



Scottish Land Commission

Determining the Views and Experiences of
Tenant Farmers and Landlords with regard to
the Operation of Agents

Follow up Qualitative Research
February 2018

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Date: 26th February 2018

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Date: 27th January 2018

1. INTRODUCTION, BACKGROUND AND METHODOLOGY

1.1 Introduction

This report summarises the key findings of research commissioned by the Scottish Land Commission in order to follow up on a survey of tenant farmers and landlords with regard to the operation of agents.

1.2 Background

The Scottish Land Commission is committed to undertake a review on the operation of professionals engaged by landlords and tenants in relation to business conducted with regard to agricultural holdings. This research will provide evidence for the Tenant Farming Commissioner in making recommendations considered necessary to improve the operation of agents of landlords and tenants, as required under the Land Reform (Scotland) Act 2016 (Section 36).

Ministers would like to see the relationships between landlords and tenants developing for mutual benefit rather than being a competitive one, and agents are seen as being key in facilitating this. The potentially conflicting interests of delivering client satisfaction and wider reputational considerations has also come under scrutiny.

Between October 2017 and January 2018, Research Resource carried out surveys of tenants and landlords with regard to the operation of agents. This research surveyed 914 tenant farmers and 121 landlords/ resident factors. From this, 17% of both tenant farmers and landlords were dissatisfied with the agent they were dealing with on behalf of the other party. The research highlighted particular issues with respect to consideration of both the landlord and tenants position, consideration of the long term sustainability of the farm and providing as much information as is desired.

Following on from this research, there was a desire to gather further information from a sub section of respondents to the original survey in order to further explore the issues raised with regard to dissatisfaction.

1.3 Methodology

A total of 70 tenant farmers and 6 landlords to the original survey noted dissatisfaction and, of these, 53 stated that they would be happy to be re-contacted if any issues arose through the research that the Land Commission would like to explore further. These 53 respondents were therefore our population for this follow up research. In line with the principles of the Data Protection Act 1998, under which Research Resource are registered, we are only able to follow up with those respondents who have given their permission to be re-contacted.

A broad topic guide was developed in order to guide the conversation and explore the circumstances around dissatisfaction in more depth, whilst providing a structure to the interview and gaining feedback in a way that is comparable across interviews. A copy of the topic guide used is available in appendix 1 of this report.

A total of 40 telephone in depth interviews were successfully completed from the potential population of 53 dissatisfied respondents to the original survey. This is a 76% response rate.

1.4 Survey Analysis and Reporting

This report provides an overall analysis of the findings of the in depth discussions. It should be noted that due to the small number of interviews and their qualitative nature, this research is not designed to be statistically robust, nor representative of the population of tenant farmers or landlords, rather it has been designed to provide a depth and detail of understanding of circumstances surrounding dissatisfaction.

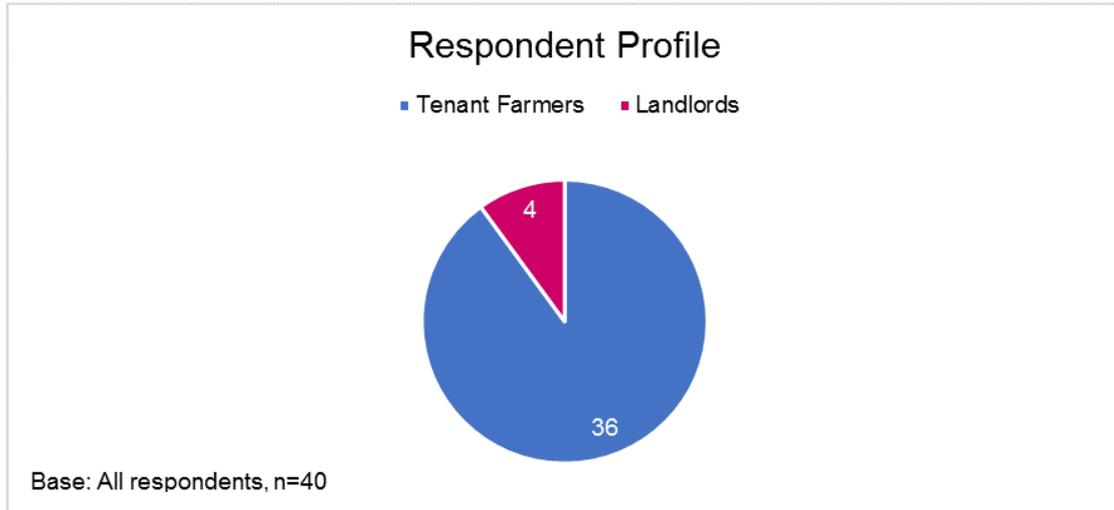
Due to the small number of respondents, the results reported largely note the number of respondents as opposed to percentage of respondents.

2. KEY SURVEY FINDINGS

2.1 Respondent profile

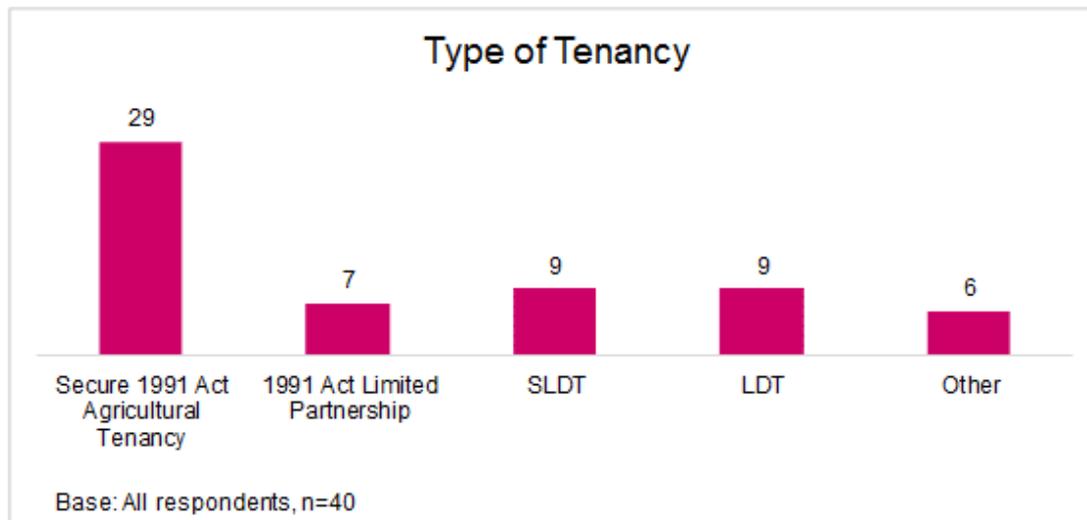
A total of 40 in depth interviews were carried out with tenant farmers or landlords who had been dissatisfied with an agent. The profile of respondents is summarised below.

Of the 40 respondents, 36 were tenant farmers and 4 were landlords.



Respondents confirmed farms of various sizes ranging from 2.5 acres to 15,000 acres and the different types of tenancy that they were under.

The majority of respondents (29) had at least one secure 1991 Act agricultural tenancy, 9 had at least one short limited duration tenancy (SLDT), 9 respondents had at least one limited duration tenancy (LDT), 7 had at least one 1991 Act Limited Partnership. 6 respondents stated that they had a tenancy that would fall under the category of "other".



Respondents gave different relationship duration periods with the other party involved in the tenancy ranging from 3 years to 3 generations.

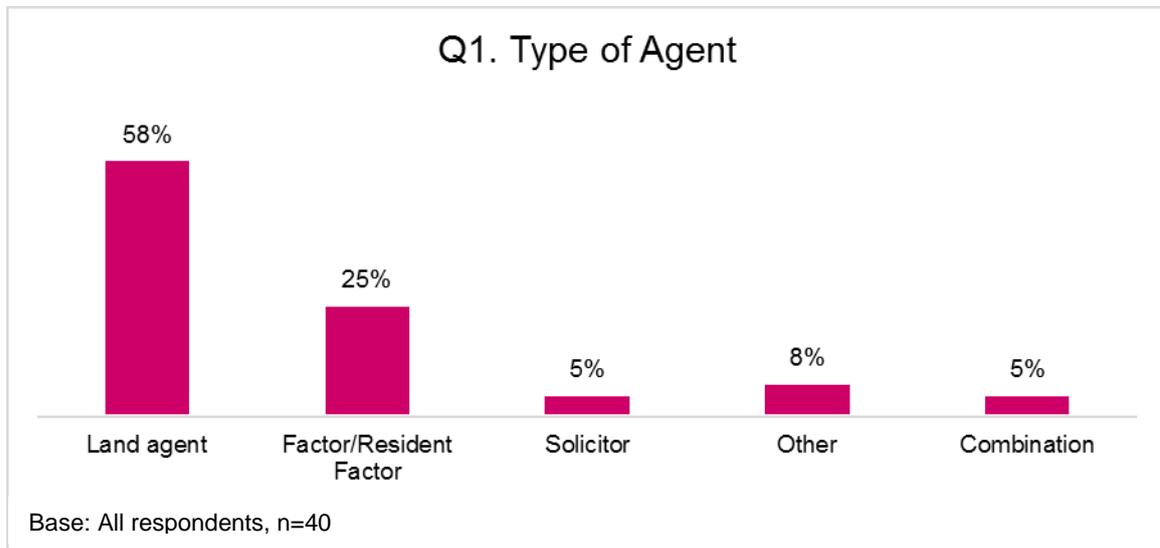
2.2 Type of agent dissatisfied with

The survey began by asking respondents about the type of agent they had interacted with and the reason that they were dissatisfied with the interaction. All respondents, prior to interview, stated that they were dissatisfied with the agent in previous research entitled “Determining the views and experiences of Tenant Farmers and Landlords with regard to the Operation of Agents” which was completed in January 2018.

As shown below, the majority of respondents (n=23, 58%) stated that it was a land agent that they were dissatisfied with. 10 respondents (25%) stated that they had negative experiences with a factor or resident factor. 2 respondents (5%) stated that they had negative experiences with a solicitors.

3 respondents (7.5%) dealt with an agent that did not fall into any of the categories previously established in the previous research (i.e., Office Staff and an Estate Managers)

The remaining 5% of respondents dealt with a combination of both a land agent and a solicitor.



2.3 Reason for dissatisfaction

When asked about the cause of their dissatisfaction, respondents gave a diverse range of responses but there were a number of issues noted in common.

- The most common issues were dissatisfaction at the fact **nothing was being done about their concerns (7 cases)**. Those concerned that nothing was being done were exclusively tenant farmers citing issues relating to general maintenance of their farms.
- A belief that **the agent they dealt with was fixated with making money or had imposed an unfair financial obligation on them (7 cases)**. Those concerned that the agent was determined to financially exploit them were also tenant farmers who expressed beliefs that their rents were being increased unfairly and in one instance, retrospectively. Some of these respondents described the agent they had dealt with as “greedy” and “out to make money”.
- Another common issue was dissatisfaction with **the attitude of an agent (6 cases)**. These respondents felt that the attitude of an agent had hindered the interaction with some describing the agent as “Aggressive”, “Confrontational” and “Rude”.
- Other less common concerns included being supplied with **dishonest or incorrect information (5 cases)**, **the time taken to conclude negotiations (4 cases)** and concerns that an agent **did not fully understand the matter being discussed (4 cases)**.

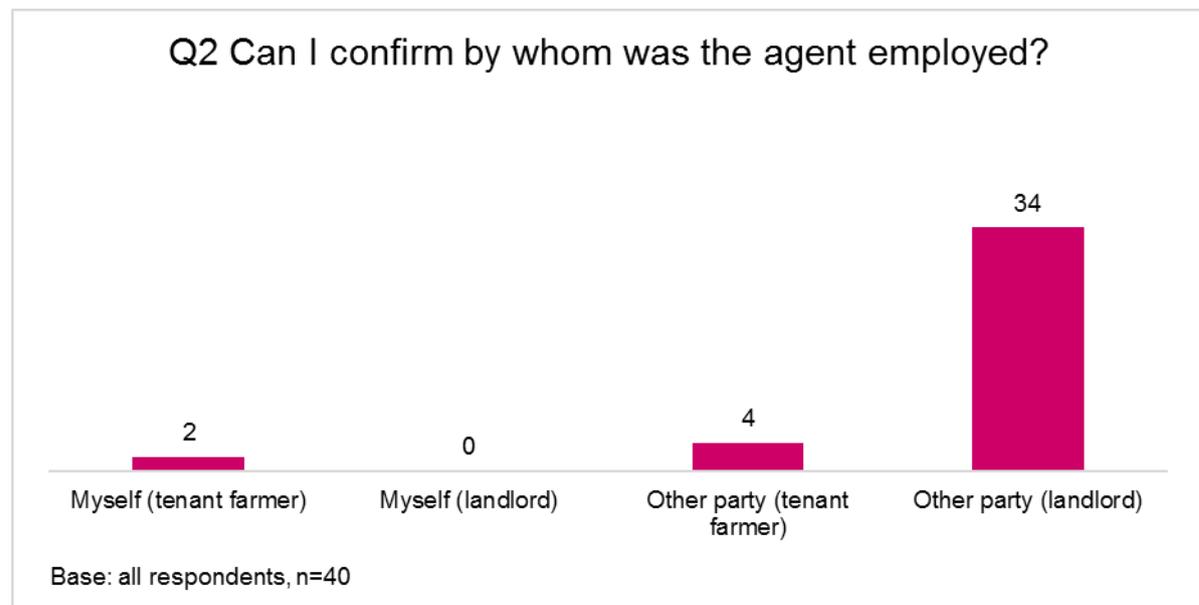
“They are not dealing with repairs that they're supposed to.”

“He was very confrontational and not a people person.”

“He tried to trick me into paying a rent increase that was much higher than the average rent. He claimed this was calculated using CPI but I believe this is a lie. When I raised the issue with him, he claimed it was a mistake but I don't think it was.”

2.4 By whom was the agent employed

The agents that respondents had dealt with were connected to various parties but overwhelmingly, the agent identified was connected to the other party in the business transactions. **85% of respondents stated that the agent was acting on behalf of their landlord** while 10% of respondents stated that the agent was acting on behalf of their tenant with only 5% expressing dissatisfaction with their own agents.



2.5 Reasons for employment, method of communication and frequency of contact

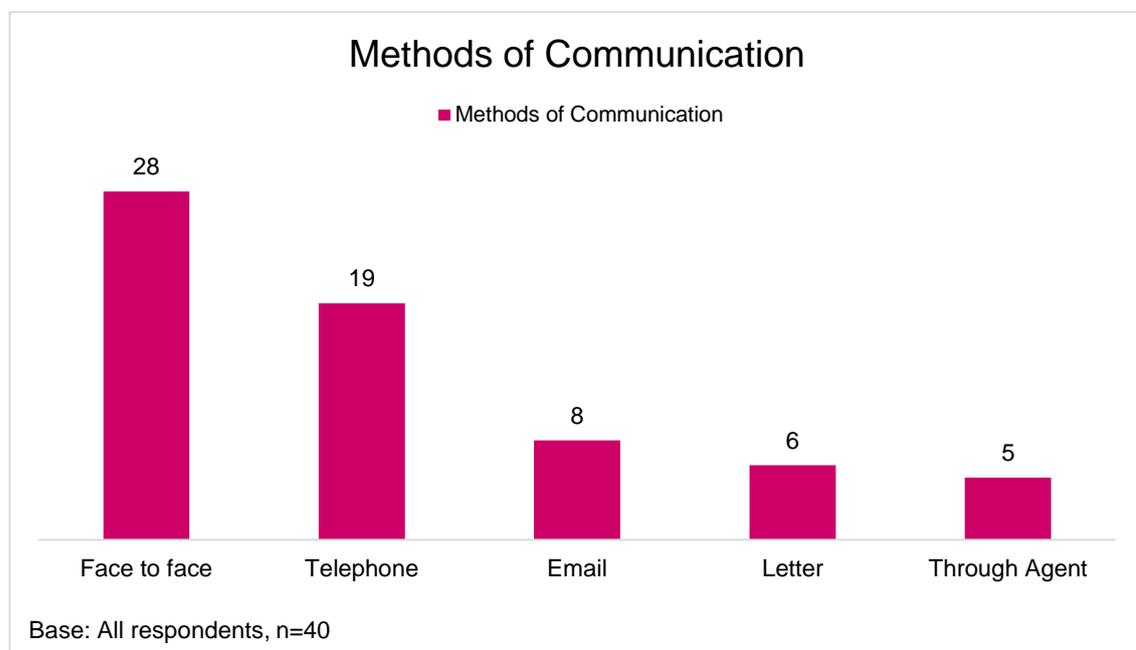
The agents involved had been employed to perform a number of tasks on behalf of their clients.

- 25% of respondents (10) stated that the agent was employed to act as a factor for the estate while another 25% (10) stated that the agent was employed to negotiate on behalf of their client.
- Others claimed that the agent was employed to run or manage the estate (15%, 6), collect rent or carry out rent reviews (17.5%, 7) and act as representation for their client (10%, 4)

Respondents were then asked whether the negative experience they recalled was the first occasion on which they had dealt with the agent or whether they had been dealing with them previously. Just over half (57.5%) of respondents stated that the transaction on question was the first time they had ever dealt with the dissatisfactory agent while 42.5% respondents said that they had previously dealt with the agent.

Respondents who had dealt with an agent previously had been dealing with them for periods of between **1 year** and **50 years**.

Respondents were then asked which communication methods they had mainly used to communicate with the agent with examples like telephone, face to face, email or letter being offered as prompts. The most common method was to communicate in person (70%, 28 cases) or by telephone (47.5%, 19 cases). Other communication methods were mentioned including email (8 cases), letter (6 cases) or through an agent of their own (5 cases).

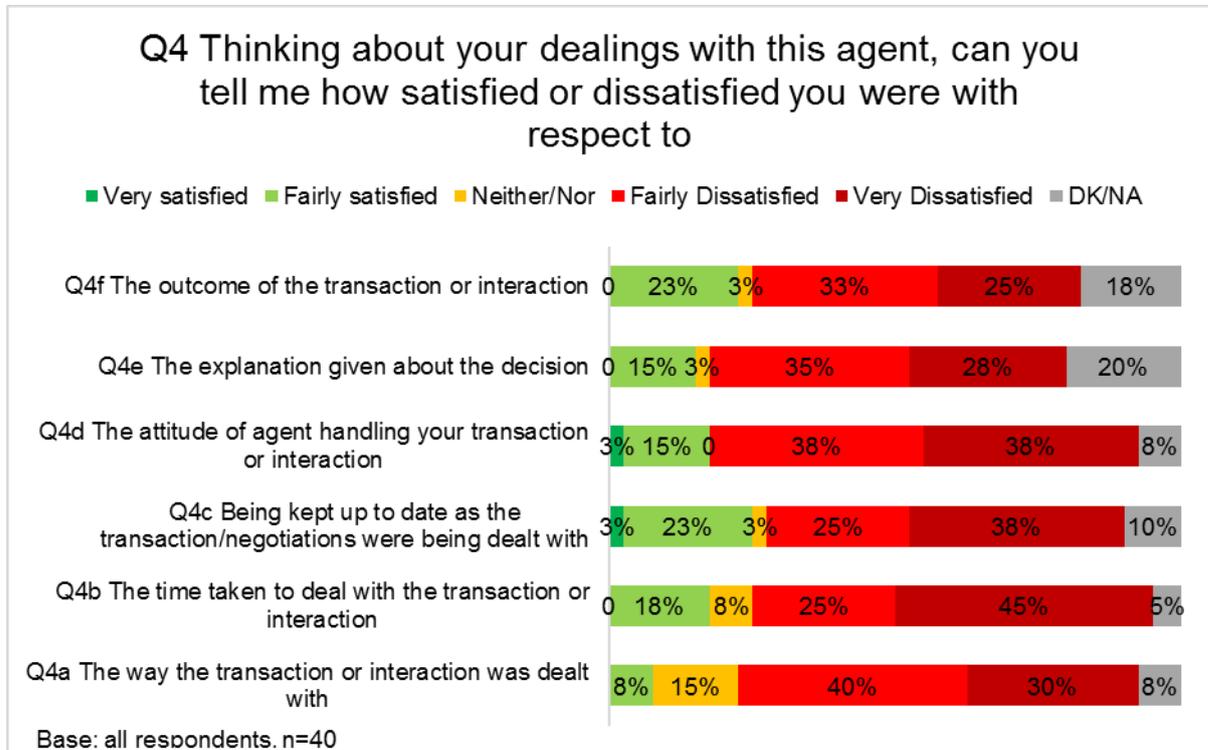


In terms of frequency of contact with the agent,

- 30% of respondents stated that they would deal with the agent at least annually (Ranging from once or twice a year to four or five times a year).
- Other respondents recalled communicating with the agent less than annually (22.5%) with as long as three years between each contact.
- A significant proportion of respondents (27.5%) stated that they would never ordinarily have contact with agents outside of rent negotiations but recalled contacting them between 3 and 6 times while negotiations were ongoing.
- Only 7.5% of respondents recalled communicating with the agent monthly while 12.5% could not recall how often they had contact.

2.6 Specific Aspects of Interaction

Respondents were then asked to rate their satisfaction or dissatisfaction with particular aspects of the interaction they recalled having with the agent. As shown, the majority of respondents were dissatisfied with all aspects of the dealings they had with the agent, most notably with the attitude of the agent where 76% of respondents were dissatisfied.



Respondents were first asked to consider **the way the transaction or interaction was dealt with**. 70% of respondents expressed dissatisfaction at the way the interaction was dealt with while only 7.5% stated some level of satisfaction. 15% responded with neither nor and 7.5% of respondents said that they weren't sure or that the question wasn't applicable to their circumstances. Respondents gave a diverse range of reasons for their answers but common themes included:

- Nothing being done (10 cases),
- Poor quality information or dishonesty (6 cases)
- Concerns about agent attitudes (5 cases).

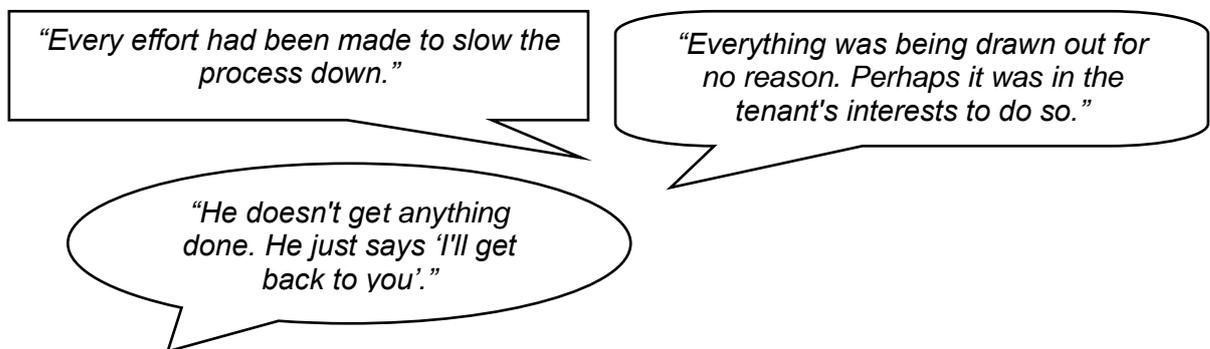
"We had to bypass the factor and go straight to the landlord because he was getting nothing done."

"None of the information on the land was correct."

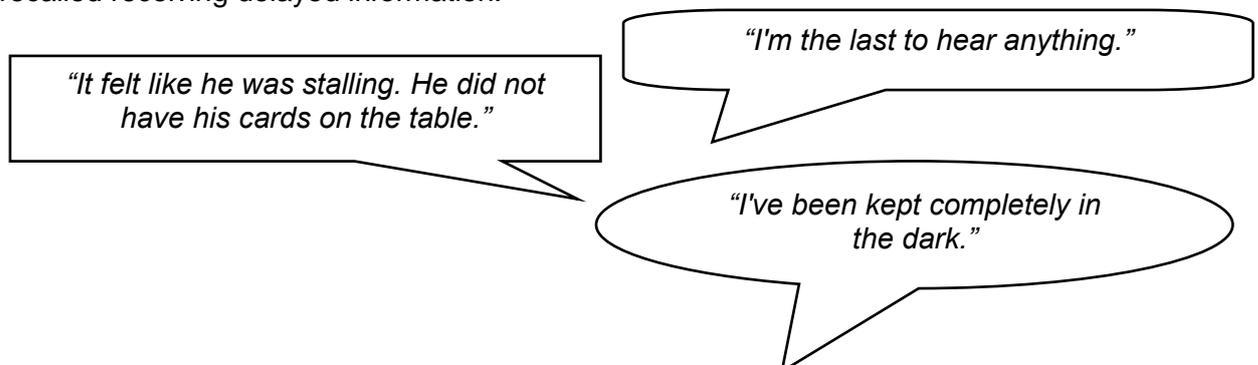
"He was dictatorial rather than listening to arguments."

Nothing being done was more likely to be noted where the agent was dealing largely with general estate management whereas the other two factors noted were more likely to be cited where respondents said the factor was dealing with rent valuation issues.

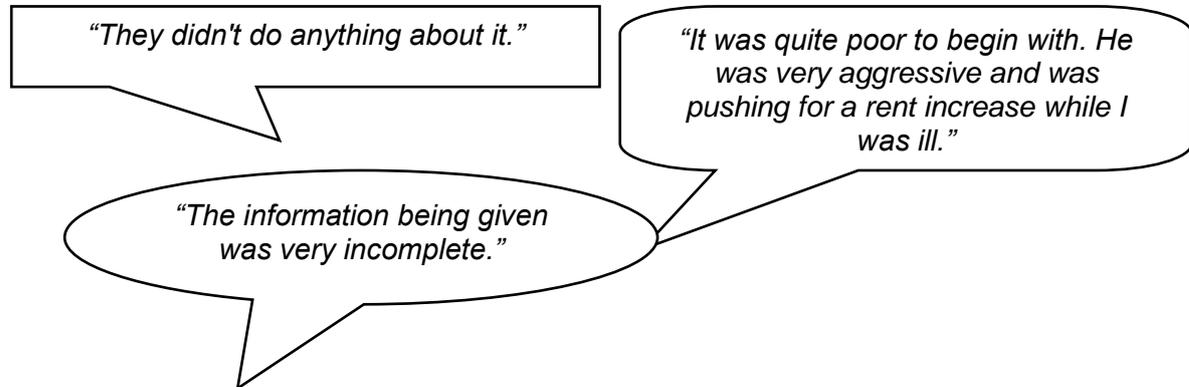
When asked about the **time taken to deal with the interaction**, 70% of respondents said they were very either dissatisfied / fairly dissatisfied with the time taken while 17.5% stated some level of satisfaction. This time 7.5% responded with neither nor while only 5% were not sure. Respondents expressed general frustration with the length of time taken with some claiming that it took years to conclude the interaction. In 7 cases, respondents elaborated further, expressing the belief that the process was being drawn out unnecessarily or that time was being wasted. In 6 cases, the respondents stated that nothing was being done about their concerns.



Respondents were then asked how satisfied they had been with the extent to which they were **kept up to date** as the transaction was ongoing. Once again, the majority of respondents (62.5%) stated that they were dissatisfied but 25% of respondents stated that they were satisfied in this regard. 10% of tenants believed the question was not applicable with some stating that updates weren't necessary while 2.5% responded with neither nor. In 15 cases, respondents stated that they did not receive any information from the agent handling the transaction and in 7 cases, respondents recalled receiving delayed information.

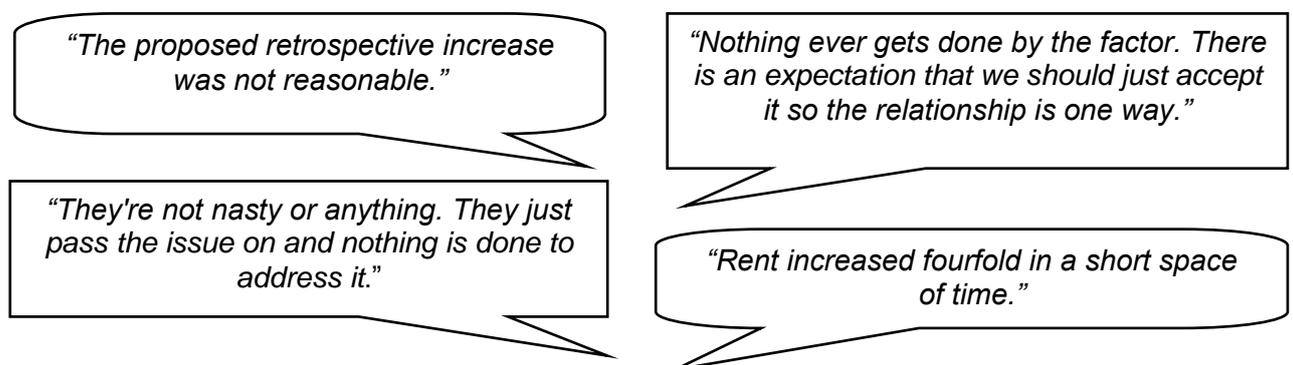


When asked about **the attitude of the agent handling the negotiations**, 75% said they were dissatisfied with only 17.5% stating they were satisfied. 7.5% of respondents felt the question could not be answered and 0% responded with neither nor. Reasons for dissatisfaction included nothing being done (5 cases), Aggressive or confrontational behaviour (4 cases) and misinformation or dishonesty (4 cases)



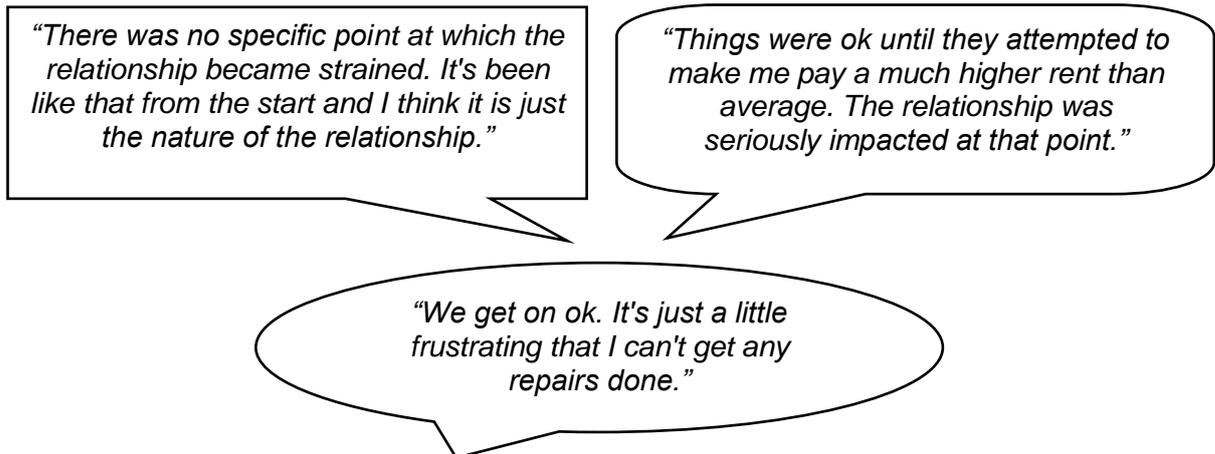
Respondents were then asked to rate their satisfaction with **the explanation given to them by the agent about the decision** that was reached (if any). 62.5% of respondents indicated they were dissatisfied with this aspect while 15% reported some level of satisfaction. 20% of respondents felt the question was not applicable with some respondents stating that nothing was ever done as a result of the transaction and therefore there was no decision reached to explain. 2.5% responded with neither nor.

Finally, Respondents were asked to give their opinions about **the outcome of the interaction**. 62.5% of respondents said they were dissatisfied with the final outcome of the interaction while 22.5% stated some level of satisfaction. 17.5% of respondents said they felt the question was not applicable to them and 2.5% responded with neither nor. Respondents cited a wide range of outcomes that led to their dissatisfaction but common complaints included nothing being done or going ahead (8 cases) and unreasonable rent increases (4 cases)



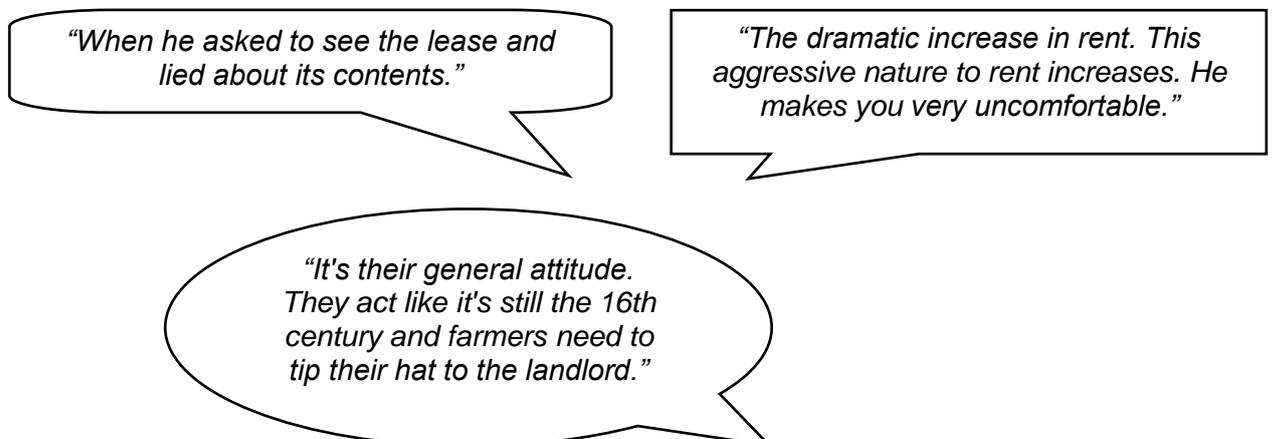
2.7 Point of dissatisfaction

Having gained insight into the particular reasons for the dissatisfaction of respondents, interviewers then asked respondents if they were able to recall a specific point in the relationship when the dissatisfaction began to arise. Almost half (47.5%) of respondents claimed that they had been dissatisfied with the agent from the start of their relationship with the agent. The remaining 52.5% recalled various instances that initially triggered their dissatisfaction but these typically involved a dispute with the agent over issues like rent (4 cases) and unresolved concerns (4 cases).



2.8 The most dissatisfactory element

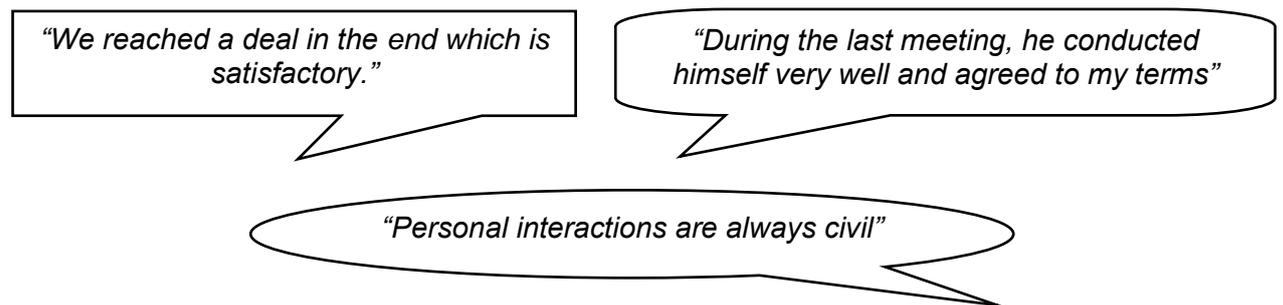
When asked what the most dissatisfactory part of their interaction with the agent in question, respondents gave a range of elements they believed to be the most dissatisfactory. The most notable issue that respondents raised was misinformation and lies (7 cases) while others took issue with the attitude of an agent (5 cases). Several tenant farmer respondents also intimated that they felt they were subjected to unreasonable rent increases (4 cases) and some felt that there was a power imbalance between them and their landlords.



2.9 Positive elements

Respondents were then asked if they could recall any satisfactory aspects of the interaction that were positive or redeeming in some way.

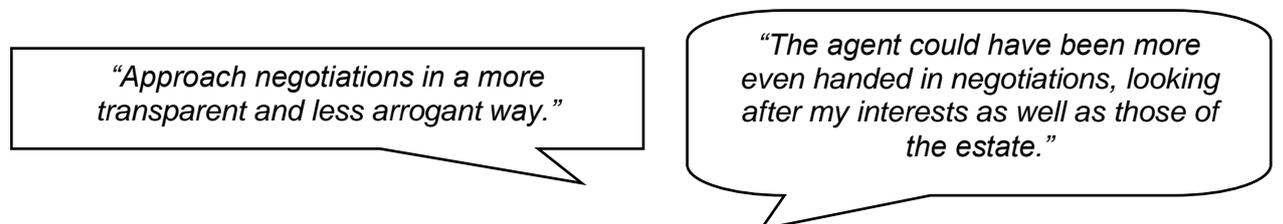
- The majority of respondents (62.5%, 25) said that they could not recall anything satisfactory about their experience.
- Those who did remember a satisfactory aspect gave various responses, the most common of which was the satisfaction of eventually reaching an agreement in the end (10%, 4).
- Some were also satisfied with the civility of agents throughout the process (7.5%, 3).



2.10 Improving Negotiations

Respondents were then asked what could have been done to improve the transaction. The most common response, given by 9 respondents (22.5%) was the recommendation of more direct contact between landlords and their tenants. Respondents elaborated that this could be achieved by more face to face discussions which they felt would help facilitate progress in negotiations.

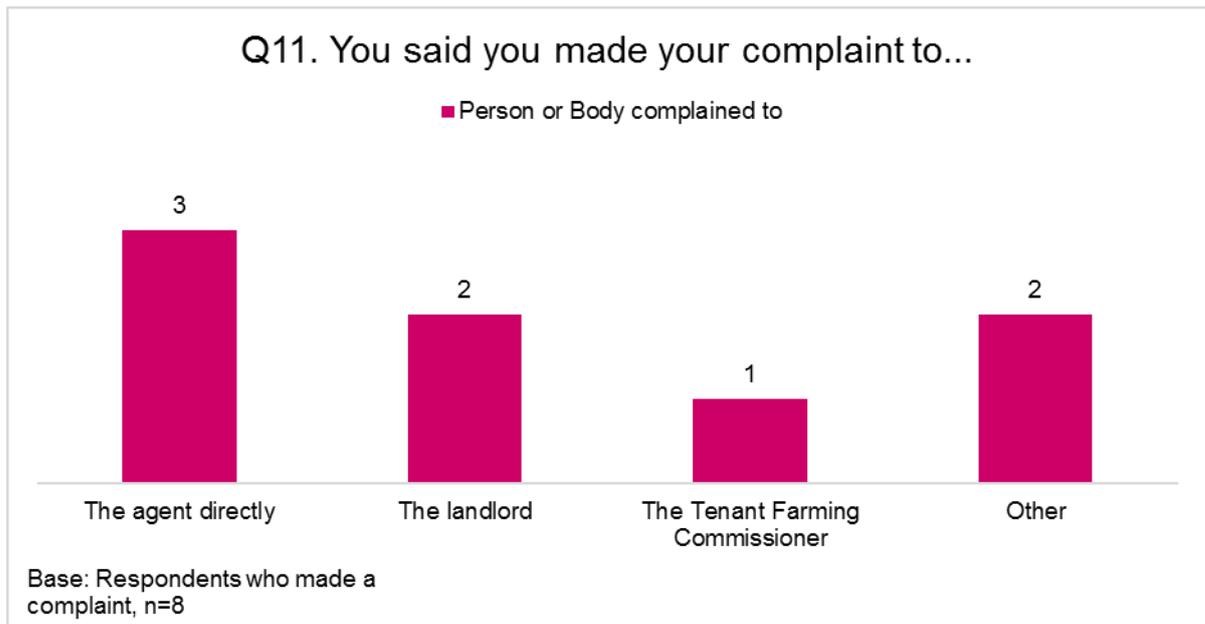
Another 12.5% stated that they believed negotiations could be improved if agents were more open-minded and gave consideration to the tenant’s point of view instead of just their client’s. Other suggestions related to respect during negotiations and the attitudes of agents suggesting that agents could be more reasonable and transparent as well as less arrogant and aggressive.



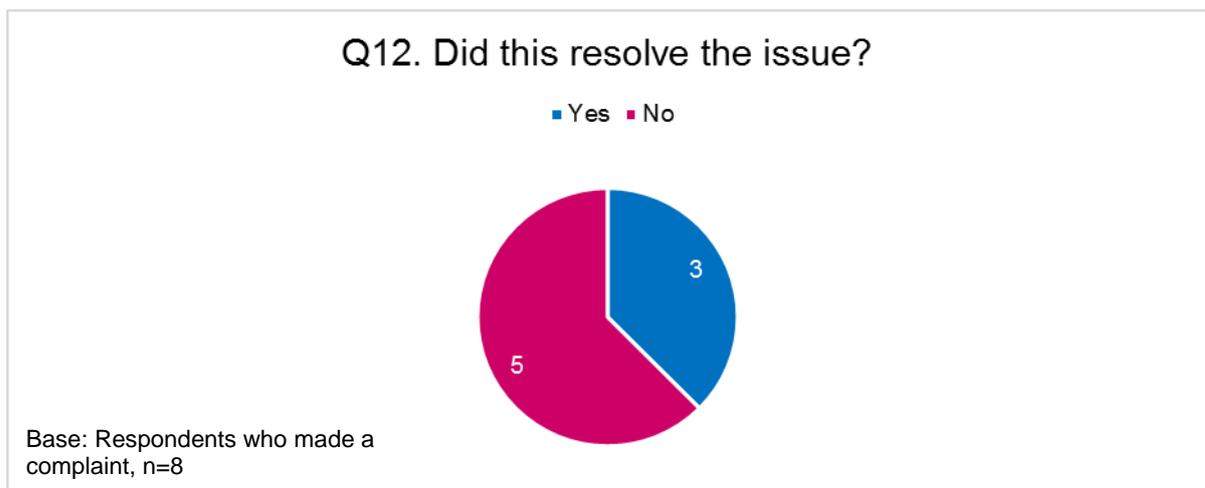
2.11 Complaints

The majority of respondents (80%, 32 out of 40) said that they had not made a complaint about their negative experiences while 20% did make a complaint to a person or body.

Of those who did complain (n=8), 2 complained to the landlord employing the agent, 3 complained to the agent directly, 1 complained to the Tenant Farming Commissioner, 1 complained Tenant Farmer Association and 1 to the Crofting Commission.



Again, of the 8 respondents who complained, 3 respondents (37.5%) stated that their issue was resolved as a result of the complaint while 5 respondents (62.5%) believed that their issue was not resolved.



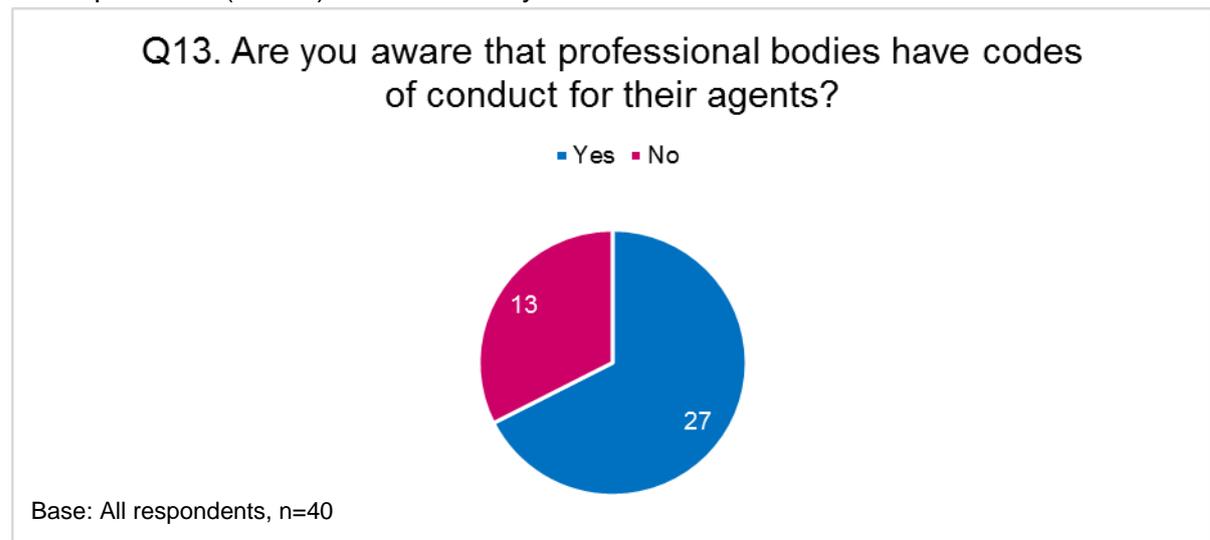
Those who claimed that their issue was not resolved claimed that either nothing was done about their concerns or the actions taken to address them were insufficient with one respondent recalling hostility towards him as a result of his complaint.

Those who claimed that their issue was resolved said this had been achieved by contacting a third party who would encourage or push for resolution where none was being reached.

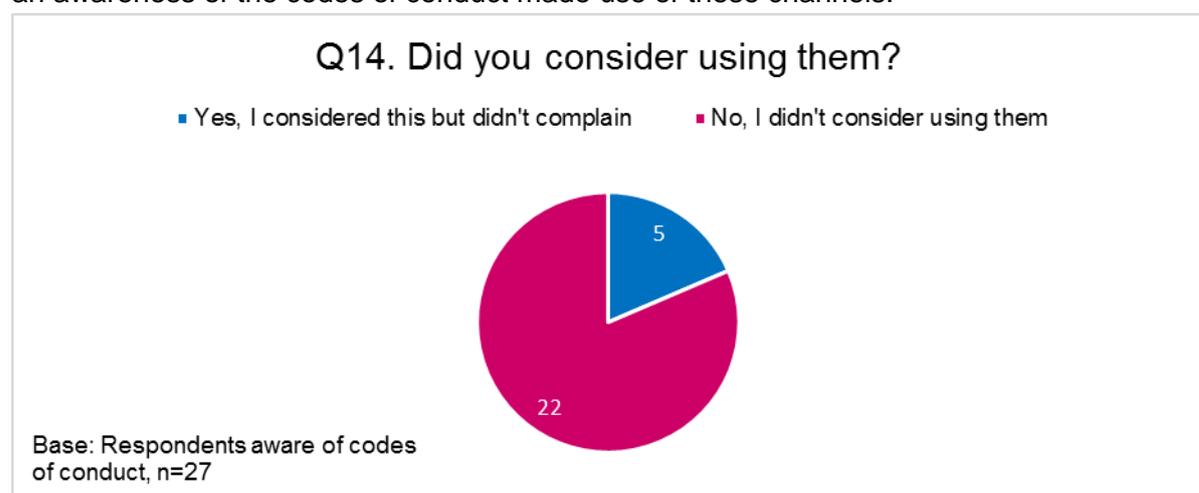
2.12 Awareness of professional bodies and codes of conduct

Respondents were then asked whether or not they were aware that professional bodies have codes of conduct for their agents.

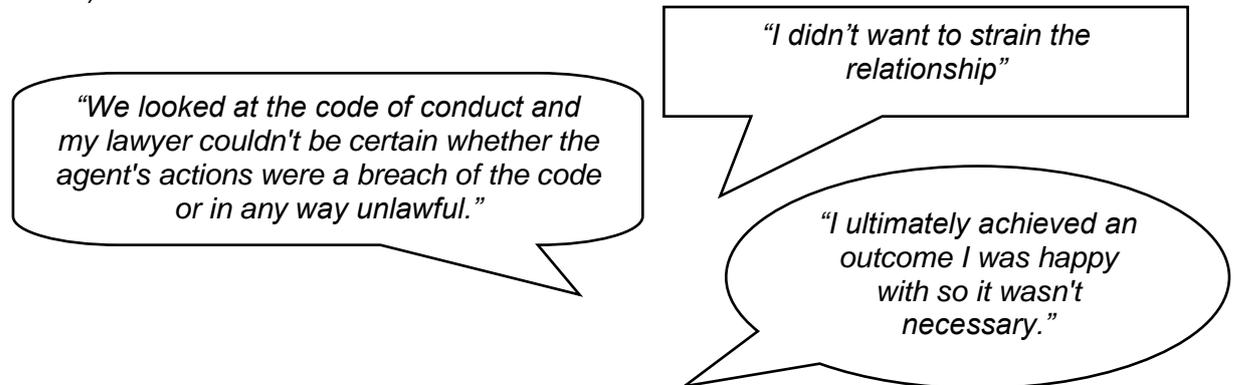
27 Respondents (67.5%) expressed an awareness of these codes of conduct while 13 respondents (32.5%) stated that they were not aware.



Respondents who were aware of the codes were subsequently asked whether or not they considered using these channels in relation to their negative experiences. Of these 27 respondents who were aware, 22 respondents (81.5%) said that they did not consider using these channels while the remaining 5 stated that they considered using them but ultimately did not (18.5%). None of the respondents who expressed an awareness of the codes of conduct made use of these channels.



The 5 respondents who **considered using this channel but ultimately did not**, cited various reasons for their decisions including a desire to avoid straining the relationship with the landlord (1 case), a feeling that accessing such channels was not necessary (2 cases) and a feeling that such channels would be of no help (2 cases).



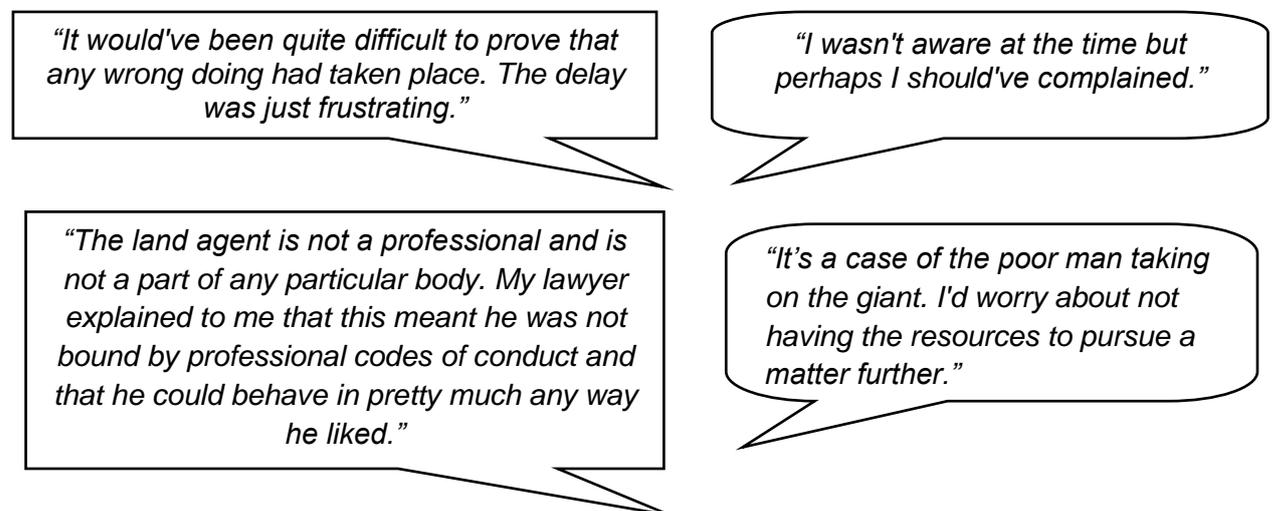
Respondents who **did not consider using these channels** cited some reasons that were similar including a feeling that accessing such channels would not be appropriate (2 cases) but the most common reason giving for their reluctance to engage with these channels was a feeling that the codes of conduct would be of no help to them (5 cases).

Another common reason cited was a lack of awareness at the time of their dispute (3 cases) although they have become aware of these channels recently which is why they expressed awareness when asked, but had not used the channels at the time.

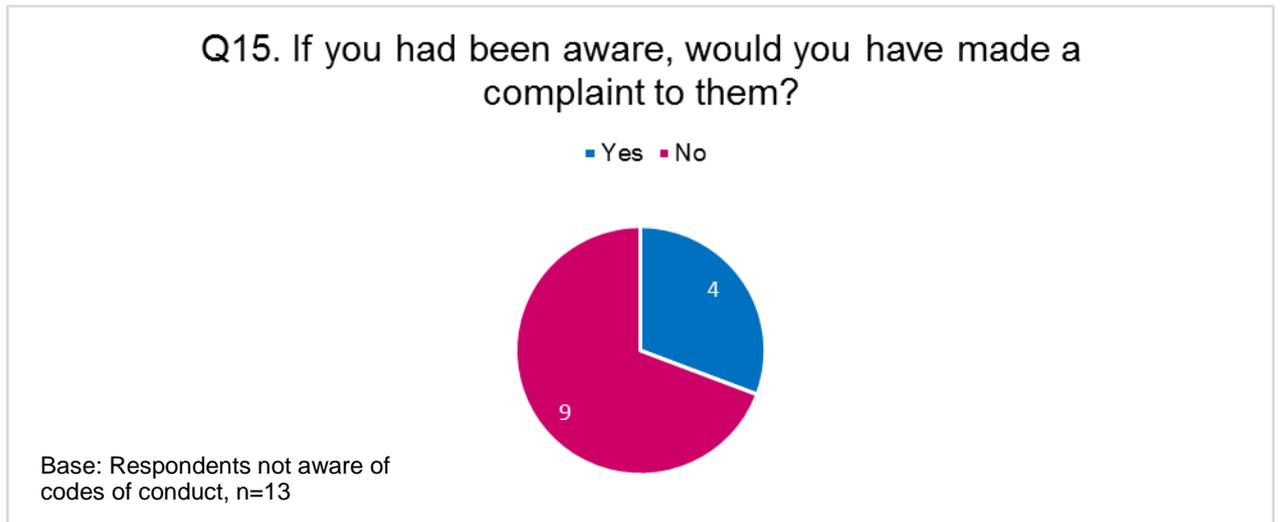
In 2 cases, respondents elaborated that their reluctance to use these channels stemmed from a fear of not having enough financial resources to pursue an issue.

Other concerns included:

- A feeling that the issue was not serious enough to merit a complaint (1 case)
- A fear that using the channels would “do more harm than good” (2 cases)
- A desire to avoid straining the relationship (1 case)



Respondents who were **not aware of these channels** were asked to consider whether or not they would have made use of these codes of conduct had they been aware of them at the time. Of the 13 respondents who were not aware of the codes, 9 respondents (69%) said that they would not have used the codes while 4 respondents (31%) said that they would.



The 9 respondents who stated they would not use these channels cited various reasons for this decision with the most common answers being a fear that the relationship with the landlord could be strained (4 cases) or a feeling that such action was not necessary when they could deal with the matter themselves (3 cases)

"We don't want to ruin relationship with the landlord. I'm not sure if he is even aware."

"There was no point because I could complain directly to the agent."

"It wasn't necessary. After the interaction, I ended my relationship with him as a land agent and no further action was required."

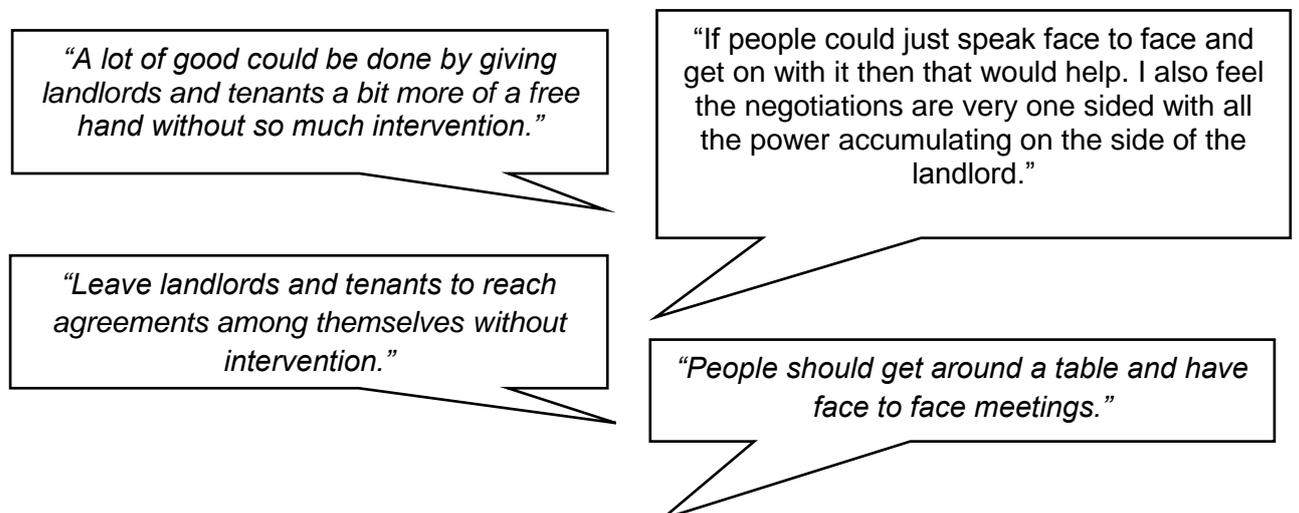
"If I had complained they probably would've found a way to get back at me through other aspects of the relationship like repairs."

The 4 respondents who stated that they would be prepared to make use of such channels were unable to identify which professional body they would complain to but stated the reason they would use these avenues was general frustration with their treatment and a feeling they were being treated unfairly.

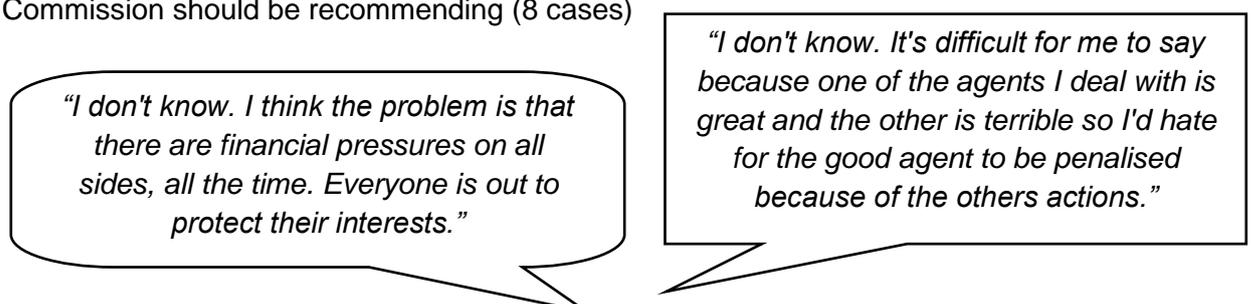


2.13 What should the Scottish Land Commission be recommending?

When asked what they believed the Scottish Land Commission should be doing to improve the relationships between landlords, tenants and agents, a range of recommendations were given but the most common suggestion given was allowing landlords and tenants to deal with each other directly without as much intervention from agents or through face to face meetings (8 cases).



A number of respondents stated that they did not know what the Scottish Land Commission should be recommending (8 cases)



"I'm not sure. The relationship I have with my landlord is perfectly good. I don't want to make enemies with them, I just want a fair agreement."

Others stated that they believed the legislation being progressed through the Scottish Parliament at the moment would go a long way towards rectifying their concerns (4 cases).

"I think the proposed codes of conduct that will be implemented will do a lot of good."

"I think the new legislation that is progressing through the Scottish Government that has fair rent provisions and guidelines for factors will go a long way toward addressing the problem."

2.14 Dissatisfactory Agents

In order to gain an understanding about whether the negative experiences being described were isolated instances or whether they were indicative of a more widespread problem. Respondents were then asked if they would be prepared to divulge the name and employer of the agent they had dealt with. Of the 40 respondents, 29 were prepared to answer this question while 11 respondents declined. Respondents gave a range of names and companies.

3.15 Additional Comments

When asked if they had any additional comments they wished to add, 75% of respondents gave a comment while 25% declined. Comments given by respondents were extremely diverse and consequently determining any specific trends was difficult.

- In 9 cases, respondents used their comment to elaborate further on the reason for their dissatisfaction with the agent citing issues which included causing unnecessary difficulties, lack of trust and in some instances, fear.
- In 8 cases, respondents used their comment to emphasise that agents do have a difficult job and that not all agents deserve to be criticised. Some respondents qualified this assertion by adding that it depends on the level of experience that an agent has.

"The agent who is dealing with the land transfer at the moment is causing difficulties. The transfer has become more protracted than it should be with simple things becoming needlessly complicated. I also feel agents of landlords tend to look down on tenant farmers and view them only as a means to make money for their employers."

"Where you have agents who act professionally and honestly then there is no problem. The vast majority of agents are fine. I think landlords and tenants should be more aware of the significance of negotiations from a business stand point because if one side cannot look at negotiations from a business perspective, they will start looking at it from an emotional perspective and I think that can hinder negotiations."

"I find there is a problem with finding agents who are neutral in the industry. The first agent I spoke to was ready to start world war three with the estate and rip them to shreds which I wasn't in favour of. The second agent (who is the one I was dissatisfied with) was more on the estate's side than mine. It was only after I ended the relationship with the 2nd agent that I found a fair, neutral person to act on my behalf and they were not a land agent."

"Agents have a difficult job and it can be hard for them to do at times."

APPENDIX 1: TOPIC GUIDE

Scottish Land Commission Follow up research with dissatisfied Topic guide

Good morning/ afternoon, you recently took part in a survey we were carrying out on behalf of the Scottish Land Commission about the views and experiences of tenant farmers and landlords with regard to the operation of agents. The SLC has asked us to do some follow up work with those that said they were dissatisfied, where they had given permission to be re-contacted, in order to explore the circumstances around dissatisfaction in a bit more depth. I wondered if you could spare about 10 minutes to talk about your situation in more depth?

Please be assured that all your answers will remain confidential and will not be fed back to the SLC or Tenant Farming Commissioner with reference to your name.

1. Firstly, I'd like to confirm that you were dissatisfied with and agent or agent? [CONFIRM FROM SURVEY RESPONSE]. At the time of interview you told us you were dissatisfied with:
 - a. Type of agent:

 - b. Reason for dissatisfaction:

2. Can I confirm by whom was the agent employed?

Myself (tenant farmer)	1
Myself (landlord)	2
Other party (tenant farmer)	3
Other party (landlord)	4

3. You said that you were dissatisfied with [TYPE OF AGENT] Are you happy to tell me a bit more about your dealings with the agent please? We want to establish the process that you went through with the agent and determine when and how things went wrong

a. What was the agent employed to do?

b. Was this transaction or interaction the first time you had dealings with this agent?

Yes	1
No	2
If not, how long had you been dealing with this agent?	

c. How did you mainly deal with this agent e.g. by telephone, face to face, email, letter?

d. How frequently did you deal with this agent through the discussions/ dealing with the issue? (weekly, monthly, less often).

4. Thinking about your dealings with this agent, can you tell me how satisfied or dissatisfied you were with respect to:

	Very Satisfied	Fairly Satisfied	Neither / Nor	Fairly Dissatisfied	Very Dissatisfied	DK/ NA
The way the transaction or interaction was dealt with	1	2	3	4	5	6
The time taken to deal with the transaction or interaction	1	2	3	4	5	6
Being kept up to date as the transaction / negotiations were being dealt with	1	2	3	4	5	6
The attitude of agent handling your transaction or interaction	1	2	3	4	5	6
The explanation given about the decision	1	2	3	4	5	6
The outcome of the transaction or interaction	1	2	3	4	5	6

5. Do you mind explaining why you say this, for each of these aspects of the service the agent gave?

The way the transaction or interaction was dealt with	
The time taken to deal with the transaction or interaction	
Being kept up to date as the transaction / negotiations were being dealt with	
The attitude of agent handling your transaction or interaction	
The outcome of the transaction or interaction	

6. Can you tell me at what point in your dealings with this agent you became dissatisfied, and why?

7. Thinking about all the dealings with the agent, what specifically was most dissatisfactory?

8. What, if anything, was satisfactory?

9. What could have been done to improve the negotiation/ transaction?

10. Just to confirm, you said that you [CONFIRM FROM SURVEY RESPONSE ORIGINALLY]

Made a complaint about your dissatisfaction	1	Go to Q11
Did not make a complaint about your dissatisfaction	2	Go to Q13

11. You said you made a complaint to [CODE FROM ORIGINAL RESPONSE]

The agent directly	1	Go to Q12
The landlord employing the agent	2	
The tenant employing the agent	3	
The agent's employer	4	
The agent's professional body e.g RICS/ ALA	5	
The Tenant Farming Commissioner	6	
Other (specify)	7	

12. Did this resolve the issue?

Yes, (can you please explain why)	1	Go to Q13
No (please explain why not)	2	

13. Are you aware that professional bodies have codes of conduct for their agents?

Yes	1	Go to Q14
No	2	Go to Q15

14. Did you consider using them?

Yes, I did complain to them (specify which one)	1	Go to Q16
Yes, I considered this but didn't complain (please explain why)	2	
No, I didn't consider using them (please explain why)	3	

15. If you had been aware, would you have made a complaint to them?

Yes, (specify which one and why you would have complained to them)	1	Go to Q16
No (please explain why not)	2	

16. What do you think SLC should be recommending to try and improve relationships between landlords, tenants and agents?

17. Do you mind telling me who the agent was that you were not satisfied with, their name and company? The Tenant Farming Commissioner is keen to establish whether there are issues with a small number of agents or whether the issues are more widespread. Identifying the agent will let us evaluate this. Please be assured that your name will not be held along with this and your individual circumstances will not be discussed.

Yes (insert name of agent, company and office)	1
No	2

18. Any other comments

19. Concluding with factual information to understand circumstances
(confirm from original survey responses):

- a. Tenant/ landlord
- b. Confirmation of farm size and geographical area and tenancy type.
- c. Length of relationship with tenant/ landlord

THANK AND CLOSE