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Dear Sir/Madam,

Consultation response: HMO Additional Licensing

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

We have read through your consultation documents, and though we appreciate the issues that the Council have mentioned and the effect they can have on tenants, landlords and the housing market in areas such as Cotham, Easton, Windmill Hill, Redland, Southville and Lawrence Hill, licensing is not the way to tackle these issues.

The RLA is opposed to the scheme and has many general objections to Licensing overall, which are attached as an appendix to this letter.

Additional Cost

As cited in the consultation papers, the Housing Strategy 2015-2020 aims to tackle the range of housing issues that affect people who live in Bristol. Due to the economic situation in Bristol many people are increasingly relying on private rented accommodation when they would have previously purchased or would have rented social housing.

Good landlords will apply for licences and, likely, 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. The proposed full standard licensing fee of £1660, even with the discounts, is an unnecessary financial burden to put on landlords. These schemes do little but alienate lawful landlords by burdening them with additional costs, while criminal operators continue to ignore regulations and avoid these additional costs.

Raising standards and tackling rogue landlords

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, as it identifies any potential hazards an occupier may encounter in a dwelling.

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 wasted processing applications, it should continue to direct these limited resources at identifying private rented properties and taking effective enforcement activity, where necessary.

As cited in the consultation documents: *“A rogue landlord initiative to tackle the issues in the proposed area without the proposed additional licensing scheme is not considered the most satisfactory course of action, as it will not significantly improve the standards and management of HMOs in the proposed area”*, it is not necessary to implement a further additional licensing scheme in order to tackle rogue landlords, as there is already existing legislation in place that local authorities can use to take action against such individuals. The RLA is supportive of persistent rogue landlords and letting agents being prevented from dealing in property, even though currently only a relatively low number of landlords are ever prosecuted. The council should seek to make full use of the new powers granted by the Housing and Planning Act 2016, including banning orders, before considering the extension of licensing.

Pressure on non-licence areas

Landlords, especially those with other properties outside the licence area will become risk averse in terms of the tenants they let to. Tenant problems such as anti-social behaviour is impossible for the landlord to address alone 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.

Pre-emptive introduction

Moreover, the Government has already announced and confirmed that the extension of mandatory HMO licensing is due to come into force from 1st October 2018, subject to Parliamentary approval. The RLA believes that many of the changes are unnecessary and will put a huge strain on local authorities, and that Bristol City Council introducing a rollout without first seeing the impact the mandatory HMO licensing will have on other areas will burden landlords.

Code of Good Management practice

Referring to the Code of Good Management practice section (points 16 to 19 in Appendix 2 Licence Conditions), it is not appropriate that Bristol City Council can amend conditions for Landlords part way through a licensing period at will. Such conditions should already be set out at the beginning when a Landlord applies and becomes subject to a HMO Licence, rather than added to later.

Inventory requirements

Appendix 3 (point 2) requiring: *“An inventory is signed by both parties at the beginning of the tenancy (or as soon as practicable afterwards) and to give the tenant the opportunity both to carry out a joint inventory inspection at the outset and to discuss the inventory at the end of the tenancy”*, as part of a Licensing condition, it cannot be required for the Landlord to provide an inventory. Therefore, the Council cannot impose this and such a condition should not be carried forward.

In conclusion. Rather than expanding 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.

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.

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.

Yours faithfully,

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Appendix

The RLA has several areas of concern regarding 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 regarding 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.