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Connétable Mike Jackson
Chairman
EH&I Scrutiny Panel
BY EMAIL

13 January 2020

Dear Mike

Environment, Housing and Infrastructure Panel: Draft Public Health and Safety Licensing Regulations Review Hearing with the Jersey Landlords' Association

Further to the Panel's review hearing with the Jersey Landlords' Association (JLA) on Tuesday 7 January 2020, I would like to provide the Panel with some comments from myself and the department on the topics which were covered.

Consultation and engagement with the JLA

I can confirm that, contrary to comments made at the hearing, invites were sent to JLA throughout the consultation periods for the suite of recently adopted legislation, additional workshops and the public briefing sessions on P.106/2019. We have the correspondence and responses from JLA.

Officers spoke at the JLA's AGM in May 2019. This was followed up with emails providing JLA with links to the consultation page on the gov.je website, invites to sign up through Eventbrite to attend briefing sessions to complement the online consultation and including the following offer:-

'We would of course be more than happy to run a separate briefing for your members and if you feel this would be of benefit please do not hesitate to contact me'.

JLA did not take up this offer, however the public briefing sessions were well attended.

Potential inconvenience to Tenants when conducting inspections

Under current legislation, officers have to give a minimum of 24 hours notice to tenants before entry, with the inspection being within reasonable hours. The same notice period applies to landlords needing to enter their dwelling. There are of course exceptions, in the event of emergencies.

In reality, officers work with landlords to schedule inspections often weeks and months in advance and have done so on this basis since the legislation was in force. To date there have been no complaints. Officers will if necessary attend out of conventional office hours so as to not inconvenience tenants and landlords. They also utilise opportunities when others may need to attend such as contractors carrying out essential repairs and maintenance and landlords carrying out their own regular checks. We therefore have not and do not foresee an issue with convenience.

Landlords of Lodging Houses

Landlords registered under the Lodging Houses (Registration)(Jersey) Law 1962 will not be subject to double charging as a result of P.106/201, if adopted by the States Assembly.

They will receive Licences for those registered dwellings so long as they remain registered during the licence period. Registrations under the Tourism (Jersey) Law 1948 will also be treated in the same way.

Any dwellings not registered under this Law will be required to obtain a licence.

Revenge evictions

It is the opinion of the department that the potential for a revenge eviction taking place would be reduced following the adoption of P.106/2019. This is not only our view but that held by Citizens Advice (ref. page 174 'Summary of consultation feedback – Proposals on licensing of private rental properties' - Press release 10 June 2019 'CAB backing for landlord register').

Licensing will give the Department the data in order to carry out a program of risk based inspections.

It is worth highlighting again that there are no 'annual inspections' despite what appears to be misinformation. Therefore if a tenant wants to make a complaint to Environmental Health, Officers can make arrangements to carry out an inspection and it would be impossible for the Landlord to know if this was as a result of a complaint or part of their pro-active inspection program.

Furthermore, the representatives for the JLA commented that revenge evictions were low, however, officers in the department have been witness to revenge evictions. Unfortunately, when the department becomes aware of a situation, it is typically at the stage when it is too late and the tenant has moved out.

Low standard accommodation

During the hearing, a representative for the JLA commented that there are units of accommodation that are of a very low standard, very basic but were cheap. Examples given included chalets and wooden sheds in gardens, where the occupants could use the toilets in the landlord's home. They then commented about there being no desire to improve for example the insulation of such dwellings as they would only be occupied during the summer months (presumably by seasonal workers) and therefore there needed to be a degree of flexibility to apply 'appropriate' standards.

It is important to note that regardless of the period when accommodation is inhabited, all accommodation should meet minimum standards currently in place within the law. Insulation is essential to maintain an acceptable temperature to protect from extreme heat as well as cold.

Everyone deserves to live in a home that will keep them and their families safe and well. There is not and will not be exceptions to this, irrespective of lower rents, who occupies the dwelling or at what times of the year.

Licensing schemes versus registrations and their effectiveness

Licensing schemes differ from registration schemes. The latter is telling Government a business is doing something. The former is permitting the activity to take place. Whilst they may seem similar, the uptake and accuracy of the data can vary significantly.

In a recent example, all food businesses are required to register with Environmental Health. Following the successful introduction of the voluntary Eat Safe scheme, food registrations

increased significantly. There was an incentive to be in the scheme which highlighted the number of unregistered businesses now coming forward.

Data also becomes out of date very quickly. Annual renewals ensure accuracy is maintained.

Potential risk of Landlords exiting the industry

The Department does not hold information on the number of landlords in the rental industry. The introduction of a licensing scheme will assist in capturing this data. They have seen some movement but this does not appear to be anything above and beyond business as usual and in some cases this may be down to reorganisation of assets.

However, where the rented dwelling is part of a licensing or registration scheme, thus known to the Department, prospective buyers are encouraged to request from the seller any Environmental Health inspection reports to help them make an informed decision. This will tell then on the inspection date, the status of the rented dwelling against an assessment of statutory minimum standards and any remedial action that is required.

There were a couple of occasions last year where this took place and the new owners, in receipt of this information invested in these properties, bringing these up to standard and in one case returning existing tenants to newly refurbished dwellings as and when complete.

It should be noted that feedback from some landlords to the public consultation cited having to sell some properties to 'families'. The department does not encourage nor discourage what form of accommodation, in terms of ownership, an individual may choose to inhabit; these being either through rented or private ownership. From a regulation standpoint, the legislation requiring minimum standards is already in force. The proposed Regulations are to implement a licensing scheme to assist Environmental Health identify properties that are required to meet these modest standards and thus safeguard the health and safety of occupants.

Available / existing data

Data relating to dwellings does exist in some forms for example, the Parishes Rates Register. However, this data does has several significant limitation.

There is no validation of the information supplied, owners can and do state that they are occupiers of a property even when it is leased. A lodger or person occupying under a 'licence agreement' is not an 'occupier' under the Rates Law, so does not have to be declared, the records are only correct as of 1st January each year. Any changes will not be reflected until the following year. Finally, share hold properties will be listed in the name of the holding company and not individual owners and occupiers.

Similarly, there are limitation sin the information collected in the 'Change of address' form under the Control of Housing and Work (Jersey) Law. As detailed in my letter to you dated 12 December 2019, 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.

The department therefore maintains the view that by introducing a licensing scheme, a robust database will be created which is fit for purpose, which is to know where to inspect and obtain sufficient information to assist in risk assessments of those dwellings.

There will be a duty on Landlords to notify the department of any changes in addition to annual renewals in order to maintain accuracy. Other information is also required such as current occupancy and maximum occupancy in order to safeguard against overcrowding.

Rent safe and accompanying costs

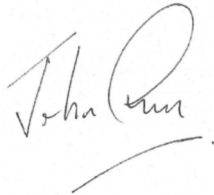
It was expressed during the briefing that the costs of the scheme was unfair to those at different Rent Safe accredited star ratings, due to the discounts applied.

It is my intention to reward those landlords that go above and beyond in relation to minimum standards and other tenancy related issues, thereby creating an incentive for the sector to increase the quality of the overall rental offering.

This is in line with many licensing schemes in operation throughout the UK and supported by the Chartered Institute of Environmental Health, in their submission to the public consultation following the publication of their joint report with the Chartered Institute of Housing, 'assessing the effectiveness of selective housing schemes in England'.

In conclusion, I appreciate that the Panel are finalising their report prior to the debate of P.106/2019 in February 2020, and I hope that the above proves to be of assistance in doing so.

Yours sincerely



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