



States Greffe

Deputy Steve Luce, Minister for the Environment

BY EMAIL

29th April 2024

Dear Minister,

Rented Dwelling Licensing and Code of Practice

The Panel would like to thank you and your officers for the time you took this week to meet with the Panel to provide information on the recently published Rented Dwelling Licensing Scheme and Code of Practice, in advance of the launch of licensing in May. The Panel also appreciates that in the lead up to this launch you and officers have been holding events to provide information about the application process, the required minimum standards and prescribed hazards.

Following our meeting, and considerations of issues which have been raised by stakeholders, the Panel feels that there are a number of areas that require further clarification and/or action on the part of the Department in order to ensure that the purpose of the Code of Practice is fully understood, that it fulfils need for which it was drafted and that the application system for the licence itself is easy to use for all landlords.

1. Consultation

One of the concerns raised during the former Environment, Housing and Infrastructure Panel's review of the Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 202- was that there was significant uncertainty about how the licensing scheme would operate and be enforced in practice.¹

The Panel accepts your assurance that it is your intention that the Code of Practice is a living document and will be subject to change following feedback from stakeholders. The Panel notes from your letter of 10th April 2024 that engagement undertaken prior to publication was with internal stakeholders on a technical basis.²

In the light of the uncertainty expressed by landlords throughout this process, the Panel would ask what your rationale was for not consulting with the Jersey Landlords Association directly as a representative body ahead of the publication of the Code of Practice as provided for in Article 4 (1) of the Public Health and Safety (Rented Dwellings) (Jersey) (Law 2018 ("the 2018 Law"))?

¹ [p.40-2023 com.pdf \(gov.je\)](#)

² [Letter - Minister for Environment to EHI re Rented Dwelling Licensing - 10 April 2024.pdf \(gov.je\)](#)

2. Purpose of the Code of Practice

The Panel believes that there remains significant confusion about the purpose of the Code of Practice and how – or whether – it is intended to provide landlords with practical remedies that should be taken to correct or reduce hazards.

It would be grateful for clarity on whether the Code of Practice, as currently drafted, fulfils Article 4.1(a) of the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 which states that Codes of Practice may be prepared by the Minister '*for the purpose of providing practical guidance in respect of any provision of this Law or any Order made under this Law*'.³ The Panel acknowledges that the Code of Practice (as currently drafted) identifies a large number of potential areas of concern but, as against that, contains little in the way of actual guidance as to how these might be addressed. In the course of the briefing provided it was emphasised that it was simply not possible within the Code of Practice to cover every possible scenario and that it was your hope that, where landlords recognised a potential problem, they would actively engage with the Department and that officers would be readily available to address those concerns.

The Panel believes that this clarity of purpose is particularly important in the context of the potential for proceedings under Article 4 (3) of the law and would be grateful for your view on this. Article 4 (3) states that:

(3) A failure on the part of any person to follow any guidance contained in a code issued under this Article shall not of itself render that person liable to proceedings of any kind, but –

(a) any such code shall be admissible in evidence in criminal proceedings; and

(b) if any provision of the code appears to the court conducting any proceedings to be relevant to any question arising in the proceedings, it shall be taken into account in determining that question.

The Panel accepts that, to a certain extent, the intention as to any enforcement action being used as a tool of last resort, is reflected in the Summary. However, as this is not to be found until page 9 of the current version, the Panel considers that such provisions could more usefully appear within the introduction. Also, without wishing to suggest any particular wording in a revised version, your (and the Department's) intentions might be better reflected if amendments along the following lines were made:

- At the end of what is currently 9.1 add: and to encourage such owners (or landlords) to seek guidance from the Department on any particular situation; and
- At the end of 9.2 add a new sentence: It will therefore be appreciated that, other than in severe cases or where there is imminent risk, authorised officers would hope to resolve any interpretation by means of engagement rather than through any proceedings.

3. Assessment of hazards

There are specific areas of the Code of Practice about which the Panel remains unclear. Section 7.1 is representative for the Panel of the lack of clarity which the document provides to property owners on both the use of the document and the guidance which they should seek. The paragraph states that:

³ [Public Health and Safety \(Rented Dwellings\) \(Jersey\) Law 2018 \(jerseylaw.je\)](#)

*Using details of the deficiencies identified which contribute to hazards, the authorised officer should score each hazard which is obviously worse than the average for that age and type of dwelling.*⁴

In this instance, it is felt that while the potential for hazard is identified and that the age and type of dwelling may be a factor, there is no guidance for a property owner on how they would self-assess whether a given hazard was 'worse than average' for the property in question.

Please could you provide clarity on whether or not it was intended to provide this level of practical guidance and how officers intend to assess a property against Section 7.1?

Please could you also provide further guidance on what data and evidence the department holds on expected typical hazards for different types and ages of property to inform these decisions?

4. Issuing of licences

Please could you outline the advice you have received on the practical application of Article 3 of the Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 2023 which reads as follows:

Issue of licences

- (1) *The Minister must license a dwelling to be used as a rented dwelling if –*
- (a) the Minister receives a valid application for a licence in respect of the dwelling; and*
 - (b) the Minister is satisfied that –*
 - (i) the dwelling meets the minimum safety standards, and*
 - (ii) there is no prescribed hazard present in the dwelling*⁵

The Panel would be grateful if you could clarify how it is intended⁶ to implement part b(ii) in the context of section 3 of the Code of Practice which would appear to acknowledge that a prescribed hazard may be present in a property and that a landlord is responsible for determining and reducing the severity of hazards.

5. Inspections

The Panel welcomes the assurance that inspections will be carried out on a risk-based approach that focuses on properties which cause the most concern but would ask the Minister to ensure that future communications and the web page make the inspection process, timing and criteria clear.

6. Accessibility

It was not immediately clear to the Panel where the 'toolkit' referred to in previous conversations and in the Government's news release at the time of release could be found. It now understands that the 'toolkit' refers to the explanatory web page on gov.je which is entitled 'Rented dwellings licensing'. It does not believe that this is clear without the web page itself being clearly labelled as the toolkit.

The Panel would also suggest that the presence of the 'toolkit' in web page format only excludes users who are not online.

⁴ [Rented Dwellings Licensing code of practice.pdf \(gov.je\)](#)

⁵ [Public Health and Safety \(Rented Dwellings\) \(Licensing\) \(Jersey\) Regulations 2023 \(jerseylaw.je\)](#)

⁶ [Rented Dwellings Licensing code of practice.pdf \(gov.je\)](#)

The Panel is reassured by your commitment (referenced above) to work with stakeholders to continue making improvements to the Code of Practice. It would further suggest that consideration is given to:

- a clear infographic outlining the process for licensing including application, inspections, hazard identification and remedy;
- images which would assist in the identification of hazards; and,
- a more user-friendly toolkit.

7. Technology and application process

It is the Panel's understanding that there are a number of issues which are affecting the application process itself. This includes difficulties for those who are not able to use the online form for whatever reason.

While the Panel welcomes the reassurance that efforts will be made to assist these applicants, it remains unclear what process will be used to make sure that the resulting paperwork is issued manually in those cases.

Please could you:

- Detail the issues which have arisen with the online application and payment process and the timeline(s) for resolving these issues;
- Specify the process that will be implemented for applicants who are not online, including the receipt of a 'hard copy' of the licence document, as required; and,
- Provide an explanation for the issue which has arisen for applicants who are already using the Rent Safe Scheme and your timeline for resolution.

8. Resourcing

As referenced earlier in this letter, during this Panel's briefing and the public information sessions, officers have been clear that they are available to answer people's questions in relation to the licensing scheme and the Code of Practice. Are you satisfied that there is sufficient capacity within the team to answer direct queries efficiently and quickly?

The Panel appreciates that it may not be possible to respond fully to all the issues raised in this letter within the usual five working days, however, it would appreciate your earliest response and an indication of when this can be expected.

Yours sincerely,



Deputy Hilary Jeune
Chair, Environment, Housing and Infrastructure Panel