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Introduction

The National Residential Landlords Association (NRLA) exists to protect and promote the interests of private residential landlords.

The NRLA would like to thank the council for the opportunity to respond to the consultation. We are happy to discuss any comments that we have made and develop any of the issues with the local authority.

The NRLA seek a fair legislative and regulatory environment for the private rented sector, while aiming to ensure that landlords are aware of their statutory rights and responsibilities.

Summary

The NRLA believes that local authorities need a healthy private rented sector to compliment the other housing in an area. Leicester has seen the development of an unhealthy situation due to policies delivering high rents and where the poor have greater difficulty renting in the private rented sector. The ability to provide a variety of housing types and can be flexible around meeting the needs of both the residents that live and want to live in the area and the landlords in the area. There are already significant challenges around housing in Leicester, and we have concerns that this will be exasperated by this policy.

The sector is regulated, and enforcement is an important part of maintaining the sector from criminals who exploit landlords and tenants. An active enforcement policy that supports good landlords is important as it will remove those that exploit others and create a level playing field. This has been lacking in Leicester. We have concerns around the council's approach to licensing, you have failed to inspect properties that come under HMO regulations and currently are poor on inspections compared to comparable local authorities. Some schemes are delivering multiple inspections, up to 3 of every property. This is not being proposed within your scheme. Multiple inspections pushes criminals out of the sector and drives up the standards for landlords and tenants.

We understand that the council have a reactive enforcement policy, but it is important to understand how the sector operates. Landlords are often victims of criminal activity with their properties being exploited, both through subletting and criminals exploiting properties through county lines and other criminal activity.

We believe the council should adopt an approach similar to the Leeds rental Standard, which supports the compliant landlords and allows the local authority to target the criminals.

Having considered the evidence presented, as well knowing the area very well and having undertaken our own evaluation of the circumstances faced by landlords, tenants and residents of Leicester, a number of questions are raised:

- In following Hemmings and the Gaskin court cases, and with the fee is split. Monies paid by a landlord clearly now coming under the service directive (which has been adopted into UK legislation). Can the council provide a breakdown between part A and part B monies paid by a landlord and how you make sure that it is apportioned to the individual landlord and works done in connection to the license.
- You highlight discounts, how much money has been made available from the general fund for this, as a landlord cannot subsidise another landlord under the Gaskin ruling of the service directive. Therefore a landlord can not support another landlord all monies paid by a landlord have to be spent on them.
- The documentation provided fails to indicate what additional funding will be available to support the expansion of licensing. Adult social care will have to be involved as many tenants have mental health, alcohol, or drug related illnesses. How do landlords' access this for their tenants?
- The council fails to say how it will prevent malicious claims of poor housing being made, which could result in tenants losing their tenancies. Can this be provided and how will it operate?
- The council fails to say how the proposal will tackle rent-to-rent, modern day slavery, indentured labour, subletting, criminal enterprise/county lines or even Airbnb. These are all increasing in the county.

We would like clarification on these points so that the private rented sector has confidence in any scheme that is delivered, and it will deliver against its set aims. Equally the current proposal for fees is not outlined, we expect these to be corrected in line with the law. What is the service that a landlord can expect in line with the service directive which has been incorporated into UK law.

The NRLA will judge the scheme against the criteria that the council is proposing the scheme under. We are not opposed to licensing schemes, what we wish to see is them delivered against what they are proposed to do. What we wish to know is how is the local authority going to deliver against what it is proposing. As you will be aware, the NRLA publishes data against performance

We believe that any regulation of the private rented sector must be balanced. Additional regulatory burdens should focus on increasing the professionalism of landlords, improving the quality of private rented stock and driving out the criminals who act as landlords and blight the sector. These should be the shared objectives of all the parties involved, to facilitate the best possible outcomes for landlords and tenants alike. Good practice should be recognised and encouraged, in addition to the required focus on enforcement activity. How does the local authority plan to communicate best practice to the landlord and tenants of Leicester? Will Leicester inspect each property at least once?

Selective licensing will also introduce new social economic group of tenants into licensing. The law is clear landlords do not manage their tenants; they manage a tenancy agreement. If a tenant is non cooperative, or causing a nuisance a landlord can end the tenancy, will the council will make it clear in the report that they will support the landlord in the ending of the tenancy?

Consultation

Licensing is a powerful tool. If used correctly by Leicester Council, it could resolve specific issues. We have historically supported/worked with many local authorities in the introduction of licensing schemes (additional and selective) that benefit landlords, tenants and the community. From what has been presented there is still work needed to be done to make a scheme work. You introduced the one of the most expensive licensing regime in the country and detrimentally affected the poorest the most. We are disappointed that the local authority has not engaged with the NRLA to deliver a successful scheme, as other local authorities have. Equally you have not looked at other more successful schemes which have delivered better outcomes, and managed to inspect all the properties multiple times for the local authority, tenants and landlords.

Costs

While any additional costs levied on the private rented sector runs the risk of these being passed through to the tenants, as has previously been established. We are disappointed that the local authority has not looked at a cost in a monthly basis. Is the council going to allow landlords to pay monthly, thus following best practice? If other councils are able to do this, why cannot Leicester? The introduction of licensing post Covid 19 will have an impact on cash flow for many landlords, and tenants therefore following best practice a monthly fee as highlighted by other councils does seem appropriate. As other local authorities are able to deliver this, we hope Leicester follows these examples as it benefits all parties.

This will also the issue of insurance is often overlooked as a cost, as premiums increase for everyone (homeowners and landlords) when a local authority designates an area with licensing it is indicating problems in the area. This will add costs to those renting as well as to owner-occupiers. Already Leicester is expensive and this will continue affecting those on the lowest income.

A joined-up coordinated approach within the council will be required. Additional costs in relation to adult social care along with children's services and housing will be incurred if the council's goal is to be achieved. Yet there is no evidence from the council that this will be done – can this be provided? How will landlords feed into system if they suspect a tenant is at risk? What support will be put in place so a landlord can support a tenancy where a tenant has mental health, alcohol, drug issues or they have problems and need support. The NRLA works with many local authorities on this.

Criminal Activity

In addition, the proposal does not take into account rent-to-rent or those who exploit people (both tenants and landlords). Landlords who have legally rented out a property that has later been illegally sublet, the property still has a license, with the council not inspecting they no there is no risk. The landlord does not rent the property as an HMO, but is illegally sublet. The license holder can end the tenancy (of the superior tenant, the sub tenants have no legal redress) but the landlord would need support the local authority in criminal prosecution. But what is the process for landlords, it would help if the council could document how this would work. Often, landlords are victims, just as much as tenants. What support will the council provide for landlords to whom this has happened? Will the council support an accelerated possession order?

The issue of overcrowding is difficult for a landlord to manage if it is the tenant that has overfilled the property. A landlord will tell a tenant how many people are permitted to live in the property, and that the tenant is not to sublet it or allow additional people to live there. Beyond that, how is the landlord to manage this matter without interfering with the tenant's welfare? Equally, how will the council assist landlords when this problem arises? It is impractical for landlords to monitor the everyday activities or sleeping arrangements of

tenants. Where overcrowding does take place, the people involved know what they are doing and that they are criminals, not landlords. The council already has the powers to deal with this.

Tenant behaviour

Landlords are usually not experienced in the management of the behaviour of tenants, and they do not expect to, with the expansion of the scheme this will be drawn into licensing. The contractual arrangement is over the renting of a property, not a social contract. They do not and should not resolve tenants' mental health issues or drug and alcohol dependency. If there are allegations about a tenant causing problems (e.g. nuisance) and a landlord ends the tenancy, the landlord will have dispatched their obligations under the selective/additional licensing scheme, even if the tenant has any of the above issues. This moves the problems around Leicester, but does not actually help the tenant, who could become lost in the system, or worst moved towards the criminal landlords. They will also blight another resident's life. There is no legal obligation within selective/additional licensing for the landlord to resolve an allegation of behaviour. Rather, a landlord has a tenancy agreement with a tenant and this is the only thing that the landlord can legally enforce.

Tenancy Management

In many situations, the council should consider enforcement notices and management orders. The use of such orders would deliver immediate results.

We would also like to see the council develop a strategy that includes action against any tenants who are persistent offenders. These measures represent a targeted approach to specific issues, rather than a blanket licensing scheme that would adversely affect all professional landlords and tenants alike, while leaving criminals able to operate covertly. Many of the problems are caused by mental health or drink and drug issues. Landlords cannot resolve these issues and will require additional resources from the council.

Often when tenants are nearing the end of their contract/tenancy and are in the process of moving out, they will dispose of excess household waste by a variety of methods. These include putting waste out on the street for the council to collect. This is in hope of getting their deposit back, this is made worse when the council does not allow landlords access to municipal waste collection points. Local authorities with a large number of private rented sector properties need to consider a strategy for the collection of excess waste at the end of tenancies. We would be willing to work with the council to help develop such a strategy. An example is the Leeds Rental Standard, which works with landlords and landlord associations to resolve issues while staying in the framework of a local authority.

Current law

A landlord currently has to comply with over 130 pieces of legislation, and the laws with which the private rented sector must comply can be easily misunderstood. A landlord is expected to give the tenant a 'quiet enjoyment' of the property. Failure to do so could result in a harassment case being brought against the landlord. The law within which landlords must operate is not always fully compatible with the aims of the council. For example, a landlord keeping a record of a tenant could be interpreted as harassment.

Changes to section 21

We would like clarification on the council's policy in relation to helping a landlord when a section 21 notice (or future notice as currently being consulted upon under the renters

Reform Bill) is served, the property is overcrowded or the tenant is causing antisocial behaviour, as per what the council says in the consultation. What steps will the council take to support the landlord? It would be useful if the council were to put in place a guidance document before the introduction of the scheme, to outline its position regarding helping landlords to remove tenants who are manifesting antisocial behaviour.

The change to how tenancies will end and a move to a more adversarial system, will mean landlords will become more risk adverse to take tenants that do not have a perfect reference and history. We would be willing to work with the council and develop a dispute resolution service which we have with other local authorities. It also poses a question where does the council expect people to live who have been evicted due to a tenancy issue.