

The following submission was received from the Jersey Tenants' Forum on Friday 4<sup>th</sup> June 2021. As the Environment, Housing and Infrastructure Scrutiny Panel had presented its Comments on the Proposition – P.33/2021 on 2<sup>nd</sup> June 2021, the submission received was not used as evidence to inform the published Comments.

**Comments from Jersey Tenants Forum on Draft Public Health and Safety (Rented Dwellings)**  
**(Licensing) (Jersey) Regulations 202- (P.33/2021): Comments**

*Jersey Tenants Forum supports the aims and objectives of the proposal:*

*'promote the health and safety of persons in rented dwellings, and for connected purposes, which requires that rented dwellings meet minimum standards.'*

**JTF Comments on the Scrutiny Report:**

R.1: The Minister for the Environment should explore the possibility of combining the Rent Safe Scheme and the proposed licensing scheme, following a bedding in period of the draft Regulations

*JTF: The Rent Safe does not cover the same scope as the licensing scheme. The only way tenants could know that properties had failed to meet minimum standards or failed to meet legal requirements would be if the names of landlords who failed to meet standards were published alongside the Rent Safe Scheme. This would be one way to discourage landlords who break the law by failing to meet minimum standards or overcharging on electricity meters.*

R2: The Minister for the Environment must publish an annual report to the States Assembly, detailing the amount of income generated by the proposed scheme.

*JTF: There is an assumption in this recommendation that the current operation of inspection when there is a complaint from a tenant has no cost implications. The scrutiny panel has not received any information about the cost to the Fire and Rescue Service to inspections on safety either. There has, therefore, been no cost analysis done by the panel and presented in the report to the assembly for consideration.*

*JTF support the scheme on the grounds that it protects tenants' safety and the human rights of the most vulnerable on the island. It has not been promoted as an income generation scheme.*

R3: Before the debate of the draft Regulations, the Minister for the Environment must provide the States Assembly with further clarity as to the costs of operating the scheme.

*JTF: It seems clear that the Department of Environment already know who the worst offenders are and there would be a period of targeted inspection. Some members are confusing their role as private landlords and their duty as States Members – responsible for a wider budget. This is apparent in their comments. An individual living in a home which does not meet the minimum standards required by the 2018 legislation is likely to have further need of State support. This may be from health, social security, education. So, to take the narrow view, in this report, that the costs of operating the scheme should be clarified is poor risk analysis.*

*The Jersey Tenants Forum supports the scheme on the grounds of tenants' safety and that it protects the human rights of some of the most vulnerable on the island. The scrutiny panel should produce a risk report on the costs of not protecting tenant safety by not implementing the scheme. For example, what are the potential costs to the Government of Jersey in dealing with the concerns raised by the Children's Commissioner about vulnerable children in poor quality housing. What are*

*the cost implications for the Government of Jersey to deal with the vulnerable elderly in poor quality private rented accommodation?*

R4: The Minister for the Environment must publish a report to the States Assembly per annum, detailing how the income generated from the scheme has been spent.

*JTF: There is no income generated. The scheme is not about income generation. The panel has misunderstood the nature of the scheme.*

R5: The Minister for the Environment must consult with the Panel prior to setting and publishing the finalised fee structure for the licensing scheme. This will enable the Panel to ensure that the licensing scheme will not be generating more income than the amount it costs to operate.

*JTF: If the panel is expressing a view that the tax payer should not pay for the license scheme of a business or individual and nor should the tenant than the Forum would support this view. It should be clear that any future cost of the scheme cannot be passed onto the tenant and the Forum welcome's the Panel's support on this.*

R6: The Minister for the Environment should undertake further work to ascertain the impact of the proposed licence fee on seasonal businesses and how the fee structure could be amended to ensure fairness and proportionately. The Minister must report back to the States Assembly with the outcome of the work prior to the implementation of the scheme.

*JTF: Those who rent in the private sector need to be assured that their housing meets the required standard. If you go to a seasonal restaurant you would expect the same standards as one that runs throughout the year.*

R7: To ensure a level playing field across all housing providers, the Minister for the Environment should ensure that rented dwellings defined as 'Social Housing Providers' under the proposed scheme are not exempt from being charged an annual licence fee if they are Rent Safe accredited. Similar to private landlords, social housing providers should be awarded discounted licence fees depending on their star rating under the Rent Safe accreditation scheme.

*JTF: The Forum supports inspection of all rented dwellings – that is what the legislations says.*

R8: The Minister for the Environment should amend the current fee structure to ensure a graduation of fee charges according to the size of the property and the number of occupants the property is capable of housing.

*JTF: There are no fees in the proposal being debated.*

*The proposal being debated concerns licensing to make sure properties that do not meet the 2018 minimum standards cannot be rented out to families and vulnerable individuals in Jersey. Currently, they are – which means that lives and safety is being put at risk.*

R9: The Minister for the Environment should amend the type of properties captured under the licensing scheme to include private house lodgings.

*JTF: Private Lodgings are already subject to an inspection and registration scheme. This scheme does improve standards.*

R10: In order to reduce the level of bureaucracy and costs for landlords, the Minister for the Environment should amend the proposed licensing scheme and extend the validity of a licence from one year to five years in line with the current practice in the United Kingdom

*JTF: The Forum supports the proposal of three years or five. Either will fulfil the aim of tenant safety and protection of human rights.*

Concerns of the Landlords' Association:

Similarity to P106/2019:

*JTF: The aims and objectives of the regulations are the same – public health and safety – therefore they are similar. The Forum supports the aims and objectives of P.33 2021 in protecting tenant safety and the human rights of the most vulnerable in society. The Minister has responded to the concerns of the JLA to P106/2019 and has made changes to the fees (there are none) and to the period of the license (3 years).*

Fees and Inflationary Impact:

*JTF: There are no fees and there is no inflationary impact from the proposal. Members are reminded that any landlord who, on inspection fails to meet the existing minimum standards, would be breaking the existing 2018 law. Their tenants are not living in safe housing conditions.*

*The current inflationary pressures on the private rented sector are from landlords and agents increasing the costs of rents. A typical increase at the moment on a two bedroom property is £200 a month. Some rents are going up by 25% or more.*

Red Tape:

*JTF: Much of the documentation required and requested by tenants when they take out a tenancy is encapsulated in the 2018 Minimum Standards. In fact, the Jersey Tenants Forum recommends that tenants ask agents and landlords for the documents pertaining to boiler inspections etc and to change the contract if it does not meet the 2018 legislation. The Government of Jersey website already contains this information, as does the Citizens Advice website. Good landlords already meet these standards. There is no extra red tape for those who already meet the legally required standards.*

Government has Powers to Identify Rented Dwellings

*JTF: The aims and objectives of the legislation before members is public health and safety. It is not to provide a register landlords or property. No more could a list of restaurants tell you if the restaurant was safe to eat in. The reason to inspect and license a restaurant is to tell the consumer it is safe to eat in. The reason to inspect and license a rental property is to tell the consumer that it meets the minimum standards for them to live there.*

Inspection/Enforcement Legislation Already Exists:

*JTF: The current inspection regime has revealed that there is a considerable problem here in Jersey with properties failing to meet the minimum housing standards. The Panel has not considered the figures. FYI requests revealed a rate of 4 properties a week failing inspections. This does not include those failing to meet fire safety inspections by the Fire and Rescue Service. Officers have concluded that this would be an urgent cause for concern in any other housing authority. Members say that the bulk of their complaints from the public are about housing. This suggests the current inspection regime has failed and is serving no one's interest but those landlords who seek to exploit tenants.*

#### Concerns over Licence Conditions:

*JTF: The terms of the license are clear. The Minimum Housing Standards are clearly stated in the 2018 legislation. Officers have met with the JLA and explained them.*

#### Comparison to UK Schemes:

JTF: The report to members contains no evidence to support the statement that similar schemes in local authorities have not met with great success. In fact, there is evidence that the reverse is true, that the panel should have considered.

*The LGA Briefing Homes (Fitness for Human Habitation) Bill 2018 explains how such inspections and licensing schemes have worked to raise standards and eliminate rogue landlords. It is this that the English legislation is based upon and gives teeth to the 2004 legislation that the JLA is anecdotally referring to.*

#### Lack of Clarity on Inspection Regime:

*JTF: It is not up to such a high level document as the legislation before members to set at how the inspection should take place. It is clear that the inspection will be appropriate to the condition of the property.*

#### Further Comments:

- JTF: Notes that approx. 150 new landlords enter market annually and 97% are not members of the JLA. This means that the views of the JLA cannot be taken as representative of landlords as a whole.
- The Scrutiny Panel report places too much weight on the opinions and views of the Jersey Landlord's Association - a group who seek to lobby the Government. Members of the Government are also members of the JLA.
- The Scrutiny Panel report makes no attempt to gather evidence from other interested parties – such as Jersey Citizens Advice, Age Concern, the Children's Commissioner.
- It has not gathered or presented any up to date evidence on the health and safety concerns in the rental sector in Jersey.
- Members of the panel who are landlords (and have registered themselves as such on their declaration of interest) have not declared an interest when producing the report – so the JTF can not be assured that the report was produced without prejudice.

#### Closing Remarks:

Jersey Tenants Forum continues to support P.33/2021 Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 202- (P.33/2021)

JTF cannot support the findings of the Scrutiny panel which has failed to understand the aims and objectives of the legislation before it

