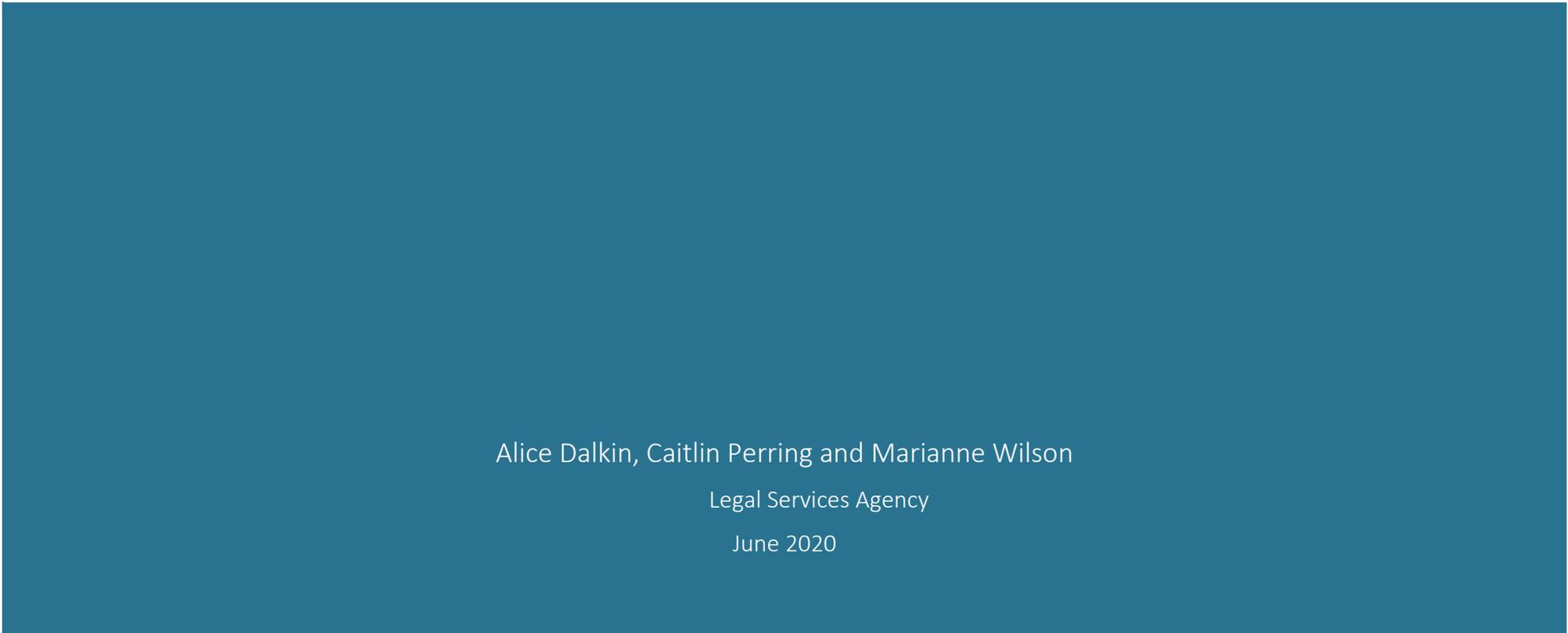




# Report on Valuation of Compensation Awards Arising from Letting Agent Enforcement Orders



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## Introduction

The Letting Agent Code of Practice (LACP) was introduced by Regulations made the Scottish Ministers in exercise of their powers conferred by Section 46(1) of the Housing (Scotland) Act 2014 and came into force on 31st January 2018.<sup>1</sup> The Code sets out a system of rules and minimum standards that all letting agents in Scotland must adhere to in their management of property, for the benefit of both landlords and tenants.

The Code applies to every person who carries out letting agency work meeting the definition set out in Section 61(1) of the 2014 Act. Where a Letting Agent's practice falls below the standard prescribed in the Code, either a landlord or a tenant is entitled to seek a Letting Agent Enforcement Order ('LAEO') from the First-tier Tribunal (Housing and Property Chamber) under Section 48 of the 2014 Act. The Tribunal will examine representations by both parties in order to determine whether any paragraphs of the Code have been breached. Where the Tribunal identifies that a letting agent has failed to comply with the Code, it must issue an LAEO which requires the letting agent to take such steps as the Tribunal considers necessary to rectify the failure.<sup>2</sup> An LAEO must specify the period within which each step must be taken,<sup>3</sup> and may require the letting agent to pay to the applicant such compensation as the Tribunal considers appropriate for any loss suffered by the applicant as a result of the failure to comply.<sup>4</sup> Once this period has expired, the Tribunal will review the LAEO and issue a certificate of compliance or non-compliance accordingly.

This report aims to examine the awards of compensation by the First-tier Tribunal in an attempt to draw out key themes or principles employed in valuing such awards. This will include prevalent considerations in ascertaining whether loss has occurred, whether the loss is deemed attributable to fault of the respondent, and finally methods employed by the Tribunal in quantifying this loss in both pecuniary and non-pecuniary terms. In order to assess this approach, a chronological summary of all decisions pertaining to LAEOs since the introduction of the Code will be set out, including a commentary of the Tribunal's reasoning in granting and valuing awards for compensation. This will be followed by a general discussion of the approach of the First-tier Tribunal in valuing compensation awards, drawing out the main considerations made as it develops this

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<sup>1</sup> The Letting Agent Code of Practice (Scotland) Regulations 2016 (SSI 2016/133).

<sup>2</sup> Housing (Scotland) Act 2014, S48(7).

<sup>3</sup> Ibid, S48(8)(a).

<sup>4</sup> Ibid, S48(8)(b).

new jurisdiction. Finally, the report will conclude with a synopsis of the themes highlighted, as well as emphasising some of the shortfalls of the jurisdiction and the influence these may have had on this research overall.

## **Appeals to the Upper Tribunal for Scotland**

In order to appeal against a decision of the First-tier Tribunal, permission to appeal must first be sought from the First-tier Tribunal. This has been refused for reasons such as failing to identify the relevant points of law and the intended outcome sought by the applicant.<sup>5</sup> There appear to have been no successful applications to appeal to the Upper Tribunal for Scotland in relation to First-tier Tribunal decisions relating to the Letting Agent Code of Practice.

## **Approach of the First-tier Tribunal towards valuing compensation awards**

Under Section 48(7) of the Housing (Scotland) Act 2014, the First-tier Tribunal is required to impose a Letting Agent Enforcement Order to rectify a failure to comply with the Letting Agent Code of Practice. Such orders include compensation awards for both pecuniary (sums quantifiable in numerical/monetary terms) and non-pecuniary loss (sums quantified by pain, suffering and loss of amenity) suffered by the applicant. For example, an applicant may be awarded compensation for the cost of repairing damaged items and an additional monetary award for the stress, inconvenience or anxiety suffered as a result of this damage. Out of the fifty-eight cases analysed (see the 'Summary of First-tier Tribunal Decisions' table below), compensation was granted in forty-six of them, evidencing that an award of some kind is made in the vast majority of decisions.

The Code of Practice came into force on 31st January 2018. Breaches of the code prior to this cannot be subject to an LAEO. The date on which a specified breach took place must fall after this date. Early First-tier Tribunal decisions on LAEOs give particular attention to determining the relevant dates of the breach in question and establishing jurisdiction. However, prior incidents may still be considered for the purposes of establishing a

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<sup>5</sup> Two cases in total sought leave to appeal, both were unsuccessful: [FTS/HPC/LA/19/2280](#) and [FTS/HPC/LA/19/0755](#).

course of conduct between the applicant and respondent,<sup>6</sup> or where the issues occurring prior to the Code coming into force were identified as 'ongoing'.<sup>7</sup>

The type and nature of the particular property will also be considered when establishing an initial breach. The size and number of occupants within the property may determine whether an action will constitute a breach of the Code of Practice. In particular, with regards to Paragraph 82 of the Code under which reasonable notice must be given before entering the property and the tenant must be present, it has been shown that tenants residing in large occupancy properties may face more difficulty in establishing a breach of this paragraph.<sup>8</sup> When applying to the First-tier Tribunal, applications concerning large, multiple occupancy properties may be required to give evidence of a more egregious breach than smaller properties. This will then affect the number of breaches of the Code that may be found by the First-tier Tribunal and will indirectly affect the valuation of compensation awarded to the applicant.

Additionally, the Tribunal will consider whether it can be shown that the loss can be attributed to the applicant's, or perhaps a third party's,<sup>9</sup> fault and to what extent the actions of the letting agent have contributed to the loss.<sup>10</sup> Even where the applicant is liable to pay a maintenance or repair cost (for example, a property owner paying for moth extermination<sup>11</sup>), an award of compensation may still be granted if the letting agent could have reasonably attempted to rectify the situation at an earlier stage, therefore avoiding further damage. If the letting agent had not breached an obligation under the Code (such as recording issues identified upon routine inspections at Paragraph 74) the property damage faced would not have reached the same stage. Such awards indicate that, even where the letting agent's liability is contractually limited, the First-tier Tribunal will consider whether an act or omission by the letting agent may have contributed to the loss. As a result, the letting agent may still be compelled to contribute to these costs under the LAEO.

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<sup>6</sup> [FTS/HPC/LA/18/0517&FTS/HPC/LA/18/0908](#).

<sup>7</sup> [FTS/HPC/LA/19/0620](#).

<sup>8</sup> With specific reference made to communal spaces within the residential property. [FTS/HPC/LA/19/1726](#).

<sup>9</sup> [FTS/HPC/LA/18/2909](#).

<sup>10</sup> [FTS/HPC/LA/18/3079](#), [FTS/HPC/LA/19/0158](#) and [FTS/HPC/LA/18/3454](#).

<sup>11</sup> [FTS/HPC/LA/19/1975](#) at para 18.6.

Two notable cases<sup>12</sup> also awarded compensation in cases where the applicant was exposed to 'risk' in the form of potential tenant applications against landlords under the Tenancy Deposit Schemes (Scotland) Regulations 2011<sup>13</sup> in response to the Letting Agent's failure to lodge a tenant deposit in an approved scheme. While this trend applies to landlord applications in particular, the theme of 'risk' has the potential to translate in other types of cases where the applicant may have been exposed to undue legal action of another kind.

Perhaps one of the most prevalent considerations found in First-tier Tribunal decisions is the existence of aggravating circumstances for the applicant. Circumstances that may make the applicant emotionally, mentally or physically vulnerable have often been considered when awarding compensation for non-pecuniary loss, such as stress, inconvenience and anxiety. Recent bereavement,<sup>14</sup> a degree of trust reposed in the relationship,<sup>15</sup> the age of the applicant<sup>16</sup> or the presence of any young children in a family home<sup>17</sup> have all impacted the First-tier Tribunal's decision to first, establish a breach, and additionally, award supplementary compensation for the non-pecuniary loss suffered by the applicant. Frequent consideration is also given to the time and effort expended by the applicant as a result of a breach and in bringing the case to the First-tier Tribunal, perhaps as this evidences the applicant's attempts to seek a non-judicial remedy first.<sup>18</sup> However, it appears that on the whole, in order to be compensated, the applicant must submit sufficient evidence to demonstrate the impact of the inconvenience caused.<sup>19</sup> The better presented the evidence is, the more favourable the Tribunal seems to be. This was highlighted in a decision where the non-pecuniary award was largely based on the applicant 'giving evidence in a straightforward way, without embellishing matters'.<sup>20</sup>

In general, the decision-making of the First-tier Tribunal when awarding compensation for non-pecuniary loss has been somewhat inconsistent. Awards for stress, inconvenience and anxiety range between £75 and £2500 for singular or multiple breaches and have also been determined with

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<sup>12</sup> [FTS/HPC/LA/18/2917](#) and [FTS/HPC/LA/19/0104](#).

<sup>13</sup> Tenancy Deposit Schemes (Scotland) Regulations [2011/176 \(Scottish SI\)](#).

<sup>14</sup> [FTS/HPC/LA/19/0180](#).

<sup>15</sup> [FTS/HPC/LA/18/3059](#).

<sup>16</sup> [FTS/HPC/LA/19/2280](#).

<sup>17</sup> [FTS/HPC/LA/19/1601](#).

<sup>18</sup> [FTS/HPC/LA/18/3019](#), [FTS/HPC/LA/18/2917](#), [FTS/HPC/LA/18/3131](#).

<sup>19</sup> [FTS/HPC/LA/18/3454](#).

<sup>20</sup> [FTS/HPC/LA/18/3131](#).

reference to the particular property's monthly rental cost.<sup>21</sup> Personal circumstances, personal liability and the nature of the property are likely to be acknowledged and considered, and yet the correspondence between these factors and the value awarded is unclear. The absence of a clear legal test for 'stress and inconvenience' and other non-pecuniary losses means that it is difficult to determine and justify the compensation awards made. Arguably, this subjective approach taken by the First-tier Tribunal results from the lack of specification contained within the legislation. Where the Act does not provide a detailed list of potential factors to be considered, judgements must be made on a case-by-case basis.

## Conclusion

It is evident from the inconsistency outlined above that this is a developing jurisdiction in which valuations are made on an ad hoc basis; a clear and consistent framework on which awards can be determined is yet to emerge. Moreover, this is highlighted by the current absence of Upper Tribunal decisions which may otherwise provide clarification. Attention has been drawn to the factors most commonly considered influential by the Tribunal, revealing a subjective approach which has regard for individual aggravating circumstances. Furthermore, the tribunal considers causation and proximity when establishing the extent of the letting agent's liability. Some of the most prominent of these factors were stress and inconvenience, and considerable expenditure of time and effort on the part of the applicant.

However, what is perhaps most noteworthy is that the majority<sup>22</sup> of these cases heard by the First-tier Tribunal thus far have been brought by Landlords, and these applications tend to attract more, and higher, awards of compensation than those of tenants.<sup>23</sup> As such, despite LAEOs being granted in most cases<sup>24</sup> the above commentary on compensation granted is inevitably skewed towards Landlord applications under the Code.<sup>25</sup>

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<sup>21</sup> [FTS/HPC/LA/19/1601](#).

<sup>22</sup> 36 out of 58 total cases were Landlord Applications.

<sup>23</sup> Based on all instances where a LAEO was granted, the average award for landlords was £1648.32, whereas it was only £694.52 for tenants.

<sup>24</sup> Of the 58 cases analysed, an LAEO was granted in 53 of those. Compensation was awarded in 46 of the 53 LAEOs granted.

<sup>25</sup> It is notable, however, that there is a greater rate of compliance with LAEOs in tenant applications than in landlord applications. Of the cases where compliance/non-compliance was recorded, 52% of LAEOs granted in landlord applications were not complied with. This contrasts starkly with only 18% of LAEOs granted in tenant applications not being complied with. This indicates that where tenants are awarded compensation, they may be more likely to receive the payment. The high rate of non-compliance with the orders in general throws into question the efficacy of the orders.

This may suggest a need for improved awareness of tenants' rights under the Code, as well as further examination of the Tribunal's response to Tenant applications as this new jurisdiction continues to evolve.

## Summary of First-tier Tribunal Decisions

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
<a href="#">FTS/HPC/LA/18/0574</a>	22/06/18	Letting Hamilton Ltd	Landlord	Late remittance for period of two years. Management fee supposed to be waived for good will but continued to be deducted from sum due. Failure to reply to emails and calls.	Paragraphs 21, 26, 124	The failure to comply with the code led to patrimonial loss amounting to £952.38 in total. There was no further compensation ordered to be paid in the LAEO.	Notification of failure to comply with order issued 18/09/2018.
<a href="#">FTS/HPC/LA/18/0665</a>	25/06/18	Letting Hamilton Ltd	Landlord	Failure to account for rent owed. Lack of clear procedures. Money deducted from sums owed to applicant, without explanation or reason.	Paragraphs 120, 124, 125	LAEO ordering payment of compensation for £995. £880 to be paid for the outstanding rent that was due. £15 for interest that had accrued per month since non-payment. £100 for non-patrimonial loss - for the delay, worry and inconvenience suffered by the applicant as a result of the failure to comply.	Notification of failure to comply with order issued 24/10/18.
<a href="#">FTS/HPC/LA/18/0517</a> & <a href="#">FTS/HPC/LA/18/0908</a>	26/06/18	Letting Hamilton Ltd	Landlord	Letting agent failed to pay the rents owed to the two applicants. Applied a termination fee when contract terminated. Some of the events took place prior to the commencement of the code. Tribunal allowed this evidence to be led to demonstrate a course of conduct by respondents.	Paragraphs 21, 26, 78, 79, 108, 109, 124, 125	Applicant 1: awarded £3428 in total. £2928 regarding debts owed. Applicant 2: awarded £4803 in total. £4303 regarding debts owed. Termination fees and management fees not deducted from either. An additional £500 awarded "to compensate them for the time and inconvenience of having to continually chase the letting agents for payment of the sums due".	Not known.

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
<a href="#">FTS/HPC/LA/18/1039</a>	01/08/18	AM-PM Leasing	Landlord	Landlord's furniture went missing and was replaced in 2015. This only came to her attention when she saw inspection photographs. Lack of information about whether furniture complied with safety regulations. Timing was an issue as the "core complaint predated the Code". However, it remained unresolved and was accompanied by safety issues regarding the new tenancy.	Paragraphs 21, 26, 29(d), 68, 108	Awarded £3000. Loss was quantified partly by the time and effort wasted in pursuing the letting agent regarding the new tenancy and the continued stress of not knowing whether the new fittings met safety regulations. Further quantified by the loss suffered in respect of her personal possessions.	Notification of failure to comply with order issued 16/11/18.
<a href="#">FTS/HPC/LA/18/1162</a>	20/08/18	Lets Direct (South) Ltd	Tenant	£1200 paid as a "holding fee" and not then returned before tenancy commenced. Letting agent had refused to return. This fell within definition of a premium and thus unlawful as per s82 Rent (Scotland) Act 1984.	Paragraph 48 (requires compliance with s82 Rent (Scotland) Act 1984)	LAEO ordered payment of £1200. This was to return the 'premium' paid, that the letting agent was not entitled to retain. But tribunal also considered the time and effort that was wasted on behalf of the letting agent. Thus, no further compensation was awarded nor interest paid on sum due.	Notification of failure to comply with order issued 01/11/18.

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
<a href="#">FTS/HPC/L A/18/0719</a>	23/08/18	Albany Lettings	Tenant	Tenants claimed to have been misled and misinformed as to state of property. Window was in state of disrepair and claimed that no repairs were carried out. Accordingly, due to cold draught and noise pollution, tenants had to move rooms around and sleep elsewhere. Claims that there was patrimonial loss due to higher heating costs and also non-patrimonial arising from loss of sleep and coldness. Application claimed the letting agent was in breach of many paragraphs of the code - many were rejected as the events in question occurred prior to the enforcement of the code.	Paragraphs 21, 91.	£2000 was awarded via LAEO. This was to reflect the non-patrimonial and patrimonial loss suffered.	Certificate of Compliance - 21/10/2018.
<a href="#">FTS/HPC/L A/18/1283</a>	28/08/18	AM-PM Leasing	Tenant	Tenant made application due to property being in state of disrepair due to extensive plumbing issues. Initial issue with water pressure and no response from letting agent. After plumber had attended, extensive leaking causing damage to property, the applicant's clothes and personal	Paragraphs 90, 91, 93, 108.	Small compensation award of £150 for the rent that had been paid. This was deemed appropriate in respect of loss suffered by non-compliance. No further compensation awarded as the applicant received payment from insurance.	Certificate of compliance 09/01/2019.

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
				belongings. Applicant could not stay in property and moved out.			
<a href="#">FTS/HPC/LA/18/1428</a>	03/09/18	Cluny Estate Office	Landlord	Applicant discovered her property in state of disrepair. Claimed all issues should have been recorded in inspections and brought to attention.	Paragraph 74	No compensation was awarded. It was decided that the cost of repairs would have been the same regardless of when it had been discovered. Furthermore, not possible to identify when the cracking in the wall occurred, thus any loss the tribunal quantified would be purely speculative. No LAEO granted.	N/A.
<a href="#">FTS/HPC/LA/18/0746</a>	03/09/18	Letting Airdrie Ltd/ Location	Landlord	Letting agent failed to lodge deposit with approved scheme. Failed to make payments owed relative to housing benefits. No details provided for frequency of inspections. Failed to respond to communications. Applicant had to use own funds to lodge another deposit with a new letting agent.	Paragraphs 26, 32(o), 32(p), 108, 120, 124, 126, 132	Total compensation awarded £793.47 LAEO for payment of £584.88 for outstanding sums. £208.59 for delay, worry and inconvenience.	Notification of failure to comply with order issued 15/11/18.
<a href="#">FTS/HPC/LA/18/1579</a>	01/10/18	Location Estate Agents	Landlord	Deposit not lodged with approved scheme. One months' rent unpaid. Communications made by applicant not responded to.	Paragraphs 66, 108	LAEO for payment of £1050 - amounting to the full sum without the deduction of the management fee.	Notification of failure to comply with order issued 29/11/18.

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
<a href="#">FTS/HPC/LA/18/1389</a>	01/10/18	Letting Hamilton Ltd/Lets by Location	Landlord	Letting agent failed to account for rent and deposit.	Paragraphs 17, 21, 32(p), 65, 66, 110, 112, 118, 119, 120, 121, 122, 123, 124, 125	LAEO ordering total payment of £1782 within 28 days. This sum consists of two months' rent, deposit and an additional sum of £57 from the previous tenancy.	Notification of failure to comply with order issued 30/11/18.
<a href="#">FTS/HPC/LA/18/1167</a>	02/10/18	Core Property House	Tenant	Applicant sought repayment of rent for days after termination of lease.	Paragraph 125	Total compensation awarded £16.46. Sum calculated as this was valued as one day of rent which was owed.	Initial non-compliance with order 10/01/2019. Confirmation of compliance 22/08/2019.
<a href="#">FTS/HPC/LA/18/0967</a>	03/10/18	Arden Property Management LLP	Tenant	Numerous issues regarding the state and maintenance of the property. Disagreement regarding when the lease can be terminated. Lack of clarity about rent payments and breakdown of costs.	Paragraphs 17, 110	Total compensation awarded up to £561.40. £361.40 for debts due but only to be paid if applicant is not paid sum equal to or greater than this by SafeDeposits Scotland dispute resolution scheme. Further £200 to be paid for the stress and inconvenience suffered by applicant as a result of failing to comply.	The LAEO was complied with. Additionally, applicant received £730 from the dispute resolution scheme. Applicant's application

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
							to appeal the level of compensation was rejected. 18/02/19.
<a href="#">FTS/HPC/LA/18/1720</a>	15/10/18	Rental Flats Dundee	Tenant	A joint tenant who after paying share of deposit could no longer take up tenancy. Was required to pay rent for months until replacement found. Deposit returned when substitute found however there was a reduction of £150 to cover 'administrative costs'.	Paragraphs 17, 18, 43, 45, 112, 124, 125	Total award £225. LAEO required payment of £150 for outstanding sums owed from deposit and £75 for the inconvenience suffered as a result of the unexpected charge presented.	Notification of failure to comply with order issued 04/03/19. Respondents sought review of decision but this was rejected.
<a href="#">FTS/HPC/LA/18/2339</a>	23/11/18	Ivyleaf Homes Ltd	Landlord	Letting agent did not have complaints procedure, debt recovery scheme. Failed to account for rent payments and did not carry out inspection.	Paragraphs 16, 17, 18, 21, 26, 37(a), 108, 110, 112, 127	The tribunal further considered that, as a result of these breaches, the applicant suffered loss, in the form of considerable inconvenience, having to expend time and effort attempting to communicate with the respondent. The tribunal adjudged that it was appropriate to order the payment of compensation of £500 in respect of this loss.	Notification of failure to comply with order issued 16/01/2019.

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
<a href="#">FTS/HPC/LA/18/2388</a>	16/01/19	White Letting Ltd	Landlord	Numerous issues regarding not being informed of defaulting on rent payments. Calls and communications not returned. Deductions to deposit owed were never agreed to and not clear. Evidence for the reason of deduction never provided applicant was not provided with a debt recovery procedure, nor any of the insurance details.	Paragraphs 124, 127 and 132	Total award £310. LAEO awarded £220 for the outstanding sum due from the deposit. An additional award of £90 also for the inconvenience to the applicant in spending time and effort in attempting to get the necessary information.	Notification of failure to comply with order issued 11/04/19.
<a href="#">FTS/HPC/LA/18/2909</a>	17/01/19	Murphy Scoular	Tenant	Main issues included a contractor entering property without tenants' consent and not informing landlords and tenants of LACP.	Paragraph 110	None - no loss shown.	Certificate of compliance issued 25/02/19.
<a href="#">FTS/HPC/LA/18/3019</a>	21/01/19	Hanlon Clark	Landlord	Loss of rental income for 2 months, frequent chasing by landlord, failure to lodge tenant deposit.	Paragraphs 18, 26, 108, 120, 123, 124 and 125	Total award £1400. £900 for rent owed, £500 in compensation for loss.	Notification of failure to comply issued 27/03/19.
<a href="#">FTS/HPC/LA/18/3131</a>	29/01/19	AM-PM Leasing	Landlord	Mismanagement of property, failure to provide required documentation.	Paragraphs 17, 20, 21, 26, 27, 32(a), 37(a), 85, 108, 124 and 125	Total of £1000 for loss. This includes £52.80 for unwarranted management fee and £66.80 for unevidenced plumbing works. Remainder accounted for non-pecuniary loss based on credibility of evidence provided and	Certificate of compliance issued 27/03/19.

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
						applicant's persistent attempts at resolution.	
<a href="#">FTS/HPC/LA/18/3079</a>	18/01/19	Excel Sales and Lettings	Tenant	Failure to carry out repairs, produce business procedures.	Paragraphs 70, 90, 91, 93, 94, 110	None - compensation claim was inconsistent with terms of application, no direct causality of loss from respondent's failures shown.	Certificate of compliance issued 12/04/19.
<a href="#">FTS/HPC/LA/18/2917</a>	11/02/19	Hanlon Clark	Landlord	Failure to pay rent, register as letting agent, lodge tenant deposits, and communicate effectively/timeously.	Paragraphs 16, 17, 66, 108, 124 and 125	Total award of £5297. £2859 for rent and deposit owed, £2438 for loss suffered by distress and inconvenience caused as well as the worry of tenants potentially raising an application against the landlord under the 2011 regulations.	Notification of failure to comply issued 16/04/19.
<a href="#">FTS/HPC/LA/18/3167</a>	21/02/19	AM-PM Leasing	Landlord	Failure to follow and produce procedures, unpleasant communications, disorganisation and tardiness in conducting repairs.	No breaches found, but order for provision of safety certificates by respondents granted	None – evidence provided not considered reasonable or attributable to fault of respondent.	Notification of failure to comply issued 01/06/19.
<a href="#">FTS/HPC/LA/19/0104</a>	12/03/19	Lettings Direct Perth	Landlord	Failures/delays in lodging tenant deposits, failures in inspecting property and reporting inspections, providing inventory and registering as letting agents.	Paragraphs 16, 21, 66, 107	£712.50 quantified as 1.5x the late paid deposit, with the 0.5 attributed to non-pecuniary loss in the form of risk and worry of tenants raising an application under the 2011 Regulations.	Certificate of compliance issued 03/04/19.

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
<a href="#">FTS/HPC/LA/18/3454</a>	08/03/19	Westcoast Lettings	Landlord	Respondents taking instructions from an unauthorised third party and staff not being trained on LACP.	Paragraphs 20 and 21	None - no material detriment to applicant, insufficient evidence provided to demonstrate failures had caused alleged stress and anxiety.	No information available.
<a href="#">FTS/HPC/LA/19/0158</a>	28/03/19	Lind Letting	Landlord	No clear written complaints procedure.	Paragraphs 26, 112, 113	None - no direct loss caused.	Certificate of compliance issued 09/05/19.
<a href="#">FTS/HPC/LA/18/3059</a>	29/03/19	Fidra Lettings	Landlord	Failure to comply with several standards, manage property, apply procedures, provide accurate info, keep records, deal with repairs, communication issues.	Paragraphs 16-21, 24, 27, 73, 74, 85,86, 90, 93, 94 and 109	£3051.86 total, including £551.86 for maintenance costs, remainder for non-pecuniary loss for inconvenience of applicant having to pay costs for repairs and placing trust in respondent. This case has a paragraph on calculating compensation. <sup>26</sup>	Certificate of compliance issued 10/05/19.
<a href="#">FTS/HPC/LA/19/0227</a>	05/04/19	CMC Property Management	Landlord	Failure to pay over rent.	Paragraphs 108, 117, 119, 120, 124, 125	LAEO not granted but tribunal ordered an award of £5250 for seven months' rental plus interest from date of lodging the application (8%). No non-pecuniary compensation.	No information available.
<a href="#">FTS/HPC/LA/18/3269</a>	02/04/19	Stephen Estates	Landlord	Failure to carry out repairs with reasonable care and skill and in timeous manner, misleading	Paragraph 17, 19, 21, 26, 29(a),	£1500 total, including deposit cost of £365, repair expenditures, delays in obtaining new tenants and non-	Certificate of compliance

<sup>26</sup> [FTS/HPC/LA/18/3059](#), pp7-8. The tribunal does not provide any clear framework for the valuation in this paragraph, but rather breaks down the key factors considered in arriving at a final compensation sum. However, the exact distribution of sum is not clear from the information given.

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
				information, failure to deal with complaints and keep records.	30, 32, 33, 34, 107	pecuniary loss for significant stress and inconvenience.	issued 01/07/19.
<a href="#">FTS/HPC/LA/19/0180</a>	07/05/19	Vanilla Square	Landlord	Failure to pay rent and lodge tenant deposits, time spent chasing up, no complaints procedures and misleading information, inadequate record and account keeping.	Paragraphs 19, 32, 40, 107, 108, 112, 113, 119, 123, 124 and 125	Total award of £2134. £795 for rent owed, £444 for deduction from rent paid, £895 for non-pecuniary loss based on general poor service, stress of dealings, aggravated by the fact the applicant was elderly and bereaved.	Certificate of compliance issued 24/04/19.
<a href="#">FTS/HPC/LA/19/0485</a>	26/04/19	Central Letting Services	Tenant	Additional administration fees applied to tenants, which they argued were prohibited premiums under 1984 Act.	Paragraph 47	Total sum £190. £90 refund of guarantor application fee tenants were required to pay, £100 for time and inconvenience.	Certificate of compliance issued 11/08/19.
<a href="#">FTS/HPC/LA/19/0620</a>	16/05/19	Rent Locally Lanarkshire	Tenant	Failures to instruct repairs and keep adequate records. Limited jurisdiction as many breaches occurred prior to introduction of LACP.	Paragraphs 24 and 25	Total of £266.46. £16.46 for rent overpayment, £250 for distress and inconvenience occasioned as a direct result of breaches occurring after 31/01/18, unresolved repair issues led to additional expenditure.	Certificate of compliance issued 28/08/19.
<a href="#">FTS/HPC/LA/19/0333</a>	16/04/19	G4 Properties	Landlord	Failure to instruct repairs timeously and appropriately.	Paragraphs 37(b), 46 and 91	LAEO not granted as repairing standard enforcement order also pursued.	N/A.
<a href="#">FTS/HPC/LA/18/3267</a>	07/05/19	Hanlon Clark	Landlord	Failure to pay rent, lodge tenancy deposits, handling complaints, clients money and debt recovery.	Paragraphs 17, 80, 20, 21, 26, 32, 33, 37(a), 107, 108, 112, 120,	Total awarded £2952.50. £2125.70 for unpaid rent, £326.80 for unlodged deposit and £500 for non-pecuniary loss based on 'considerable' distress, inconvenience and time spent chasing respondent and pursuing	Notification of failure to comply issued 07/08/19.

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
					121, 124 and 125	tenant complaints. Applicant tried to seek interest on unpaid amounts during the hearing which was not accepted due to being intimidated late.	
<a href="#">FTS/HPC/LA/18/3416</a>	06/03/19	Factotum	Landlord	Failure to pay rent, refund deposits, resolve issues timeously, abusive correspondence, issues with complaints procedures, accounting and debt recovery. Additional issue with 'soiled mattresses' which were not dealt with.	Paragraphs 18, 19, 21, 25, 26, 28, 33, 38, 78, 102, 108, 111, 112, 124, 125 and 127	Repayment of all commissions paid and for cost of replacement mattresses. These sums were not specified as they were to be clarified first. No non-pecuniary losses were compensated but perhaps notable that refund of property was required.	Application for review of decision refused on 19/05/19.
<a href="#">FTS/HPC/LA/19/0777</a>	16/05/19	Ross Young	Landlord	Lack of regular inspections and issues with inventory led to late identification of repairs, failure to respond to issues timeously.	Paragraphs 24 and 74	Total award of £449.64. £249.64 for reasonable repairs, £200 for losses sustained (no further explanation given).	Certificate of compliance issued 01/07/19.
<a href="#">FTS/HPC/LA/19/1036</a>	30/05/19	Elliott Estates	Landlord	Failure to lodge tenant deposits which landlord paid from own pocket, failure to register as letting agent.	Paragraphs 66 and 105	£525 for loss suffered by failure to comply and causing unnecessary and unreasonable expense to the applicant. Additional expenses award granted (amount not specified) for expenses incurred by applicant due to respondent's conduct in the Tribunal proceedings.	Certificate of compliance issued 12/08/19.
<a href="#">FTS/HPC/LA/19/1194</a>	12/07/19	Tay Letting	Tenant	Alleged misleading information as property did not comply with energy rating advertised, leading	Paragraphs 17 and 18	£25.50 to each of the two tenants for loss suffered by paying for call-out charge, no compensation for	Certificate of compliance 03/10/19.

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
				to high energy charges incurred by the applicant. Additional charges for a call-out contravened tenancy agreement.		non-pecuniary loss or energy charges.	
<a href="#">FTS/HPC/LA/19/0755</a>	18/07/19	Belvoir Stirling Lettings	Landlord	This is an appeal review. Permission to appeal refused on all grounds in terms of Rule 38 of the Procedure Rules. Appeal was based on issues of fact and not law.	-	-	-
<a href="#">FTS/HPC/LA/19/1445</a>	03/09/19	Homefinders Inverclyde	Tenant	Issues with repairs, timescales, procedures and communication pertaining to them.	Paragraphs 18, 21, 85, 86, 90, 91, 93	None - no pecuniary loss shown.	Certificate of compliance issued 07/11/19.
<a href="#">FTS/HPC/LA/19/1402</a>	04/09/19	Hanlon Clark	Landlord	Failure to lodge tenant deposits, repay rent arrears, respond to communication, produce documentation, consistent delays in paying rent over.	Paragraphs 16, 17, 19, 26, 32, 76, 78, 79, 102, 107, 108, 110, 124, 125 and 127	Total awarded £692.26. £57.66 for rent owed, £34.60 for management fee and £600 in compensation for inconvenience suffered by severe breaches. Payment of interest considered by the tribunal to be too speculative so refused. Compensation calculated based on period between 31/01/18 - 03/19 when the agency relationship ceased.	Notification of failure to comply served 04/11/19.
<a href="#">FTS/HPC/LA/19/0948</a>	26/07/19	Belvoir Edinburgh	Tenant	Failure to comply with repairing standard and instruct repairs timeously, no clear written complaints procedure. Issues	Paragraphs 90, 91, 93, 112	Total award of £2100. £1100 for loss of amenity for balcony disrepair, quantified as 10% of rent paid during relevant period, £1000	Compensation paid but notification of failure to

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				affected applicant's quality of life and property deemed to not fit the description advertised.		for significant inconvenience caused by mould issues over 9-month period. Tribunal couldn't consider repairing standard issues against the letting agent.	submit written documentation required by LAEO served 21/10/19.
<a href="#">FTS/HPC/LA/19/1919</a>	11/09/19	R & G Properties	Tenant	Failure to provide information and follow correct procedures on inventory, which prevented applicant from being able to remedy issues with the property.	Paragraphs 101, 103 and 104	£100 compensation for unnecessary and unwelcome stress and inconvenience. Respondent's failures regarded as 'serious' but compensation lower as tribunal couldn't speculate on the prospective sum if due process had been followed.	Certificate of compliance issued 14/10/19.
<a href="#">FTS/HPC/LA/19/1726</a>	15/08/19	Rollos Solicitors & Estate Agents	Tenant	Applicant rented a room in a large occupancy flat share. The room rented was deemed uninhabitable due to its small size. Some time later, the applicant was suddenly instructed to move room with little warning and with the threat of losing access to her possessions.	Paragraph 17	£200 for worry and upset. Tribunal emphasised that the applicant had not faced any monetary loss and therefore awarded a relatively small sum. Tribunal also emphasised the consideration of the type and nature of the property. A large, high occupancy property may require a more serious act to constitute a breach. Generally the letting agent did notify the tenants when access was taken to the property. The tribunal felt that, to inform each of the tenants every time the letting	Not known.

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
						agents were to access the communal areas of the property would be impractical and, as such, the instances in which they had failed to inform did not constitute a breach of paragraph 82, whereas it may constitute a breach in a smaller, lower occupancy residence.	
<a href="#">FTS/HPC/LA/19/2143</a>	20/09/19	Shanley Lettings Ltd	Tenant	Alleged statements made by the letting agent had caused offence to the applicant. Letting agent had failed to keep to relevant timescales in responding to correspondence. Letting agent had been unintentionally misleading in marketing material relating to the property.	Paragraphs 19, 26, 38, 82	£300 for inconvenience of raising the detailed complaint at Tribunal. Tribunal highlighted the time and effort the applicant had taken in bringing this to tribunal.	Certificate of compliance issued 07/03/20.
<a href="#">FTS/HPC/LA/18/3008</a>	23/09/19	CPM Edinburgh	Landlord	Dispute arose as to the rental payments that had been received and were still due. Letting agent had not been forthcoming with this information and also had not kept accurate records to facilitate a resolution.	Paragraphs 120, 124, 125	Total award of £5051.29. £1388.49 for sums deducted from expenses; £1162.80 for unpaid rent owed; £2500 for inconvenience caused.	Not known.
<a href="#">FTS/HPC/LA/19/2137</a>	23/09/19	Homes4U (Scotland) Ltd	Tenant	Letting agent claimed full deposit in relation to disrepair upon termination of the tenancy but was unable to produce	Paragraphs 16, 17, 62, 104, 105	£500 to reflect the significant distress and inconvenience caused by respondent's conduct. Letting agent's failure to engage in the	Certificate of non-compliance

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				damage report or photographic schedule in order to justify these claims.		Tribunal proceedings played a considerable role in the decision and determination of compensation.	issued 06/01/20.
<a href="#">FTS/HPC/LA/19/0018</a>	23/09/19	Letslet Property Management	Landlord	Letting agent had rented out the property without completing their standard tenant checks. Alleged criminal activity was conducted in the property and caused significant distress to the neighbours and landlord upon being made aware. Letting agent terminated the tenancy but sought to claim the deposit in anticipation of applicant's claim for the full value.	Paragraphs 18, 32, 33, 57, 105, 106, 110, 112	£500 for various breaches listed. The tribunal formed the firm view that, stepping back and assessing all of the evidence, any such perceived failure to fully comply with a standard, did not necessarily amount to establishing a breach; assessing the 'spirit of the Code'.	Certificate of compliance issued 13/12/19.
<a href="#">FTS/HPC/LA/19/2280</a>	01/10/19	Martin & Co Stirling	Tenant	Respondent did not make applicant (tenant) aware that the property was subject to a Repairing Standard Enforcement Order and was deemed uninhabitable by the Local Authority.	Paragraphs 27, 45, 46, 70, 85	Total award of £5913.76. £2500 for delay, stress, worry and inconvenience suffered by applicant; £183.70 for rental of car to facilitate moving; £1520.06 for costs incurred in removing from the house; £230 for costs incurred in installing and relocating TV aerial; £150 for pet deposit paid to letting agent; £1500 for rent paid by the applicant to the letting agent. Tribunal considered the applicant's old age and acknowledged the effect such repeated moving would	Permission to appeal refused; compliance not known.

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
						have on his professional role within the Church.	
<a href="#">FTS/HPC/LA/19/1601</a>	11/10/19	Fineholm Letting Services Ltd	Tenant	Applicant had entered arrears on rental payments. Letting agent had sent an email and left voicemail (that did not reach the applicant) to discuss this. Following, the letting agent entered the property while the applicant was not present and had not consented to leave a letter demanding payment.	Paragraphs 16, 18, 23, 82, 83, 84	Total sum awarded: £1200. Compensated for distress caused (rental cost for one month). Tribunal emphasised the applicant's young children that lived in the property and the anxiety that would be caused by being aware someone had entered the property but not knowing when or who.	Certificate of compliance issued 24/12/19.
<a href="#">FTS/HPC/LA/19/1975</a>	24/10/19	Craigflower Lettings	Landlord	Tenancy had been in place for 5 years, during which the letting agent failed to conduct regular inspections. This had then led to damage to the property, particularly through moth infestation and removal of fixtures.	Paragraphs 17, 18, 65, 74, 102, 104	Total sum awarded: £550. £500 for percentage paid to letting agent as management fees; £50 to contribute to moth treatment. Tribunal were of the view that, despite not fulfilling their obligation to regularly inspect, this was not sufficient to state that the letting agent had failed to manage the property at all. As such, a percentage of the management fees were required to be repaid.	Certificate of compliance issued 05/02/20.
<a href="#">FTS/HPC/LA/19/2553</a>	04/11/19	Martin & Co	Landlord	Letting agent submitted the wrong date for the end of the tenancy and did not take rental payments for the period prior to the agreed date. Letting agent also used the parking space	Paragraphs 18, 19, 80, 98, 99, 102, 106	Total awarded £1547.95. £500 for delay, worry and inconvenience; £1047.95 in respect of lost rent due to respondent's conduct.	Not known.

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				provided with the property without seeking consent from the applicant.			
<a href="#">FTS/HPC/LA/19/2173</a>	08/11/19	Belvoir	Landlord	Letting agent made insensitive comments regarding the applicant's potential claim against a tenant's deposit. Applicant complained that if the property's dampness issue had been reported earlier it would have not reached this stage of damage. Letting agent was able to prove that this issue had not been reported nor had been witnessed on routine inspections and therefore there was no breach.	Paragraphs 17	No monetary compensation awarded. Written apology for insensitive comments instead ordered. Tribunal were of the opinion that the breaches of other sections alleged by the applicant were not 'material'; they had been rectified in good time and in limited loss to the applicant.	Review was granted and satisfied that apology had already taken place.
<a href="#">FTS/HPC/LA/19/2336</a>	03/12/19	Hanlon Clark Properties	Landlord	Letting agent had taken rent from tenant 6 months in advance, but still paid the rent onto the applicant month by month. Letting agent charged for an Electrical Installation Condition Report which had not been obtained. Letting agent had not paid on the tenant's deposit to the applicant or put it in a scheme to allow for the applicant to claim for potential damage.	Paragraphs 17, 19, 26, 33, 37, 65, 66, 101, 105, 108, 124, 125	Total compensation awarded £645. £70 for Electrical Installation Condition Report; £575 for tenant's deposit. The Tribunal accepted that the applicant had been caused unnecessary and unwelcome stress and inconvenience as a result of the respondent's failures to comply, but stated that it did not feel a further award of compensation beyond quantifiable actual loss should be made.	Not known.

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
<a href="#">FTS/HPC/LA/19/2547</a>	09/12/19	DJ Alexander Lettings Ltd	Tenant	Applicant complained of late repair in relation to boiler issues. Letting agent had instructed repair but had failed to achieve the desired outcome timeously. Letting agent was also late in responding to correspondences.	Paragraphs 108	Application was dismissed. Despite having breached paragraph 108 the Tribunal considered that the letting agent had intimated the need for more time, therefore avoiding the negative effects of the breach.	Complied 20/12/19.
<a href="#">FTS/HPC/LA/19/2998</a>	12/12/19	Drumwhirn aka Newton Letting	Tenant	Letting agent attempted to carry out inspection where the tenant did not consent and could not be present. Tenant changed the locks in order to stop the inspection occurring. Tenant had expensive equipment and confidential documents in the property. Landlord had inspected the property 5 days earlier.	Paragraphs 17, 20, 23, 28, 111	£500 for distress caused to applicant as a result of the failure to comply. Tribunal emphasised the evidence that the letting agent staff were unaware of the Code of Practice, which constituted a breach of paragraph 23 and suggested disregard of the Code of Practice as a whole. Tribunal also emphasised the intimidating nature of the threats to inspect despite lack of consent from the applicant.	Not known.
<a href="#">FTS/HPC/LA/19/3383</a>	18/12/19	Allied Homes Ltd	Tenant	Applicant complained of a number of boiler issues that had not been dealt with satisfactorily by the letting agent. Applicant had not raised complaints about the letting agent's behaviour specifically at the time of the tenancy, only afterwards. This was in response to emails highlighting the applicant's	Paragraphs 111	£500 awarded for the stress caused to applicant by nature and tone of letting agent's correspondence. Tribunal did not consider that there were any steps which could reasonably be taken to rectify the failure but did consider that an award of compensation for stress caused ought to be awarded.	Not known.

Case Reference	Hearing Date	Letting Agent	Tenant or Landlord Application	Case Facts	LACP Paragraph Breached	Compensation Awarded	Certificate of Compliance
				residence status in a threatening manner.			
<a href="#">FTS/HPC/LA/19/3272</a>	08/01/20	D J Alexander Lettings Ltd	Landlord	No checks had been carried out on the property by the letting agent. Letting agent had also failed to maintain required records on the property.	Paragraphs 21, 24, 27, 74, 75	£1300 for stress and worry caused. Tribunal took account of the fact the property had been tenanted for some seven years and had not been redecorated; some disrepair was likely to have occurred. Tribunal also considered the demeanour of the applicant at the hearing to show how genuinely affected the party was.	Certificate of compliance issued 12/03/20.
<a href="#">FTS/HPC/LA/19/2802</a>	08/01/20	Keller Williams, Realter Ltd	Landlord	Letting agent retained tenant's deposit and all rental payments over the course of five months. Letting agent also failed to provide terms of business to the applicant. Letting agent was not registered as a letting agent.	Paragraphs 17, 21, 29, 32, 33, 37, 120, 124	£4500 to reflect that applicant was left without five months' rental payments (having been retained by the letting agent). Tribunal noted that the letting agent had failed to notice any correspondence made by the applicant prior to the hearing. Tribunal also emphasised their wide discretion over the determination of compensation values.	Certificate of non-compliance issued 13/02/20.