

# BRIEFING NOTE

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## Retainers – Advice for Accommodation Providers

01/07/2022

Dear All,

You may be aware that since the introduction of the Tenant Fees Act 2019 there have been concerns raised as to whether a retainer might be considered a Prohibited Payment.

Liverpool Student Homes has resisted giving definitive advice to both accommodation providers and student tenants until further guidance was received.

We have now received an outcome from the Property Redress Scheme (see below in red) where their case assessors have determined that rent or a retainer should not be charged where access to the property is denied.

On this basis we would anticipate a greater number of students may seek to access Redress Schemes in order to have any relevant clauses in their tenancy agreements assessed. You may wish to therefore give urgent attention to your tenancy agreement. The Redress Schemes only relate to agents and any consideration of clauses within the agreements of landlords would need to be taken through Trading Standards.

This decision does not constitute legal precedent but we trust you will give consideration to the risks if significant complaints are filed.

The information page on the LSH website relating to retainers has been adjusted to take into account this new information and further deliberation may need to be taken in relation to the LSH Standards.

Liverpool Student Homes will try to keep you advised of any further developments but be aware we are not in a position to provide legal advice and you may wish to obtain this.

Kind Regards

Liverpool Student Homes

5 Oxford St, Liverpool, L7 7HL

T: 0151 794 3296 E: [Lsh@liverpool.ac.uk](mailto:Lsh@liverpool.ac.uk)



[www.liverpoolstudenthomes.org](http://www.liverpoolstudenthomes.org)

*Liverpool Student Homes is a service owned and managed by University of Liverpool, Liverpool John Moores University, Liverpool Hope University, Liverpool Institute for Performing Arts, Liverpool School of Tropical Medicine*

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Complaint reference:

Member:

Complainant:

Date:

## Proposed Early Resolution

I have been assigned this complaint to try and resolve it at this early stage and reach a mutually agreeable solution.

My understanding is that the complaint relates to the level of service provided by agent, being that the complainant was charged half rent of £216.50 for July 2021, when they did not have access to the property.

Within telephone conversations with a different case assessor, it was explained to the agent that the amount paid by the complainant for July 2021 should be returned to them, unless the agent can provide evidence to show that the complainant did have access to the property during July 2021. Our system notes suggest that the agent agreed to this and the agent has not provided evidence to show that the tenant did have access to the property during this period.

Therefore, the agent should return the amount paid to the complainant.

I have considered the evidence fairly and impartially, I propose that the agent pays the complainant **£216.50** in compensation, being the amount they paid in July 2021 when they did not have access to the property.

It would be in everyone's best interests to consider this proposal. If this case continues to the next stage, a proposed decision is likely to reflect this recommendation.