

30th March 2017

By email: selective.licensing@nottinghamcity.gov.uk

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Dear Sir/Madam

Nottingham Selective Licensing – Consultation Response

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

Though we at the RLA respect that the housing market is growing fast and is changing rapidly, implementing a complex and time consuming licensing scheme to the vital supply of PRS housing is not the answer.

The RLA also 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. Importantly, local authorities will be able to retain income from rent repayment orders and civil penalties to fund enforcement activity. The council should wait until the impact of these new powers can be assessed before pressing on with more regulation in the form of selective licensing.

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, while 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.

We have serious issue with the Council's proposal to charge £350 for a caution as an "*alternative to being prosecution* [sic]". A caution is not a fixed charge as every case will occur different costs. It is unfair to charge a landlord £350 if the cost of action is less and if other landlords cost of action has been far more expensive but they have been charged the same.

This fee is hypocritical of the Council who outlined in their consultation documents the apparent desperate need that Nottingham City has for proper regulation and removal of criminal landlords with the negative effect they have on the people and communities in

Nottingham. Charging criminal landlords only £350 for major breaches in licensing regulation will not deter them enough not to break the law.

Another fee we have issue with is Part 1 Housing Act 2004. This fee is not meant to be a fixed charge but based on the relevant cost of the enforcement action. This fee is not appropriate to mention in licensing consultation documents.

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.

We would like to remind the Council that there is good reason that the Secretary of State requires 20% of the housing stock of a designated licensing area to be PRS housing. It is unlikely that the whole of Nottingham City experiences the problems you have mentioned, such as; exacerbated mental health problems through poor housing, high levels of migration, excess cold, and low housing demand.

Tenant problems such as anti-social behaviour are impossible for the landlord alone to address and landlords will not wish to risk a breach of licensing conditions that may affect their ability to let properties elsewhere. Some may seek to evict already challenging tenants. This could mean additional costs to other council services, as they pick up the pieces created by the disruption to the lives of already vulnerable tenants.

Likewise, if licensing costs are passed on to tenants in the form of rent increases, then some tenants may struggle, particularly those on limited income such as students and people affected by welfare reform and frozen housing allowances.

Rather than an ineffective licensing scheme, the council should use cross-departmental and multi-agency working and effective use of existing and data 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. Please get in touch with us if you would like more information on how the RLA can help increase the number of well managed PRS properties in Nottingham.

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.

Yours Sincerely,

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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 landlords.
- 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.