

**Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL**

REF: RPT/0050/08/18

In the matter of section 20 of The Housing (Wales) Act 2014

Applicant: Mr Derrick Morgan
Represented by Mr Ford (Counsel)

Respondent: Rent Smart Wales
Represented by Mr Grigg (Solicitor)

Tribunal: **Andrew Grant**
David Evans
Juliet Playfair

Decision

Mr Morgan's appeal against the refusal to grant him a Landlord Licence is dismissed.

Reasons

1. This is an application made by Mr Derrick Morgan ("the Applicant") seeking to appeal against the decision by Rent Smart Wales ("RSW") to refuse his application for a Landlord Licence pursuant to section 6 of the Housing (Wales) Act 2014 ("The Act")

Introduction

2. Mr Morgan is a professional Landlord. He owns and manages a number of properties in and around the Swansea and Neath areas in South Wales.
3. By virtue of the Housing (Wales) Act 2014 ("The Act"), a Scheme was introduced which made it compulsory for Landlords of residential property to be licenced under the Scheme. The Scheme came into effect on the 23rd November 2016. In order to be granted a licence a person had to be considered "fit and proper".
4. The County Council for the City of Cardiff is the Licencing Authority for Wales. It is responsible for processing and determining applications made for a licence. The Council exercises its authority under the title "Rent Smart Wales ("RSW").
5. On the 5th February 2018, Mr Morgan submitted his application for a Landlord licence to RSW.

6. Upon receipt of the application, RSW began to process the application to determine whether Mr Morgan was a “fit and proper” person to hold a licence.
7. On the 7th February 2018, RSW received information concerning the Applicant from Neath Port Talbot Council (“NPT”) which raised concerns about the Applicant’s fitness to be a Landlord. The concerns related to a number of complaints that had been received by NPT concerning the Applicant and which related to the poor condition of his properties and allegations of illegal eviction of tenants.
8. On the 13th June 2018 two employees from RSW, namely Angharad Thomas and Christine Brown, attended an inspection at one of the sites owned by the Applicant. The inspection had not been arranged by RSW and they were there at the invitation of NPT .It appears as though NPT had obtained a county court warrant permitting them to gain access to the site and that the inspection was part of a multi - agency initiative. Police officers were also in attendance at the visit. The Applicant had not been given advance notice of the visit.
9. During the visit Ms Thomas and Ms Brown asked the Applicant if he would be prepared to discuss his licence application with them. The Applicant agreed. Essentially the meeting was treated as a personal interview for the purposes of his Landlord Application.
10. Thereafter, a report was prepared by Christine Brown in which she determined that The Applicant was not a fit and proper person to be granted a licence and she recommended that the Application be refused. The report was handed to Bethan Jones, Operations Manager with RSW, who subsequently endorsed that recommendation.
11. On the 20th July 2018 RSW wrote to the Applicant informing him that his application for a licence had been refused. The letter confirmed that the decision to refuse the application had been based upon a number of factors namely –
 - The condition of his properties;
 - The management practices which the Applicant employed;
 - The nature of his spent convictions;
 - The Applicants association with his son, Ryan Morgan who had unspent convictions;
12. By way of an Application dated the 14th August 2018 (received in the Tribunal office on the 15th August 2018) The Applicant appealed against that decision.
13. The Tribunal listed the matter for hearing and inspection on the 9th January 2019.

The Inspection

14. At the inspection the Applicant was represented by Mr S. Tuppen who is a Trainee Solicitor. The Applicant was also present. RSW were represented by its solicitor, Mr Grigg, Ms Thomas and Ms Brown.
15. The Tribunal were shown a number of properties on the site. The Applicant confirmed that there were 12 properties together with a static caravan. The Applicant confirmed that all of the properties were said to be occupied at the time of inspection.
16. The Tribunal inspected 6 of the 12 properties on the site.
17. It was clear from the inspection that several of the properties were in the process of having work carried out to them. In all save one property, there was no evidence at all that the properties were occupied. However, it was clear that the properties were not of a high standard.

The Law

18. Under section 4 (1) of the Housing Wales (Act) 2014 it is a requirement that “The Landlord of a dwelling house subject to, or marketed or offered for let under, a domestic tenancy must be registered under this part in respect of the dwelling...unless an exception in section 5 applies”. In this matter the exceptions listed in section 5 of The Act do not apply.
19. Section 6 (1) of The Act requires that “The Landlord of a dwelling marketed or offered for let under a domestic tenancy must not do any of the things described in subsection (2) in respect of the dwelling unless –
 - (a) The Landlord is licenced to do so under this part for the area in which the dwelling is located,
 - (b) The thing done is arranging for an authorised agent to do something on the Landlords behalf, or
 - (c) An exception in section 8 applies.
20. By section 6 (2) The things are –
 - (a) arranging or conducting viewings with prospective tenants;
 - (b) gathering evidence for the purpose of establishing the suitability of prospective tenants(for example by confirming character references, undertaking credit checks or interviewing a prospective tenant;
 - (c) Preparing, or arranging the preparation of a tenancy agreement;
 - (d) Preparing or arranging the preparation of an inventory for the dwelling or schedule of condition for the dwelling.
21. Section 7 (1) of the Act requires that “The Landlord of a dwelling subject to a domestic tenancy must not do any of the things described in subsection (2) in respect of the dwelling unless –

- (a) The landlord is licensed to do so under this part for the area in which the dwelling is located;
 - (b) The thing done is arranging an authorised agent to do something on the Landlords behalf;
 - (c) An exception in section 8 applies.
22. The things referred to in sub section 7 (2) are –
- (a) Collecting rent;
 - (b) Being the principal point of contact for the tenant in relation to matters arising under the tenancy;
 - (c) Making arrangements with a person to carry out repairs or maintenance;
 - (d) making arrangements with a tenant or occupier of the dwelling to secure access to the dwelling for any purpose;
 - (e) check the contents or the condition of the dwelling, or arranging form them to be checked;
 - (f) Serving notice to terminate the tenancy.
23. In order to obtain a licence the Application must comply with the requirements set out in section 19 (1) in that the application must –
- (a) Be made in such form as is required by the licencing authority;
 - (b) Provide such information as is prescribed;
 - (c) Provide such other information as the authority requires; and
 - (d) Be accompanied by the prescribed fee.
24. Pursuant to clause 19(2) and before granting a licence the authority must be satisfied –
- (a) That the Applicant is a fit and proper person to be licensed;
 - (b) That requirements in relation to training specified in or under regulations made by Welsh ministers are met or will be met (as the case may be).
25. Section 20 of the Act sets out the fit and proper person requirements;
- (1) In deciding whether a person is a fit and proper person to be licensed as required by section 19(2) (a), a licencing authority must have regard to all matters that it considers appropriate.
 - (2) Among the matters to which the licensing authority must have regard is any evidence within sub sections (3) to (5).
 - (3) Evidence is within this subsection if it shows that the person has –
 - (a) Committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in schedule 3 to the Sexual Offences Act (2003) (offences attracting notification requirements);

- (b) Practised unlawful discrimination or harassment on the grounds of any characteristic which is a protected characteristic under section 4 of the Equality Act 2010, or victimised another person contrary to that act, or in connection with the carrying on of any business, or
 - (c) Contravened any provision of the law relating to housing or landlord and tenant.
26. Section 20 (6) of the Act stated that the Welsh ministers must give guidance to licensing authorities about deciding whether a person is a fit and proper person to be licensed as required by section 19 (2) (a).
27. In October 2015 a document entitled "Guidance on "the fit and proper person test" for licensing of Landlords and Agents" ("The Guidance") was published.
28. Paragraph 2 of the Guidance states that the requirement for a person to be a fit and proper person "is to ensure that those responsible for letting and managing a property in the private sector are of sufficient integrity and good character to be involved in the management of the property to which the license relates. In addition that they do not pose a risk to the welfare or safety of persons occupying the property."
29. Paragraph 5 states that the "Licensing Authority" must have regard to all matters it considers appropriate".
30. As regards the issue of criminal convictions, the Guidance states, at paragraph 6, that "the Licensing Authority must have regard to any convictions, unless the person is not obliged to disclose those convictions in accordance with the Rehabilitation of Offenders Act 1974 and the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975".
31. In deciding whether a conviction is relevant to a person being a fit and proper person for the purposes of a licence, Paragraph 12 states that the licensing Authority may wish to consider the following factors –
- The relevance of the conviction in relation to the Applicant's character and integrity to let or manage residential properties;
 - The seriousness of the conviction, in terms of impact, or potential impact, upon the residents and the wider community, including, if more than one conviction is involved, the cumulative impact;
 - The length of time since any conviction; and
 - Any mitigating circumstances.
32. Paragraph 13 of the Guidance indicates that if there is evidence that a person associated or formerly associated with the person applying for a licence, has done any of the things listed under section 20 (3) of the Act, then that evidence must be taken into account in determining whether the Applicant is a fit and proper person.

33. Paragraph 14 goes on to say that a refusal to grant a licence in these circumstances should only be made having considered all of the evidence including:
- “Evidence of offences having been committed by the associated person, and
 - The associate’s fitness is directly relevant to the Applicant’s fitness to let and manage under the terms of The Act”.

The Hearing and the Evidence

34. At the beginning of the hearing Mr Grigg clarified that RSW maintained their position with particular reliance upon the following issues –
- The Applicants spent convictions;
 - The Applicant’s recent conviction;
 - The Applicant’s association with his son;
 - The Condition of the Applicant’s properties, and
 - The treatment of the Applicant’s tenants.
35. Mr Ford, in opening for Mr Morgan, indicated that he would fully address each issue in turn. However, in short he challenged the right of RSW to take into account spent convictions. He said that his client accepted that the condition of his properties’ was not good but that there were factors that needed to be taken into account when considering that issue. As regards the treatment of tenants, Mr Ford submitted that they did not have to stay there. Mr Ford submitted that if his client were to be deprived of a licence it would effectively ban him from management for life.

Mr Morgan’s evidence

36. In response to questions from Mr Ford, Mr Morgan stated that he was not working in partnership with others but worked alone .He said that he received help in running the business from Ms Mills. Ms Mills had also prepared a witness statement for use in the proceedings.
37. When asked what types of tenant he housed, Mr Morgan replied that they were all in dire straits when they came to him. They were homeless, sleeping on park benches or had come to him via Government units. He referred to them as being a “low class type of tenant”.
38. When asked how long his tenants stayed, Mr Morgan said that some had been with him a very long time. A tenant called Peter had been with him for 16 years and another tenant had been with him for 17 years.
39. Mr Morgan confirmed that all of his tenants received various state benefits and were unlikely to get accommodation elsewhere. He said that his relationship with his tenants was “great”.

40. When asked by Mr Ford for his comments about the allegation of harassment and intimidation, Mr Morgan said they were wrong. He said that he had never once been taken to court by a tenant. He said that he currently had 32/33 tenants in his properties.
41. When asked about his relationship with Local Authorities, Mr Morgan replied that "it is terrible". He stated that since 2014 he had been served with 39 separate notices by the Local Authority. They were a mix of Improvement Notices, Prohibition Notices and 2 Demolition Notices. 13 of the Notices were in respect of the development inspected by the Tribunal earlier in the day.
42. The Tribunal asked if Mr Morgan had ever received any notice from the Local Authority prior to 2014. Mr Morgan replied that he had received about 70 separate notices in respect of his properties prior to 2014.
43. Mr Ford asked how the Tenants treated his Property. Mr Morgan replied that a lot of them have mental health issues and were vulnerable. Some were disabled. They did not treat his properties very well.
44. Mr Ford asked if, in the last 3 -4 years, he had ever been convicted or charged and acquitted with any criminal offence in relation to his tenants. Mr Morgan replied "no".
45. Mr Morgan was asked if the police were ever called to his property. He stated that the police regularly went to his properties looking for his tenants.
46. Mr Ford asked if Mr Morgan had received any warning of the visit in June when 40 – 45 people, including 6 – 8 police officers, visited his site. Mr Morgan said that he had not been given any notice of the visit. He said that he did not like it but a police presence was normal. Mr Morgan stated that their attitude was not good but he had offered them tea and coffee and they had sat on the veranda talking.
47. Mr Morgan stated that the interview was recorded by the police. He said that he had requested a copy of the interview on 2 separate occasions but had not been supplied with a copy.
48. Mr Morgan confirmed that he was convicted in November 2018 for failing to comply with an Improvement Notice .He said it was only 3 small jobs that needed to be done namely the fitting of a smoke alarm, repair of a leaky pipe and some work to the back door of one of his properties. He said he had 4 weeks to do the work but he got it done in 3 days. The Local Authority said he was late in doing the work and that was why he was convicted.
49. Mr Ford asked to what extent was Ryan involved in his business. Mr Morgan stated that Ryan had his own demons. He was ill and Ryan's mum asked him to give Ryan somewhere to live, so he did .He said that he and his son were not close and that Ryan did not "fit into his world". He said that he rarely saw his son. He said that Ryan had nothing to do with his properties but added that from time to time he did check on things if asked.

50. Mr Morgan initially denied being aware of his son's previous convictions. He repeated that they are not close and he only knew because his wife made him aware of the issue.
51. Mr Morgan was asked what he was going to do in respect of the outstanding notices that had been served upon him. He stated that he was going to respond to them.
52. When asked if he would accept conditions attached to a licence, Mr Morgan indicated that he would be prepared to accept conditions.
53. Mr Morgan stated that if he were not given a licence it would devastate him. He said that he works in his business every day and had done so since he was a boy.

Mr Morgan – Cross Examination

Spent Convictions

54. Mr Grigg asked if he accepted that in 2011 he had been convicted of Money Lending and benefit fraud. He asked if he had illegally loaned money to tenants. Mr Morgan confirmed that he had loaned money to Tenants.
55. When asked if he accepted the accuracy of the article that appeared at page 97 of the bundle Mr Morgan said that he did not accept its accuracy.
56. Mr Morgan was also asked to explain his 2011 conviction for perverting the course of justice. He said that technically the conviction was right but it was his wife that had caused the problem. However, at the time she was ill. She had allowed witnesses in a trial to enter their home which they should not have done. He said that he was not going to blame his wife as at the time she was suffering.

Association with Ryan Morgan

57. Mr Morgan confirmed that Ryan had lived at the site for 17 months. He confirmed that prior to his current residence his son had lived at another of his properties.
58. Mr Morgan was asked if he felt it was appropriate for a convicted drug dealer to be allowed to live on the site. Mr Morgan said it was not however, he could not get rid of him as he has a tenancy agreement.
59. When asked if he knew that his son was on licence he said that his son was often on licence.
60. Mr Morgan said that he thought that his son had been dry for 2 years and that he knew he was previously a drug taker. He said that he was only aware that

his son was a drug user as his wife had informed him. He repeated that he and his son were not close.

61. It was put to him that Ryan worked at the site and carried out maintenance work. He said that his son did some work at the property but he denied that his son did a lot of maintenance work around the property. He said that he did not pay him a penny.
62. Mr Grigg referred to paragraph 13 of Ms. Thomas' statement which stated that Ryan had access to the keys to the properties. Mr Morgan said that on that single occasion Ryan did have access to the keys but he only got them at his request. He did not ordinarily have access to the keys but on that day they happened to be in his van. Mr Grigg put it to him that his story on this issue was inconsistent with his statement and Mr Morgan said that he had been misquoted.
63. It was confirmed that Ryan had resided in various property belonging to his father since he was aged 16. That also happened to be his age when he was convicted of his first offence. When asked if he considered it normal to give a 16 year old a tenancy agreement Mr Morgan stated that it was. He said that it was quite regular. He said he had housed young people from Swansea Parc Prison.
64. When asked if he knew of his son's convictions Mr Morgan said that he did not. He said that he did not want to know.
65. Mr Grigg asked again if he felt it was appropriate for a drug dealer (meaning Ryan) to live on site with so many vulnerable tenants, some of whom have drug related problems. Mr Morgan responded that he could not put anybody onto the streets.

Condition of properties

66. Mr Morgan was asked how many of the 109 notices which he had received over the years had been Prohibition Notices. He said that he did not know.
67. It was put to Mr Morgan that since 2017 he had been served with 11 separate Prohibition Notices. Mr Morgan said he had received nothing but Prohibition Notices.
68. Mr Grigg asked if Mr Morgan was aware that such Notices were serious as they were only served where there was perceived to be an immediate risk. Mr Morgan replied that they are serious but in reality they are not.
69. Mr Grigg stated that people should not live in the property until the work had been done. Mr Morgan said that he did not have time to remove them as you must serve 3 months' notice.
70. Mr Morgan confirmed that even though the tenants were not living at the property he was still charging them rent.

71. Mr Morgan stated that he had removed tenants from 9 properties while the work was ongoing but their absence was temporary. He said they still had tenancy agreements which was why he continued to charge rent in their absence.
72. Mr Grigg then referred Mr Morgan to pages 399 – 401 of the hearing bundle being several of the Notices served by the Local Authority. He asked if Mr Morgan was aware of the defects highlighted in those notices. He replied that he was aware. He was asked if he was happy allowing Tenants to live there with those defects. Mr Morgan replied that he was not happy and he was going to do the work. He said the Tenants still live there and he was still making up a list but the work would be done.
73. Mr Grigg asked who carried out the work. ? Mr Morgan replied that he did the work.
74. Mr Morgan was asked if he was happy with the site and he replied that he was.
75. Mr Grigg said that when we inspected the property this morning none of the properties looked lived in. He asked where the Tenants were. Mr Morgan said that one Tenant was out and the others had gone to stay with family. He then said that some were staying with friends or had been relocated to other property that he owned.
76. When asked how often he inspected the property Mr Morgan said that he inspected every two weeks.
77. When asked if he knew the defects existed (before service of the notices) Mr Morgan replied that he did not.
78. The Tribunal asked Mr Morgan if he had challenged any of the notices. He said that he had not.
79. Mr Grigg asked if Mr Morgan considered the service of the notices reasonable or unreasonable? Mr Morgan replied “both”.
80. It was put to Mr Morgan that at inspection, several of the properties had heating on yet the Tenants were not there. Mr Grigg asked who was paying for the heating charges. Mr Morgan replied that the tenant would pay but said that he helped them.
81. Mr Morgan was asked if he understood how the tenancy deposit scheme worked. He said that one required private insurance on your house. When asked what he did with deposits when he receives them he said that he paid them into his bank account.
82. He was then asked if he thought it legal to accept non - refundable deposits. He said, yes.

83. Mr Grigg asked Mr Morgan if he expected tenants to carry out their own repairs. He replied that he expected them to make it safe, for instance by switching boilers off and then call him.
84. It was put to Mr Morgan that he does not think much of his tenants. He said that he "did not pick them".
85. Mr Morgan was then referred to a copy of his Tenancy agreement. He was asked if he thought it right that a tenant could not terminate their agreement if there were rent arrears. He said that he did not enforce that provision.
86. Mr Grigg then drew Mr Morgan's attention to the forfeiture clause in the agreement and said such a clause was not legal. Mr Morgan said that it was a standard agreement and had been around long before he came along.
87. Mr Morgan was asked if he knew how to end an Assured Shorthold Tenancy. Mr Morgan said that one needed to give 60 - 90 days' notice.
88. Mr Grigg then put it to Mr Morgan that his Agreement was illegal. Mr Morgan said it was a standard agreement. He did not prepare it.
89. Mr Morgan was asked to explain the reference on page 59 to having tried to take ownership of an elderly person's property. He replied that it was a misunderstanding. The Lady had asked him to manage her property for her and at the same time store her goods for a short period of time. He said that he tried to pay her the rent from her property but she had not left any bank details with him. He was then forced to store her property for far longer than agreed and applied a charge which he offset from the rent paid on her property. When she returned and wanted to get back into her property she could not as it had a tenant in situ. However, he said he subsequently re housed the tenant and the elderly lady went back into her house.
90. The Tribunal asked if the Council sent him Tenants. He said that they did.
91. Mr Morgan was asked how he kept up to date with legislation. He said that lately he had been kept out of the office dealing with all of the Notices.

Samantha Mills

92. Mr Ford asked Ms Mills what her role with Mr Morgan was. She said that she was previously a love interest and a tenant. She said that she now dealt with some of the administration in Mr Morgan's business.
93. Mr Ford asked of her experience of being a tenant. She replied that there had never been any massive issues or falling out. She said that she had previously lived with Mr Morgan but that was no longer the case.

Cross Examination

94. Mr Grigg asked how long she had been in a relationship with Mr Morgan. Ms Mills said that it lasted from 2015 until November 2018.
95. Ms Mills was then asked if she had been a tenant before she formed a relationship with Mr Morgan. She said that she was a tenant before they became involved in a relationship.
96. When asked if she knew of Mr Morgan's convictions she replied that they were not brought to her attention. When asked if she knew of Ryan's convictions she said he lived in a different world to her and his life was down to him. She said she knew that he had convictions but did not know what the convictions were about.
97. Mr Grigg asked how much Ms Mills was paid. She replied that she was not paid a regular consistent amount of money.
98. She was asked if she knew how the tenant deposit scheme worked. She replied that she knew of a scheme called DPS as she had read up about it.

Angarahad Thomas – Cross examination

99. Mr Ford asked how many people had been at the June inspection. Ms Thomas replied that she had been there, as had Christine Brown. She said the Fire Service were there and people from the planning department but she could not remember the exact number. She thought about 34 people.
100. It was put to Ms Thomas that this was no ad hoc inspection. Ms Thomas said that she did not know as she did not arrange it.
101. When asked if Ms Thomas had been in conversation with other parties about Mr Morgan she replied that she had received a call from NPT and had been invited to the inspection.
102. When asked who took responsibility for the inspection, Ms Thomas said that NPT had a warrant to inspect the site. Mr Ford asked if she would agree that this was more akin to a quasi - military operation. Ms Thomas replied that it was a multi - agency visit.
103. Mr Ford asked whether she had felt threatened at any time during the inspection. Ms Thomas stated that she did not feel threatened as police officers were present with body cameras.
104. It was put to the witness that the inspection had been over the top. Ms Thomas said the measures were reasonable as there was clearly a perceived threat.
105. The witness was asked if she or her colleagues were threatened at the meeting. Ms Thomas replied that there had not been any threats made.

106. Mr Ford then put it to the witness that her statement was laced with prejudice.
107. Mr Ford referred to Ms Thomas statement and namely the reference at paragraph 8 relating to Mr Morgan's alleged behaviour towards council staff. He said the email at page 1 of the exhibit made no such reference. Ms Thomas explained that she had been told verbally by Mr Evans of NPT that Mr Morgan had made a complaint about him and in consequence he was unable to visit Mr Morgan.
108. Mr Ford asked for evidence of complaints against Mr Morgan. Ms Thomas referred him to the table in the exhibit to her statement at AST/Morgan/1. Mr Ford suggested the evidence was a bit sparse as there were no names of complainants. Ms Thomas stated that it is dangerous to include names of tenants that complain.
109. Mr Ford put it to the witness that her statement was designed to paint Mr Morgan in a poor light. The witness replied that she had no reason to paint any picture.
110. Referring to paragraphs 11 and 15 of her statement, Mr Ford suggested that Ms Thomas had over egged the pudding with her comments. As regards Mr Morgan, he had not been angry at the meeting but agitated. Ms Thomas replied that Mr Morgan had been angry and loud but she could not remember all of the words.
111. Mr Ford asked if Mr Morgan had been arrested. Ms Thomas replied that he had not been arrested.
112. Ms Thomas was asked why she had not produced a copy of the video that was taken at the inspection. She replied that she had not been given a copy.
113. Mr Ford asked if she found this level of scrutiny of an application to be exceptional. She said that she did not.
114. She was asked if she had spoken to the tenants. She replied that she had spoken to some of the tenants.
115. Mr Ford then referred to the list produced by NPT. He asked if it was accurate. Ms Thomas said it had been produced by NPT.
116. Ms Thomas was asked why she had asked about Ryan Morgan. She said because he was an associated person.
117. Mr Ford then suggested that Ms Thomas had been trying to dig the dirt on the Applicant's family. Ms Thomas replied that she had dealt with thousands of applications and has no need to tarnish the Applicant. She said that she only asked the questions that appear on the interview sheet.

118. Mr Ford put it to the witness that she had left no stone unturned. Ms Thomas replied that her process was fair and transparent.
119. Ms Thomas was asked if it mattered that Mr Morgan was not deferential to authority. She replied that he did not respect the law.
120. Mr Ford put it to the witness that after receiving a clear DBS search against the Applicant she went after his son. Ms Thomas replied that she did a thorough investigation to be fair and transparent.
121. Mr Ford asked if the witness agreed that they were unlikely to mix with people like Mr Morgan's tenants. Ms Thomas replied that she had family members that have similar issues. Mr Ford suggested that the tenants lived in a different world. Ms Thomas agreed.
122. The witness was asked if she agreed that for some people, Mr Morgan's accommodation was their only option. Ms Thomas said yes if it was the difference between a park bench or the streets
123. Mr Ford referred to paragraph 26 of Ms Thomas statement, and asked her to say how the tenant to whom she referred in the statement was vulnerable. She said that he had a heart condition and seemed confused as to how he paid his bills.
124. The witness was asked what the word vulnerable meant to her. She replied that it meant different things to different people.
125. Mr Ford asked why it took so long to make a decision on Mr Morgan's application. Ms Thomas replied that they were conducting a thorough investigation.
126. It was put to the witness by Mr Ford that she had been over zealous. Ms Thomas denied this.
127. Mr Ford referred to the bundle and in particular the Tribunal's comment in a previous decision where they said she had been overzealous and that it had been disapproved of by the Tribunal. Ms Thomas in turn referred to paragraph 54 of the same decision in support of her actions.
128. Finally, Mr Ford put it to the witness that she had used a sledgehammer to crack a nut. The witness denied that. She said she did not want to take any risks and the decision was for the Tribunal.

Closing submissions

129. Mr Grigg stated that RSW could take account of any matters that it considered appropriate when determining if an Applicant is a fit and proper person. He said that could include both spent and unspent convictions if they are relevant to the Application.

130. Mr Grigg said that all of the convictions were relevant.
131. As regards Ryan Morgan, Mr Grigg said this was a concern. He said they relied upon his last two convictions. Ryan Morgan was a convicted drug dealer living amongst vulnerable tenants some of whom had drug related problems. He said The Applicant had stated that he had no problem with his son living on site and that showed he did not appreciate the risk it presented. He said that Mr Morgan had initially said that Ryan carried out maintenance work at the site and then changed his evidence. He noted that all of Ryan's convictions had come whilst he had been living in his Father's property.
132. Mr Grigg stated that the complaints relating to Mr Morgan as regards the condition of his property and the complaints relating to his treatment of his tenants should be viewed both historically and collectively. He said that viewed alone many would justify a refusal to grant a licence in their own right. Mr Grigg said he was disturbed by Mr Morgan's lack of knowledge as regards Landlord and Tenant Law. He was also concerned that Mr Morgan was still receiving Housing Benefit for tenants that were not living in the properties. He said rent should not be claimed on houses subject to a Prohibition Order and he was concerned that Mr Morgan was unaware of that fact.
133. Mr Grigg went so far as to submit that Mr Morgan had not completed the registration process himself but that Ms Mills had sat the test for him.
134. Mr Grigg said that he had never seen the like of the agreements that were being used by Mr Morgan. He went on to say that the properties were in a terrible condition.
135. In his closing on behalf of Mr Morgan, Mr. Ford submitted that it was wrong to take into account Mr Morgan's spent convictions. He said that to do so would drive a coach and horses through the purpose behind the Rehabilitation of Offenders Act. He submitted that Mr Morgan's previous convictions should not be taken into account when considering if he is a fit and proper person to hold a licence.
136. As regards the recent conviction, Mr Ford stressed that his client had been honest and open about it. He said the work had been carried out in a few days. He said that his client has been bombarded with notices over the years but had only received 1 conviction in over 40 years. He said that when his client received notices, he gets on with the work but he acknowledges that he is sometimes late in complying. He stressed that his client receives tenants from the same local authority that served the notices. The suggestion being that the local authority do not perceive him to be a risk as otherwise they would not send Tenants to him.
137. As regards Ryan Morgan, Mr Ford submitted that RSW had failed to produce in evidence a single complaint from any tenant. No tenant had ever commenced court proceedings against Mr Morgan. It was submitted that Ryan Morgan played no part in his father's business and there had been no evidence that Ryan had attempted to supply drugs to any of the Tenants.

138. On the issue of the condition of the property, Mr Ford says that his client "holds his hands up". The properties are not the Ritz. Mr Morgan provides a public service as his tenants had such significant problems that they would not get accommodation anywhere else.
139. As regards the tenants, it was said they were bottom of the socio - economic scale. Mr Morgan had informal relationships with them. It was pointed out that as far as the evidence was concerned, there was a distinct lack of complaints against Mr Morgan by his tenants.
140. Finally, Mr Ford submitted that Mr Morgan would agree to conditions being attached to the licence if it was felt appropriate. His client was prepared to undergo training, remove Ryan Morgan from the site, take regular legal advice and hold regular meetings with the authority to ensure compliance with regulations. He also said that he would allow Ms Mills a greater involvement in his business.
141. In response to the suggestion of conditions, Mr Grigg stated that RSW would not accept conditions as they did not believe that Mr Morgan would comply with them.

Deliberations and decision

142. This is an application which has been made because RSW have refused Mr Morgan a landlord licence on several different grounds. He has appealed that decision to this Tribunal and must show, on a balance of probabilities, that he is a fit and proper person to be granted a Landlord licence. The Tribunal is entitled to look at his application afresh.

Spent Convictions

143. Firstly, it has been contended on Mr Morgan's behalf that his previous spent convictions should not be taken into account when considering his application. The Tribunal agree with that submission.
144. Section 4 (1) of the Rehabilitation of Offenders Act 1974 makes it clear (subject to exceptions which have no application here) that in any proceedings before a Judicial Authority no evidence of spent convictions shall be admissible.
145. Whilst in the current case one can see why RSW have made reference to those previous convictions (as they relate to offences involving his tenants and of dishonesty) the fact remains that they are spent.
146. In those circumstances the Tribunal take no account of Mr Morgan's previous convictions.

The current conviction

147. On the 20th December 2018 Mr Morgan was found guilty of failing to comply with the terms of an Improvement Notice which had been served upon him on the 19th February 2018. He was fined £3,000.00 and was ordered to pay a victim surcharge of £200.00 and costs of £1,018.00.
148. In his evidence Mr Morgan said that he had complied with the notice which was only a small thing so he could not understand why he was prosecuted.
149. If viewed in isolation one could take the view that the current conviction does not in itself indicate that the Applicant is not a fit or proper person or that he poses any risk to the residents and the wider community. However, the Tribunal take the view that this conviction should not be viewed in isolation. The conviction is set against a background where Mr Morgan confirmed in evidence that over the years he had been served with 109 separate notices by the Local Authority all of which related to the condition of his properties. 13 have been served since 2014.
150. Mr Morgan views the service of such notices as a “witch hunt” against him and although in his evidence he said that he viewed them as being serious he also went on to say that “they are not really” “which shows that in reality he does not consider the notices to be serious. His evidence indicated a disregard for the required housing standards that tenants are entitled to expect.
151. When giving evidence it was clear that Mr Morgan took the view that he was providing a public service by housing tenants with a variety of problems such as those with drug related issues and mental health issues. In light of that strongly held belief he seemed to think that those tenants had to accept what they were given.
152. Mr Morgan showed no remorse over the fact that he had failed to comply with the notice and seemed to view his conviction as being unfair.
153. In those circumstances, the Tribunal take the view that the latest conviction is a material factor to be considered when determining the Application as it is the latest example of a repeated failure to provide an adequate standard of housing provision stretching back over a considerable number of years.

Association to Ryan Morgan

154. One of the grounds relied upon by RSW in refusing Mr Morgan’s application was his association with his son Ryan Morgan. The Tribunal was informed that Ryan had been released from prison on the 4th October 2017.
155. On the 4th December 2015 he had been convicted of possession of a controlled drug with intent to supply class B and class C and sentenced to 27 months imprisonment.

156. On the 5th January 2018 he had been convicted of possessing a prohibited weapon x2, possession of a controlled drug class Bx2. He was sentenced to 18 weeks imprisonment which was suspended and he was made the subject of a drug rehabilitation order.
157. Ryan has resided in one of the Applicant's properties since his release from Prison and occupied one of the properties at the site which was inspected by the Tribunal earlier in the day.
158. The Tribunal pays no regard to the earlier convictions as they were spent as at the date of the hearing.
159. The Tribunal can clearly understand why the Applicant would wish to house his own son particularly when his own son was facing difficulties. In his evidence Mr Morgan said that his son was "clean" of drugs and did not pose a risk to any of the residents at the site. He said that Ryan was not part of his business and did not carry out any work at the site. He said he was not part of his life.
160. However, there was some inconsistency in his evidence in this regard as he had previously said in evidence that Ryan carried out maintenance work around the site. When this inconsistency was put to him he said that he meant to say that Ryan maintained his own garden and not the site as a whole. On this point the Tribunal took the view that Mr Morgan was not straightforward in giving his answers.
161. Mr Morgan also denied that Ryan was able to access the keys to the properties at the site. He explained that Ryan was asked to get the keys on one occasion as Mr Morgan was engaged in talking to someone and needed the keys. He said that it was a one off. Again, the Tribunal take the view that whilst the relationship between Mr Morgan and his son may not have been extremely close, the relationship between them was not so bad that they had no day to day contact. In fact, the Tribunal find as a matter of fact that from time to time Ryan did carry out various jobs at the site and would have had access to the keys to the properties.
162. The Tribunal take the view that the conviction was serious and is relevant because of the nature of the tenants that live at the Applicant's site. In his own evidence the Applicant said that his tenants have a variety of problems including drug related issues and mental health problems. They are vulnerable individuals but Mr Morgan does not seem to accept that there is any risk posed by his son at all.
163. If the Evidence had been such as to satisfy the Tribunal that Mr Morgan was simply helping his son through a difficult time and there was no association with or involvement in the Applicant's business then the Tribunal would not be concerned by the association. However, the evidence given by the Applicant was inconsistent on this point and in consequence the Tribunal are not satisfied that Ryan has not previously been involved with his father's

business. We are satisfied on the evidence that Ryan previously worked on the site with his father and had day to day contact with the tenants.

Condition of Property

164. When refusing Mr Morgan's application RSW had cited the poor condition of his properties as one of the reasons for concluding that he was not a fit and proper person to be licenced.
165. In his evidence Mr Morgan confirmed that since 2017 he had been served with 11 separate Prohibition Notices and 2 notices seeking Demolition Orders. He has appealed against the notices which seek demolition orders but he has not appealed against the Prohibition Notices.
166. When the Tribunal inspected the Properties they were all empty save in respect of 2 properties. At one of the properties the tenant was at home and as regards the other, the Tribunal was informed that the tenant was "out". As regards the remaining properties the Tribunal was informed that the tenants had all gone to stay with family members or friends whilst work was carried out at the properties.
167. None of the properties which were inspected showed any signs of occupancy at all.
168. The inspection revealed that several of the properties were still undergoing building work and in other properties the Tribunal were informed that the work had been finished. The Tribunal were concerned at the condition of the properties and the standard of workmanship as regards the completed work.
169. In his evidence Mr Morgan confirmed that he had largely carried out the work himself. It was clear that in many cases that whilst the work had been done the work was not of a high standard.
170. Overall the Tribunal was not satisfied that the properties were of a sufficiently satisfactory standard.
171. It is also of significance that Mr Morgan has received 109 separate Housing Act notices during his time as a landlord. Whilst he may not have been prosecuted for all of the breaches and may have complied with the notices after service, it reveals a tendency on the part of Mr Morgan to have a disregard for proper housing standards which requires regular policing.

Treatment of Tenants

172. In her evidence to the Tribunal, Ms Thomas stated that she had received information from Simon Evans who is an Environmental Health officer employed by Neath Port Talbot Council that they had received various complaints against Mr Morgan from various Tenants.

173. The complaints were listed generically in a spreadsheet forwarded by Mr Evans and which appear as exhibit "AST/MORGAN/1" of Ms. Thomas statement.
174. The spreadsheet lists 3 separate complaints of harassment and 11 separate complaints of illegal eviction together with references to various notices which have been served which have been referred to earlier in this decision.
175. Mr Grigg also referred to the tenancy agreements which were being used by Mr. Morgan and submitted that they were unlawful. The agreements in question contained various clauses with which Mr Grigg took issue. One clause indicated that a tenancy could not be terminated until all arrears had been cleared. Another clause provided for forfeiture in the event of rent arrears.
176. Mr Grigg was also concerned by Mr Morgan's lack of knowledge of housing issues.
177. In response, Mr Morgan stated that he had never been the subject of any court action taken by his tenants in over 40 years. He had good relationships with his Tenants. As regards the agreement he said it was a standard agreement and he did not prepare it.
178. As regards the complaints of illegal eviction and harassment, the Tribunal take the view that there is insufficient evidence upon which to reach a concluded view and give Mr Morgan the benefit of the doubt.
179. The Tribunal has already reached the conclusion that the conditions in which the tenants reside is poor.
180. What is of concern to the Tribunal is that Mr Morgan has little appreciation of the law in this area. He stated in his evidence that when a tenant pays a deposit, he (Mr Morgan) puts it into his bank account. His evidence to the Tribunal showed that he has no understanding at all as to how the tenancy deposit scheme works or that a deposit must be protected.
181. He has little understanding of how an Assured Shorthold Tenancy operates and how such agreements can be terminated.
182. In evidence, he said that he only used standard agreements, but clearly the Agreement which appears at page 101 of the hearing bundle has been amended to include a reference to Universal Credit. In the Tribunal's experience that is not a standard clause and has clearly been inserted by or on behalf of Mr Morgan. The Agreement also showed other areas where the Agreement had been adapted for Mr Morgan's particular use.

183. It is of considerable concern that Mr Morgan continues to charge the tenants rent when they are out of occupation in consequence of the service of a Prohibition Notice.
184. During the inspection the Tribunal noted that in several properties the heating was on even though no one was in occupation. Mr Morgan stated that even though the Tenants are not in occupation they will pay the heating charges even though the heating had been put on while the building work was carried out. Those are not charges which are properly attributable to the tenants. In evidence Mr Morgan stated that he would “help” the Tenants as regards paying those charges. In the Tribunal’s view the tenants should not meet those charges at all.
185. The Tribunal was left with the overall impression that Mr Morgan has little knowledge of or regard for, the law as it relates to landlords and tenants or housing standards.

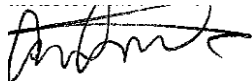
Conclusion

186. The Tribunal unanimously finds that Mr Morgan is not a fit and proper person to hold a landlord licence.
187. In his evidence, Mr Morgan displayed a cavalier attitude towards the housing standards in which his tenants live, which probably reflects his view (stated in evidence) that they are “low class tenants”.
188. When giving his evidence, the Tribunal did not get any sense that he genuinely appreciated that he was failing as a Landlord or that there was any real desire to try and improve the tenant’s conditions or his own knowledge of the Law.
189. He maintained his view that his recent conviction was unfair and showed no sign that he was genuinely interested in trying to reform his management practices.
190. Finally, it was submitted that the Tribunal could impose conditions to any licence granted, and it was submitted that Mr Morgan is prepared to change his practices. However, that is not the impression that the Tribunal got from Mr Morgan’s evidence. His evidence suggested that he did not consider that he had done anything wrong but rather that he was being persecuted by the Authorities charged with policing housing standards. The Tribunal does not accept that Mr Morgan has any genuine desire to alter his practices. For that reason the Tribunal dismiss the invitation to grant a licence subject to conditions. The Tribunal reaches the conclusion that it is unlikely that Mr

Morgan would adhere to any conditions that the Tribunal may impose to a licence.

191. Accordingly, for the reasons given the application is dismissed.

Dated this 22nd day of February 2019

A handwritten signature in black ink, appearing to read 'A Grant', written over a horizontal dashed line.

A Grant
Chairman