

STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

17th June, 2020

Proposition No. P. 2020/30

COMMITTEE *for the* ENVIRONMENT & INFRASTRUCTURE

PROPOSED INTRODUCTION OF A GENERAL HOUSING LAW

AMENDMENT

Proposed by: Deputy E A McSwiggan

Seconded by: Deputy D A Tindall

To insert additional Propositions as follows –

- “4A. To note that families with children do not have equitable access to the housing market in Guernsey.
- 4B. To agree that landlords of rental properties shall not be permitted to specify “no children” when letting their properties, save that:
- (a) A landlord may continue to specify “no children” in respect of a property which:
- is a care facility, residential home or other special category of housing reserved for particular persons;
 - is part of a development intended to be ‘retirement housing’ for older people;
 - is a house in multiple occupation with communal facilities; or
 - has a restrictive covenant in a head lease or planning condition which restricts the ability to house families due to the amenity required to be offered to neighbours; and
- (b) A landlord may specify “no children”, or specify a maximum number of children, in order to comply with Environmental Health guidelines in respect of overcrowding;

and

To direct the Committee *for the* Environment & Infrastructure to incorporate these requirements as part of the statutory registration system proposed in Proposition 4, having taken into account all relevant human rights considerations; and to include a specific review of the impact of these changes as part of their one-year post-implementation review of the new schemes.”

Rule 4(3) Information

The proposer and seconder of this amendment consider that it will not have any additional financial implications. The cost of establishing and maintaining a registration scheme for private landlords is set out in the policy letter.

Supporting Report under Rule 24(1)

This amendment aims to ensure that families with children have equitable access to housing.

What's the problem?

There were just over 27,000 housing units in Guernsey at the end of 2019 (1,600 of these were open market and the remainder were local market).¹ 60% of island homes are owner-occupied, while 27% are privately rented.

Property purchase prices in Guernsey remain high. The average purchase price for a two-bedroom flat in 2019 was just under £300,000, and the average price of a two-bedroom house or bungalow was nearly £400,000.² The price-to-earnings ratio (which compares the average property purchase price to the Island's median earnings) was 12.6 in 2019 – meaning that the average property costs over 12 times the average yearly wage. While this has dropped from a high of over 15, it compares to an average of 7.8 years in England and 5.8 years in Wales.³

Notably, rent costs in Guernsey are also high: the rent-to-earnings ratio in 2019 was 0.47, meaning that a person on an average wage, paying an average rent, could be spending almost half of their income on rent.⁴

The combination of these factors means that affordable housing options, outside of social housing, for households and families on lower incomes are very limited. Options available to families with children (especially younger children), and to people who are considering starting a family, are further artificially limited by some private landlords refusing to rent their properties to households with children.

What will the amendment do to address this?

The amendment will prevent landlords from advertising “no children” except in a very limited number of circumstances – specifically, if the rental property is too small for a child or children; if it is a care home or similar; if it is part of a development intended to be ‘retirement housing’ for older people; or if it is a house in multiple occupation (HMO) with communal facilities.

Is there really a need for this?

There is a particular problem in respect of two-bedroom properties. A search of the Guernsey Press Property section on the day this amendment was drafted found a total of 86 adverts for rental properties with two or more bedrooms. Of those properties:

	No Children	Older Child Considered	Child(ren) Considered	Not Specified		Children OK
				Targeted at “Couples”	Not Targeted	
2 bed (38)	8	2	6	6	11	5
3 bed (28)	0	1	1	2	13	11
4+ bed (20)	0	0	1	2	7	10

¹ Guernsey Annual Residential Property Stock Bulletin: 31 December 2019.

² Guernsey Annual Supplementary Residential Property Bulletin: 15 May 2020.

³ ONS: Housing Affordability in England and Wales: 2019.

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/bulletins/housingaffordabilityinenglandandwales/latest>

⁴ Guernsey Annual Supplementary Residential Property Bulletin: 15 May 2020.

In other words, over 20% (8 of 38) two-bed properties are advertised as not being available to families with children. A further 20% say that a child or children (in some cases, older children only) will be considered at the discretion of the landlord. Incredibly, a small number of 3- and 4-bed properties also said that a single child (only) would be considered.

How does the current situation affect people?

Access to affordable two-bedroom rental properties is likely to be most important for young families and for people who are thinking of starting a family. People who work in lower-paid jobs – which includes many people who worked in important “front line” roles during the pandemic, as well as people in many of the sectors that have been hardest hit by lockdown – are less likely to be able to afford to buy their own home in Guernsey, and rely on access to a decent private rental market.

Creating an environment where families can form and flourish is important to our long-term recovery from COVID-19. It is also critical in view of our changing demographics. Access to affordable housing is an essential step towards this. The States has previously wanted to make home ownership more affordable, and this remains an important goal – but, meanwhile, we should recognise that a third of our population live in privately rented accommodation, and do what we can to ensure that sector is also fit for purpose.

How will the amendment work in practice?

The amendment provides that, where a property is suitable for children, landlords should not be permitted to advertise “no children”. This would be a condition of their registration.

Landlords would be permitted to specify “no children” in a limited number of cases, specifically if their property:

- Is a care facility, residential home or other special category of housing reserved for particular persons;
- Is part of a development intended to be ‘retirement housing’ for older people;
- Is a house in multiple occupation with communal facilities; or
- Has a restrictive covenant in a head lease or planning condition which restricts the ability to house families due to the amenity required to be offered to neighbours.

Landlords may also be permitted to specify “no children”, or a maximum number of children, in order to comply with Environmental Health best practice guidance on overcrowding (so, for example, one-bedroom properties would be exempt from this requirement).

Landlords will be required to provide information about their property at the point of registration which will indicate whether or not their property fits into one of these exemptions. This would mean that landlords could have an immediate, clear indication of where they stand in respect of this rule.

Although this amendment may change advertising practices, we recognise that the final decision on who to let a property to remains a decision of the landlord alone.

Why these exemptions?

Last year, the Committee *for* Employment & Social Security consulted on its proposals for a comprehensive equality law. It identified that, if age discrimination were forbidden, it would not be possible for landlords to state “no children”. However, it recognised that there were some circumstances where properties really were not suitable for children, and it would be helpful to have an exemption in law for those circumstances.

47% of those who replied to the consultation agreed that landlords should be able to refuse children in very limited circumstances, while a further 21% said that landlords should not be permitted to refuse children in any circumstances. Over half of respondents agreed or strongly agreed with the proposed set of circumstances set out by the Committee, which are reflected in this amendment.

These exemptions are therefore suggested **because they have already been consulted on and because they received majority support** through that consultation. The full consultation response is available on pages 28 to 32 of the Committee’s consultation report at <https://gov.gg/CHttpHandler.ashx?id=123084&p=0>.

The only exemption which was **not** included as part of the consultation is that, we suggest, landlords should be able to specify no children if their property has a restrictive covenant in a head lease or planning condition which restricts the ability to house families due to the amenity required to be offered to neighbours. This additional exemption was added as a consequence of advice received during the drafting of this amendment.

The non-discrimination law is now being developed in three phases, with age discrimination in the second phase, so it won’t immediately address this issue (as had been thought at the time of consultation). We consider that there may also be advantages to landlords from a process like this, as it would provide them with certainty, at the point of registration, as to whether or not they are permitted to advertise “no children” in respect of their properties.

How will this amendment impact the private rental market?

The aim of this amendment is to ensure that families with children are not arbitrarily excluded from private rental properties that are suited to their needs. We believe that there will be positive economic consequences of enabling families to settle and grow in Guernsey and that this should be encouraged.

It is likely that some landlords will say that any further restrictions may cause them to withdraw from the market. It is less clear whether that will actually happen in practice. However, in paragraph 6.3 of the policy letter, the Committee *for the Environment & Infrastructure* has already committed to carry out a review of its two schemes (for registering privately rented properties and for licensing HMOs) after one year – this will allow the impact of this additional condition to be understood and, if need be, addressed in a timely way.

How does this fit with existing States’ policies?

The Policy & Resource Plan most recently approved by the States in 2019 has the following ambition for Guernsey: “We will be among the happiest and healthiest places in the world, where everyone has equal opportunity to achieve their potential. We will be a safe and inclusive community, which nurtures its unique heritage and environment and is underpinned by a diverse and successful economy.”

The Recovery Strategy to be debated by the States this month sets out the following vision for recovery: “We will work in partnership to recover our economic prosperity, build on our inclusive community values and capitalise on our many strengths to make Guernsey a safe haven based on sustaining health, wealth and community.”

The aim of the policy letter to which this amendment applies is to support the provision of good quality housing through legislation (para 1.1).

The Children (Guernsey and Alderney) Law, 2008, requires public authorities – including the States in general – to take as our “overriding principle” that “**the child’s welfare is the paramount consideration**” in all decisions we make regarding children and young people.

The Children and Young People’s Plan includes core commitments to the Bailiwick’s children and teenagers – promising that they will be **safe and nurtured, included and respected**; with the opportunity to achieve their individual and economic potential, and to be healthy and active.

We will continue to fall short of all these ambitions while, in up to a third of the Island’s housing stock, it is acceptable and socially-sanctioned to refuse to provide housing to families with children. Working class households bear the brunt of these practices. In the spirit of #GuernseyTogether, it is time to change.

Who was consulted on this amendment?

In addition to the prior consultation outlined above, we consulted with the Committee *for the Environment & Infrastructure* (excluding Deputy Dorey, who had recused himself from the Committee’s policy letter) who did not raise any technical concerns with the amendment, and were generally sympathetic to its aims.

We consulted with HM Procureur who advised on the wording of this amendment.