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Connétable Mike Jackson
Chairman
EH&I Scrutiny Panel
BY EMAIL

12 December 2019

Dear Mike

Re P.106/2019 Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 201-. – Public Review Hearing – Additional Written Questions

Thank you for your letter dated 4 December 2019.

Please see below response to the Panel's questions:

- 1. The draft Regulations state that the Minister must inspect the premises before a licence is issued. How many premises do you believe will require licensing and therefore inspection?**

All rental dwellings falling within the definition under Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 will require licensing under the proposed Regulations, however not all require inspections before issuing a licence. Steps have been taken to mitigate a surge in demand.

In the first instance, the free and voluntary Rent Safe scheme was introduced ahead of licensing for landlords to be recognised and encouraged to exceed minimum standards. These properties would have undergone inspections. To date, over 7,000 of the estimated 15,000 stock are applying or are accredited.

The 15,000 total were based on data from the 2011 census and from social housing providers.

In addition, Regulation 6 titled 'Transition provisions' allows the Minister to issue a licence during a specified period without inspection. This is by virtue of Regulation 6(2). Therefore, any applications received before 30 June 2020 will be granted 'grandfather rights', where they will be automatically granted a licence without an inspection. Environmental Health will then take a risk-based approach utilising the information in the application and other factors to schedule future inspections.

It is worth noting that within the Regulations nothing requires 'annual inspections'.

Only licence applications received after 30 June which are not Rent Safe accredited (having been inspected) will require an inspection of the dwelling under Regulation 3(3)(a).

It is impossible to predict how many landlords either fail to obtain 'grandfather rights' or are not Rent Safe accredited, but as outlined above, the design of the licensing scheme mitigates a surge in demand.

2. What manpower in terms of current FTE's is currently in place to realise this regulation, inspection and enforcement regime? Do you consider this to be sufficient?

Environmental Health currently enforce minimum standards which came in during December 2018.

It is our belief that the current FTE's are sufficient to administer any additional work brought about by these Regulations. However, Environmental Health staff are cross skilled in order to react to fluctuating demands. FTE's currently stands at 13.76. Of this, 6 FTE are dedicated to housing and community related matters.

The caveat is that should further housing work move into the GHE Regulation portfolio from other areas of Government then resources will have to be addressed.

Therefore, our intention remains to resource this proposed licensing scheme from within existing departmental budgets and FTE's.

3. Is there any proposal to increase the number of FTE's to manage this workload?

No. See the answer to Q2

4. What income are you forecasting to receive from receipt of the proposed licensing scheme fees?

Please see Appendix A.

5. The report preceding the draft Regulations states that the Regulations will ensure that the Government, for the first time ever, develops data about property in the rental sector. On that basis how is it possible to determine that there will be no need to increase departmental budgets to cover the costs of the activities that require regulation, inspection and enforcement?

We believe that the majority of landlords will apply for their licence within the 'grandfather rights' period.

6. It is already a requirement of the Control of Housing and Work Law (Jersey) 2012 that any person who moves address in Jersey must complete a Change of Address form and return this form to the Customer and Local Services Department. The form already requires the names to be listed of all occupants of the property.

- i. **Could this form simply not be adapted to also include the type of property and type occupancy (i.e. 2-bedroom house – private rental / 3 bedroom flat – social rental etc.) and this information be shared with your Department in order to collect data of the number of rental properties on the Island? If not, why not?**

The Control of Housing and Work (Jersey) Law requires 'any person' to complete a change of address form.

The responsibility to ensure compliance in relation to 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 sits very clearly with the 'person having control' of the dwelling, as defined in the Regulations. Therefore, the responsibility to provide the information, keep it up to date and sanctions for being unlicensed sit with those persons having control. This should not be deflected to tenants, in the same way that inspections should not only take place on receipt of complaint.

- 7. There will inevitably be limitations for older properties and how they can be renovated to meet certain standards. It is conceivable that owners of older properties will not be able to achieve the higher star ratings under the RentSafe scheme and therefore will not be possible for them to achieve the discounts provided for in the proposed licensing fee structure.**
- i. Do you consider this to be fair?**

Yes.

Reference should be drawn to the submission to the consultation feedback by the Chartered Institute of Environmental Health. More specifically their research project in partnership with the Chartered Institute of Housing – 'A licence to Rent' published in January 2019.

The research examined existing licensing schemes to assess the benefits achieved and suggest ways in which these schemes could be improved. Of the 27 schemes in operation across the UK, reference to discounts for landlords who are part of a recognised accreditation scheme was considered 'common place'. In their individual feedback to the public consultation on the proposed Jersey scheme, they stated that 'combining the proposed scheme with an accreditation scheme for landlords and making this information easily available to existing and prospective tenants, could help drive up standards in the private rented sector further'.

The difference between a 4 and 5 star Rent Safe accredited property is that energy efficient measures are in place.

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. The landlord will undoubtedly have to consider what cost-effective measures they can put in place. 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.

Reference should also be drawn to a research project by Purcell titled 'Historical Buildings Energy Study Jersey' published in July 2013 which makes the same point.

There are a number of 5-star properties in Rent Safe who have achieved this standard despite of constraints related to the age of the properties.

- ii. **Have you considered any potential unintended consequences this might have? For example, lack of investment/demand in the property market for these types of properties.**

The Chartered Institute commented that landlords tend to become more willing to do the required works on their properties once selective licensing schemes have been set up in their area. The attitudes of landlords had changed, and these observations were backed up by the large number of works being done to remedy hazards and defects, without formal action being taken, being a faster and cheaper route to resolve issues.

- 8. Did you consider setting fees at a percentage of rental value? If so, why was this discounted? If not, why not?**

A range of options were considered but it was clear from the outset that the scheme should be simple to administer to remove unnecessary administrative costs.

The cost of administering the proposed licensing scheme for a one-bedroom dwelling is broadly similar however in your example there will be many variable factors that allow for a great deal of variance in the rental income. Those dwellings with 'good views', in prime locations and new builds likely to command a higher rental value would be unfairly subject to a higher licensing fees which arguably are more likely to meet and exceed minimum standards.

- 9. Some submissions to the Panel commented that costs should come out of the tax Landlord's pay on income and not additional licensing fees. What are your views on this?**

The scheme has been designed to meet the cost of regulating the sector rather than placing the burden on the Tax payer. Withdrawing tax revenue from individual's taxable income streams would disadvantage the collective tax payer.

- 10. A number of submissions referred to license fees as a 'stealth tax' – what do you say to this?**

See answer above. This is a license fee.

- 11. Please can you advise what research has been undertaken by the Department, prior to these proposals to investigate similar licensing schemes in other jurisdictions?**

The Department referred to the research undertaken by the Chartered Institute of Environmental Health and the Chartered Institute of Housing titled 'A licence to Rent' published in January 2019.

Minister for the Environment



If the Panel requires any further information, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read "John Young".

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