

London Borough of
Lewisham

Date
7th August 2019

Dear Sir or Madam,

Selective & Additional Licensing Consultation

Thank you for the opportunity to respond to the above consultation.

Though we appreciate the issues that Lewisham Council have mentioned and the impact they can have on tenants, landlords and the housing market in areas proposed, the RLA is opposed to the scheme and has many general objections to Licensing overall.

Raising Standards

There is little evidence that licensing schemes improve housing standards. The focus of staff becomes the processing and issue of licences, while prosecutions centre on whether a property is licensed or not, rather than improving management standards and property conditions. Additionally, the decent homes standard is a measure of the standard of housing and has no legal applicability to PRS housing. The Housing Health and Safety Rating System (HHSRS) is the relevant standard for the PRS.

The Council already has the necessary tools to tackle poor housing management and conditions in the PRS. Rather than introduce a bureaucratic licensing scheme that will see scarce resources focused on processing applications, the council should continue to direct these limited resources at identifying private rented properties and taking effective enforcement action.

Discretionary Conditions

Page 47 for the document titled 'Evidence Base for Public Consultation' states that "*Work on the licence conditions will be finalised following the consultation". The requirements of the licence conditions will sit alongside the existing legal obligations covered by the Housing Health and Safety Rating System (HHSRS) and other statutory requirements. The specific licensing conditions will ensure that accommodation standards will be improved without duplicating legal obligations*". This approach goes against government guidance for local authorities to designate licensing consultations. The council must provide an opportunity for respondents (which include both landlords and tenants) to comment on conditions proposed for a licence.

Furthermore, the commitment to inspect 100% of properties that have received a licence would mean that from day one, the council would have to inspect 100 properties per week throughout the five-year life of the scheme. This pledge sets exceptionally unrealistic standards to maintain as part of the licensing scheme.

Fee Structure

The proposed fee structure offers little explanation as to why the licence fee is based on council tax band for each single dwelling property. Determining the licence fee based on the value of the property should not form the basis of either a higher or lower fee. A flat fee should be charged for licence, regardless of what council tax band the property is in.

The proposed fee structure furthermore features a single upfront charge to the council for a five-year licence. The process of charging the full amount of the licence fee on an application does not accord with the decision of the Administrative Court in *Gaskin v Richmond Upon Thames (2018) EWHC 1996 (Admin)*. Payment should be split into two separate charges; one for the application component and second payment, covering the cost of running and enforcing the scheme. The Part Two payment should only be sought if the application is successful, and paid once the licence has been granted and issued.

Furthermore, the council have not stated within the consultation documents if Tacit Consent applies should the processing of the licence goes beyond the advertised time. This as well as not providing a timescale for the length of processing time for a licence application.

Concerning the processing time for a licence application, regulation 19 of the Provision Regulations deals with the speed of processing of applications. Specifically, they require that applications must be:

- Processed as quickly as possible and within a reasonable period running from when all documentation has been submitted.
- The length of the processing period must be fixed and made public in advance.
- Where an application has not been processed within the advertised period, the licence will be granted automatically.

Enforcement Powers

There are over 150 Acts of Parliament and more than 400 regulations affecting landlords in the private rented sector.

Councils should use the enforcement powers already granted to them by the Housing and Planning Act 2016 and Housing Act 2004 to their full extent, rather than rely on Licensing Schemes to regulate landlords in addition to these powers. The Council has also not taken into consideration the amount of informal enforcement activity undertaken between local authorities and private landlords.

The Tenant Fees Bill has also introduced a lead enforcement authority to provide guidance and support to local authorities regarding the enforcement of letting agent requirements.

Conclusion

The RLA reiterates its objection to the proposed scheme.

There are alternatives to licensing. The RLA supports a system of self-regulation for landlords whereby compliant landlords join a co-regulation scheme which deals with standards and complaints in the first instance, while those outside the scheme remain under the scope of local authority enforcement. We also support the use of the council tax registration process to identify private rented properties and landlords. Unlike licensing, this does not require self-identification by landlords, making it harder for criminals to operate under the radar.

Yours sincerely,

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