



BY EMAIL TO: n.hall3@gov.je

10 July 2023

Dear Deputies Luce and Le Hegarat and Constables Jackson and Johnson

P.40/2023 - DRAFT PUBLIC HEALTH AND SAFETY (RENTED DWELLINGS) (LICENSING) (JERSEY) REGULATIONS 202- (THE "PROPOSITION")

Many thanks for the opportunity to communicate our views on the above-mentioned Proposition to you.

The Jersey Landlords' Association (the "JLA") is an organisation which represents the interests of residential landlords in Jersey. We now have over 230 members. Many of our members are responsible for only one residential unit, whereas others are responsible for many more. Our goal is to promote an environment in which relationships between Jersey's landlords and their tenants can thrive. The JLA aid and assist our members in driving up standards, achieving a high level of legal and regulatory compliance and promoting industry best practice. We hold regular training sessions covering different topics relating to being a landlord – recent topics have covered leases, Health & Safety, fire safety, the Carbon Neutral Roadmap and data protection.

The JLA is supportive of the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 (the "Law") and its aims to improve housing standards in Jersey's rented sector. Such an aim can only be for the good of both tenants **and** landlords.

We do not however support the introduction of a rented dwelling licensing scheme, as we currently understand it, for the following reasons and would propose that:

- (a) a rented dwelling register;
- (b) a system of random inspections; and
- (c) a comprehensive scheme of tenant empowerment is adopted instead.

Executive Summary of Views

1. *Relationship with other Government Policies and need for Impact Assessment:* Little or no analysis has been done by Government on the combined effects of the Proposition, the Housing Minister's White Paper and the Carbon Neutral Roadmap on landlords and tenants in Jersey's housing market. The regulations should not come into force until such an impact assessment has been undertaken and published. Whilst the JLA has been consulted, little consultation with the wider landlord community has been undertaken in relation to this Proposition.
2. *Similarity to P106/2019 and P33/2021:* Licensing schemes proposed by the previous Minister were not adopted by the previous States Assembly.
3. *Red Tape and Drag on Productivity:* The licensing scheme will introduce new red tape/administrative burdens on landlords and letting agents, which will increase letting fees and therefore rents and conflicts with the Island's need to increase productivity.

4. *Lack of Evidence/Proportionality*: The scope of the problem that the Proposition is trying to solve is unclear and its effects may therefore be disproportionate to such problem.
5. *Fees and Inflationary Impact*: There is no binding cap on increases in licence fees and they could easily rise by more than inflation. A licensing scheme will cost money to establish and run. Any fees will have an inflationary impact on Jersey's already overheated rental market at the worst possible time for inflation in a generation. A register would be a cheaper and simpler alternative. These alternatives must be costed out in a transparent and publicly available manner.
6. *Government has Powers to Identify Rented Dwellings*: knowing where rental properties are located is already within the powers of the Government via the Control of Work and Housing (Jersey) Law 2012 and other legislation. Alternatively a register of all commercial and residential properties in the Island, such as that proposed by P93.2020 would serve very well as a register of rented dwellings.
7. *Inspection/Enforcement Legislation Already Exists*: Legislation already exists to combat sub-standard rental properties.
8. *Protection from Eviction/'Revenge Evictions'*: Legislation already exists to combat so-called 'revenge evictions' in the form of the Residential Tenancy (Jersey) Law 2011.
9. *Code of Practice*: The long-promised code of practice on minimum standards from the Environmental Health Department will not be published until the time that the Proposition is due to come in to force. It is unfair to introduce a licensing scheme (whereby a landlord could lose a licence and a livelihood) when there is so little detail as to how minimum standards should be applied. The regulations should not come into force until a Code of Practice has been published and given a reasonable time to bed in.
10. *Enforcement/Appeals*: The Proposition seeks to shift the burden of court action from the Government (who currently must mount a criminal prosecution which requires them to reach a certain evidential threshold) to the landlord, who, following an appeal to the Minister, will have to have a decision to remove a licence judicially reviewed.
11. *Concerns over Licence Conditions*: Previously suggested conditions to be attached to a licence were ambiguous, reflected duties of landlords that already exist in law and could be changed or added to by a Ministerial decision with no oversight by the States Assembly, leading to a suspicion that conditions not immediately related to the basic tenets of the Law could be brought in via the back door. This Proposition leaves the door open for such conditions to be added to licences.
12. *Comparison to UK Schemes*: Similar licence schemes in local authorities in the UK have not met with great success, are often brought in to deal with specific social problems such as nuisance and are required to be reviewed and renewed by central government every 5 years.
13. *Suggestions*: A number of the suggestions from a previous Scrutiny Panel's work on this subject should be applied to the Proposition.
14. *An Alternative – A Register of Property and Tenant Empowerment*: The JLA believe that a register (rather than a licensing scheme) of all property in Jersey will fulfil all of the aims of the

Environmental Health department, without introducing as much inflationary red tape. Both P.82/2020 (Investigation into a digital register of Landlords and Tenants) and P.93/2020 (Establishment of a digital register of all commercial and residential properties) were passed by the States Assembly and have been deemed too difficult by Government.

1. Relationship with other Government Policies and need for Impact Assessment

We are concerned that little or no analysis has been undertaken by Government generally and the Environment and Housing Departments in particular about the **combined** effects of:

- (a) this Proposition;
- (b) Deputy Warr's White Paper on Improving Residential Tenancies in Jersey; and
- (c) policies HT1 (Supporting low-carbon heating systems and home insulation), HT2 (updating building bye-laws) and HT3 (Energy Performance Certificates) of the Carbon Neutral Roadmap,

on Jersey's rental housing sector, landlords, tenants and agents.

Numerous JLA members have already contacted us to say that if all such policies become law in their current form, then this will result in less investment in their rental properties (whilst still maintaining minimum standards) and/or a desire to sell up some or all of their rental properties.

When asked in a survey, if (a) all the reforms in the White Paper; (b) the Proposition; and (c) the Carbon Neutral Roadmap become law, how likely they would be to sell one or more rented properties, the JLA members who completed the survey responded that:

- **45%** would be **very likely to sell**
- **26%** would be **likely to sell**
- **3%** would be **unlikely to sell**
- **4%** would be very **unlikely to sell**
- **22%** **didn't know**

If landlords do exit the market, they probably won't sell to other landlords, as they will also be trying to disinvest due to these policies and because new buy-to-let landlords are being actively discouraged by Government. With house prices increasing, first time buyers will be less likely to buy than the relatively well-off. Affluent owner-occupiers are much more likely to under-occupy than tenants.

This will **reduce** the amount and choice of rented accommodation available for tenants and will do nothing to help ordinary families (particularly new families) get on the housing ladder. Reductions in the number of rented dwellings will make Jersey's chronic supply/demand imbalance much worse.

In England, where rented dwelling licensing, higher costs and regulation are the norm and open-ended tenancies are soon to be introduced, the news is full of the collapse in the availability of rental properties as landlords leave the market, an entirely predictable consequence of over-regulation.¹

¹ BBC - Renting: Number of UK homes available down by a third - <https://www.bbc.co.uk/news/business-65090846>,
BBC - Retiring landlords risk fuelling rental shortage - <https://www.bbc.co.uk/news/business-65298662>,
BBC - Rents hit fresh high as lack of homes available continues - <https://www.bbc.co.uk/news/business-65422183>,
BBC - Bristol rents: Woman says finding a home 'almost impossible' - <https://www.bbc.co.uk/news/uk-england-bristol-65574468>

Government **must commit to undertaking public research** (or publishing research if already undertaken) on the impact of all of the above-mentioned policies combined on Jersey's rental housing sector, landlords, tenants and agents.

We believe that the results of this increased regulation will be catastrophic for Jersey' private rented housing sector and ask that the regulations should not come into force until a full assessment has been undertaken and published of the combined impact of the above policies.

We further understand that whilst the JLA have been consulted, very few other opportunities have been given for other landlords to make their views known. Only one public meeting was held and no formal consultation was put in place over what is a very important and emotive issue.

2. Similarity to P106/2019 and P33/2021

It is clear that the previous States Assembly rejected P106/2019 and P33/2021 for a number of reasons, including the potential inflationary impact of this scheme and the recognition that a better alternative in the form of a register would be more appropriate. Inflationary pressures on Jersey's economy have become far worse since P33 was defeated.

3. Red Tape and drag on Productivity

As alluded to above, many of our members have stated that the additional administration of a licensing scheme (which comes on top of increasing regulation over the last 10 years) will either push them to using a letting agent (which will have a knock-on inflationary effect on rents) or to sell up one or more of their rented units, which may remove more rented dwellings from the market and indirectly increase rents.

Such additional red tape and administration will negatively impact the productivity of the Island, at the worst possible time and also seems to be in direct conflict with the Government's stated aim of increasing productivity across the economy by 7.5%.

We have already forwarded to you a list of the legislation that already has an impact on landlords in Jersey. Rented dwelling licensing will further add to this red tape.

4. Lack of Evidence/Proportionality

Some of the claims in the Proposition are not backed up by proper evidence. For instance, the Proposition states that:

"Few would deny that Jersey has a problem with some of its rental accommodation being sub-standard. This is evidenced by complaints to the Regulation Directorate (albeit many of these cannot be acted upon because of the reluctance of tenants to pursue action against a landlord). The answer to written question WQ303/2022 from November 2022 provided a snapshot of the occurrences of poor quality and unsafe accommodation found upon inspection."

The only evidence supplied is that provided by the answer to written question WQ303/2020, yet in this answer there is no breakdown of the seriousness of the defects leading to a dwelling falling below the minimum standard and we believe many of the issues to be minor infractions.

There is also mention of the phrase ‘revenge evictions’:

“This will act as a safeguard to reduce the risk of so called “revenge evictions” and therefore should encourage tenants to come forward and report their concerns.”

but no definition of what this means and no figures to back up how severe this problem is.

Government must legislate on the basis of proper evidence. In order for the Proposition to be credible, research needs to be undertaken to assess the scale of the problems and a cost-benefit analysis needs to be undertaken in order to confirm how best to tackle them. There is no evidence that such work has yet been done.

Until that work is done there is no way to determine whether the introduction of the licensing scheme is proportionate to the scale of the problem.

5. Fees and Inflationary Impact

Issuing close to 21,000 licences² is a hugely bureaucratic process and this will require manpower and an investment in computer systems. The cost of this will fall on landlords (and therefore ultimately tenants).

We feel that a registration system will be considerably cheaper to establish and to run for Government than a licensing system. Whilst either system is likely to have an inflationary effect we feel that the effect of the register will be substantially smaller.

If licence fees are charged to landlords then we suspect that many landlords will simply pass these on to tenants in the form of increased rents. This is against the government’s stated aim of making Jersey housing more affordable across all sectors and set against the backdrop of very high, economy-wide inflationary pressures.

The other option is that landlords will absorb these fees themselves – but this will mean less money being available for doing works to bring properties up to standard. This is particularly so given the high cost of undertaking any kind of building work in Jersey.

We live in challenging *economic* times for governments around the world, many of whom are struggling with the costs of paying for their responses to the Covid pandemic and may be in revenue-raising mode. We feel that landlords may be an ‘easy target’ in such a case and that it would be simple to raise revenue in this way.

There is no requirement in this iteration of the licensing scheme that any licence fee would be commensurate with the costs of the scheme – simply a public promise (which will not bind future Ministers) in the States that fees will not increase by more than inflation. The costs of the scheme could quite easily increase steeply in the hands of the current or a future Environment Minister, who might seek to pass these on to landlords. Take the example of fire certificates - these recently experienced an enormous increase from £80 every 3 years to £410 every 3 years. There is nothing to stop Government from increasing licence fees in a similar way. A way must be found to permanently limit increases to RPI.

² Jersey Census data 2021. Including social housing rent, qualified private rent, staff/service/tied accommodation, registered lodging houses, lodgers and other non-qualified accommodation.

Our reading of Article 5(1) of the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 is that the only way to attach charges to a licensing scheme is via the proposed regulations:

“Regulations may make provision including, but not limited to, provision enabling the Minister... (b) to impose charges (i) in respect of the issue of licences for rented dwellings”.

That is, if the idea is to impose charges, then these should be set out in the regulations. We are unsure where the Minister’s authority to impose charges comes from otherwise.

Dealing with these charges in the report accompanying the Proposition (with the regulations containing wording saying that the Minister would set fees as they see fit) seems to us to be a fudge by the Minister. It would be just as easy to list in the regulations that the fees will be £30 per unit of rented accommodation plus RPI.

By way of comparison, Article 11 of the Licensing (Jersey) Law 1974 states that: *“The States shall by Regulations fix the fees payable on the grant or renewal of a licence and different fees may be fixed for different categories of licence and for different periods of duration of licence”.*

The Licensing (Licence Fees) (Jersey) Regulations 2007 then set out the fees for the various categories of licence in detail. We are not sure we see the difference between what the Minister is proposing and this system, which seems to be primary legislation giving power to a body or person (the States in this case) to impose fees.

Not only do we have this technical issue with this position on fees, but also one of clarity and fairness. We are concerned that not setting fees in stone will allow the present or a future Environment Minister (who may see a big fee hike as an easy way to raise revenue to expand a department) to raise fees substantially. The States Assembly would have no or little way to stop such a hike if the fees are not set out clearly in the regulations.

A mechanism to penalise non-compliant landlords already exists in the form of fines for breaches of existing legislation (notably the Law itself). The results of the Proposition will be that compliant landlords are likely to be punished by paying substantial amounts of licence fees for the breaches committed by non-compliant landlords, when there is already a system for punishing those non-compliant landlords in place.

6. Government Already Has Powers to Identify Rented Dwellings

One of the main stated aims of the Proposition is to *“allow officers for the first time to have a comprehensive set of data regarding rented dwellings...”*

This task should already be possible through information already held and collected by various government departments. Such information is already given to:

- (a) the Population Office pursuant to the Control of Work and Housing (Jersey) Law 2012 on change of tenants;
- (b) Government through the Register of Names and Addresses (Jersey) Law 2012;
- (c) to the Parishes through rates registers; and
- (d) through the Rent Safe scheme (for those who have signed up to this).

We also understand that substantial information should be available to Government through the Royal Court Public Register of contracts, the Jersey Land and Property Index, the Jersey Postal Address File and the Jersey Electricity list of residential dwellings

7. Inspection/Enforcement Legislation Already Exists

Legislation already provides robust mechanisms (either through the criminal courts (e.g. the Law, which covers areas such as: disrepair; overcrowding; amenity standards; fire precautions; and filthy and verminous premises) or by giving tenants the right to take landlords to the civil courts (e.g. Residential Tenancy (Jersey) Law 2011) to deal with such sub-standard properties or lettings.

The Law also gives Environmental Health officers wide powers to inspect properties (either of their own volition or on receipt of a complaint) and issue rectification notices. Article 6 of the Law provides that:

“(1) *The Minister by any authorized person may, for the purposes of –*

- (a) *ensuring that minimum standards of health or safety of persons are met by a rented dwelling; or*
- (b) *investigating any prescribed hazard to the health and safety of persons occupying a rented dwelling,*

carry out or cause to be carried out an assessment of that dwelling, including assessment of any prescribed hazards in the dwelling.

(2) *Subject to the production, if required, of evidence of the authorized person’s authority, for the purposes mentioned in paragraph (1) the authorized person may –*

- (a) *at any reasonable time and upon notice to the occupiers of the dwelling in accordance with paragraph (3), **enter a rented dwelling;***
- (b) *on entering the dwelling be accompanied by –*
 - (i) *any other person, and*
 - (ii) *any equipment or materials,**that the authorized person considers necessary for any purpose for which the power of entry is being exercised;*
- (c) ***make such examination and investigation as may in the circumstances be necessary, including investigation about the identity of the person having control of the dwelling;***
- (d) ***direct that the dwelling, or any part of it, or anything in it, shall be left undisturbed*** (whether generally or in particular respects) *for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c);*
- (e) ***take such measurements and photographs, and make such recordings,*** *as the authorized person considers necessary for the purpose of any examination or investigation under sub-paragraph (c);*
- (f) ***take and retain samples of –***
 - (i) *any articles or substances found in the dwelling, and*
 - (ii) *the atmosphere in, or in the vicinity of, the dwelling; and*
- (g) *require any person whom the authorized person has reasonable cause to believe to be able to give any information relevant to any examination or investigation under sub-paragraph (c) to answer such questions as the authorized person thinks fit to ask. [Emphasis added]”*

Article 9(1) of the Law provides that:

“*The types of notice that may be given under Article 7(2)(b) are –*

- (a) **an improvement notice requiring the person to whom it is addressed to take action**, within such period (ending not earlier than the period within which an appeal against the notice can be brought under Article 11) as is specified in the notice
- (i) **to remove the hazard, or**
 - (ii) **to reduce the risk posed by the hazard to an acceptable level; and**
- (b) **a prohibition notice stating that use of the dwelling (whether the whole or such part of it as may be specified in the notice) as living accommodation is prohibited**, unless and until action is taken –
- (i) to remove the hazard, or
 - (ii) to reduce the risk posed by the hazard to an acceptable level. [Emphasis added]”

An offence under the Law carries with it the highest level of fine on the standard scale - £10,000 per offence.

If tenants already have the right to complain to Environmental Health or take court action, it is unclear why further costly (for landlords, tenants and the taxpayer) legislation is needed. Having a licence rather than a register will give duplicative powers to Government allowing the property of a landlord to be shut down by way of the removal of a licence. It is unclear what will be gained by having these additional powers.

8. Protection from Eviction/‘Revenge Evictions’

On the topic of ‘revenge evictions’, the Residential Tenancy (Jersey) Law 2011 (the “RTL”) already provides very substantial protection from eviction by landlords and the courts are required to examine the surrounding circumstances before ordering an eviction. The court is specifically required to take into consideration “*the pattern of evictions in other residential units let by the landlord*”. In addition, the court can order a stay of eviction indefinitely. If this protection is not enough, more could be given in the form of a six- or twelve-month ban on eviction where a tenant’s complaints are upheld.

The RTL provides that:

“14 Stay of eviction

- (1) **The Court may, of its own accord or on application by a party to a hearing under Article 11 or 12, by order stay the execution of an eviction order that the Court has made under that Article until a specified condition is satisfied or a specified period has passed.**
- (2) *If the Court stays the execution of an eviction order, it may make the order for the stay subject to conditions as to the review and variation of rent payable under the tenancy and any other conditions that it considers just in all the circumstances....”*

“Article 15 Matters to be considered in deciding on stay [under Article 14 a tenant can apply for a stay of eviction that can be indefinite]

...(2) *The Court may consider the following matters before deciding whether to order the stay –*

- (b) *whether other accommodation is available to the tenant...*
- (h) *whether the condition of the residential unit has deteriorated, or been maintained or improved, during the tenancy, and whether that change is attributable to the conduct of the tenant or to conduct caused or permitted by the tenant...*
- (k) *the pattern of evictions in other residential units let by the landlord...*
- (l) *whether the residential unit is dangerous to, or bad for the health of, its occupants or of the public...*
- (n) *whether hardship would be caused to persons other than the landlord and the tenant if the stay were not ordered...*
- (o) *such other matters as the Court considers relevant...”*

A better enforcement of current legislation coupled with a scheme of tenant education and empowerment would solve many of the complained of problems.

9. Codes of Practice

Article 4(1) of the Law states that:

“The Minister may, after consultation with such persons or bodies as appear to the Minister to be representative of the interests concerned –

- (a) prepare and issue codes of practice for the purpose of providing practical guidance in respect of any provision of this Law or any Order made under this Law; and*
- (b) revise any such code by revoking, varying, amending or adding to the provisions of the code.”*

No such Codes have yet been published some 5 years after the primary legislation was enacted. The Public Health and Safety (Rented Dwellings – Minimum Standards and Prescribed Hazards) (Jersey) Order 2018 (the “**Order**”) thus remains the only place where a landlord can learn about what minimum standards are expected to be maintained in a rented dwelling. This Order contains requirements about smoke detectors, gas and electrical safety and then 29 ‘prescribed hazards’ which landlords are required to ensure do not exist in their rented properties.

There is **very little detail** in the Order about these prescribed hazards and how they are to apply to rented dwellings. The full text of the prescribed hazards is set out in the Appendix to this letter. Incongruously, the Environmental Health Department has been conducting inspections on the basis of these high level principles and without any details that landlords are aware of since the Law came into force in 2019. A detailed code of practice would give certainty to landlords, tenants and environmental health officers alike. The UK government has published a document setting out detailed requirements relating to the prescribed hazards.

We feel that it would be unfair for landlords to potentially be in the position of having relatively little information about how minimum standards will apply to their property

The regulations should not come into force until a Code of Practice has been published and given a reasonable time to bed in. We would suggest that this be 1 to 2 years given the extreme difficulty in finding workmen in Jersey at the moment.

10. Enforcement/Appeals

The Proposition notes that *“Currently, criminal prosecution is the only way to deal with non-compliance and it is well known that there is a high bar to successful prosecution. Criminal prosecution is resource heavy and a relatively clumsy way of dealing with non-compliance. There are challenges in getting sufficient evidence to meet a criminal threshold – there has to be a complainant and any witnesses have to be prepared to come forward and be prepared to give evidence in court. To date, while a number of notices have been served, there have been no prosecutions.”*

Currently if a landlord fails to comply with their obligations under the Law, a tenant or the relevant minister (who would need to submit a case to the Attorney General) may pursue a matter through court. With licensing, the Environment Minister could withdraw a licence, then the landlord is presumed guilty (without a court ruling) and has to appeal to the Minister and then ultimately to Royal Court through the costly judicial review process to get back their licence.

We do not see the difference between:

- (a) the difficulties faced in asking the Attorney General to mount a criminal prosecution following a breach of an improvement or prohibition notice served under Article 9 of the Law; and
- (b) the difficulties that would be faced in asking the Attorney General to mount a criminal prosecution following a landlord having a licence taken away, but continuing to rent a property to tenants,

but it seems clear that instead of going to the trouble of mounting a criminal prosecution (which is a deliberately difficult process **in order to protect the rights of the individual** against the more powerful Government), the Minister would prefer to place the onus on individual landlords by requiring them to challenge a decision to remove a licence by way of judicial review.

Government has much more money than individual landlords (especially the numerous JLA members who have their one or two rented properties as a supplement to their state pension) and yet it seeks to put the burden of bringing court proceedings on those landlords, because mounting a prosecution is too difficult for Government. Surely Government should be the ones speaking to the Attorney General to see how best to make prosecutions under the Law work.

At the very least, the new regulations MUST provide a direct right of appeal from the Minister's decision to the Royal Court from such offences – i.e. **an administrative appeal** rather than a judicial review.

11. Concerns over Licence Conditions

Additionally, the concept of a licence brings with it the concept of licence conditions. The Minister has stated in our discussions with him that he would ensure that any conditions attached to a licence would be of a purely administrative nature and would focus on arrangements for notifying any changes to the licence holder and the information to be provided to occupiers, however, the draft regulations state at Regulation 3(5):

“A licence is subject to the standard licence conditions set out in the Schedule and may contain additional requirements that the Minister thinks fit. [Emphasis added]”

It seems to our Committee that the second part of that sentence will give carte blanche to the current or a subsequent Minister to insert whatever conditions they see fit on the grant of a new licence. Whilst this may be useful where there is a finding that a property falls below minimum standards, it also will allow an Environment Minister to introduce non-standard (and potentially onerous) conditions to a licence that will only be challengeable by an expensive and lengthy judicial review process.

We have previously argued in relation to P33.2021 that all new conditions should have to be agreed by the States Assembly, otherwise there is a risk that out-of-scope conditions will be introduced that have little to do with Health & Safety.

There are also serious concerns that the breach of the licence conditions could too easily lead to a landlord losing a licence or being charged with an offence (resulting in a substantial fine) for what could be a mistake or a minor infraction.

We are also concerned about the second of the current licence conditions, which states:

“The licence holder must ensure that the Minister is notified of the following changes within 28 days of their occurring ... (e) any other change in circumstances that could lead to the Minister withdrawing the licence.”

We are having difficulty understanding the rationale for the inclusion of (e). It appears to require a license holder to voluntarily self-report a lapse (even temporary) in minimum standards to the Minister. If this is the case, then it feels unnecessarily overbearing for this requirement to potentially result in the loss of a licence, via regulation 3(7)(c). It feels that this would also **run contrary to the general legal privilege against self-incrimination**. We have asked the Minister about this and have yet to receive a response.

12. Comparison to UK Schemes

We understand that in England, many licensing schemes either fail or are ineffective at achieving their stated aims because of lack of funding. This is because Environmental Health officers are so busy issuing licenses that there are not enough resources for inspections and more particularly enforcement. So enforcements do not really increase.

The JLA feel that the same may occur in Jersey meaning more tax payer money or higher license fee (and therefore higher rents).

13. Suggestions

In the event that the Proposition is passed by the States Assembly in this or a modified form, we note that there are a number of useful safeguards proposed in the report on P.33/2021 by the previous Environment, Housing and Infrastructure Scrutiny Panel (P.33/2021 Com.) We feel that these safeguards should be applied to the propositions set out below:

- (a) **Cost of Scheme and Value for Money**– “The Minister for the Environment must publish an annual report to the States Assembly, detailing the amount of income generated by the proposed scheme.”,

“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.”,

“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.” and

“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 not be generating more income than the amount it costs to operate.”

We feel that it is imperative that the Minister publish an annual report **every year** during the operation of the scheme, showing the relative success compared to previous years of the scheme so that progress and the performance of the Environmental Health Department can be monitored by the public. Such information might include the number of inspections undertaken and the results obtained. Landlords, tenants and the public will want to see value for money from such a scheme and we will be keeping a close eye on the results.

- (b) **Term of licence** - *“In order to reduce the level of bureaucracy and costs for landlords, the Minister for the Environment should amend the proposed licensing scheme and extend the*

validity of a licence from one year to five years in line with the current practice in the United Kingdom”

A 5 year licence (although perhaps with annual payments to maintain the licence) seems to be the norm in the UK and this would go some way to reducing the administrative burden on landlords and managing agents.

Finally, we strongly feel that the additional points below must be considered alongside a licensing scheme in order to improve matters in Jersey’s housing:

- i. **Tenant Empowerment** – We cannot stress strongly enough that the system of tenant empowerment should be brought in at the same time as any licence scheme. Tenants need to understand their rights and how they can be used and must have access to the right contact details to get in contact with a landlord/agent, the CAB, the Environmental Health Team and the Housing Advice Service.
- ii. **Build more houses** – Finally and possibly most importantly, the frankly awful imbalance between supply and demand in Jersey’s housing market must be tackled with swift and decisive action on home building and a sensible population policy. This lies at the heart of Jersey’s housing issues. A greater supply of housing would stabilise house prices AND rental prices and have the effect of allowing tenants a better choice of properties, which would drive up standards. A housing policy that does not deal with these issues ignores the issue at the heart of Jersey’s housing problems.

14. An Alternative – A Register of Property and Tenant Empowerment

The JLA have proposed a better way forward than a licensing scheme, being a compulsory registration scheme combined with random inspections and a fit-for-purpose complaints scheme. Tenants would be empowered to complain, through education and appropriate guidelines issued to landlords and tenants and appropriate protections for tenants, if their property does not reach minimum standards.

Propositions P.82/2020 (Investigation into a digital register of Landlords and Tenants) and P.93/2020 (Establishment of a digital register of all commercial and residential properties), which were both passed by the previous assembly but have not been followed up whereas P106/2019 (the most recent iteration of a landlord licensing scheme) was not adopted.

The JLA feels that a register of properties (perhaps with a one off, reasonable fee for initial registration coupled with a requirement to update the details on the register within a reasonable timeframe) would:

- (a) accomplish the aim of providing “*Environmental Health Officers ... with a complete data set of licenced dwellings*” and increasing the quality of Jersey’s housing stock;
- (b) be an easier and cheaper scheme to establish and maintain; and
- (c) command the support of many of the JLA’s members.

Fines for not registering or for making false declarations would be substantial.

Thank you for the opportunity to communicate our and our members' view to you.

Yours sincerely

The Committee
Jersey Landlords' Association
www.jla.je

APPENDIX – PRESCRIBED HAZARDS

- 1 **Damp & mould growth** - Exposure to house dust mites, damp, mould or fungal growths.
- 2 **Excess cold** - Exposure to low temperatures.
- 3 **Excess heat** - Exposure to high temperatures.
- 4 **Asbestos and MMF** - Exposure to asbestos fibres or manufactured mineral fibres.
- 5 **Biocides** - Exposure to chemicals used to treat timber and mould growth.
- 6 **Carbon monoxide and fuel combustion products** - Exposure to carbon monoxide, nitrogen dioxide, sulphur dioxide or smoke.
- 7 **Lead** - The ingestion of lead.
- 8 **Radiation** - Exposure to radiation.
- 9 **Uncombusted fuel gas** - Exposure to uncombusted fuel gas.
- 10 **Volatile organic compounds** - Exposure to volatile organic compounds.
- 11 **Crowding and space** - A lack of adequate space for living and sleeping.
- 12 **Entry by intruders** - Difficulties in keeping the dwelling secure against unauthorized entry.
- 13 **Lighting** - A lack of adequate lighting.
- 14 **Noise** - Exposure to noise.
- 15 **Domestic hygiene, pests and refuse**
 - (1) Poor design, layout or construction such that the dwelling cannot readily be kept clean.
 - (2) Exposure to pests.
 - (3) Inadequate provision for the hygienic storage and disposal of domestic waste.
- 16 **Food safety** - Inadequate provision of facilities for the storage, preparation and cooking of food.
- 17 **Personal hygiene, sanitation and drainage**
 - (1) Inadequate provision of facilities for maintaining good personal hygiene.
 - (2) Inadequate provision of sanitation and drainage.
- 18 **Water supply** - An inadequate supply of water which is free from contamination and suitable for drinking.
- 19 **Falls associated with bathing etc.** - Falls associated with toilets, baths, showers or other facilities for personal hygiene.
- 20 **Falling on level surfaces etc.**
 - (1) Falling on a level surface.
 - (2) Falling where the change in level between surfaces is less than 300 millimetres.
- 21 **Falling on stairs etc.** - Falling on stairs, steps or ramps where the change in level between surfaces is 300 millimetres or more.
- 22 **Falling between levels** - Falling between levels where the difference in levels is 300 millimetres or more.
- 23 **Electrical hazards** - Exposure to electricity.
- 24 **Fire** - Exposure to uncontrolled fire and associated smoke.
- 25 **Flames, hot surfaces etc.**
 - (1) Contact with controlled fire or flames.
 - (2) Contact with hot surfaces, objects, liquid or vapours.

- 26 Collision and entrapment** - Collision with, or entrapment of body parts in, doors, windows or other structural features.
- 27 Explosions** - An explosion at the dwelling.
- 28 Position and operability of amenities etc.** - The position and operability of amenities, fittings and equipment.
- 29 Structural collapse etc.** - The collapse of whole or part of the dwelling.