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Waltham Forest Town  
Hall  
Forest Road  
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Date  
24th April 2019

To whom it may concern,

### **Selective Licensing & Additional Licensing Proposal**

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 proposed, the RLA is opposed to the scheme and has many general objections to Licensing overall.

The council has failed in its documents to prove sufficiently that private rented sector houses are the main perpetrators of anti-social behaviour and crime. The council has very similar issues in predominantly council/social housing estates with their highly regulated housing management and property standards. Clearly not solely a landlord issue. It is more about concentrated need. To identify a particular area for the introduction of licensing highlights a belief that the area has numerous issues, potentially blighting the reputation of the area. There is also a danger that the issues that the scheme seeks to address are simply moved elsewhere, as difficult or vulnerable tenants are moved on.

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

## **Pressure on non-selective licence areas**

Landlords, especially those with properties outside the licence area will become risk-averse in terms of the tenants they let to. Tenant problems such as anti-social behaviour are 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.

## **Existing 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, ranging from civil penalties, rent repayment orders, banning orders and the introduction of a database for rogue landlords and letting agents 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 will also introduce a lead enforcement authority to provide guidance and support to local authorities regarding the enforcement of letting agent requirements, which comes into force later on this year.

## **General Conditions**

No.25 of the proposed Selective Licence conditions states that: *“The Licence Holder must arrange for access to be granted to Authority officers when requested, at any reasonable time. They must not impede Authority officers in carrying out their statutory duties including inspecting, surveying and investigating the house to ensure compliance with licence conditions and any other relevant legislation”*. If a tenant refuses access to the property, then a landlord will be unable to grant access to authority officers, as insistence of access may breach the tenants’ Quiet Enjoyment and constitute as harassment if pursued. The council should reword this condition.

## **Tacit Consent**

The council have made no mention in the consultations document section titled “fees, charges & discounts” if Tacit Consent applies should the processing of the licence goes beyond the advertised times, as well as not provided 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, in any event, within a reasonable period running from the time when all documentation has been submitted;



- the length of the processing period must be fixed and made public in advance.
- where an application is not processed within the advertised period the authorisation will be deemed to have been granted automatically.

The *Gaskin* case says that the Provision of Services Directive applies to licensing schemes in full. This does a lot more than just talk about fees. The transposition of this into the UK law states that regulators should set out how long it will take to carry out a licensing approval process and if they do not meet that timeline then approval should happen automatically.

The Council needs to set out and display publicly their licensing processing time, and if tacit consent will apply if the processing of the application goes beyond the advertised processing timescale.

## **Conclusion**

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 criminals to operate under the radar.

Should licensing be approved by the council, the option of co-regulation with the RLA could be considered. Liverpool City Council introduced city wide licensing in 2015; as part of this the RLA were allowed to introduce a co-regulation scheme for landlords in the city. Coregulation involves a full written code of conduct, which details the procedures and processes in place to deal with contractual and other matters as part of the overall scheme. The benefits of co-regulation for a local authority is targeted enforcement making the best use of more limited resources, reduced workload due to reduced number of complaints being managed by the authorities, easier identification of criminal landlords, control over the scheme requirements to suit local needs and stronger links with the landlord community.

Yours faithfully,

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