

## COMMUNITIES, HOUSING AND INFRASTRUCTURE COMMITTEE

28 OCTOBER 2014

### 1. LICENSING OF HOUSES IN MULTIPLE OCCUPATION (HMO) AND REGISTRATION OF PRIVATE LANDLORDS – CHI/14/043

With reference to article 5 of the minute of the Housing and Environment Committee of 26 August 2014, the Committee had before it a report by the Director of Communities, Housing and Infrastructure which had been prepared in response to a query from Councillor Delaney about the licensing of Houses in Multiple Occupation (HMO) and Landlord Registration. The report provided an overview of the national legislation, and how it was implemented within the Council, and proposed recommendations for improvements to the Landlord Registration service.

**The report recommended:-**  
that the Committee -

- (a) agree the following service improvements proposed in section 5.2.7 of the report:
  - (1) *Officers continue to ignore 'spent' convictions and approve the applications,*
  - (2) *Powers be delegated to the Private Sector Housing Manager and Senior Private Sector Housing Officer (Rented Sector) to approve applications from landlords who have declared unspent convictions **and** who have appointed registered managing agents; and*
  - (3) *Powers be delegated to the Private Sector Housing Manager and Senior Private Sector Housing Officer (Rented Sector) to approve applications from landlords who have declared unspent convictions and who have not appointed registered managing agents, where following an interview, the applicant is considered to be low risk. (Any applicant considered to be a higher risk will continue to have his/her application referred to the Licensing Committee for determination)*
- (b) agree the following service improvements proposed in section 5.2.8 of the report:
  - (1) *that the online database will be set to automatically apply Late Application Fees on the expiry of registrations;*
  - (2) *that Rent Penalty Notices will be served thereafter on landlords who fail to renew their registrations.*
  - (3) *that where landlords have never registered, Rent Penalty Notices will be served after 3 written reminders;*
- (c) agree to remit the report to the Licensing Committee on 25 November 2014; and
- (d) otherwise note the content of the report.

The Convener, seconded by Vice Convener Morrison, moved the recommendations as contained in the report.

Councillor Delaney, seconded by Councillor Yuill, moved that the Committee approve the recommendations, with the exception of recommendation (a)(3).

On a division, there voted:- for the motion (17) – the Convener; Vice Convener Graham; Vice Convener Jean Morrison; and Councillors Allan, Corall, Cormie, Crockett, Dickson, Jackie Dunbar, Finlayson, Grant, Laing, McCaig, Milne, Samarai, Thomson and Townson; for the amendment (2) – Councillors Delaney and Yuill.

**The Committee resolved:-**

to approve the motion and agree the recommendations as contained in the report.

ABERDEEN CITY COUNCIL

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COMMITTEE	Communities, Housing and Infrastructure
DATE	28 October 2014
DIRECTOR	Pete Leonard
TITLE OF REPORT	Licensing of Houses in Multiple Occupation (HMO) & Registration of Private Landlords
REPORT NUMBER	CHI/14/043
CHECKLIST COMPLETED	Yes

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1. PURPOSE OF REPORT

This report is written in response to a question from Councillor Delaney during the last meeting of the Housing & Environment Committee on 26 August 2014, concerning licensing of Houses in Multiple Occupation (HMO) & Landlord Registration. The report provides an overview of the national legislation and how the legislation is implemented within the Council, and makes recommendations for improvements to the Landlord Registration service.

2. RECOMMENDATION(S)

It is recommended that the Committee:

1) Agrees to the following service improvements proposed in section 5.2.7:

- 1. Officers continue to ignore 'spent' convictions and approve the applications,*
- 2. Powers be delegated to the Private Sector Housing Manager & Senior Private Sector Housing Officer (Rented Sector) to approve applications from landlords who have declared unspent convictions **and** who have appointed registered managing agents,*
- 3. Powers be delegated to the Private Sector Housing Manager & Senior Private Sector Housing Officer (Rented Sector) to approve applications from landlords who have declared unspent convictions and who have not appointed registered managing agents, where following an interview, the applicant is considered to be low risk. (Any applicant considered to be a higher risk will continue to have his/her application referred to the Licensing Committee for determination)*

- 2) Agrees to the following service improvements proposed in section 5.2.8
  1. *The online database will be set to automatically apply Late Application Fees on the expiry of registrations.*
  2. *Rent Penalty Notices will be served thereafter on landlords who fail to renew their registrations.*
  3. *Where landlords have never registered, Rent Penalty Notices will be served after 3 written reminders.*
- 3) Agrees to remit the report to the Licensing Committee on 25 November 2014
- 4) Otherwise, agrees to note the content of the report

### 3. FINANCIAL IMPLICATIONS

HMO licensing is self-funded by the licence application fees paid by the landlords, and is ring-fenced. Similarly, Landlord Registration is self-funded by the registration fees paid by the landlords, but is not ring-fenced.

### 4. OTHER IMPLICATIONS

None

### 5. BACKGROUND/MAIN ISSUES

#### **5.1 LICENSING OF HOUSES IN MULTIPLE OCCUPATION (HMO)**

##### **5.1.1 Legislation**

HMO licensing is dealt with under Part 5 of the Housing (Scotland) Act 2006, as amended, which came into effect in August 2011. At the same time, the Scottish Government published 'Statutory Guidance for Scottish Local Authorities: Licensing of Houses in Multiple Occupation' which is intended for use by local authority licensing staff.

##### **5.1.2 Definition of an HMO**

The definition of an HMO in Scotland, according to the 2006 Act, is living accommodation which is:

- Occupied by 3 or more persons from 3 or more families, and
- Occupied by them as their only or main residence, and
- They share basic amenities, ie. A toilet, personal washing facilities & facilities for the preparation of cooked food.

With regard to 'main residence', the 2006 Act only states that:

- Where students (full-time course of further or higher education) are living during term time, that place is to be treated as their main residence.
- Where a patient is in an NHS hospital for any length of time, that hospital is not to be treated as their main residence.

Other than the 2 examples stated above, 'main residence' is not defined in the 2006 Act, therefore it is for each local authority to decide whether or not 3 or more persons, who are not students, are living in a property as their main residence and therefore whether or not the landlord requires an HMO licence. In the absence of a legal definition of 'main residence', we can only look elsewhere for guidance, eg. HMRC, Council Tax, etc, which indicates that where a person owns a home which is occupied by his/her family, that home is regarded as their 'main residence', therefore the rental property in Aberdeen is not their 'main residence' and the landlord is exempt from HMO licensing.

Whilst HMO accommodation in Aberdeen City is predominantly occupied by students, we are starting to see other types of tenants, ie. Contract workers, oil industry personnel, etc, occupying rental properties. By applying the 'main residence' guidance mentioned above, these workers have 'family' homes elsewhere therefore their Aberdeen rental accommodation is not their main residence and the landlord is therefore exempt from HMO licensing.

### **5.1.3 Exemptions from HMO licensing**

The 2006 Act provides exemptions from HMO licensing, as follows:

- Where the property is occupied by the legal owners and members of their families and no more than 2 lodgers.
- Where the property is a care home service, independent health care service, school care accommodation service, or a secure accommodation service.
- Where the property is owned by the Crown and is occupied by Armed Forces personnel and their families.
- Where the property is a prison, a young offenders institution or a remand centre.
- Where the property is occupied by members of a religious order.
- Where the property is subject to a Management Control Order.
- Where the property is owned by a Co-operative Housing Association.

### **5.1.4 Suitability of Applicants and living accommodation**

Under the 2006 Act, the local authority may determine an application for an HMO licence by 1) granting the HMO licence with or without conditions, or 2) refusing to grant the licence. Available grounds of refusal are as follows:

- 1) The applicant and/or agent is not considered to be a 'fit & proper' person to hold an HMO licence, and
- 2) The property is unsuitable for occupation as an HMO for one, some or all of the following reasons:
  - i) Its location
  - ii) Its condition
  - iii) Any amenities it contains
  - iv) The type & number of persons likely to occupy it
  - v) Whether any rooms within it have been subdivided

- vi) Whether any rooms within it have been adapted, resulting in an alteration to the water & drainage pipes within it
- vii) The safety & security of persons likely to occupy it
- viii) The possibility of undue public nuisance
- ix) There is, or would be, an overprovision of HMOs in the locality

#### **5.1.5 Timescales**

Under the 2006 Act, an application for an HMO licence must be determined within 12 months of receiving it, failing which the licence is automatically deemed to be granted without conditions.

Deemed 'granted licences' are to be avoided at all costs, and applications which are nearing their one-year deadline are referred to the Council's Licensing Committee for refusal, if necessary.

The 2006 Act allows HMO licence durations between a minimum of 6 months and a maximum of 3 years.

#### **5.1.6 Processing licence applications**

Staff of the Private Sector Housing Unit (PSHU) are responsible for dealing with HMO licence applications in terms of Schedule 4 of the 2006 Act.

The procedure for submitting an HMO licence application starts when the applicant downloads an application pack from the Council's HMO webpage, then completes the application form and submits it to the PSHU together with a cheque for the relevant amount. PSHU Admin staff check the application to 1) ensure that it is correctly completed, 2) ensure that the correct fee has been paid, and 3) determine whether it is a 'first-time application or an application to renew an existing HMO licence.

Assuming that the application passes these checks, the information on the application is then input into the HMO computer database. The application is then scanned and sent to 1) Police Scotland, and 2) the Scottish Fire & Rescue Service, both of whom are statutory consultees, for comments. Finally, the application is allocated to an HMO Inspecting Officer.

Should the application state that the proposal is to accommodate 6 or more persons, the application is referred to the Development Management Section (Planning Enquiries) to determine whether or not Planning Permission Change of Use in respect of the property was ever obtained. In most cases, Planning Permission has never been applied for, in which case a letter is issued to the licence-applicant advising him that the Council is 'refusing to consider' the licence application, and listing the following options:

- Reduce the occupancy to a maximum of 5 persons, or
- Retain the occupancy at 6+ persons and obtain Planning Permission Change of Use, or
- Retain the occupancy at 6+ persons and obtain a Certificate of Lawfulness of Existing Use.

The applicant will then follow through on one of these options, then submit a fresh licence application, which will be dealt with as described in the previous paragraph.

As soon as the HMO Inspecting Officer receives the application, he contacts the licence-applicant or agent to arrange an initial inspection of the property. If the application is a 'first-time' application, he will also contact the Scottish Fire & Rescue Service (SFRS) and arrange for one of their Officers to accompany him on the initial inspection.

The statutory guidance makes clear that SFRS are the enforcing authority for fire safety therefore during the initial inspection of the property, the SFRS Officer will deal exclusively with the fire safety and the HMO Officer will deal with everything but fire safety. In this regard, the HMO Officer will check each room in the property against the criteria set out in the statutory HMO guidance, and will issue a letter to the licence-applicant detailing any work or certification that is required to bring the property up to the HMO standard. The SFRS Officer will also issue a letter to the licence-applicant detailing any fire-safety works that are required.

#### **5.1.7 Referral to Licensing Committee**

On the date that the licence-applicant submits the application to the Council, the 2006 Act requires that they must display a Notice of HMO Application in a public place outside the property. The Notice must remain in place for a statutory period of 21 days, during which time anyone can submit a letter of representation/objection to the Council. Where such a letter is submitted within the 21-day period, the Council must by law consider it. The 2006 Act also allows 'late' letters to be considered if the Council agrees that it was reasonable for the objector to submit the letter outwith the 21-day period.

All letters of representation/objection are referred to the Council's Licensing Committee for consideration. The licence-applicant and the objector/s are invited to attend the meeting or be represented, and will be asked to speak in support of their application/objection. Thereafter the Committee will decide whether to grant or refuse the licence. Other reasons why HMO licence applications are referred to the Licensing Committee are as follows:

- A licence application is approaching its one-year deadline and the HMO upgrading works are not complete.
- Police Scotland has commented on the suitability of a person named in a licence application.
- A fresh licence application is submitted within one year of the previous application being refused

Officers hold delegated powers to grant HMO licences where there have been no objections and no other difficulties, and the vast majority of licences are granted for the full 3-year period in this manner. Only the Licensing Committee, however, can refuse to grant or revoke an HMO licence, and any decision of the local authority may be appealed to the Sheriff Court, where the Sheriff must deal with the appeal by either 1) confirming the decision, or 2) remitting the decision back to the local authority for reconsideration, or 3) quashing the decision.

#### **5.1.8 HMO Licence conditions**

Every HMO licence granted by this Council is subject to a standard set of conditions attached as Appendix A. These conditions were agreed by the Housing & Environment Committee in August 2012, and Officers do not hold delegated powers to vary or add extra conditions when granting licences under delegated powers.

#### **5.1.9 Interim Inspections**

Following the granting of an HMO licence for the full 3-year period, interim inspections are scheduled for the 1<sup>st</sup> and 2<sup>nd</sup> anniversaries of the licence start date. The 3<sup>rd</sup> anniversary is when the licence expires. During the interim inspections, the HMO Officer will visit the property and ensure that it continues to meet the standard when the licence was granted. The Officer will also request sight of current Gas Safe certificates and electrical safety certificates. No other inspections will be undertaken during the 3-year period unless a complaint is received.

#### **5.1.10 Public HMO Register**

The 2006 Act requires the local authority to maintain a public register of HMO licences. Currently, the register is held on the HMO computer database and any member of the public who requests sight of the register will be provided with a printout. The register changes on a daily basis as existing licences expire and new licences are granted, and the Council's I.T. staff are currently building a real-time online HMO register which, when available, will be accessed via the HMO webpage.

#### **5.1.11 Advertising**

Over the last 2 years, the PSHU has run advertising campaigns, particularly targeted at students, highlighting the requirement for landlords to hold HMO licences. In addition, PSHU staff regularly attend University open days to dispense help and advice to students about private rented accommodation.

#### **5.1.12 Unlicensed HMOs**

Unfortunately, some landlords operate unlicensed HMOs, either knowingly or in ignorance. Whilst it is a criminal offence to knowingly operate an unlicensed HMO (punishable in the Courts by a fine not exceeding £50,000), the difficulty faced by PSHU staff is in identifying such properties.

From time to time, we do receive complaints from tenants, neighbours, ASBIT team, Police Scotland, etc, alleging that certain properties are being operated as unlicensed HMOs, and we always investigate. Many complaints are found to be malicious or without foundation, sometimes as a result of a noisy party in a flat attended by a lot of people, sometimes where residents have friends staying over for a week or two. Where genuine unlicensed HMOs are discovered, the PSHU staff contact the landlord to discuss the position and advise him/her of the options. Often, PSHU staff will request a SFRS Officer to visit if there is concern about fire safety. This can be more effective especially as SFRS hold powers under their own Fire Scotland legislation to serve Prohibition Notices with immediate effect if they believe that there is a serious risk to life.

Most HMO owners are happy to comply with the law when they are made aware of the requirement to hold an HMO licence, and they can comply by either submitting a licence application or beginning the process of reducing occupancy by issuing Notices to Quit. Provided that landlords of unlicensed HMOs co-operate with PSHU staff, no sanctions will be applied unless there is a serious risk to the lives of their tenants.

The 2006 Act also allows a local authority to grant a Temporary Exemption Order in response to an application by an owner of an unlicensed HMO, where the owner does not wish to submit a licence application. This prevents the owner from committing an offence whilst they make arrangements for reducing the occupancy below the HMO threshold. The Order lasts for 3 months, at the end of which the property must not be an HMO.

### **5.1.13 Sanctions**

The 2006 Act provides local authorities with the following sanctions:

- A local authority can revoke an HMO licence at any time if 1) the owner or agent are no longer suitable (not fit & proper), or 2) the accommodation is no longer suitable, or 3) any condition of the licence has been breached.
- A local authority can vary the terms of a licence at any time.
- When an HMO is not licensed, or a licence condition is breached, the local authority can make a Rent Suspension Order in relation to the HMO.
- The local authority may decide to require a licence-holder to take action to rectify or prevent a breach of a licence condition.
- A local authority can serve an HMO Amenity Notice, whether the HMO is licensed or not, requiring work to make an HMO fit for occupation by a specified number of people.
- A local authority has a right of entry to any land or premises for the purpose of enforcing the HMO licensing regime.

The ultimate sanction is prosecution and this is usually a last resort for local authorities where all other sanctions have failed. Local authority staff must collect evidence for submission to the Procurator Fiscal, and whilst the 2006 Act provides for substantial maximum fines for successful convictions, anecdotal evidence indicates that any fines imposed are a fraction of the maximum available.

#### **5.1.14 Ground of Refusal – Overprovision of HMOs in the Locality**

As mentioned previously, HMO accommodation in Aberdeen is predominantly occupied by the students of our two Universities, who like to live in reasonable proximity to where they are studying. Unsurprisingly, Old Aberdeen as a place to stay is popular with students, as is Garthdee, and there are considerable numbers of HMOs in these 2 areas. Very often, conflicts arise because of the incompatibility between the student lifestyle and a family lifestyle, and this often leads to objections to licence applications which must be dealt with by the Licensing Committee. A common theme of these objections is that 'there are too many HMOs in the area', which translates as the ground of refusal in respect of 'Overprovision of HMOs in the Locality', however this ground of refusal is not currently available to the Council for the reason the Housing & Environment Committee at its meeting in August 2013 resolved not to introduce a policy on 'Overprovision'. Accordingly, unless the Council introduces such a policy, the Licensing Committee cannot refuse any HMO licence application for the reason that there are other HMOs in the street/area/locality.

#### **5.1.14 HMO Statistics**

At the date of this report, there are 133 pending HMO licence applications and 1091 HMO licences in force.

The recent Scottish Government annual returns for HMO licence in force as at the 31 March of each year are as follows:

31 March 2014 – 1051 licences in force  
31 March 2013 – 946 licences in force  
31 March 2012 – 855 licences in force  
31 March 2011 – 951 licences in force  
31 March 2010 – 841 licences in force  
31 March 2009 – 789 licences in force

## **5.2 REGISTRATION OF PRIVATE LANDLORDS**

### **5.2.1 Legislation**

The registration of private landlords in Scotland is dealt with under Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004, as amended. The Scottish Government published the non-statutory 'Registration of Private Landlords: Guidance for Local Authorities (April 2009)' which is intended for use by local authority registration sections.

### **5.2.2 Requirement to register**

The principle of registration is that a person requires to be registered if he or she is the owner of residential property which is subject to a lease or occupancy agreement and is not specifically exempted. A lease or occupancy agreement will fall within the scope of the 2004 Act if the let is to an 'unconnected person', ie. A person who is not a member of the landlord's family. The definition of a family member is set out in the Housing (Scotland) Act 2001. If a property is jointly-owned, both joint owners must register. In addition to the landlord registering, if the landlord is using an agent to manage the property, the agent must also register.

### **5.2.3 Exemptions**

The 2004 Act provides exemptions from registration as follows:

- Lets to family members.
- Life rents.
- Houses for holiday use.
- Properties used by religious orders.
- Accommodation with care.
- Houses subject to control orders.
- Agricultural and crofting tenancies.
- Resident landlords with lodgers.
- Transitory ownership (executors, heritable creditors and insolvency practitioners)

### **5.2.4 Time limit for determining applications**

Unlike the HMO licensing legislation, the 2004 Act does not provide a time-limit for determining applications for Registration. However, Part 3 of the Housing (Scotland) Act 2014, when introduced in 2015, will revise the 2004 Act by introducing a 12-month time limit for determining Registration applications. Should local authorities fail to determine an application by the 12-month deadline, the applicant must be entered onto the register as if the application had been approved within the 12-month period.

### **5.2.5 Online Landlord Registration System**

The mechanism for applying for registration is the Scottish Government's online Landlord Registration system, which is owned by the Government and currently maintained by Lockheed Martin on their behalf. Local authorities have licensing agreements to use the database. The Government encourages landlords to apply online by discounting the registration fee by 10%. Landlords who do not wish to apply online may apply by submitting a paper application and a cheque for the full fee to their local authority. Registration staff must then transfer the paper application details to the online system.

The difficulties with the online system are well known as it is not 'user-friendly' to both applicants and local authority staff, and staff spend large amounts of time coaching applicants through the online process.

The online system also includes a Public Search facility whereby anyone can check if a particular landlord is registered by entering the address of the rental property. Unfortunately, the Public Search facility doesn't work well when searching for flatted properties, and often returns a negative result when in fact the landlord is registered.

#### **5.2.6 The 'Fit & Proper' Test**

To be registered, owners and their agents must be *fit and proper* to let residential property. Local authorities must take account of any evidence that the person has:

- Committed any offence involving fraud, dishonesty, violence, drugs, discrimination, firearms or sexual offences.
- Practised unlawful discrimination in connection to any business.
- Contravened any provision of the law relating to housing, or landlord and tenant law, and the person's actions, or failure to act, in relation to any antisocial behaviour affecting a house they let or manage, and must take account of the fact and nature of any agency arrangement.

In addition to the information provided by the applicant, the local authority will also take account of any other relevant information they hold about the applicant. They will make a balanced judgement on the basis of all the available information, there is no automatic refusal.

From 31 August 2011, local authorities have the power to require a criminal record certificate when applying the fit and proper person test. Particularly if the local authority has reasonable grounds to suspect that the information provided is, or has become, inaccurate.

The Local Authority Guidance makes absolutely clear that the registration process is intended to follow a 'light-touch' approach. This is probably because, unlike HMO licensing, the Police are not involved in the process. The Guidance states:

*"Without any negative information or legitimate concerns about an applicant, the application should be approved without further scrutiny."*

#### **5.2.7 Relevant Criminal Convictions**

The vast majority of landlords who apply for registration pass the 'fit & proper' test and are entered onto the register. However, occasionally an applicant declares one of the relevant criminal convictions mentioned in 5.2.6 and the online database diverts the application to the status of 'Pending Review' so that the local authority can make a decision to approve or refuse the application.

The Landlord Registration guidance states:

*“In the case of an applicant who has a relevant conviction which was correctly declared, a judgement must still be made taking account of the information available about the applicant and if necessary by interview to assess whether he or she is able and willing to operate in a manner regarded by the local authority as fit and proper. **In considering past actions of the applicant and the conviction, the local authority should consider whether any problems are likely to occur again and whether they are likely to affect the applicant’s letting activity.** In particular the nature of any agency arrangement should be taken into account. It is quite possible to conclude that if the applicant represents a low risk, registration is appropriate. **Local authorities will need to establish a decision making process for applications which do not allow for a clear cut decision, but are encouraged to delegate routine decision-making functions to officers.**”*

In June 2009, the Licensing Committee agreed to accept responsibility for determining ‘Pending Review’ applications where applicants had declared relevant criminal convictions which were ‘unspent’ in terms of the Rehabilitation of Offenders Act 1974. Since then, the Committee has considered several cases, but there is currently a backlog, therefore the following improvements to the service are proposed:

- 1 *Officers continue to ignore ‘spent’ convictions and approve the applications,*
- 2 *Powers be delegated to the Private Sector Housing Manager & Senior Private Sector Housing Officer (Rented Sector) to approve applications from landlords who have declared unspent convictions **and** who have appointed registered managing agents,*
- 3 *Powers be delegated to the Private Sector Housing Manager & Senior Private Sector Housing Officer (Rented Sector) to approve applications from landlords who have declared unspent convictions and who have not appointed registered managing agents, where following an interview, the applicant is considered to be low risk. (Any applicant considered to be a higher risk will continue to have his/her application referred to the Licensing Committee for determination)*

If Committee agrees to these recommendations, the backlog will be reduced and the service will be streamlined in good time for the introduction next year of the 12-month deadline for determining applications.

### **5.2.8 Sanctions**

Similar to HMO licensing, some landlords do not register, either knowingly or in ignorance. The 2004 Act provides 3 sanctions where landlords are operating unregistered. These are:

- A Late Application Fee of £110, over and above the usual registration fee, can be applied to landlords who fail to register after 2 written requests to do so.
- A Rent Penalty Notice can be served on the landlord if a valid registration application has not been submitted after 3 written requests to do so.
- A landlord can be reported to the Procurator Fiscal for operating whilst unregistered which is a criminal offence.

Most landlords apply for registration when made aware of their requirement to do so, but some resist. The unregistered landlords fall into 2 categories:

- 1) Those who were previously registered but whose registrations expired and have not been renewed despite continuing to operate, and
- 2) Those who have never applied for registration.

We served the first batch of Rent Penalty Notices on 5 landlords in August 2014, to test the effectiveness of this sanction. The effect of a Rent Penalty Notice is to prevent the landlord from receiving rent until such time as the landlord submits a valid application for registration. Each of the 5 landlords was advised that the Rent Penalty Notice would come into effect 3 weeks later, and 4 of the landlords duly applied to renew their registrations and paid the fee, including the £110 Late Application Fee. The remaining landlord lives overseas and hasn't yet responded, despite the Rent Penalty Notice being live for 2 weeks.

We are of the opinion that an 80% success rate is an indication that this sanction is worth pursuing therefore the following improvements to the service are proposed:

- 1) *The online database will be set to automatically apply Late Application Fees on the expiry of registrations.*
- 2) *Rent Penalty Notices will be served thereafter on landlords who fail to renew their registrations.*
- 3) *Where landlords have never registered, Rent Penalty Notices will be served after 3 written reminders.*

If Committee agree to these recommendations, the amount of unregistered landlords that we know about should reduce.

### **5.2.9 Regulation of Letting Agents**

Part 4 of the 2014 Act introduces the regulation of letting agents, which should come into effect in 2016. The details of how the regulation will actually work have not been finalised but it is envisaged that all letting agents will require to register with a central agency who will carry out a 'fit & proper' test similar to Landlord Registration. In addition, it is

expected that letting agents must adhere to a proposed Code of Conduct.

### **5.2.10 Landlord Registration Statistics**

The latest set of Landlord Registration statistics published by the Scottish Government shows that on 10 September 2014:

- 17,432 landlords were registered with the Council
- 20,081 private rental properties were registered with the Council
- 124 applications for registration were pending

The statistics also show that Aberdeen City lies 3<sup>rd</sup> in the table of the 32 Scottish local authorities, behind Edinburgh in 1<sup>st</sup> place and Glasgow in 2<sup>nd</sup> place, in terms of the number of registered landlords.

## **6. IMPACT**

Aberdeen Smarter City Vision – This report provides factual information requested by a previous Committee. This report however could be linked to the Smarter City Priority below:

Smarter Economy: High Level Priority

“We will improve access to affordable housing in both the social rented and private sectors, by supporting first-time buyers, regenerating areas within the city and by working with developers to maximize the effective use of developer contributions.”

Corporate – None arising from this report.

Public – This report will be of interest to the public, but especially to private sector landlords and their tenants.

## **7. MANAGEMENT OF RISK**

This report provides factual information on HMOs and Landlord Registration, together with recommendations for improving the service. Both sets of legislation provide Sheriff Court appeals against any decision of the Council to grant, approve, revoke, refuse, etc, applications.

## **8. BACKGROUND PAPERS**

- Housing (Scotland) Act 2006, as amended
- Housing (Scotland) Act 2014
- The Antisocial Behaviour etc. (Scotland) Act 2004, as amended
- Registration of Private Landlords: Guidance for Local Authorities (April 2009)

- Statutory Guidance for Scottish Local Authorities: Licensing of Houses in Multiple Occupation

9. REPORT AUTHOR DETAILS

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## **APPENDIX 'A'**

### **Conditions Applicable to a House in Multiple Occupation Licence Part 5 of Housing (Scotland) Act 2006**

- LC1** The licence-holder must take steps to ensure that the property fittings and furniture, including fire precautions, plumbing gas and electrical installations, are maintained throughout the period of the licence to the standard required. The licence-holder should hold all necessary certificates.
- LC2** The licence-holder must ensure that advice to occupiers on action to be taken in the event of an emergency is clearly and prominently displayed within the living accommodation.
- LC3** The licence-holder must ensure that the physical standards for the HMO living accommodation assessed as suitable by the local authority when approving the licence application are met at all times.
- LC4** The licence-holder must ensure that the number of persons residing in the premises shall not exceed 14
- LC5** The licence-holder must make the HMO licence & conditions available to occupiers, within the premises where it can be conveniently read by residents.
- LC6** The licence-holder must ensure that actions to secure repossession must only be by lawful means.
- LC7** The licence-holder must ensure that Liquefied Petroleum Gas (LPG) shall not be used or stored on the premises.
- LC8** The licence-holder shall comply with the current regulations regarding maximum re-sale prices of gas and electricity supplied, as appropriate.
- LC9** The licence-holder must ensure that any lockable bedroom doors are fitted with a lever latch and secured with a suitable lock and thumb turn mechanism or other appropriate locking mechanism.
- LC10** The licence-holder must provide adjoining neighbours with details of how they can contact him/her and his/her agent in an emergency, or with non-urgent complaints.

**LC11** The licence-holder must not alter the property, fixtures or fittings without the prior written consent of the local authority.