23rd February 2017

RESIDENTIAL LANDLORDS ASSOCIATION

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Dear Sir/Madam

The Royal Borough of Greenwich Additional Licensing Proposals – Consultation Response

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

The RLA has read through all documentation the council has published in regards to the proposed scheme and respects their concerns, however the introduction of a additional licensing is not the solution to these issues. We also find several of the local Council's additional conditions unreasonable.

The RLA believes that the Council is premature on bringing forward proposals. The Housing and Planning Act 2016 will give local authorities substantial new powers to tackle breaches of housing legislation and drive the criminal operators from the sector. The council should wait until the impact of these new powers can be assessed before pressing on with more regulation in the form of additional licensing.

We are still awaiting the outcome of the Government's consultation on extending mandatory licensing to all HMOs. Many of the issues you have mentioned within your proposal documents will be resolved by the government's intention to expand the mandatory HMO licensing across the country.

You have failed to mention these government proposals in any of your supplied documentation or how these changes would affect the way you regulate HMOs in your area. These changes may make additional licensing redundant, especially if the majority of your PRS properties house a minimum of 5 people. Along with this, a new minimum HMO room size is proposed for properties that have been licensed under a mandatory HMO licensing scheme, with Councils retaining the ability to specify larger sizes where it is deemed appropriate. Therefore it does seem a bit unnecessary to bring in these proposals ahead of national guidance / legislation.

The RLA is opposed to the scheme and has a number of general objections to licensing, which are attached as an appendix to this letter. Licensing schemes rarely meet their objectives. Good landlords will apply for licences and, in all likelihood, pass the cost on to tenants in the form of increased rents, doing nothing to address affordability or reduce inequalities. Whilst the worst landlords – the criminal operators – will simply ignore the scheme, as they do many other regulations.

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 management standards and property conditions.

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 staff time wasted processing applications, it should continue to direct its limited resources at effective enforcement activity.

If licensing costs are passed on to tenants in the form of rent increases, then some tenants may struggle, particularly those on benefits, affected by welfare reform and frozen housing allowances.

Conditions

The RLA has concerns regarding several additional conditions the Council is proposing; I will list the specific reasons why these conditions are problematic below.

I. Emergency Contact

This is the most troubling of the conditions. It is excessive, if not impossible, to expect licence holders to notify and arrange for a contractor to attend to properties in under 3 hours, 24/7 365 days a year. It is setting good landlords, who will strive the fix any issues with the properties as soon as they can, up to fail. The Council have failed to define what an 'emergency' constitutes or what counts as notifying a contractor, would a landlord be able to text the contractor? Or, would they need to ensure the contractor has seen the notification? What are the consequence for missing the 3-hour deadline? This condition is an unnecessary punishment for landlords and avoids tackling the real problem of rogue landlords who never make any repairs on their properties.

II. Provision of refuse receptacle and waste collection

It is not the responsibility of the licence holder to make adequate alternative arrangements for the collection of refuse and recycling. It is the tenant's responsibility to dispose of their own rubbish and the local authority's responsibility to provide adequate (e.g. wheelie bins, civic amenity sites) and regular (e.g. weekly bin collection) means to do so. It is the responsibility and duty of the Local Authority to respond positively to tenants requests for more rubbish facilities. The RLA would like to make the Council aware that this condition may breach the findings of Leeds City Council vs. Gordon Hoyland Spencer (1999).
The landlord can only be responsible for ensuring tenants are aware of refuse collection details and to encourage tenants to be responsible when disposing of waste.

III. Labelling of furniture, soft furnishings, kitchen appliances and white good

The condition calling for every piece of furniture, soft furnishing, kitchen appliances, and white goods to be labelled with the address and room number with a "suitable" indelible marker pen and the specificity that removable labels are not acceptable, is unreasonable and pedantic. The Council cannot reasonably expect landlords to have the time to label every piece of furniture they supply in all their properties, along with supplying inventories which make labelling redundant.
This is an onerous and excessive condition which there is no obvious reason for. In our opinion it will negatively affect landlords, tenants and the Greenwich borough as writing an address on a piece of furniture means that landlords will not be able to re-sell the item or donate it to charity.

Rather than an ineffective licensing scheme, the council should use cross-departmental and multi-agency working and effective use of existing housing legislation to support tenants and landlords in maintaining tenancies, housing condition and management standards.

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. More information can be supplied if required.

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 so-called rogues to operate under the radar.

I look forward to hearing your response.
Yours Faithfully,

India Cocking

Appendix – RLA General Licensing Concerns

The RLA has several areas of concern in regards to selective licensing, namely:

i. Worrying trends are emerging in the case of discretionary licensing. Licensing entails a huge bureaucracy and much time, effort and expense is taken up in setting up and administering these schemes; rather than spending it on the ground and flushing out criminal landlords.

ii. Increasingly, discretionary licensing is being misused to fund cash strapped housing enforcement services. The recent Westminster sex shop Court of Appeal (Hemming (t/a Simply Pleasure) Limited v Westminster City Council) has brought such funding into question).

iii. Discretionary licensing is not being used for its intended purpose of a short period of intensive care; rather it is being used by the back door to regulate the PRS.

iv. The level of fees which are ultimately passed on to tenants to pay is a major worry so far as it affects lanlords.

v. Despite high fee levels local authorities still lack the will and resources to properly implement licensing.

vi. Little has been done to improve property management. Opportunities to require training have been ignored. As always it has become an obsession with regard to physical standards with very detailed conditions being laid down. No action is taken against criminal landlords.

vii. We believe that a significant number of landlords are still operating under the radar without being licensed.

viii. As always it is the compliant landlord who is affected by the schemes. They pay the high fees involved but do not need regulation of this kind.

ix. Licensing is not being used alongside regeneration or improvement of the relevant areas. Insufficient resources are being employed to improve the areas.

x. Where areas are designated for selective licensing this highlights that they can be “sink” areas. This could well mean it would be harder to obtain a mortgage to buy a property in these areas.

xi. Schemes are not laying down clear objectives to enable decisions to be made whether or not these have been achieved. Proper monitoring is not being put into place to see if schemes are successful or not.

xii. There is little use of “fit and proper person” powers to exclude bad landlords.