

Department of Social Care Impact Assessment of Provisions for the Registration of Landlords

IMPACT ASSESSMENT OF: LANDLORD AND TENANT (PRIVATE HOUSING) BILL

DEPARTMENT: DEPARTMENT OF SOCIAL CARE

DATE: 9 January 2013

VERSION NUMBER: 3

RELATED PUBLICATIONS:

Agenda for Change

Department of Social Care Delivery Plan 2012 - 2013

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SUMMARY: INTERVENTION AND OPTIONS

What is the Bill intended to do?

Provide Government with powers to address issues of "decency" of private sector accommodation not currently captured within existing legislative provision.

Nature of Problem

In the Isle of Man there is currently no requirement for private sector Landlords to register their landlord activities or their property portfolio.

Isle of Man 2001 Census data indicated that around 14% of residents on the Island live in private sector accommodation. A significant proportion of the private rental sector provides an acceptable and appropriate housing solution for many on the Island. However at the lower end of the rental market a considerable number of private sector rented properties across the Island are known to be in poor repair and do not achieve standards of basic decency.

Many of these properties are known to be occupied by vulnerable individuals and families as evidenced by submissions of support from health/welfare professionals, made on behalf of their clients, in respect of promoting their clients' access to public sector housing.

Furthermore the work the Department carries out with Third Sector Partners has identified there are also a number of landlords operating on the IOM who target vulnerable groups with few housing options and do not always operate strictly within the confines of current landlord and tenant legislation, with their tenants often too afraid of being made homeless to raise a formal complaint.

The types of issues Environmental Health Officers encounter when inspecting these premises are:

- No proper tenancy agreement
- No rent book
- Lack of awareness/understanding of Landlord & Tenants Act
- Inadequate heating
- Lack of insulation
- Low quality 'well used' furnishings, white goods etc.
- Old, shabby and/or broken kitchen and/or bathroom facilities
- Basically fit properties kept at a minimum standard but not providing decent accommodation
- Landlords who claim not to know the actual numbers of persons occupying their premises and condoning potential overcrowding
- Tenants who claim not to know who their landlord is

Currently most of these Landlords fall outside the provisions of existing Environmental Health powers which focus more on the structure of the property rather than quality or decency of accommodation.

Purpose of Proposal

The purpose of the scheme is to radically improve the lower end private sector rental market by enforcing minimum standards in letting and obliging those not providing this minimum service to improve, or leave the sector.

The actual owner of the property must be registered. If a letting agent is being used this must also be declared and identified but it is fundamental to the Scheme that the actual person responsible for the property is identified and held accountable.

The scheme will also give protection to Landlords with regard to a small number of Landlords who are subject to spurious complaints from Tenants who have their own agenda for example to try and obtain extra points for social housing.

Means by which it is to be achieved

Retain the status quo

This is not considered an acceptable option given the nature of the problems and the risks identified in this paper.

Introduce Guidance

The Department is seeking Council approval to begin a voluntary registration scheme commencing from early 2013 which would remain in place until the proposed legislation comes into effect.

This will be a first step to addressing the nature of the problem above but will not provide the legal powers required to create an effective mechanism to tackle the problem of sub-standard housing in the private rented sector.

Introduce Legislation

This is the preferred option as primary legislation is required to provide the legal basis for the mandatory introduction of the Scheme.

It is proposed that a series of standards would be applied to the landlord and their

property portfolio, in a similar manner to the Scottish system of registration.

The standards proposed have been developed in consultation with Environmental Health Officers from the Department of Environment Food and Agriculture, and our partners in the sector and address a basic level of accommodation. They include the property being watertight and damp free, providing decent kitchen and bathing facilities and adequate heating and insulation provision etc.

The standards also address basic tenancy management issues; the provision of a rent book or similar document, protection and return of deposits, tenant privacy, and operation within the law with enhanced protection against harassment and unlawful eviction.

The revised standards (following public consultation) are set out in full in **Appendix One** of this report.

It is proposed that each period of registration would last three years and would involve a relatively simple process of self declaration and self assessment by the Landlord against the published standards. However, on making their declarations the Landlord will be made aware that their statements would be subject to audit which may result in enforcement action if the Landlord has not declared truthfully. The Landlord would also be made aware that if their claims are found to be fraudulent then their registration and therefore their ability to legally function as a Landlord could potentially be withdrawn.

Inspections could be carried out, as is the current practice, on receipt of a complaint and longer term on a random percentage basis. Environmental Health Officers (EHO's) could initially target Landlords where there is existing evidence that they have poor quality stock. If a Landlord's property is found to be in a non-decent condition the scheme would allow EHO's to inspect all the remaining Landlord's properties in their portfolio and identify what is required to bring them up to standard.

Properties found not to meet the standards would be subject to penalties such as improvement notices, where the Landlord is given a fixed period of time in which to improve their properties to an agreed condition. Any tenants currently residing in the property would not be evicted (provided that the property is not seriously unfit for habitation). Failure to respond appropriately to such notices would result in a fine and possibly closure of the property within a reasonable timescale to allow existing tenants to find alternative accommodation.

Once the legislation is in place Landlords who fail to address the issues within any given time frame would be removed from the Register thereby making it illegal for them to continue to operate as a Landlord.

Given the scale and scope of the private rental market it is proposed that the scheme be introduced on a phased basis to give Landlords sufficient notice of the implications of the Scheme. This process began in early 2012 with an initial policy consultation.

The Department is seeking Council approval to begin a Voluntary Registration

Scheme commencing from early 2013 this will be in place until the Bill receives Royal Assent and is implemented in early 2014. This gives Landlords sufficient time to address outstanding issues and understand the implications of the Scheme.

Ministerial sign off for Options stage

I have read the Impact Assessment and I am satisfied that given the available evidence, it represents a reasonable view of the likely costs and impact of the preferred option.

Signed Responsible Minister _____

Date _____

SUMMARY: ANALYSIS AND EVIDENCE

IMPACT OF PROPOSAL

Resource Issues - Financial (including manpower)

Statement

The Landlord and Tenants (Private Housing) Bill will not require any additional monies. The additional administrative resources required that are identified below will be met through existing resources and fees levied by the Department in respect of the Scheme.

The Scheme would require administration resources to manage the registration process, maintain the database and give advice to Landlords on the registration process. However as it is proposed that registration would last three years, after the initial set up, the process would not be too onerous to manage. Furthermore in order to minimise administration costs and resources it would be the legal responsibility of the Landlord to maintain their registration.

Under the current structure it is proposed that responsibilities and functions would be jointly shared by the DSC Housing division taking responsibility for administration and maintaining the register and the DEFA Environmental Health division continuing to be responsible for enforcement and taking legal action where required.

Likely Financial Costs

New Staff	Salary - lowest point on the scale	Salary + 20% pension costs + 15% on costs + Employer's contracted-out National Insurance contributions
1 part time administrative officer	£12,505	£17,734

(approx 2.5 days a week)		
TOTAL		£17,734

Other Costs

The Manx homelessness charity Kemmyrk have agreed to work in partnership to develop model tenancy agreements and other housing management documentation such as model inventories and terms and conditions for the handling and repayment of deposits. This set of pro-forma documents will assist Landlords and facilitate the registration process.

It is proposed that these documents will be signposted on DSC's website and form part of a registration pack which each Landlord will receive upon registration. Where possible these would be electronic but some cost may be incurred for printing and postage if paper copies are requested and is estimated below.

Estimated cost of Registration Packs: £1,000 per annum

One off costs

Total cost for one full-time administrative officer for six months only. (This post will deal with any work created by the initial registration process.)	£12,933
Publicity	£1000
TOTAL	£13,933

Average Annual (excluding one-off)

Total: £18,734

Likely Financial Benefits

Fees

Indicative figures from other jurisdictions demonstrate an estimation of the income that could be raised from the proposed registration. For example the Scottish Executive has set fees of £55 per Landlord and £11 per property so a Landlord with a large portfolio will pay the £55 fee plus the appropriate multiple of the £11 fee. Registration lasts 3 years. The fees are charged to cover the cost of running the registration scheme.

The exact number of properties that would be required to register is not known. The 2001 IOM Census indicated that the private rented sector accounted for

approximately 14% of tenure type on the IOM which would translates into approximately 7000 properties.

It is estimated if similar charges to those levied in Scotland are applied this equates to an income in the region of £32,000 per annum if each registration lasts for a three year period (this is based on a assumption that every Landlord has an average of 20 properties).

However the most recent House Condition Survey conducted in 2007/8 suggested that the private rented sector accounted for a larger proportion of tenure type, approximately 17%, so these estimates of income are potentially quite conservative.

Estimation of additional registration fees : £32,000 per annum

Tax Income

The introduction of registration for private Landlords may also provide further revenue by helping to identify smaller Landlords who are not declaring their rental income for tax purposes.

Please note however the DSC has no data on the potential numbers and therefore are unable to estimate the revenue that could potentially be raised so a figure has not been included at this stage.

Average Annual (excluding one off): £32,000

If the proposal introduces provisions that will require enforcement or monitoring who will undertake this and what is the likely annual cost

Current inspection and enforcement provisions lie with the Department for Environment, Food and Agriculture (DEFA) and are undertaken by Environmental Health Officers. This will not change with the introduction of this legislation and it is not anticipated that this legislation would result in a need for increased resources within DEFA.

The DSC has worked closely with DEFA to develop this legislation. In discussion it was determined that the properties the registration scheme will identify as needing actions are properties that Environmental Health Officers (EHO's) are already aware of, or would wish to be aware of in terms of their existing role and responsibilities.

The enhanced powers the legislation will give EHO's, particularly in respect of "decency standards" rather than basic fitness standards contained within current Environmental Health legislation would enable EHO's to take action across a range of unsatisfactory housing conditions which they are currently unable to address. The lack of enforcement powers in this area results in time consuming and costly repeat visits.

For example currently, where premises are revealed to be in disrepair, but not so as to be non-decent, informal action may result in a large number of visits to advise and check on compliance. It is envisaged that the proposed enhanced powers may result in a reduction in the number of visits. Necessary works may be completed more quickly as Landlords will fear the loss of registration and as a consequence, income.

With the proposed enhanced powers issues will be more effectively remedied in initial visits, so in practice it is likely that the EHOs will be able, with the same staff resource and costs, to actually target more problem properties than they are currently able to.

The operation of the Scheme would dovetail with existing requirements under Flats and HMO legislation and the information required in respect of this could be shared to serve both purposes rather than duplicated.

Whilst there is likely to be increased activity in the short term this would be managed within existing resources and, in the longer term there should be improvement in the private rented stock which should significantly reduce the activity of the Environmental Health Officers.

The proposals have been formally submitted to the Chief Executive of the DEFA who has confirmed that the Department is agreeable to its Environmental Health Officers carrying out the investigative and enforcement functions under the above legislation.

Annual Cost: No increase in current DEFA resources.

Are there any costs or benefits that are not financial i.e. social

A comprehensive Register of Landlords will provide a valuable resource in a number of areas:

- Government statistics and policy development;
- Points of contact for potential tenants and housing agencies, neighbours, local authorities and enforcement agencies such as Environmental Health etc.;
- Assisting agencies in dealing with range of issues complicated by ownership by absentee landlords; and
- If a landlord's property is found to be in a non-decent condition it would allow Environmental Health to inspect all the landlord's properties to determine the state of the whole portfolio and bring them up to standard.

The scheme will also bring a number of social benefits. Government is able to provide public sector tenants with decent living conditions and ensure that tenants are treated equitably and fairly as a matter of Tynwald and Government policy. In contrast there is no regulation, in terms of basic decency standards, which applies to private rented sector.

It has long been recognised that poor housing conditions negatively impact on both physical and mental health and can lead to the exacerbation of a wide range of social welfare problems.

This legislation will help to encourage a better quality of housing at the lower end of the private rental sector and give Environmental Health Officers the enforcement powers to ensure that those small proportion of Landlords who are unwilling to provide a decent level of accommodation to their tenants are unable to operate on the Island.

Has Treasury Concurrence been given for the preferred option

Date of Treasury Concurrence:

1st February 2012

Key Assumptions / Sensitivities / Risks

Without the introduction of this legislation there will continue to be an inefficient use of Environmental Health resources. The lack of enforcement powers would mean continued repeat visits to landlords who are well known to Officers. This proves both costly and time consuming for Officers.

A wider risk is that the DSC pays the rent to many of the private sector Landlords who are providing poor quality homes to some of the Island's most vulnerable residents. Calculations contained in the Housing Policy Review Update report published in October 2010 showed that in the region of £79,000 per week or over £4.1 m per annum is being paid to private sector Landlords by the Government specifically for housing. Given that these individuals and families qualify for benefit assistance and therefore must have low incomes (and potentially a raft of other social welfare issues) then it is very likely, especially as there is an upper limit on what benefits will cover in terms of housing costs (approx. £118p.w.), that a large proportion of these people are living in the very poorest quality accommodation on the Island.

Furthermore the DSC feels that it is pertinent to address the lack of legal powers in this area to increase public confidence in the private rental sector. The DSC is currently considering a wide range of options in relation to the provision of affordable housing. The public therefore need to feel confident that where accommodation is not available to them in the public sector the private sector will provide accommodation of a decent standard.

Approximate date for legislation to be implemented if known

Subject to the responses to the consultation exercise and Council of Ministers approval, it is envisaged that the Bill will be introduced into the Branches in April 2013. This would result in full implementation from early 2014.

Link to Government Strategic Plan

This Bill meets many policy aims and objectives stated in the Strategic Plan.

One of the four strategic themes of the plan is "to introduce and enforce legislation and regulations which provide for the protection, safety and personal development of the individual whilst minimising the burden of compliance to employers and the community at large".

One of the main purposes of the provisions in the Landlord and Tenant (Private Housing) Bill is to help ensure the protection and safety of private sector Tenants. However, in constructing the Bill due credence will be given to ensure that a correct balance is obtained between the risks and responsibilities for both individuals and Landlords.

Link to Department Aims and Objectives

One of the Department's aims is to provide affordable and appropriate housing that meets the key needs of the community and the DSC stated in the 2011- 12 service delivery plan that we would "develop proposals for a Landlord Registration Scheme for the private rented sector and conduct public consultation on the proposals."

SUMMARY: CONSULTATION**Consultation in line with Government standard consultation process**

Yes

Date

Consultation: 27 February 2012 - Friday 27 April 2012

Statement:

The policy consultation was launched on 27 February 2012 and ran for over 8 weeks. The closing date for comments was Friday 27 April 2012. This exceeded the Government minimum requirement of 6 weeks.

The consultation received 134 responses in total.

The consultation process included the following components:

- The public consultation which included the publication of the consultation document in print form and on the Government website. There was an opportunity for the public to respond to particular questions and/or give an open response.
- Consultation document was sent to all other Departments, Statutory Boards and Offices and relevant others.
- Consultation document was sent to all known Landlords.

The Department will be running a separate consultation on the draft Landlord and Tenant (Private Housing) Bill.

EVIDENCE BASE:

Private Sector House Condition Survey

During 2007/08 a survey of the private sector housing stock on the Isle of Man was carried out by the then Department of Local Government and Environment and the findings of the survey were published. Similar surveys have been conducted approximately every five years since 1984. The random sample of houses represented 4% of private sector dwellings on the Island.

Full internal and external inspections of each property were carried out by Environmental Health Officers/Technicians from the Environment Safety and Health Directorate (ESHD). The information collected from this random sample is accepted as being statistically representative of the whole private sector housing stock on Island.

The main purpose of the survey is to assist Departments in the identification of problems and trends relating to the condition of the private sector housing stock. The survey also permits comparison with previous surveys and acts as an indicator as to the efficacy of current policies related to the private sector housing stock.

According to the Survey results, although there was a decrease from the last survey 3.9% of the Island's private sector housing stock was considered unfit for human habitation. The survey also revealed that 10.4% of the housing stock, whilst not unfit for human habitation, was in serious disrepair.

Environmental Health Operational Experience

Environmental Health Officers routinely inspect houses and/or flats where the accommodation and facilities meet the basic standards of fitness but are of very low quality; where the sole purpose is to provide regular income for Landlords but there is no evidence of financial investment to the quality of the premises.

The properties they inspect lack routine maintenance, repair or decoration and the fittings are old and decrepit. Such premises are ordinarily ill heated (or lack heating altogether) and have no thermal insulation. Others that have heating systems that are not regularly serviced, are inefficient at best and expensive for Tenants to use due to lack of insulation. Any necessary remedial works are only carried out to a very basic standard, are of low quality and only completed after many informal visits simply to avoid prosecution. Many are subject to excessive cold and suffer the consequential condensation, dampness and mould growth thus exhibiting a link to ill health.

Health & Welfare Professional/Third Sector Experience

Health and welfare professionals and agencies working with vulnerable people and charities such as Kemmyrk and Graih who work with the homeless and people in housing difficulty regularly report to the DSC Housing Division and Environmental Health their experiences of clients who reside in properties such as those described above, and such conditions are frequently raised as issues in professional Support for Housing need submissions.