

STATES OF JERSEY



MINIMUM STANDARDS FOR RENTED DWELLINGS: LICENSING REGULATIONS (S.R.1/2020) – RESPONSE OF THE MINISTER FOR THE ENVIRONMENT

**Presented to the States on 25th February 2020
by the Minister for the Environment**

STATES GREFFE

**MINIMUM STANDARDS FOR
RENTED DWELLINGS: LICENSING
REGULATIONS**

**JOINT RESPONSE FROM MINISTER
FOR THE ENVIRONMENT AND
MINISTER FOR CHILDREN AND
HOUSING**

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Minister for the Environment's Foreword

I would like to thank the Environment, Housing and Infrastructure Scrutiny Panel for their report dated 21 February 2020.

I acknowledge the concerns raised by the Panel and, to some degree, also understand that any new Regulations are not going to be fully supported by the sector it is intended for. Having read the report, I find several contradictions and would like to take the opportunity to address them.

Whilst the main focus of the report seems to be on the fees and the level of bureaucracy which the panel consider excessive, the Panel makes conflicting recommendations.

The panel suggests broadening the scope of the regulations to significantly increase income. Additionally, they also propose a 5-year licensing scheme similar to some in operation in the UK. It should be noted that these schemes operate with significantly more bureaucracy, requiring criminal record checks, references, licensing both landlords and properties separately, imposing mandatory training, many of these at an additional cost to the landlord. I want to avoid such checks on the landlord and it is for this reason that the proposed Regulations introduces an annual property licensing scheme.

Furthermore, I have seen evidence of poor-quality housing in Jersey from a few properties that are already subject to the lodging houses registration. These few properties are owned by landlords who hold themselves out to be 'professionals'. It is difficult to understand why a good landlord who maintains their property to modest minimum standards, should be concerned about completing an online form and paying a small annual fee. The fee is insignificant when compared to the income generated from that property and when compared to the other costs to a landlord i.e. insurance, managing agent fees, maintenance, foncier rates etc.

I am particularly concerned about the Panel's suggestion of the regulation resulting in increased 'associated costs' if, assumedly, they are referring to the cost of works to the property to achieve compliance with the minimum standards.

I am also concerned that insufficient weight is given to that of the tenant and those professionals who are tenant facing.

As Minister for the Environment, I have responsibility for the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 and it is my duty to take the necessary steps to ensure that the minimum standards are implemented. The regulations I have proposed will further enable our Environmental Health Officers to gather information with which to investigate and ensure that properties meet the most modest minimum standards.

Also, as a member of the current Assembly, I have a responsibility to fulfil the strategic priorities where possible. I firmly believe that these regulations will have a positive impact on children, the vulnerable in our community, improve the standard of

living, improve Islander's wellbeing and mental and physical health, and put children first.

I have given an undertaking to review the licensing scheme after year 1 and present my findings to the States Assembly. The review will include an assessment of the concerns raised in the Panel's report once we have the data and full picture available.

The Minister for Children and Housing wholeheartedly endorses my comments.

Response to Chair's foreword

In the Chair's foreword there are several points which should be addressed.

In the first opening paragraph reference is made to the 'tools' such as the 1934 and 1999 Laws and suggests that I have 'by-passed these in favour of proposed new legislation'. This conflicts with the Panel's own Introduction on page 14:

The draft Regulations fall under the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018, which sets out requirements for landlords to meet minimum standards for their rental properties. The Law includes a provision for the Minister to introduce (by Regulations) a Licensing scheme for rented dwellings.

In the absence of the Law prior to 2018 there were few powers available to officers to elicit improvements to substandard rented accommodation in Jersey. The Statutory Nuisances (Jersey) Law 1999 allows officers to ensure rented dwellings accommodation is "wind and water tight" and the Loi (1934) sur la Santé Publique has provision for closing houses under certain, very serious circumstances.

The primary legislation, the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 and the Public Health and Safety (Rented Dwellings – Minimum Standards and Prescribed Hazards) (Jersey) Order 2018, are Law and have been since October and December 2018 respectively. The shortcomings of the 1934 and 1999 Law are unarguable which is why the States Assembly adopted the new Law which in turn gave our Environmental Health officers modern, fit for purpose statutory tools.

Furthermore, the 'proposed legislation' is a short page set of Regulations which implements an annual licensing scheme. The scheme would provide officers with the information of which properties are rented in the island. This aspect of the regulation was not stimulated by any desire for immigration controls. However, the information collected by this proposed licensing scheme may be useful in any future policy making even though this was not the original intention.

The intended intention is to help ensure the health and safety of Islanders living in rented accommodation. Unlike owner occupiers, tenants do not have control over what they can or can't do to ensure the property is safe. I have reviewed the evidence before considering licensing and I am convinced that this is essential.

It is not surprising that there was little representation from Tenants. Licensing is needed so Environmental Health officers are equipped to enforce the current legislation. Officers will be able to help the tenant living in unsafe accommodation and will equip them to work constructively with landlords to bring about essential incremental and prioritised improvements. The Panel should have given more weight to the opinions of those professionals and organisations who are tenant facing.

This includes;

Citizens Advice - 'Removes the fear of speaking out'

Jersey Consumer Council - 'long overdue'

Children's Commissioner - 'Linked to United Nation convention of rights of the Child'

Medical Officer of Health - 'Very supportive, emphasising links with determinants of ill health'

Chartered Institute of Environmental Health - 'Welcomes the proposals leaving few loopholes'

Police - 'Safeguarding opportunities'

Fire & Rescue Services - 'Assist in protection and preservation of life'

It was noted at a public Scrutiny hearing on 7 January with the Jersey Landlords Association that they were unable to provide any details of how many landlords they represent. From a later comment made at a public meeting held the Parish of St Helier town hall, it was stated that the JLA number about 40 persons, who are mostly owners of registered lodging houses. It is worth recognising that the public meeting included many more landlords than the JLA represent.

The proposed fee structure was made publicly available throughout the consultation process and I have ensured they are as low as possible. I do not believe them to be disproportionate and have given an undertaking to review income and expenditure after the first year of licensing when I have better information of the rental sector.

The Panel focussed on the cost of licensing to Landlords, suggesting the projected income may exceed full cost recovery. I will reiterate that the figures provided to the panel were the best possible estimates and, as already stated, I have given assurances that the fees will be reviewed in year 2, when the information is available to update the estimates.

It is worth noting here that the Panel contradicts their argument regarding fees in its recommendations to charge Social Housing Providers and extending the scheme to bring in 'lodgers (2 or less) staying in owner occupied homes'. This would significantly increase income, the size and bureaucracy of the scheme, and be a disincentive for home owners to provide lodgings for 2 or less occupants.

The Rent Safe scheme is not 'duplication'. It is the consumer expression of what is required from an excellent landlord. It enables landlords to use their star rating as marketing material. Figure 1 is a pictorial representation of how Rent Safe demonstrates behaviours that are important to tenants that are not covered in legislation and not just the legal minimum (shown in blue), having energy efficient measures in place which is good for the tenant and good for the environment. It is for that reason, Rent Safe could not be mandatory. It goes beyond the remit of the legislation (yellow then green).

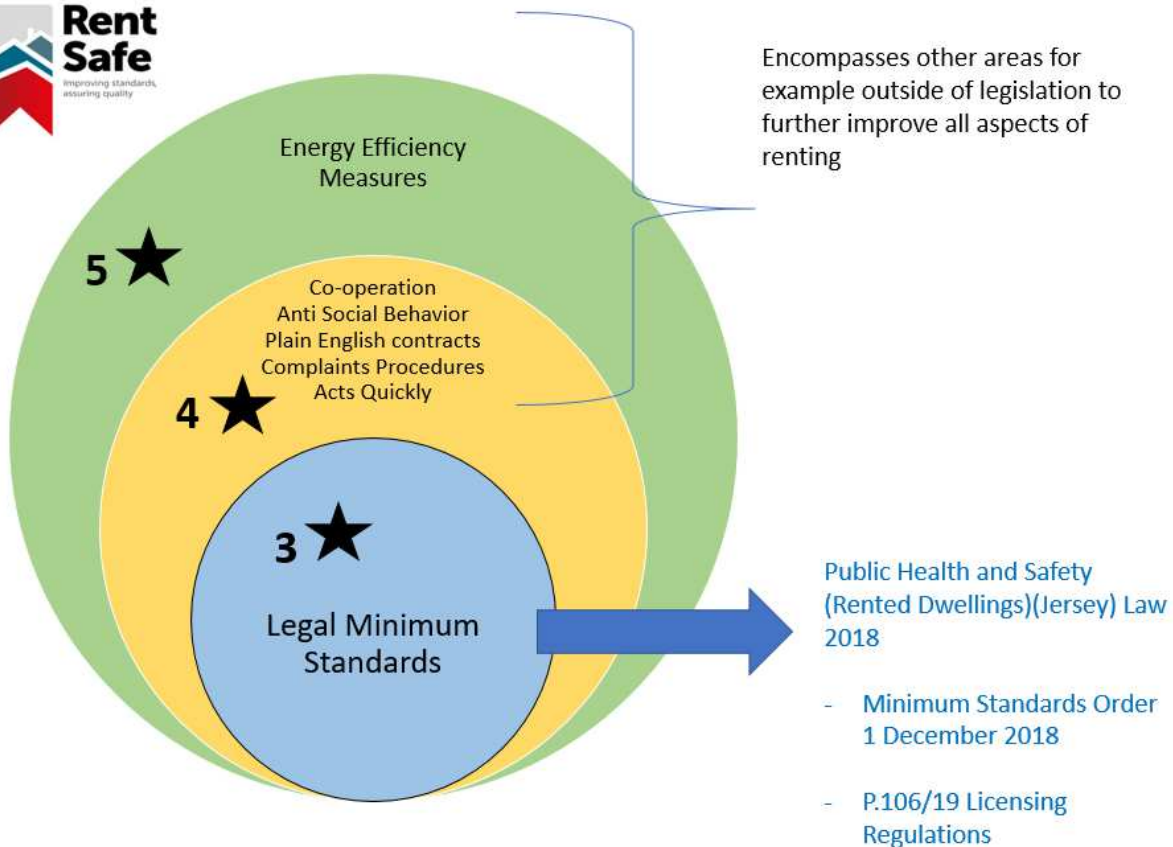


Figure 1

The Chartered Institute of Environmental Health in their response to the public consultation produced a detailed report with the Chartered Institute of Housing, reviewing some 27 licensing schemes across the UK, published in January 2019. They stated that licensing in parallel with voluntary accreditation schemes was common place. Furthermore, in direct response to the public consultation, the CIEH went on to say;

‘Combining the proposed scheme with an accreditation scheme for landlords and making this information easily available to existing and prospective tenants, could help to drive up standards in the private rented sector further.’

The Panel have expressed concern over the impact the licence fee may have on the return on investment. The Jersey Evening Post on 20 February 2020 published an article titled ‘Housing is a human right – not merely an investment opportunity’. In the article the author ends, and I quote;

‘Either we see housing as a human right, as homes to live in, ensuring they’re safe and affordable or we treat it as a commodity, an investment for already wealthy individuals to increase their wealth, passing it on to future generations tax-free at the expense of wider society. So far, it’s been the latter. Next Tuesday is an opportunity for States Members to address this imbalance and return to what the classical economists always understood. And let’s be honest, 77p a week is really not asking much’.

I sincerely hope the Panel are not suggesting that it is acceptable for properties to remain in a poor state of repair to protect landlords return on investment and overall supply?

I have been told of an advert on social media for a property which could only be described as a windowless basement store cupboard available to rent. Following a flurry of comments, one individual made a very telling comment which reflects the true divide.

Welcome to Jersey, where half of the people think this is a joke, and the other half are jumping at the chance to live there.

The Panel made reference to revenge evictions, lack of a whistleblowing process and the need for better documentation.

The licensing conditions introduces a requirement for Landlords to provide to their tenants written information explaining how they can raise an issue or make a complaint to the landlord or nominated other in relation to matters concerning their occupation, such as disrepair, pests and emergency issues relating to the security of the property.

This must also include the occupiers' right to complain to Environmental Health together with contact details. This is the 'whistleblowing' process.

As Environmental Health will be carrying out more inspections, Landlords will not be able to identify whether the inspection is in response to a complaint or routine, random or otherwise. It is hoped this will reduce 'revenge eviction'.

Model tenancy agreements and condition reports are already available on gov.je and Rent Safe acknowledges and recognises the value of these thorough discounting licensing fees to those landlords that utilise these documents as best practice.

However, the proposed Regulations only implement a licensing scheme under the vires of the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018, for the purposes of ensuring rented dwellings are safe.

The proposed licensing regulations will run in parallel with Rent Safe, they are two parts of what is one integrated scheme to improve housing standards. There is no question the Rent Safe component adds value, reduces fees and helps landlords and tenants whilst the licensing component gives legal force to ensuring minimum standards

The time scale to implement licensing is entirely appropriate. Every landlord is required by law to ensure rented dwellings are safe. This has been a legal requirement since 1 December 2018 and landlords have had 15 months to make any improvements required to their properties.

In response to Scrutiny's question of the 10 February 2020, *'are landlords given a period in which they can 'put things right' to obviate any sanctions in respect of the health and safety of their property'?*

The response sent by my Officer's that same day is as follows;

'Our ethos is persuasive compliance. If we were to find something that failed to meet minimum standards, our first approach is to discuss this with Landlords. We would confirm this in writing and ask the landlord to come back to us with a proposed time scale to put things right.

Only, if there was a lack of co-operation or if the landlord's timescale is unreasonably long would we progress to the next stage which would be service of a notice.

We would include a realistic time frame within the notice to complete the repairs.

Again, the landlord has a right to appeal. If there is no appeal or the appeal is lost, and the landlord does not comply with the notice, the Minister could choose to complete the work himself and recharge, and in any case a file would be prepared for the attention of the Attorney General. We have been operating on this basis since this legislation came into force on 1 December 2018.

Here is a [link](#) to our enforcement policy which is published on gov.je which supports our approach.'

Finally, the Panel conclude the Regulations are 'heavy handed and bureaucratic'. I firmly reject that conclusion, there is no sustainable basis for so arguing. At the same time, they have made some contradictory recommendations which will introduce significantly more bureaucracy and increase costs

While I understand the Panels "small government" "predisposition against the principle of introducing licensing of private rented dwellings which underpins the Panel's report, I do not share those views. They fly in face of the evidence of the necessity for regulation, accepted on two occasions when the States approved the Law.

I am unable to accept the Panel's recommendations. Members may like to know an initial briefing with the panel was held on 1 October 2019. I agreed to the panels request to defer the debate due on 12 November 2019 to enable hearings, to 21 January 2020 and a further delay to 4 February 2020 with further briefings and agreed another postponement to next week.

It is time enough; this debate must take place on 25 February 2020. States Members have a social responsibility to ensure 'we see housing as a human right, as homes to live in, ensuring they're safe and affordable'.

Response to Key Findings

Key Findings		
Finding #	Panel's Finding	Minister's Response
F1	The Rent Safe Scheme will operate alongside the licensing scheme that would be introduced under the draft Regulations.	Accepted
F2	Licence fee discounts for landlords who are part of a recognised accreditation scheme is considered 'common place' in the UK.	Accepted
F3	The rationale behind the decision to operate the Rent Safe Scheme and the proposed licencing scheme alongside each other is not clear to the Panel.	Not accepted I would refer the Panel to page 17 to 19 of their report. Please also see my explanation in my response to the Chairman's Foreword. Information can also be found on Gov.je here .
F4	At present there is no way of gathering data on the number of rental properties that exist, where they are located and the number of people that reside in the property. The Panel has been advised that the draft licencing scheme will provide such data.	Accepted
F5	It is currently unknown how many rented dwellings in Jersey fall below minimum standards.	Accepted
F6	The Citizens Advice Bureau recorded 1,887 cases in 2018 where housing advice was requested, of which only 128 (6.8%) of cases raised issues regarding housing conditions. The severity of the 128 cases, however, is unknown.	Citizens Advice gave examples to support these figures which included; damp, mould, inadequate or non-existent heating systems, dangerous electrical systems and not wind and water tight. The severity of some of these categories is in many cases self-evident. Officers tried to provide recent pictures to the Panel at the hearing on 3 December 2019, indicating very clearly the severity of recent

		<p>findings however these were dismissed.</p> <p>The Chief Executive of Citizens Advice, in a press release published on 10 June 2019, in backing the proposals said;</p> <p><i>'...this is welcomed as it will help tenants. Some people fear speaking out because of the fear of being asked to leave their property, but now they don't have to have fear'.</i></p> <p>Environmental Health have recently had cause to serve 144 improvement notices on a few properties for failure to make homes safe. This is despite giving them the time and opportunity to do so. In all these cases, sadly but not surprisingly, not one person complained!</p> <p>This demonstrates to me the need to press ahead. We have a social responsibility to do so. There is a fear culture and an unknown scale of the problem, very much behind 'closed doors'.</p>
F7	It has been estimated that the proposed scheme will raise £690,013 of revenue in 2020, increasing to £954,250 by 2023.	<p>The figure for 2020 is accepted. This was the best estimate based on the 2011 census.</p> <p>The figure for 2021 was an estimate put forward in the MTFP which was carried forward unchanged to the base GHE budget in 2019 and Government Plan in 2020. This was despite my objection as Minister during the government plan budget process which was unsatisfactory. I have undertaken that the fees will be reviewed and reduced to a level no greater than the costs of regulation.</p>
F8	The estimated revenue to be generated under the	Accepted in part

	<p>proposed scheme is based on a number of uncertain variables. Until the charging regime and fee structure for licencing under the draft regulations are finalised and the number of rental properties that fall within the scheme realised, it will be impossible to ascertain how much income the scheme will generate.</p>	<p>See my response to F4, F5 and F7</p>
F9	<p>The Panel is not satisfied that the Minister for the Environment has provided adequate justification as to why the proposed Licencing Scheme will cost a significant amount of £640,960 per annum to operate.</p>	<p>Not accepted</p> <p>A detailed breakdown of the estimated costs from GHE regulatory budget has been presented to the Panel some time ago. The Panel challenged the overheads as being excessive. The statement has since been verified by the GHE accounting officer and Treasury officers as accurate and within the Public Finance Manual. They have statutory accountability for 2020 budget and as Minister I accept it for year 1 of the scheme.</p> <p>The estimated expenditure took into consideration identifiable costs associated with the six environmental health officers who are working on housing standards and aspects of the regulations and law.</p> <p>It is a States approved policy that the cost of licensing should seek to recover the cost of regulation, sector by sector.</p> <p>I will undertake to provide the States Assembly with a report after Year 1, detailing my review into income and expenditure once the data is known and my proposals to adjust the licence fees accordingly.</p>

F10	The proposed scheme will generate an estimated annual income of £954,250 by 2023 but will only cost £640,960 per annum to operate.	<p>See my comment on F4, F5, F7, F8 and F9.</p> <p>The figures provided are best estimates. I will review the fees at the end of year 1 and reduce fees if necessary to no more than the equivalent of costs</p> <p>As more and more properties move into and achieve higher Rent Safe star ratings, income will decrease.</p>
F11	The Minister for the Environment has given an assurance that the income from the scheme will not be used to cross-subsidise other regulatory work. However, the Panel was also advised during a public hearing that regulatory income would be budgeted against the Department's regulatory budget as a whole.	<p>Any income into Government and use of that income must be undertaken in line with the Public Finances (Jersey) Law 2005.</p> <p>The panel have queried the ring fencing of income and cost in this service area but has not considered other incomes streams and their costs.</p> <p>The entire regulatory division of GHE is treated under current States policies as self-financing.</p> <p>If the Scrutiny Panel wish to challenge this current policy I would support them, but I question the wisdom of reaching piecemeal and selective conclusions. It is open to the Panel or PAC to conduct a review of finances across regulation, planning, building control, trading standards, environmental health among others</p> <p>I would not support restrictions on Officers cross working within the regulatory group of services nor increasing current administrative to reinforce a silo and forensic level of financial reporting for its own sake.</p>

		Notwithstanding this, I have committed to keeping fees under review.
F12	Unlike the Control of Housing and Work (Jersey) Law where 'any person' is required to complete a change of address form, the Public Health and Safety (Rented Dwellings) law 2018 puts the onus on the 'person having control' of the dwelling to provide the information and to keep it updated.	Accepted
F13	The draft Regulations, and the Report that accompanies the Regulations, provides limited detail as to the proposed inspection regime and fee structure under the licensing scheme. However, in accordance with draft Regulation 3(5), the Minister for the Environment will have to publish the charges imposed for the issue of a licence.	<p>It is not appropriate to publish details of the proposed inspection regime as this may assist those few who might wish to circumvent decent housing standards</p> <p>As explained at the hearings, there will be no annual inspections. Suggestions to the contrary from the JLA and supporters have been contradicted by the law officers. Inspection is only required for a new licence, not a renewal of existing. It will otherwise be discretionary.</p> <p>A combination of risk based, information and random checks will determine the frequency and order of inspections.</p> <p>The CIEH research (provided to the Panel) revealed a common feature of successful licensing schemes is where there is strong focus on proactively seeking out non-compliance.</p> <p>I will publish the charges imposed for licensing as required under Regulation 3(5) of P.106/19.</p>
F14	The introduction of fees under the licencing scheme, coupled with the costs associated with electrical inspections required under	<p>These are two separate issues.</p> <p>Electrical Safety Inspections are already a requirement under Article 7 of the Public Health and Safety</p>

	<p>the Minimum Standards legislation, may result in an increase in rent.</p>	<p>(Rented Dwellings – Minimum Standards and Prescribed Hazards) (Jersey) Order 2018.</p> <p>I note the comment by the Jersey Landlords’ Association reproduced on page 33 of their report. The ‘other additional costs’ are the cost of making their property safe, to minimum modest standards to comply with the Law as it stands today.</p> <p>This suggests that the JLA consider that the introduction of licensing will ‘discover’ defects and areas of non-compliance and, in turn, cause landlords to a seek remedy to these defects and pass the costs onto tenants.</p> <p>Minimum standards were introduced in December 2018. Tenants have the right underpinned by this legislation to be safe in their home.</p> <p>It remains to be seen if Landlords pass on this modest licence cost, however any increases however derived must be in accordance with the existing Tenancy agreement.</p>
F15	<p>The Minister for Children and Housing has a lack of insight regarding the current housing market.</p>	<p>Not accepted</p>
F16	<p>The Minister for Children and Housing intends to intervene directly with the housing market if the licencing scheme impacts current rental prices.</p>	<p>The Housing Policy Development Board is undertaking work aimed at addressing the issue of affordability in the rental sector.</p>
F17	<p>‘Staff Accommodation’, ‘Lodging Houses’ and ‘Tourist Accommodation’, which are registered under the Lodging Houses (Registration) (Jersey) Law 1962 and Tourism (Jersey) Law 1948,</p>	<p>Accepted</p> <p>I have agreed to make sure we avoid double charging such accommodation, nor charge disproportionately high amounts, recognising the challenges the</p>

	will not be subject to any additional fee on top of what is already paid. Staff accommodation not registered under the current Laws, but which meet the definition of 'Staff Accommodation', will be subject to a fee, but the proposed fee will be set on a maximum occupancy person count and not per dwelling.	industries face in providing essential shared staff accommodation of a decent standard The fee structure for Lodging Houses and Tourist accommodation under their respective legislation is also determined by maximum occupancy rate.
F18	The current fee structure does not appear to consider or address industries within the Island that provide self-contained units on a seasonal basis and the high costs that may be imposed on them as a result of the licencing scheme.	My response to this question is reproduced on pages 36 to 37 of the Panel's report. Provision has been made. In the example given, 10 x 2-person units in Year 1, if not Rent Safe accredited would see a reduction in fees from £2,500 to £400. Achieving 5 star Rent Safe accreditation would reduce this fee further by removing the application fee element and providing for a 75% discount on the annual licence fee for accommodating 20 persons in 10 separate units of accommodation. A copy of the revised charges is in Appendix 2
F19	Increased regulation and the additional costs of an annual licence fee may lead to rental properties being sold if they are no longer considered by the landlord to be a viable investment.	Environmental Health have seen cases where lodging houses have changed hands and the new owners are actively working with Environmental Health in carrying out essential improvements to bring these properties up to minimum standards. The Law requires these homes to be safe. If Landlords are not prepared to make investments which are required by Law, then it is right they hand over to those who are.

		<p>The rental market seems very buoyant and returns good. It is very likely we will see potential new landlords entering the market who would be and are willing to adopt the minimum standards and better</p> <p>There is a case for the Treasury Minister introducing income tax incentives for landlords incurring capital investment costs to bring properties into a good condition for renting. At present such expenditure is disallowed.</p>
F20	<p>Social Housing Providers, which include housing associations, housing trusts, registered charities, and the parishes, are given 100% discount on their properties if they are in 'Rent Safe'. There is a concern that this removes the incentive for social housing providers to improve their standard of accommodation.</p>	<p>Experience in working with Social Housing Providers which includes trusts and charities are that they are motivated to go above and beyond these minimum standards. It must be recognised that these Landlords provide public benefit.</p> <p>They often provide accommodation to tenants who find it hard to rent, and in the case of Andium Homes are subject to a rent cap.</p> <p>In the UK, under the Housing Act 2004, licensing exemptions apply to all tenancies and homes granted by a Registered Social Landlord.</p> <p>I have chosen to include these in the proposed scheme but exempt them from the fees subject to meeting 3* Minimum Standards. Non-profit organisations are exempted from paying tax because of their status in providing for a social need. Exempting them from other regulator fees is normal practice.</p>
F21	<p>Older properties may find it harder to achieve a 5-star rating under the Rent Safe Scheme as a result of current planning regulations and therefore incapable of being awarded a higher percentage</p>	<p>Each property is assessed on an individual basis. There are many measures, even with a notable number of constraints that can be put in place to improve energy efficiency.</p>

	discount under the proposed licencing scheme.	<p>The landlord will need to consider what cost-effective measures they can put in place.</p> <p>By way of an example, it is a misconception that a single glazed dwelling could never achieve a 5-star rating if a number of other measures were also put in place.</p> <p>I have undertaken to review planning rules for listed buildings to enable energy conservation. Over the past 3 years, on average 88% of applications for window replacements are approved, provided they are sympathetic to the character of the property.</p> <p>I have provided the Panel with reference to a research project by Purcell titled 'Historical Buildings Energy Study Jersey' published in July 2013 which makes the same point.</p> <p>There are a number of 5-star properties in Rent Safe who have achieved this standard despite constraints related to the age of the properties.</p> <p>Notwithstanding these comments, the restrictions on historic buildings are currently under review, as part of the Island Plan and climate change workstreams.</p>
F22	<i>Duplicate of F21</i>	
F23	The Draft Regulations and proposed licensing scheme do not capture private properties that rent out rooms.	<p>The Regulations can only extend to 'Rented Dwelling' as defined in Article 2 of the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018.</p> <p>The proposed licensing scheme extends to private properties where there are more than 2 persons staying for reward.</p>

		<p>Widening the scope would significantly increasing income, act as a disincentive for home owners to provide straightforward lodgings for 2 or less occupants and increase the cost of the scheme.</p> <p>This contradicts the concerns of the Panel</p>
F24	<p>Selective licensing schemes in the UK generally operate for a maximum of 5 years. Licences granted to landlords in the UK typically last for the duration of the scheme. In Wales, a licence expires at the end of a period of 5 years, beginning with the date it was granted unless the licence holder makes an application to renew the licence.</p>	<p>These schemes typically licence the property and the Landlord.</p> <p>There are also separate licence requirements for different 'arrangements' for example a licence as a sole owner, another licence for joint ownership and each and every other type of arrangement.</p> <p>The schemes often include criminal record checks, fit and proper checks, references, mandatory training and continual professional development. Fees are paid in full up front and many of the additional requirements are chargeable.</p> <p>Our approach is as simple and as straightforward as possible</p> <p>I believe the proposed annual licensing scheme does this, similar to many other annual licensing schemes currently in operation in Jersey. [lodging houses, tourist accommodation, alcohol licensing, places of refreshment, beach concessions, ice cream licences etc.]</p>

Response to Recommendations

Recommendations		
Recommendation #	Panel's Recommendation	Minister's Response
R1	The Minister for the Environment should explore the possibility of combining the Rent Safe Scheme and the proposed licensing scheme, following a bedding in period of the draft Regulations.	For all of the reasons outlined it is essential that Rent Safe runs in parallel to licensing. It is one scheme. I will keep this under review.
R2	The Minister for the Environment must publish an annual report to the States Assembly, detailing the amount of income generated by the proposed scheme.	I undertake to provide the States Assembly with a report after Year 1, detailing the review of income and expenditure once the data is known and publish proposals to adjust the licence fees accordingly.
R3	Before the debate of the draft Regulations, the Minister for the Environment must provide the States Assembly with further clarity as to the costs of operating the scheme.	I have attached the estimated income and expenditure as Appendix 1 to this report. These are estimates – see F4, F5, F7, F8, F9, F10.
R4	The Minister for the Environment must publish a report to the States Assembly per annum, detailing how the income generated from the scheme has been spent.	I undertake to provide the States Assembly with a report after Year 1, detailing my review into income and expenditure once the data is known and my proposals to adjust the licence fees accordingly.
R5	The Minister for the Environment must consult with the Panel prior to setting and publishing the finalised fee structure for the licensing scheme. This will enable the Panel to ensure that the licensing scheme will	The provision to set the fee is contained within Regulation 3(5) of P.106/19 and sits clearly with the Minister.

	not be generating more income than the amount it costs to operate.	
R6	The Minister for the Environment should undertake further work to ascertain the impact of the proposed licence fee on seasonal businesses and how the fee structure could be amended to ensure fairness and proportionately. The Minister must report back to the States Assembly with the outcome of the work prior to the implementation of the scheme.	<p>As in F18</p> <p>I refer the Panel to my response to this question reproduced on pages 36 to 37 of their report.</p> <p>Provision has been made. In the example given, 10 x 2-person units in Year 1, if not Rent Safe accredited would see a reduction in fees from £2,500 to £400.</p> <p>Achieving 5 star Rent Safe accreditation would reduce this licence fee further by removing the application fee element and providing for a 75% discount on the annual licence fee to just £100 per annum for accommodating 20 persons in 10 separate units of accommodation.</p> <p>A copy of the revised charging regime is in Appendix 2 to this response which outlines this position.</p>
R7	To ensure a level playing field across all housing providers, the Minister for the Environment should ensure that rented dwellings defined as 'Social Housing Providers' under the proposed scheme are not exempt from being charged an annual licence fee if they are Rent Safe accredited. Similar to private landlords, social housing providers should be awarded discounted	<p>I disagree. for the reasons I have indicated in F20.</p> <p>In the UK, under the Housing Act 2004, licensing exemptions apply to all tenancies and homes granted by a Registered Social Landlord. I have chosen to include these in the proposed scheme but exempt them from the fees subject to meeting 3* Minimum Standards.</p>

	license fees depending on their star rating under the Rent Safe accreditation scheme.	
R8	The Minister for the Environment should amend the current fee structure to ensure a graduation of fee charges according to the size of the property and the number of occupants the property is capable of housing.	<p>This recommendation is not clear enough to make comprehensive response and raises complications.</p> <p>Does the Panel mean property sizes by square meters or room numbers? When is a room a study and not a bedroom?</p> <p>If so, it has the potential to increase bureaucracy. I am also concerned that this may encourage reduced occupancy to keep the licence fee down.</p> <p>It would also cause significant issues if family circumstances changed and the tenant was in breach of the agreed occupancy for the licence. What would be the consequences?</p>
R9	The Minister for the Environment should amend the type of properties captured under the licencing scheme to include private house lodgings.	<p>This would require an amendment to the definition in Article 2 of the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018. Is the Panel proposing to impose Minimum Standards on any owner occupier with one lodger?</p> <p>This would require annual gas safety inspections, electrical safety inspections every 5 years etc.... This would bring a potentially huge number of additional properties into the licensing scheme requiring significantly more resources. This seems entirely at odds with the Chairman's Foreword.</p> <p>Is this not 'heavy handed and bureaucratic'?</p>
R10	In order to reduce the level of bureaucracy and costs for landlords, the Minister	<p>Please see my response to F24.</p> <p>I have attached the revised estimated income and expenditure</p>

	<p>for the Environment should amend the proposed licencing scheme and extend the validity of a license from one year to five years in line with the current practice in the United Kingdom.</p>	<p>based on this recommendation as Appendix 3 to this report.</p> <p>These are estimates – see F4, F5, F7, F8, F9, F10. They show that the income received would no longer cover the cost of regulation. This would require additional funding from taxation to the 2020 GHE budgets</p> <p>Environmental Health Officers would be diverted away from carrying out essential inspections, advice, guidance and complaints handling to chase and update inaccurate and out of date data which is only refreshed every 5 years. The register would be increasingly out of date for years 2-5.</p> <p>The licensing process will be an online form (supported by 2/3 of respondents to public consultation).</p> <p>Unlike some UK schemes which licence for 5 years, our scheme does not involve separate licensing for the landlord by ‘arrangement’, then by property, fit and proper checks including criminal record checks and mandatory training, all at additional cost to the landlord.</p> <p>The Regulations introduce simple annual licensing which is what many in the industry is used to. Environmental Health will require annual declaration of gas safety inspections and maximum and current occupancy levels to risk assess and prioritise their inspections.</p> <p>Annual licensing also encourages incremental improvements through the Rent Safe accreditation scheme in a relatively short period</p>
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		<p>of time and won't discourage short term rentals – 6, 12, 18 months, which may have an impact on supply.</p> <p>Finally, I will be unable to review how the scheme is working on an annual basis and adjust accordingly.</p>
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Appendix 1

	No's	Fee	Year 1	Year 1	Year 2	Year 2	Year 3	Year 3	Year 4	
			2020 Income	2021 Income	2022 Income	2023 Income				
Adjusted Licence income to correct financial year			01 April 2020 to 31-Dec-20	01 January 2021 to 31-Mar-21	Renewals 01 April 2021 to 31-Dec-21	01-Jan-22 to 31-Mar-22	Renewals 01 April 2022 to 31-Dec-22	01-Jan-23 to 31-Mar-23	Renewals 01 April 2023 to 31-Dec-23	
Rent Safe (2,772 properties – as of end Nov 2019)			Rent Safe (estimated 8,142 properties = 2772 (Nov 2019) + (85% 6,317))				Rent Safe (estimated 8,458 = 8,142 + 316)			Rent Safe (estimated 8,616)
32% (887) at 5* (£50 licence fee)	887	50	£33,263	£11,088	(1,835) at 5* 1835	£68,813	£22,938	(1,835) at 5* 1835	£68,813	
66% (1830) at 4* (£100 licence fee)	1830	100	£137,250	£45,750	(4,041) at 4* 4041	£303,075	£101,025	(4,041) at 4* 4041	£303,075	
2% (55) at 3* (£150 licence fee)	55	150	£6,188	£2,063	(2,266) at 3* 2266	£254,925	£84,975	(2,582) at 3* 2582	£308,250	
Total			£176,700	£58,900		£626,813	£208,938		£662,363	
Other Properties (6,317)			Other properties (948)				Other Properties (632)			Other Properties (316)
15% (948) at 5* (£50 licence fee)	948	50	£35,550	£11,850	Moved into Rent safe			Moved into Rent safe		
35% (2,211) at 4* (£100 licence fee)	2211	100	£165,825	£55,275	Moved into Rent safe			Moved into Rent safe		
35% (2,211) at 3* (£150 licence fee)	2211	150	£248,738	£82,913	Moved 2,211 3* to Rent safe table above 316 properties move from (Yr 1 not RS) into (Yr 2 3* RS) (£150 Lic fee)	316	£35,550	£11,850	316 properties from (Yr 2 not RS) into (Yr 3 3* RS) (£150 Lic fee)	
5% (316) not signing up to Rent Safe £50 application fee	316	50	£15,800	£0	316 new licences	316	£15,800	£0	158 new licences	
£200 licence fee		200	£47,400	£15,800	£200 licence fee	£47,400	£15,800	£200 licence fee	£23,700	
10% (632) initially falling to licence	632	0	£0	£0	316 not licenced	316	£0	£0	158 not licenced	
Total for Other Properties			£513,313	£165,838		£98,750	£27,650		£67,150	
Total Income			£690,013	£950,300		£966,100	£19,750		£954,250	

Staff Costs	
6 FTE	£385,000
GHE Regulation managerial oversight (not including wider GHE and Corporate overheads)	£95,000
Central business and administrative support	£42,000
Supplies and Services	
IT development and maintenance	£57,500
Equipment purchase	£1,500
Training incl travel	£13,000
3 Lease vehicles	£4,800
Fuel	£2,160
Office Rent and associated costs	£35,000
Other office consumables	£5,000
Total Expenditure	£640,960

Appendix 2

Revised Charging Structure

Proposed charging regime for licensing of rented dwellings

Subject to the approval in the States Assembly of P.106/2019, which will introduce a licensing scheme for rented dwellings, the Minister proposes to vary the charging regime as follows.

- To avoid double charging, 'Lodging Houses' and 'Staff Accommodation' registered under the Lodging Houses (Jersey) Law 1962 and Tourist Accommodation registered under the Tourism (Jersey) Law 1948 will not be subject to any fees.
- 'Staff Accommodation not registered under the Lodging Houses (Registration)(Jersey) Law 1962 will be treated in the same way as 'Hostel' type accommodation. Any fees due will be by maximum occupancy, subject to that accommodation being a single address, occupied by workers supporting one industry or owned by the same employer.

It is worth noting that advice sought from Revenue Jersey (Taxes Office) indicates that licence fees, as long as the payments fall to be "other periodical payments" (see A52(2)(a)) will be an allowable deduction against Jersey rental income for Tax purposes.

Fees charged

The fee structure is made up of 2 parts, the application fee and the annual licence fee.

Properties which have already been accredited by Government under the Rent Safe Scheme will require much lighter touch regulation. Such properties are exempt from the application fee and attract discounted annual licence fees.

Traditional type accommodation

Application fee¹ £50

Free for Rent Safe accredited dwellings

Annual licence fee £200

Discounts for Rent Safe Accredited dwellings:

- 100% for Social Housing providers
- 75% for 5* Rent Safe accredited dwellings
- 50% for 4* Rent Safe accredited dwellings
- 25% for 3* Rent Safe accredited dwellings

Dwellings registered under the Lodging Houses (Registration)(Jersey) Law or Tourism (Jersey) Law

No fees charged if the rented dwelling is registered under the Lodging Houses (Registration)(Jersey) Law 1962 or the Tourism (Jersey) Law 1948, provided it is registered for the entire duration of the licence period.

Hostel and Staff Accommodation

Hostel and Staff Accommodation not registered as above will be subject to a fee on the following basis

Application fee¹ £50
Free for Rent Safe accredited dwellings.

Annual licence fee based on maximum occupancy:
(babies under 1 = 0 persons, children 1-10 years = ½ person, over 10 years = 1 person):

Up to 10	£250
11 – 20	£350
21 and over	£400

Discounts for Rent Safe Accredited Dwellings:

- 100% for Social Housing providers
- 75% for 5* Rent Safe accredited dwellings
- 50% for 4* Rent Safe accredited dwellings
- 25% for 3* Rent Safe accredited dwellings

The 'Staff Accommodation' count should be derived from a collective single addressees (save for a unique room, apartment or block number), is owned by the same individual, company or group and is occupied solely by workers (and their families) within the owner's business or occupied by other workers within the same industry (for example Agriculture / Hospitality). Any application under 'staff accommodation' not meeting this criterion will be treated and charged as 'traditional types of accommodation'.

All other rented dwellings will be treated as 'traditional types of accommodation'.

¹ *The application fee is non-refundable and paid only at initial application, not on subsequent years.*

² *Social Housing Providers for the purpose of this scheme include Housing Associations, Housing Trusts, Charities, and The Parishes.*

Other charges

- Change of name or address details of any existing licence holder or managing agent - **No fee**
- Variation of licence instigated by Government - **No fee**
- Change of licence holder – **Application fee and licence fee**
- Revocation of licence - **No fee**
- Application to licence following revocation of licence - **Application fee and licence fee**
- Application refused by Government - **Application fee with no refund**
- Application withdrawn by the applicant - **Application fee with no refund**
- Application made in error - **Application fee with no refund**
- Licence lapsed, and new licence required - **Application fee and licence fee**

Consideration of the fee structure:

In setting these fees Government has taken into account that it may not set fees that are dissuasive, and any fees must be reasonable and proportionate to the cost of the licensing process, regulating the activity and the issuing of the licence. Government will continue to work hard to reduce the fees, whilst striking a balance between providing an effective service.

Appendix 3

	No's	Fee	2020	2021	2022	2023	2024
Adjusted Licence income to correct financial year			01 April to 31 Dec				
Rent Safe (2,772 properties as of end Nov 2019)							
32% (887) at 5* (£50 licence fee)	887	£ 50	£ 33,263	£ 11,088	£ -	£ -	£ -
66% (1830) at 4* (£100 licence fee)	1830	£ 100	£ 137,250	£ 45,750	£ -	£ -	£ -
2% (55) at 3* (£150 licence fee)	55	£ 150	£ 6,188	£ 2,063	£ -	£ -	£ -
Total for existing Rent Safe			£176,700	£ 58,900	£ -	£ -	£ -
Other Properties (6,317)							
15% (948) at 5* (£50 licence fee)	948	£ 50	£ 35,550	£ 11,850	£ -	£ -	£ -
35% (2,211) at 4* (£100 licence fee)	2211	£ 100	£ 165,825	£ 55,275	£ -	£ -	£ -
35% (2,211) at 3* (£150 licence fee)	2211	£ 150	£ 248,738	£ 82,913	£ -	£ -	£ -
5% (316) not signing up to Rent Safe £50 Application Fee	316	£ 50	£ 15,800	5% (316) not 10% (632) initially failing to licence Yr1	£ -	£ -	£ -
£200 licence fee	316	£ 200	£ 47,400	316 x £200	£ 15,800	£ -	£ -
10% (632) initially failing to licence £50 Application Fee		£ -	£ -	10% (632) initially failing to licence £50 Application Fee	£ 31,600		
£200 Licence fee		£ -	£ -	632 x £200	£ 126,400		
				5% (316) allowance for change of ownership and new builds £50 Application Fee	£ 15,800	£ 79,000	£ 79,000
				316 x £200	£ 63,200		
Total for Other Properties			£513,313	£ 402,838	£79,000	£79,000	£79,000
			2020	2021	2022	2023	2024
Overall Totals			£690,013	£ 461,738	£79,000	£79,000	£79,000

Staff Costs	2020	2021	2022	2023	2024
6 FTE	£385,000	£385,000	£385,000	£385,000	£385,000
GHE Regulation managerial oversight (not including wider GHE and Corporate overheads)	£95,000	£95,000	£95,000	£95,000	£95,000
Central business and administrative support	£42,000	£42,000	£42,000	£42,000	£42,000
Supplies and Services					
IT development and maintenance	£57,500	£15,000	£15,000	£15,000	£15,000
Equipment purchase	£1,500	£3,000	£3,000	£3,000	£3,000
Training incl travel	£13,000	£5,000	£5,000	£5,000	£5,000
3 Lease vehicles	£4,800	£4,800	£4,800	£4,800	£4,800
Fuel	£2,160	£2,160	£2,160	£2,160	£2,160
Office Rent and associated costs	£35,000	£35,000	£35,000	£35,000	£35,000
Other office consumables	£5,000	£5,000	£5,000	£5,000	£5,000
Total Expenditure	£640,960	£591,960	£591,960	£591,960	£591,960

