

REPORT TO EXECUTIVE



DATE	17th February 2020
PORTFOLIO	Housing and Leisure
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The Tenants Fee Act 2019

PURPOSE

1. To implement the new enforcement powers contained in the Tenants Fee Act 2019 (the Act).

RECOMMENDATION

2. To approve the use of the Act and note that subsequently the Leader has the power to amend Part 3 (Executive) Functions to delegate the implementation of the Act including discretionary powers to the Head of Housing and Development Control.

REASONS FOR RECOMMENDATION

3. The use of these new powers will support and complement the work that the Council continues to deliver to tackle rogue landlords. It will ensure tenants are not charged unlawful and unaffordable fees.

SUMMARY OF KEY POINTS

4. The Act came into force 1st June 2019. It prevents landlords and managing agents making a charge or a fee unless permitted under the legislation. The Act also applies to Registered Providers and Local Authorities renting out a house through an assured short hold tenancy.
5. Trading Standards have a duty to enforce the Act. In addition, Local Housing Authorities have a discretionary power to enforce.

6. The legislation stipulates what landlords and managing agents can charge. In summary these fees include:

7.1 The rent. The landlord cannot charge more in the first month than other subsequent months. For example, if a landlord requires a tenant to pay £800 in the first month and then £500 in the second month and onwards, the surplus of £300 in month one is prohibited under the Act.

7.2 Refundable deposits. Capped at five weeks rent where the annual rental income is below £50,000. Capped at six weeks rent where the annual rental income is above £50,000. These deposits must be protected in one of the Governments three tenancy deposit schemes within thirty days of them taking the payment.

7.3 A refundable holding deposit (to reserve a property). Capped at one weeks rent. The landlord/agent must refund this deposit if the tenant signs a tenancy agreement or if the landlord decides to pull out of the arrangement with the tenant or fails to enter the agreement before the agreed deadline (default date is fifteen days unless landlord agrees in writing longer deadline with the tenant).

7.4 Payments in the event of a default of the tenant. A charge can only be made in relation to replacing a lost key or other security device to give access to the house or for the late payment of rent.

The charge for the lost key (security device) can only be for the evidenced reasonable costs incurred by the landlord.

In relation to late rental payments. Charge for payment that has been outstanding for fourteen days or more is capped at three percent above the Bank of England's base rate for each day the payment is outstanding.

7.5 Payments on assignment, novation or variation of a tenancy. Capped at £50 or reasonable costs incurred if higher.

7.6. Payments associated with the early termination of the tenancy, when requested by the tenant. Should be no more than the loss the landlord has suffered by permitting the tenant to leave early.

7.8 Payments in respect of utilities, communication services and council tax. Tenants remain responsible for paying their bills.

7. All other charges are prohibited. Charging prohibited fees is a civil offence. The enforcement authority can serve of a civil penalty notice of up to £5,000 and require the landlord to repay the tenant or other relevant person any outstanding prohibited payment. The landlord has a right of appeal to the First tier Tribunal.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

8. None directly. There will however be a cost of defending the civil penalties at any Tribunal hearing.

POLICY IMPLICATIONS

9. None directly

DETAILS OF CONSULTATION

10. None.

BACKGROUND PAPERS

11. None

FURTHER INFORMATION

PLEASE CONTACT: Clare Jackson

ALSO: Paul Gatrell