration schemes offers limited protection for the consumer and costs business money”. Time and again, we heard concern that anyone could set up as a letting agent without qualifications or prior knowledge of the industry.³⁶

The Committee recommended the Government consider increased regulation of agents:

We recommend that the Government make letting and managing agents subject to the same regulation that currently governs sales agents. This includes giving the Office of Fair Trading the power to ban agents who act improperly, and making client money protection and professional indemnity insurance mandatory. Moreover, if any changes are made to the regulation of sales agents, these changes should also be applied to letting and managing agents. Any proposal to require sales agents to meet minimum professional standards before they begin trading should also be applied to letting and managing agents. In addition, if at any point a requirement for sales agents to be registered with an accredited industry body is to be introduced, this should be part of a wider framework also covering letting and managing agents. We

³³ [Property Ombudsman's 2012 Annual Report, February 2013](#)

³⁴ As above.

³⁵ [Consumer enquiries to The Property Ombudsman have risen 48% since 2019 \(tpos.co.uk\)](#), 1 November 2022

³⁶ Communities and Local Government Select Committee, [The Private Rented Sector \(PDF\)](#), 18 July 2013, HC 50 2013-14, para 69

recommend that the Government review these arrangements in two years' time.³⁷

The Coalition Government's response, published in October 2013, said the extension of regulation covering sales agents would "impose a new burden on local authorities, increase costs for consumers, and reduce the choice and availability of accommodation on offer to tenants."³⁸

Despite support for more regulation from bodies such as ARLA and [Propertymark](#), there has been some scepticism within the lettings industry about the value of increased regulation, arguing the sector is already too burdened and that further measures would not stop bad practices:

Much regulation in the private rented sector that aims to stop bad practice faces the problem that it is extremely difficult for regulatory agencies to identify exactly where it is occurring, to enforce penalties, and to monitor them. Cost effectiveness in such a context is likely to be poor.³⁹

In a report written by Professor Michael Ball for the Residential Landlords Association, *The Impact of Regulation on the private rented sector* (April 2014), he suggested increased regulation of agents would push up costs for landlords and tenants:

...legislation imposed on third parties may encourage them to charge landlords higher fees (as is likely with current independent moves to regulate lettings agents in England, Wales and Northern Ireland).⁴⁰

A joint report by the Chartered Institute of Housing and Resolution Foundation, [More than a roof: how incentives can improve the private rented sector](#) (August 2014), recommended a system of incentives for landlords, such as additional tax breaks for those who sign up to a national accreditation scheme to raise standards. The authors also recommended the extension of regulation covering estate agents to letting agents.⁴¹

The Conservative Government elected in 2015 published [Banning letting agent fees paid by tenants: a consultation paper](#) (PDF, April 2017) which sought views on the need for wider regulation of the sector.⁴² The outcome of this exercise is covered in section 3.3.

³⁷ As above, para 78

³⁸ [Government Response to the Communities and Local Government Select Committee Report: The Private Rented Sector](#) (PDF), Cm 8730, October 2013

³⁹ Professor Michael Ball for the Residential Landlords Association, *The impact of regulation on the private rented sector*, April 2014

⁴⁰ As above.

⁴¹ CIH and Resolution Foundation, [More than a roof: how incentives can improve the private rented sector](#), August 2014

⁴² DCLG, [Banning letting agent fees paid by tenants: a consultation paper](#), (PDF) April 2017, paras 93-95

3 Government approaches to regulation

3.1 Labour Government 2005 to 2010

In February 2010 the Labour Government published [The Private Rented Sector: Professionalism and Quality—Consultation Summary of Responses and Next Steps](#) (PDF). This indicated that most respondents to the consultation exercise supported full regulation of private sector letting and managing agents by an independent regulatory body. The Government agreed with the “emerging consensus around the need to regulate letting and managing agents” and said “the drivers for regulation are overwhelming.”⁴³

The Labour Government proposed:

- to establish a national register of private landlords which was to be run by an independent organisation procured by the Government;
- that all tenancy agreements should take the form of written agreements; and
- to introduce full mandatory regulation of private sector letting and managing agents.

The register and new regulatory framework (including written tenancy agreements) were not established prior to the 2010 General Election, although impact assessments were prepared on the proposed national landlord register and the regulation of letting agents.⁴⁴

Labour’s [2015 election manifesto](#) contained a commitment to introduce a ban on unfair letting agent fees and create a national register of private landlords.⁴⁵

3.2 Coalition Government 2010 to 2015

In June 2010, then-Housing Minister, Grant Shapps, announced the Government would not introduce new regulations for letting agents and

⁴³ [The Private Rented Sector: Professionalism and Quality—Consultation Summary of Responses and Next Steps](#) (PDF), pp8-9

⁴⁴ [Impact Assessment of a national register for landlords; Impact Assessment of regulation of letting and management agents by an independent body](#) (PDF), June 2009

⁴⁵ Labour’s [2015 election manifesto](#), p62

managing agents in the private rented sector. He said this would “introduce too much additional red tape” and referred to wide-ranging powers within the present legal framework to address problems.⁴⁶ The Government wanted to work with industry bodies to promote membership of voluntary accreditation schemes.

In February 2013 the then-Housing Minister, Mark Prisk, responded to a Westminster Hall debate on letting agents initiated by Sarah Champion. He rejected the claim that letting agents were not regulated, referring to the Consumer Protection from Unfair Trading Regulations 2008 and the Unfair Terms in Consumer Contracts Regulations 1999, he went on:

Our view has been that regulation should not be the first option. Although we recognise that there might be a case for it, the challenge is to make sure that existing law works properly. There is a temptation among all of us as politicians to believe that passing new legislation will deal with people who currently ignore existing regulation. I am sceptical that the changes we make, of a statutory nature or otherwise, will actually catch the rogues that Members of all parties have highlighted. That is the challenge. I am open to consideration. We are looking carefully at what the Office of Fair Trading has said. There are some strong and positive elements there. However, if we are to do this properly—if we are to catch the rogue agents and landlords who perfectly happily flout every other law—we need to make sure that if we change the rules and change the law, we do so in a way that will deal with the individuals in question.⁴⁷

Subsequently, the Coalition Government acted to require letting/managing agents to be a member of an approved redress scheme and to publish a tariff of fees and state if they are a member of a client money protection scheme.

3.3

Conservative Governments 2015 onwards

Initially, the 2015 Government, like the Coalition Government, did not support wholesale regulation of letting and managing agents. The then Housing Minister, Gavin Barwell, convened the first meeting of the Private Rented Sector Affordability and Security Working Group, which was established by his predecessor, Brandon Lewis, in July 2016. ARLA and other bodies were represented on this group. Up to the announcement of the decision to ban letting agent fees for tenants in November 2016, the Government had resisted a ban on fees. ARLA said the announcement “undermined” the efforts of the Private Rented Sector Affordability and Security Working Group.⁴⁸ [Banning letting agent fees paid by tenants: a consultation paper](#) (PDF, April 2017) sought views on the need for wider regulation of the sector:

The government recognises the appetite for wider regulation of the sector in order to combat the minority of rogue or incompetent agents and better

⁴⁶ DCLG Press Release, “[Shapps promises 'no more red tape' for private landlords](#)”, 10 June 2010

⁴⁷ [HC Deb 27 February 2013 cc98-122WH](#)

⁴⁸ ARLA, Proposals for a Ban on Letting Fees to Tenants, January 2017

protect consumers and is interested to explore the views of those across the sector on wider regulation measures that could be introduced to improve the letting market. Such measures could include a national register of agents, a statutory code of practice (building on previous work coordinated by RICS) and requiring agents to comply with training requirements and/or satisfy fit and proper person tests.

The benefits of additional regulation in the sector are that it would more consistently improve standards and help to tackle rogue practices by the small minority of rogue landlords. Additional regulatory requirements could play an important role in ensuring the compliance of agents with the ban on letting fees.

However, the Government does not want to unduly burden the sector and any additional regulation should have a clear role in tackling rogue practices whilst not making it more difficult for firms to enter and compete in the lettings market. Where possible, action should be taken through non-legislative routes with this supported by additional regulation only if necessary. The Government is keen to explore views as to whether further regulation of the sector is needed in addition to the ban on letting fees paid by tenants.⁴⁹

An intention to introduce regulation

The call for evidence

On 1 October 2017, at the Conservative Party's 2017 Conference, the then Secretary of State at Communities and Local Government, Sajid Javid, announced that action would be taken to regulate letting agents.

A call for evidence, [Protecting Consumers in the letting and managing agent market](#) (PDF), was issued later in October 2017 with submissions invited up to 29 November 2017.

The paper said 72% of responses to the consultation on banning letting agent fees were in favour of wider regulation in the letting sector to improve standards and tackle rogue landlords.⁵⁰ Issues identified with letting agents included:

- Tenants having limited ability to negotiate or challenge the type and quality of agent services as the agent is appointed by the landlord.
- Difficulty in assessing whether the services provided represents value for money.
- No ability of tenants to switch agents.
- No minimum entry requirements for letting/property agents.

⁴⁹ DCLG, [Banning letting agent fees paid by tenants: a consultation paper](#), (PDF) April 2017, paras 93-95

⁵⁰ MHCLG, [Protecting consumers in the letting and managing agent market. \(PDF\) October 2017, para 15](#)

The paper posed several questions about the need for a new regulatory approach. Views were sought on minimum entry requirements and standards for agents, and whether a mandatory approach was necessary. Several regulatory models were explored including:

- Requiring all agents to be members of an approved professional body.
- As above but with oversight from a regulatory body established or approved by Government.
- A new regulatory body established or approved by Government which all agents are required to sign up to.

Options for enforcement and sanctions were also explored, including the possibility of introducing a lead enforcement authority.

The outcome

The outcome of the consultation exercise was published in April 2018.⁵¹ The Government reiterated the intention to regulate letting agents and clarified that this would also apply to managing agents, ie businesses and individuals who provide block management services in the private leasehold sector.⁵²

The Government proposed to introduce “a single, mandatory and legally enforceable Code of Practice covering letting and managing agents.”⁵³

The Code of Practice would, as a minimum, set standards for:

- transparency of potential conflicts of interest;
- transparency of current and future financial commitments to which clients are agreeing;
- service charges;
- communication and customer service;
- handling of clients’ money; and
- dispute resolution.⁵⁴

Letting and managing agents would be required to have a nationally recognised qualification to practice and will be required to undertake continuing professional development.

Regulation would be carried out by an independent body that would own the Code of Practice and which would have enforcement powers. The feasibility of

⁵¹ MHCLG, [Protecting Consumers in the letting and managing agent market – Government response](#), (PDF) April 2018

⁵² As above, p7

⁵³ As above, p5

⁵⁴ As above, p7

a single overarching regulatory structure for letting and managing agents would be investigated.

The Government said that work would be carried out with stakeholders to develop the regulatory regime:

To this end, we intend to establish a Working Group to develop our new regulatory model. We will announce its composition and terms of reference in due course.⁵⁵

The Regulation of Property Agents Working Group was established in 2018 and chaired by Lord Best. The Group reported in 2019: [Regulation of Property Agents: working group report](#). The report included recommendations on:

- a model for an independent property-agent regulator, including how it will operate and how it will enforce compliance
- a single, mandatory and legally-enforceable Code of Practice for property agents
- a system of minimum entry requirements and continuing professional development for property agents
- clarifying processes and charges for leaseholders⁵⁶

On 15 May 2023 the Housing Minister responded to a PQ on plans to take forward the Group's recommendations saying:

The Government is considering the recommendations in the final report on the regulation of property agents from Lord Best's working group. We will continue to work with industry on improving best practice. Announcements will be set out in the usual way.⁵⁷

⁵⁵ As above., p7

⁵⁶ [Regulation of Property Agents: working group report - GOV.UK](#), 2019

⁵⁷ [PQ 183794 \[Property Management Companies: Regulation\], 15 May 2023](#)

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