

19-21 Broad Street | St Helier
Jersey | JE2 3RR

Deputy Hilary Jeune
Chair, EHI Panel
BY EMAIL

10 May 2024

Dear Chair,

RE: Rented Dwelling Licensing and Code of Practice

Thank you for your letter dated 29 April concerning Rented Dwelling Licensing, the Code of Practice, and the administration of the scheme. Please see below my responses.

1. Consultation

The Code of Practice (“the CoP”) is considered to be a technical guidance document which draws upon well-established literature. Primarily, it is based on the principles of the Housing Health and Safety Rating System (“HHSRS”), which is available online and has been the mechanism by which officers have assessed hazards since the inception of the Law in 2018.¹

Given the technical nature of the HHSRS, I felt it appropriate to engage with technical internal stakeholders when producing the CoP to ensure it aligned to our legislation, however, the core principles, deficiencies, and hazards themselves remain unchanged. For example, a dangerous staircase is dangerous regardless of whether it is in the UK or Jersey.

Wider public consultation was not undertaken as part of this internal technical review, however, now that the CoP is published, I would welcome stakeholders’ comments and feedback with a view to releasing an updated version later in the year.

2. Purpose of the Code of Practice

The CoP is designed to provide understanding of hazards including the health effects and potential causes, preventative measures and what the ideal looks like, and relevant matters which may affect the severity of and likelihood of harm occurring. There is no definitive means to resolve deficiencies and, by association, hazards, as there can be many causes and resolutions - every property is unique, and every situation is generally specific to the dwelling.

The CoP provides overall guidance and understanding to be used to remedy deficiencies. It is not designed to be a step-by-step guide as to how to rectify or reduce hazards in specific properties, and it is an owner's responsibility to investigate causes and remedies for compliance. Where appropriate, through hazard awareness advice, authorised officers

¹ Housing Health and Safety Rating System: Operating Guidance, February 2006, Gov.uk ([link](#)).

will provide information or advice to property owners in relation to risk reductions. [Article 8 of the Public Health and Safety \(Rented Dwellings\) \(Jersey\) Law 2018](#) clarifies this:

“Hazard awareness advice shall consist of information or advice as to a course of action which the authorized person considers will remove the hazard or reduce the risk posed by it to an acceptable level.”

This is how officers can provide bespoke advice regarding hazard remediation. In relation to the revised wording, I welcome the suggestions made and have made clear this is a living document and open for improvements. The suggestion to 9.1 “and to encourage such owners (or landlords) to seek guidance from officers on any particular situation” is accepted and will be actioned.

3. Assessment Hazards

As with any document, it should be read as a whole or section rather than as individual points as out of context it will invariably lose meaning. In relation to the further detail specifically around ages of dwellings, likelihood, and harm outcomes, section 1.2 states:

“This code of practice is designed to consolidate the potential hazard categories (“Profiles”) and align the content with other areas of Jersey based legislation. The core principles of HHSRS however still apply. More detail of the statistics, calculations and formulas, can be found on the UK government website via the following links.”

In response as to whether 7.1 specifically would provide this level of advice: it would not. However, the document including the specific hazard profiles can be used to make a judgement. In terms of making the specific risk-based assessment of likelihood and harm outcomes, this knowledge and understanding are gained by authorised officers through training and experience. If a property owner is ever unsure, again, it is strongly advised to request hazard awareness advice from officers.

4. Issuing of licences

It is important to consider the wider context of [Article 3\(1\) of the Public Health and Safety \(Rented Dwellings\) \(Licensing\) \(Jersey\) Regulations 2023](#):

- (1) *The Minister must license a dwelling to be used as a rented dwelling if –*
 - (a) *the Minister receives a valid application for a licence in respect of the dwelling;*
and
 - (b) *the Minister is satisfied that –*
 - (i) *the dwelling meets the minimum safety standards, and*
 - (ii) *there is no prescribed hazard present in the dwelling.*

This is in specific reference to the requirement to grant a licence in the event the dwelling meets the minimum standards and there are no hazards. As such, section 3 of the COP does not strictly apply Article 3 in the same context.

As for section 3, simply having hazards present is not in itself a reason to refuse a licence. Again, for sake of clarity, the wider Law is considered including its subordinate legislation. [Article 7\(1\) of the Public Health and Safety \(Rented Dwellings\) \(Jersey\) Law 2018](#) states:

- (1) *The authorized person shall –*
- (a) *identify any prescribed hazards in a dwelling;*
 - (b) *assess the level of risk posed by any prescribed hazard; and*
 - (c) *take such action (if any) in accordance with paragraph (2) as the Minister considers appropriate, having regard to all the relevant circumstances including the cost of taking action to remove the hazard or reduce the risk posed by it to an acceptable level.*

As risks and hazards are encountered every day, including within rented dwellings, it would be unreasonable to require there to be no hazards. The CoP is a guide to assist with the consideration and judgement of deficiencies giving rise to any unreasonable hazards.

To note, the CoP itself is designed to be used in relation to the entirety of the Public Health and Safety (Rented Dwellings) Law 2018 and subordinate legislation. It does not only apply to the principles of licensing.

5. Inspections

I welcome the Panel's recommendation and will ensure considerations are made in relation to the process, timeframes, and criteria, and that these are published on the web page.

6. Accessibility

I agree with the Panel's preference of the word 'toolkit,' and I have requested officers amend the web page to reflect this clear labelling. I am informed this will be amended and reflected on the web page shortly.

My officers opted for a small print run of hard copy documents, as it was envisaged that changes would be made once the licencing scheme was launched, and on receipt of public feedback. We will provide another hard copy print run in accordance with demand, but I am also mindful of the costs and environmental impacts of large volumes of printed material which could change. If any of the documents are specifically requested, my officers can provide individual print out copies.

I support the suggestion and I will ask officers to develop an infographic to detail the wider licensing process. It is important to note, officers do not provide remedy solutions, but hazard awareness advice. Whilst an officer may point and owner in the direction of a resolution it is the owner's responsibility to satisfy the removal or reduction of the hazard. I want to ensure that the toolkit is user friendly and will ask officers to work with Scrutiny for suggestions on how we can improve its contents.

7. Technology and application process

The issues experienced with the online application and payment process has been primarily due to an internal change freeze mandated by the Modernisation and Digital (M&D) department from 26 February to 12 April 2024 following a number of Priority 1 system outage incidents. This change freeze meant that no new systems or system changes were permitted, in order to allow M&D to take the time required to investigate the root causes of outages and to review M&D change procedures to take steps to mitigate the risks of reoccurrence. This meant that the online portal for licencing, allowing bulk

uploads for multiple properties and multiple payments methods, was unable to be developed or released due to this change freeze. We were able to release a similar form to that already live on gov.je, however, it would not allow for direct uploads. The team has worked with M&D to ensure that the simple online form and payment method was available for the launch date, which was required in law and agreed by the Assembly.

I took the decision to launch with a simple form for a brief time period, and then release the preferred online portal at a later phase. My team have been in contact with those agents and larger organisations which will need a bulk upload facility over 50 dwellings and larger payment facility, such as BACS transfer.

I agree with the Panel that it is important to ensure all Islanders are able to fulfil their obligations and submit licencing, even if they do not have online capabilities. There are options for assistance from Customer and Local Services and Citizens Advice, who currently assist Islanders across a multitude of online forms. My team are also holding drop-in sessions in the Parishes where an officer will be available to assist with the filling out of forms. Furthermore, there are options for family, friends, or agents to assist in the process of a licence application, as the form allows an 'agent' (someone other than the owner) to submit a form on their behalf. There is precedent for this online process, as the MyDeposits Jersey Scheme has been an entirely online process since 2014.

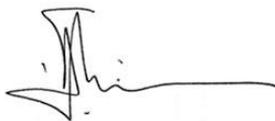
Within the Regulations, there is no legal basis for a fee waiver, which is why I launched the scheme on a one fee, one dwelling, one licence approach. However, during the roadshow events, it was evident that this point was a matter of trust in Government, having been raised by the previous Minister, and thus I committed to finding a way to refund licence fees upon request for Rent safe accredited properties for the first licence. My team are currently defining this process and will process the refunds in due course. I will ensure that the process, once defined, is published on the web page, and communicated to stakeholders.

8. Resourcing

The Directorate is satisfied there is sufficient resourcing to answer queries and assist the public efficiently and quickly. For reference, during the first week of the licencing scheme the Directorate received approximately 50 queries total by phone and email.

I trust that the above responses are of use to the Panel and please do not hesitate to contact me if you require anything further.

Yours Sincerely,



Deputy Steve Luce

Minister for the Environment