



Submission from the Association of Residential Letting Agents (ARLA) on proposals for rented property licensing in Newham, London

January 2017

Background

1. Association of Residential Lettings Agents (ARLA) was formed in 1981 as the professional and regulatory body for letting agents in the UK. Today ARLA is recognised by government, local authorities, consumer interest groups and the media as the leading professional body in the private rented sector.
2. In May 2009, ARLA became the first body in the letting and property management industry to introduce a licensing scheme for all members to promote the highest standards of practice in this important and growing sector of the property market.
3. ARLA members are governed by a Code of Practice as well as Membership and Conduct Rules providing a framework of ethical and professional standards, at a level far higher than the law demands. The Association has its own complaints and disciplinary procedures so that any dispute is dealt with efficiently and fairly. Members are also required to have Client Money Protection (CMP) and belong to an independent redress scheme which can award financial redress for consumers where a member has failed to provide a service to the level required.

ARLA's views on Selective Licensing and Additional Licensing

4. ARLA is not supportive of licensing schemes because most schemes fail as they are not adequately resourced to undertake the necessary enforcement activity. Our concern is that the licensing regime becomes an administrative exercise, penalising those landlords who comply with the regulations whilst still allowing the landlords the scheme was designed to target to continue to operate under the radar. ARLA is more in favour of local authorities adopting collaborative approaches to tackling issues within the private rented sector rather than introducing Selective or Additional Licensing Schemes.

Licensing schemes in the context of increasing costs for landlords

5. The Private Rented Sector is now the second largest housing tenure behind owner-occupiers, with increasing numbers of families and longer term tenants occupying



the sector. However, most landlords are private individuals, with 89 per cent of landlords in England private individuals rather than companies or organisations.¹

6. Newham Council should consider the added cost of obtaining a licence alongside the raft of Government tax changes, which mean that many landlords are feeling the squeeze with increases in taxes and restrictions. Consequently, any inability to offset financial costs or additional costs that landlords incur through increased legislation are likely to be passed on through consequential rent rises.
7. Furthermore, the Government's proposals to ban letting agent's fees to tenants will mean that the costs which enable agents to carry out various critical checks on tenants before letting a property, are likely to be passed on to landlords. These costs will need to be recouped elsewhere, inevitably through higher rents.
8. As a result of these changes if letting agents cannot charge reasonable fees or leave the sector we are concerned that property management standards in the industry will drop. Furthermore, if landlords pull out of the market or don't invest and we continue to see a reduction in social rented housing stock, we are worried about where people will be housed.

Comments on the existing licensing scheme in Newham

9. We acknowledge that Newham Council has done better than most councils in enforcing the existing scheme. However, since the introduction of licensing in 2013, Newham Council has only banned 28 landlords and taken 930 prosecutions against landlords in a private rented sector that is now estimated to provide accommodation to 60,000 households.² Therefore we can only conclude that the scheme has come into difficulties and has not achieved its aims. As a result we are sceptical that introducing another licensing scheme is the best way to tackle the problems that Newham faces.
10. Additionally, ARLA believes that Parts 2 and 3 of the Housing Act 2004 should be removed and replaced with mandatory training and accreditation for all landlords.

Feedback on the existing licensing scheme

11. Our members acknowledge that because of the existing licensing scheme, Newham Council now know how many landlords and privately rented property they are dealing with in the area. They understand that this can mean the Council can address

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7249/2010380.pdf

² <https://www.newham.gov.uk/Documents/Housing/RentedPropertyLicensingProposalConsultation.pdf>



more issues and have more control. However, concerns have been raised about the Council's ability to handle renewals alongside an influx of new private rented property because the application process for the existing scheme was slow. Furthermore, when applying online the process was vague. More detail and helpful guidance is needed.

12. Concerns were also raised about the publication of landlord information. For instance, letting agents enrolled landlords on the scheme but the information was then evident on Newham Council's website. The value of lettings is dictated by the strength of an agent's portfolio and because registered landlord names were easy to find, this meant that other letting agents were canvassing into the list. We believe that this information should not be obvious on the Council's website and a model based on the Tenancy Deposit Scheme where a membership code for log in would be more appropriate.

Comments on the new proposed licensing scheme

13. In relation to the East Village (E20) development, our general view is that it should be included in the licensing scheme in order to create a level playing field for landlords. Furthermore, the park is still not complete and as it grows it could face problems from, for instance, anti-social behaviour which Newham Council believe can only be resolved through licensing private rented property.
14. ARLA members are also concerned about landlords who had recently paid for a licence in recent months having to pay the fee again from 2018 against those who have been licensed since 2013. We believe that Newham Council should look at staggering the cost depending on the date of joining the existing scheme and a transitional arrangement for existing licence holders to reduce the financial burden on landlords.
15. In addition, when Liverpool City Council introduced the first city-wide licensing scheme of rented properties in 2015, it formed a partnership with industry bodies such as ARLA. This meant that landlords represented by an ARLA licensed agent received a 50% discount on licensing fees. It also meant that Liverpool City Council recognised the importance of distinguishing between the professional market and those who the scheme is designed to remove from Liverpool's rental market. Adopting a similar co-regulation initiative in Newham would hopefully encourage more landlords to use professional letting agents and drive up standards.



16. Our members have highlighted how difficult it is for sharers to find property in the area and some agents have found confusion over the HMO definition. Therefore we urge Newham Council to clarify the rules and outline the conditions for this type of licence.
17. ARLA is part of LEDNET (London Environment Directors' Network) Group that is working with Resource London and other sector stakeholders to produce a tool kit of best practice for waste management in private rented property. ARLA does not think that licensing landlords will change tenant behaviour and improve waste and recycling rates in private rented property in Newham.
18. Referring to Appendix 3 – licensing conditions³ and point 28 where the Licence Holder must give certain information to new tenants within 7 days of the start of their occupation. We believe that Newham Council should provide the landlord with the written information they wish the landlord to distribute to tenants rather than expecting the landlord to produce it themselves.
19. In relation to point 29 where the Licence Holder must provide the tenants adequate arrangements for the disposal of refuse and recycling. Here we note that local authorities issue a maximum number of occupants per licensed premises and therefore, they should provide the adequate number of receptacles for the number of people they have licenced the property to occupy not the landlord.
20. Furthermore, regarding point 30 where the Licence Holder shall be required to carry out regular checks and ensure that the common parts, gardens and yards are free from waste. Here we ask, what happens where the receptacles are located in communal areas (such as blocks of flats) which are outside of the landlord's ability to control? They would be in breach of their licensing conditions without any ability to rectify the situation. We also think that should landlords comply with this proposed licence condition they would be in breach of the tenant's 'quiet enjoyment' and could also be criminally prosecuted for harassment. A landlord is not allowed to enter the curtilage of a rented property without the tenant's consent during a tenancy.
21. ARLA wants to see a balance between tenant, landlord and letting agents responsibilities before, during and after the tenancy on the issue of waste and recycling. We have made representation to the Department for Communities and Local Government to ensure that wording to this effect is included when the 'How to Rent' guide is next updated.

³ <https://www.newham.gov.uk/Documents/Housing/PropertyLicensingProposalAppendix3LicenceConditions.pdf>