

# USING A MANAGING AGENT

By **Graham Kinnear**



**A**s your property portfolio grows, most investors look to outsource management to an Agent. This is a sensible move, particularly for those who have invested outside their local geographic area. Tenants generally prefer managed properties as it typically means more responsive maintenance and repair, together with a local and more impartial point of contact than dealing with the landlord directly.

In a competitive market, agents will likely steer potential tenants to managed property as there is a financial reason for doing so.

Selecting a managing agent however requires careful consideration – not least of their terms and conditions, as these can vary enormously.

Agents do not always include their full conditions on their website as the only legal requirement is to include standard fees. Ensure you carefully read the standard terms and conditions and if you agree a variation to them, ensure that the agent confirms this in writing.

Bear in mind that if you own your properties in a limited company structure then you do not have the protection of the normal consumer protection laws, and therefore must ensure that you negotiate satisfactory contract terms at the outset of your relationship with a managing agent.

Initially I would ensure that the agents you are considering have at least one staff member who is accredited with a professional body (RICS, ARLA, PropertyMark etc), and is therefore obliged to undertake CPD to ensure up to date knowledge, have a defined complaints procedure, have ombudsman membership, and will hold adequate insurance.

To follow are some of the types of clauses I have seen in agents' terms that you may wish to negotiate upon:

**Inspections:** Does the management fee include routine inspections of the property, and are inspection site notes provided to the landlord after each visit? This is good practice to ensure the property is being looked after and to ensure it is not being sublet or the tenancy otherwise being breached. I would suggest the agent should include a minimum of two thorough inspections per year as part of their standard service.

**Repair supervision:** Does the agent charge a supervision fee for any arranged repairs? If so, how much is charged and what supervision is provided beyond arranging access for the contractor? Is repair work inspected or warranted by the agent upon completion?

**Compliance:** Some agents include a compliance fee to their landlords. If this is showing on your agents' terms and conditions, then I suggest you ask what exactly it relates to. Surely the agency has an obligation to be compliant irrespective of whether you pay an additional fee?

**Fees:** Is the management fee fixed for its duration? An ability for the agent to increase its fee without allowing the landlord to terminate the agreement would likely be considered an unfair term, so check what your agent is asking you to sign.

**Renewal fees:** If the agent is on a Let Only basis, some firms seek to charge a renewal fee if the tenant stays beyond the initial fixed term or renews their tenancy. I have always sought to remove such a provision. The agent was paid for a tenant introduction only and has no influence in terms of how long the tenant stays. They should therefore not receive

any renewal income. I have even seen a term where the agent serves a Section 21 notice to terminate the tenancy where a landlord has not paid a renewal fee to the agent!

**Commission upon sale:** Many firms include a provision that they are entitled to a sales commission if the tenant ends up purchasing the property that they are renting. I would suggest you request this be removed from any agreement. The agency have not been asked to sell the property and accordingly are not in my view entitled to a fee if the property is sold.

**Termination:** You should ensure you understand how the arrangement can be brought to an end if it doesn't work out. How much notice do you have to give the agent, and is there any associated termination fee? I think a clause requiring you to retain the agent's management service for as long as the tenant remains in occupation (and certainly beyond the initial fixed term) is potentially an unfair term, as is any withdrawal fee.

Having previously owned and run a managing agency for over a decade, I readily see the advantages of having your properties professionally managed. It is hopefully a long-term relationship and so it is key that from the outset, both parties know what is expected from the other and that the terms of that agreement are fair and accepted by both parties.

**As always, I am happy to assist YPN readers and can be contacted on 01843 583000 or [graham@grahamkinnear.com](mailto:graham@grahamkinnear.com)**

