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Deputy Hilary Jeune
Chair of Environment, Housing, Infrastructure Panel

BY EMAIL

23 May 2025

Dear Deputy Jeune

**Environment, Housing, and Infrastructure Panel Draft Residential Tenancy (Jersey)
Amendment Law 202- Review**

Further to the request from the Environment, Housing and Infrastructure Panel as part of its review of the Draft Residential Tenancy (Jersey) Amendment Law 202- please see below answers to your questions.

- **Has your Department been consulted on how the grounds of nuisance will be interpreted or evidenced under the Draft Law?**

The Regulation Directorate has been actively engaged in the consultation process and acknowledges the importance of strengthening the legal framework governing residential tenancies. However, I wish to raise several operational and legal considerations that merit attention.

While the draft law introduces nuisance as a potential ground for eviction, it does not provide a statutory definition. In the absence of a clear legal precedent within Jersey law, the Regulation Directorate anticipates issuing supplementary guidance to assist stakeholders in interpreting this provision. This guidance would aim to:

- Define nuisance in the context of residential tenancies (e.g., persistent noise, anti-social behaviour, misuse of property).
- Establish evidentiary thresholds for landlords seeking to rely on nuisance as grounds for possession.
- Clarify the rights and responsibilities of both landlords and tenants under the amended law.

I note that, unlike the UK, Jersey lacks a comprehensive statutory framework for nuisance. The Statutory Nuisance (Jersey) Law 1999 is limited in scope and does not encompass civil or private nuisance provisions. This presents a challenge in aligning enforcement mechanisms with the expectations set out in the draft legislation.

I must also express concern regarding the operational readiness of the Housing and Nuisance Team to meet the demands of the proposed amendment. The team is currently under significant pressure due to the renewal phase of the Rented Dwelling Licensing Scheme, which is both resource-intensive and time-sensitive. Additionally, staffing constraints—exacerbated by a recruitment freeze and staff on leave—have further limited their capacity.

Given these constraints, there is a tangible risk that the Regulation Directorate may be unable to effectively deliver on the responsibilities envisaged under the draft law, particularly in relation to these nuisance-related provisions.

- **How does your Department interpret the shift from “a continued and repeated breach” to “a repeated or serious nuisance”?**

The shift in language from “a continued and repeated breach” to “a repeated or serious nuisance” in Jersey’s residential tenancy framework reflects a broadening and clarification of enforcement criteria.

The phrase “continued and repeated breach” implied a pattern of ongoing misconduct over time, which could delay intervention. The new wording “repeated or serious nuisance” allows for earlier action, even in cases where the behaviour is not ongoing but is severe enough to warrant immediate concern.

The term “serious nuisance” introduces the ability to act on single but significant events (e.g. violent outbursts, criminal activity, or extreme antisocial behaviour), which previously might not have met the threshold for enforcement.

This change gives landlords and the Housing and Nuisance team more discretion to respond proportionately to different types of nuisance, whether persistent low-level issues or isolated but serious incidents.

The revised language aligns more closely with the civil nature of tenancy enforcement, where decisions are based on the balance of probabilities rather than criminal standards of proof.

- **Are there any anticipated impacts this definitional change may have on evidentiary thresholds, enforcement consistency, or departmental workload?**

Evidentiary Thresholds

“Serious nuisance” enables action based on single, significant incidents, rather than requiring a pattern of behaviour.

This lowers the evidentiary burden for landlords and officers, as they no longer need to prove a sustained or repeated breach—just that the nuisance was serious enough to justify intervention.

Enforcement Consistency

The broader definition may lead to variability in interpretation unless clear guidance is issued. To maintain consistency, the Housing and Nuisance team is expected to develop a Standard Operating Procedure (SOP) and provide model clauses and examples to landlords.

This SOP would help ensure that similar cases are treated similarly and that enforcement is proportionate and fair.

Departmental Workload

The change could lead to an increase in complaints or referrals, as tenants and landlords may perceive a lower threshold for action.

The Housing and Nuisance team will need to prioritise more effectively and train officers to assess the seriousness of incidents under the new, criteria which is yet to be determined.

- **Is your Department intending to update existing internal procedures or training for officers as a result of this change?**

Officers will undertake a review of current procedures and training to ensure they are fully equipped to manage any forthcoming legislative changes. This proactive approach will enable officers to provide relevant guidance and advice in accordance with any new legal requirements.

A key distinction to be maintained is between the civil and statutory thresholds for behaviour that may be considered a nuisance.

Civil Threshold: Whether a nuisance meets the civil threshold sufficient to merit eviction is a matter for the courts to determine.

Statutory Threshold: An officer's assessment of whether behaviour constitutes a statutory nuisance remains unchanged and continues to be guided by existing legal standards.

This distinction ensures that officers remain within their professional remit while supporting legal processes appropriately.

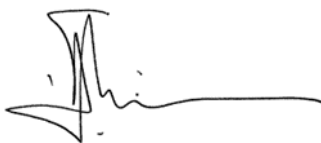
Planned updates include the development of a Standard Operating Procedure (SOP) to ensure consistent handling of complaints under the new definition of "repeated or serious nuisance." This will ensure consistency in enforcement and decision-making across the Housing and Nuisance team. Training for officers to help them assess and respond to complaints is essential using a developed criterion, particularly in distinguishing between civil and statutory thresholds.

The Team will also need to produce model tenancy clauses and guidance documents to help landlords understand and apply the new provisions. It is anticipated that these resources will be included in a landlord toolkit to promote best practices in supporting consistent application of the law and reduce ambiguity in enforcement.

- **Outline what resource or operational planning has been considered or allocated in anticipation of the impact the new Law may have on your Department.**

The Directorate acknowledges that the broader definition may lead to increased reporting of nuisance cases. As a result, internal processes will need to be reviewed to ensure effective triage and prioritisation of complaints. There is no indication of any additional staffing at this stage, so efficiency improvements will be key. However, I would reiterate my earlier concerns regarding competing priorities on the team with limited capacity which is a very real risk to effective operational delivery.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Steve Luce', with a long horizontal line extending to the right.

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