

# Transcript

## **RRA Unit 2.1**

### **End of bidding up the rent**

Hello everybody. In this video, we're going to have a look at rental bidding, so what the Renters' Rights Act changes are making around trying to stop the process of bidding up the rent. We all know stories of landlords saying to prospective tenants, when they've got 100 people interested, "Who's going to pay me the highest rent?" It's about bidding the rent up. It might be that the market rent is £1,000, but the landlord ends up getting £1,300. What the government is trying to do through the Renters' Rights Act in this rule change is to see the end of that bidding-up-the-rent practice. Let's have a look at it and see what the changes actually are in terms of the detail.

This is quite an important change that the government has made. A landlord or lettings agent must include a specific rental price when advertising the property. They can't say, "Here's a rent range; it might be between £1,200 and £1,400." They have to quote a specific rent price, and that specific rent price must be included on any written advert or any offer to any prospective tenants. Any offer or any written advert must include the specific rent. That's going to include things like online adverts, such as Rightmove, any printed advert (for example, if a landlord put an advert in a shop window), social media posts saying, "Hey, I've got a property to rent," and any emails, texts, and direct messages from the landlord or an agent advertising a property. They must all include the actual rent that the landlord wants.

The only thing it doesn't apply to, for practical purposes, is "to let" signs outside a property. A landlord will not have to put the actual specified rent in a "to let" sign. But every other written advert or written communication must include the actual rent. Once the rent is advertised, the Renters' Rights Act says a landlord or agent must not invite, encourage, or accept offers of rent payments higher than the advertised amount. They can't invite it, they can't encourage it, and they can't accept offers of rent payments higher than the advertised rent.

A landlord or agent must not publish another advert with a higher advertised price for the same letting and must not publish a price range for the property. As we've said, they must not invite, encourage, or accept a higher offer. They must not tell someone that they've received other bids to encourage them to bid more than the advertised price. They must not act in a way that leads a person to believe that they need to bid above the advertised price, and they must not accept an offer from an applicant to pay

higher than the stated rent. Under the previous system, it was common for somebody to say, "You want £1,400 a month, but I'm willing to pay you £1,600." Now, even if someone offers a higher rate, the landlord cannot accept that higher rate. All the landlord can do is accept the advertised rent.

We are likely to see a lot of action on this in terms of landlords, with some landlords perhaps trying it on and saying, "I got the rent wrong. I thought it would get me X, but actually I think I should have got Y." The problem is, once you've advertised it as X, then you have to accept X. There might be some obvious mistakes: you might have wanted £1,250 a month and you missed out the zero, so it ends up at £125 a month. It's unlikely anyone is going to prosecute you as a landlord for that because it's an obvious mistake. But we are going to get situations where landlords just get the rent wrong. They advertise the rent and then they talk to their friends or an agent, who tells them, "You're silly to advertise it for that rent because you could get more." The problem is that once you've advertised it, then that's the rent you need to get.

There's no government guidance on a landlord withdrawing the property to let and then, some months later, putting it back up for let at a higher rent. There's no guidance at all on that or the timescale in between. But once you've advertised the rent, what happens if two or three weeks later you say, "I think that's too low, so I'm going to withdraw this advert and put another advert in"? You've got a problem, because you're now advertising it higher than the advertised rent two or three weeks before. We're likely to get some case law on this, and some challenges from landlords who have been prosecuted with civil penalties where they have changed the rent over a four-, five-, or six-week period. The one situation where we probably won't see prosecutions is where there's an obvious error, like missing out a zero and advertising it at £125 a month, which is clearly wrong.

We've looked at what a landlord cannot do on rental bidding, but what can a landlord still do? A landlord will still be able to ask for "best and final" offers, but only up to the rent that they've advertised. So if there are 20 people interested in the property and it's advertised at £1,300 a month, they can say, "I want best offers up to £1,300 a month." However, they can't ask for anything over £1,300 a month. A landlord does not have to research the lettings market to decide what an open market rent should be before advertising the rent. There's no requirement to do that research. But, of course, if you don't do your research as a landlord, you could end up advertising at a rent lower than you could have achieved.

A landlord will be able to advertise two rents if they advertise a property as both unfurnished and furnished. If there is an option for furnished and an option for

unfurnished, you can have two different rents. But you cannot then accept the higher furnished rent figure if you actually let it as unfurnished. That's the only position where an advert can contain two different figures: one for furnished, one for unfurnished. On the enforcement side, we're likely to see enforcement from councils and complaints being made to councils. There are two types of rental bidding breaches that can bring in a civil penalty from the council under the new Renters' Rights Act enforcement powers, and the council can issue a penalty of up to £7,000 for one or more of these breaches. Breach number one is failing to include a published price in the written advert. Breach number two is inviting, encouraging or accepting a higher offer than the written advert. How strongly councils will enforce the first breach at the beginning remains to be seen, because landlords will need time to get used to the new rules, and many will fail to publish the price in a written advert. Whether councils take a softly-softly approach at first will be down to individual councils.

Councils and their officers will most likely be responding to complaints from tenants or prospective tenants. A prospective tenant might say that the landlord ended up renting to someone who offered higher than the advertised price. Councils will be looking at adverts, emails, texts from landlords, and they could ask for tenancy agreements to check the contracted rent against the advertised one. The landlord will have to cooperate with that. Under the new enforcement powers, councils can demand that the landlord provide the tenancy agreement; it's not optional for the landlord. If the tenancy agreement shows a rent that's higher than the advertised one, then the landlord or agent is clearly in breach.

As for the likely impact of these new rental bidding rules, they're mostly well-intentioned, but the impact might not be what the government expects. Many commentators say that landlords will simply end up advertising a rent that's higher than they realistically think they can get and then ask tenants to bid against that higher advertised figure. For example, if I'm only expecting to get £1,500 a month and that's what I want, but I advertise it as £2,000 a month, then I might get people bidding up to £2,000. I might end up with someone bidding £1,700. That's still below the advertised rent and therefore acceptable in law, and the landlord is still ending up, through a loophole, with a sort of rental bidding situation, getting people to bid higher, even though it's under the advertised figure.

It is well-intentioned, and we'll see how it works. But remember: landlords and agents must quote the rent in any written form of communication.

So that's our video on rental bidding. I'll see you again on one of the other videos.