

ABERDEEN CITY COUNCIL

COMMITTEE	Communities, Housing and Public Protection Committee
DATE	17 January 2023
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Operation and Enforcement of Licensing and Registration Schemes within the Private Rented Housing Sector of Aberdeen
REPORT NUMBER	CUS/23/018
DIRECTOR	Andy MacDonald
CHIEF OFFICER	Derek McGowan
REPORT AUTHOR	Jocelyn Janssen
TERMS OF REFERENCE	General Delegation 8.7

1. PURPOSE OF REPORT

- 1.1 To provide assurance of the role of the Council in protecting tenants in the private rented housing sector through licensing, registration, and enforcement. This is demonstrated through the operation and enforcement of private Landlord Registration, Houses of Multiple Occupation (HMO) and Short Term Let licensing schemes within Aberdeen, to ensure that everyone living in the rented sector should have an expectation of safe, secure and good-quality housing. This report is brought to Committee following a Notice of Motion by Councillor Hutchison.

2. RECOMMENDATIONS

That Committee: -

- 2.1 Note the operation of Landlord Registration, and enforcement of unregistered landlords within Aberdeen City;
- 2.2 Note the operation of the licensing scheme for Houses of Multiple Occupation (HMO) and enforcement of unlicensed landlords within Aberdeen City; and
- 2.3 Note the operation of the licensing scheme for Short Term Lets and enforcement of unlicensed hosts and operators within Aberdeen City.

3. CURRENT SITUATION

3.1 Landlord Registration

Private landlord registration was implemented in April 2006 where private landlords are required to apply for registration with their local authority under [Part 8 of the Antisocial Behaviour etc. \(Scotland\) Act 2004](#) through a national

portal. A landlord is an owner that rents out property to an unconnected person (tenant) that uses the house as their only or main residence.

The Scottish Government's Strategy for the Private Rented Sector in Scotland, published in May 2013, set out the purpose of landlord registration as:

- To provide a register of all private landlords for public inspection, with the added assurance that the local authority has conducted a fit and proper person test
- Providing a regularly updated register that can be used to assist dialogue between local authorities and landlords, to disseminate best practice information
- Ensuring that enforcement action is targeted at the worst landlords in the sector

3.1.1 The Scottish Government's 'Prescribed Information' legislation ([The Private Landlord Registration \(Information\) \(Scotland\) Regulations 2019](#)) came into force on 16 September 2019. Any landlord who applies to register or renew are required to declare they meet specific obligations such as Gas Safety certification is current and valid. This requires applicants to be more explicit about their compliance with existing legal responsibilities in relation to property management and condition. The objective of the additional declaration is to make better use of the landlord registration process to contribute towards raising housing standards in the Private Rented Sector (PRS) to provide good quality housing for all tenants.

3.1.2 Once an application is submitted through the national portal the relevant local authority can start processing the application. If an applicant does not declare within the Prescribed Information section that they hold the relevant certification, the application is placed on hold and the landlord is contacted. Since the implementation date of 16 September 2019, 6,226 landlords have been contacted regarding answers to the obligation section before the application is progressed.

3.1.3 Below is a table of registered landlords and properties within Aberdeen City. These figures indicate the volume of landlords who have legally complied with their obligation to register as a landlord. It's also an indication of the volume of applications that are processed within the landlord registration team.

Date	Number of Landlords Registered	Number of Rental Properties
01/01/2020	16,215	21,202
01/01/2021	17,217	22,679
01/01/2022	18,620	23,998

3.1.4 A public search register is available for tenants to find out if a landlord is registered: <https://www.landlordregistrationscotland.gov.uk/search>

Registered landlords receive a Newsletter on average quarterly to advise of their responsibilities as a landlord. Newsletters include information on changes to legislation and landlord training opportunities through webinars provided by Landlord Accreditation Scotland. The Scottish Government also issue correspondence to registered landlords regarding key legislative changes.

Fit & Proper Person Check

3.1.5 Within Aberdeen City, as part of the Landlord Registration, HMO and Short Term Let licensing application process, a 'Fit & Proper' person check is conducted on every owner that applies for the first time or renewing their registration or licence. This process involves submitting details of every applicant and agent to Police Scotland for comments. If no objection is received, the application process continues. If Police Scotland submit an objection, the application is determined at the Council's Licensing Committee in confidence.

The Council's Licensing Committee has refused Landlord Registration applications due to objections received from Police Scotland. The HMO Licence application in 2019 was refused due to an HMO applicant not completing property work & certification requirements. The HMO case in 2022 was refused due to a public objection and the Committee determining the property not suitable for an HMO Licence.

Refused Applications	2019	2020	2021	2022
Landlord Registration	0	2	0	2
HMO Licensing	1	0	0	1
Short Term Let Licensing	N/A	N/A	N/A	0

3.1.6 Enforcement of Landlord Registration

Enforcement of landlord registration is split into two separate categories, expired landlords and unregistered landlords:

Expired Landlords

This is where a landlord was previously registered, however have not renewed their registration in advance of the expiry date. In advance of a landlord's registration expiring, they receive a minimum of two written reminders to renew. Landlords can renew anytime in the 3 months before the registration expires. It is important to note that where more than one person is the legal owner of a rental property and listed as the landlord, for example a partnership or a married couple, each person listed must re-register. If a landlord fails to renew their registration before the expiry date a Late Application Fee is applied to the landlord's account. The current Late Application Fee for financial year 22/23 is £137. All application fees including the Late Application Fee, are set nationally by the Scottish Government. All fees must be paid before any application is accepted.

Rent Penalty Notice

3.1.7 The Landlord Registration team carries out enforcement activities on landlords that have failed to renew their registration. This involves checking the ownership of the rental property and checking to see if the property is tenanted. If the property is still tenanted and the landlord fails to renew their registration a Rent

Penalty Notice is issued. This is where the tenant suspends paying rent from a specific date until the landlord registers/renews. Tenants not paying rent will impact landlords fee income and this should encourage landlord compliance with their legal obligation to renew. Along with withholding rent from a landlord, landlords are required to pay the Late Application Fee when renewing an expired registration.

Unregistered Landlords

- 3.1.8 Unregistered landlords are identified through various sources such as enforcement activities through the Landlord Registration Team, complaints from tenants, or members of the public. Complaints regarding unregistered landlords are submitted to the Landlord Registration Team by email: Landlordregistration@aberdeencity.gov.uk

Once an unregistered landlord is identified they receive 3 written notifications informing them of their responsibility to register as a landlord. If after the 3rd written letter the landlord has not registered, a Rent Penalty Notice is served on the landlord.

- 3.1.9 Tenant complaints are received via the Tenant Advice and Support page through Aberdeen City Council's website. Tenants report issues regarding property repairs and/or property management that cannot be resolved with their landlord or Letting Agent. Complaints are investigated by the Private Sector Housing Team. This may result in an inspection of a property and/or requesting copies of safety certificates from the landlord or Letting Agent.

	Financial Year 2021/2022
Unregistered Landlords Contacted	147
Rent Penalty Notices Issued (Unregistered Landlords)	35
Rent Penalty Notices Issued (Expired Landlords)	201
Late Fees Paid	370
Tenant Complaint Form Submissions	31

3.2 Houses of Multiple Occupation

The licensing of Houses in Multiple Occupation (HMO) was introduced in Scotland from October 2000, helping to improve both physical accommodation standards and the management of tenancy issues. Licensing helps ensure that accommodation is safe, well managed and of good quality. An HMO licence is required when 3 or more unrelated persons reside in a rental property. It must be the main or only residence of the occupants. HMO licensing is undertaken following [Part 5 of the Housing \(Scotland\) Act 2006](#). As this is a licensing activity every property is inspected by an Officer. Specific physical standards are required to be met within every HMO property before licensing, these standards are detailed within the [statutory guidance for local authorities](#). HMO applications must be determined within 1 year and can be licensed for up to 3 years. All HMO landlords must submit an application for Landlord Registration.

Below is a list of all HMO applications that were licensed within a particular year:

HMO Applications Granted (Per Year)	2019	2020	2021	2022
	440	232	369	324

A public register of HMO licensed properties is available online at: <https://online.aberdeencity.gov.uk/Services/HMOOnlineRegister/HMOOnlineRegister.aspx>

3.2.1 Enforcement of HMO Properties

Unlicensed HMO property reports are received via email to HMOUnit@aberdeencity.gov.uk. Reports are identified through various sources such as complaints from tenants, or information received confidentially from other sources. Owners are contacted in writing and requested to contact the HMO Team to schedule a visit to the property. An HMO Inspecting Officer will meet the owner at the property to determine and provide advice regarding HMO requirements. In financial year 21/22 8 owners were contacted regarding operating a potentially unlicensed HMO property within Aberdeen City.

3.2.2 Under [Part 5 of the Housing \(Scotland\) Act 2006](#), an owner of a licensable HMO without a licence is committing an offence. The owner must reduce the occupancy within the property to a maximum of 2 tenants or a family until an HMO Licence is granted.

3.3 Short Term Lets

A short-term let is the use of residential accommodation provided by a host in the course of business to a guest, where the guest does not use the accommodation as their only or principal home.

On 1 March 2022, the '[Civic Government \(Scotland\) Act 1982 \(Licensing of Short Term Lets\) Order 2022](#)' (the 2022 Order) was enacted to introduce new powers for Licensing Authorities to regulate short term lets through the introduction of a licensing scheme by 1 October 2022. The aim of the 2022 Order is to regulate the standards within the short term let market, mirroring those required in the private rental market through an inspection and self-assessment regime. As this is a new operation, a Short Term Let policy was approved by the Licensing Committee on 6 September 2022.

3.3.1 As this is a licensing activity every property is inspected by an Officer. Similar to HMO's, specific standards are required within every Short Term Let property before licensing. [Short Term Lets guidance notes](#) detailing standards are available on Aberdeen City Council's Short Term Let webpage. Landlord Registration is not a legal requirement for Short Term Lets.

3.3.2 Aberdeen City Council has been accepting applications since 1 October 2022. Up until 30th November 2022, Aberdeen City Council have received 9 Short

Term Let applications that are in progress, however, yet to be determined since this is a new licensing scheme. Local Authorities have 9 months to determine applications for new Short Term Let operators and 12 months to determine applications for existing operators (refuse or grant the application). Licenses can be Granted for up to 3 years. A public register of Short Term Let licensed properties is available online and will be updated when applications are granted at:

https://integration.aberdeencity.gov.uk/en/service/Short_term_lets_licence_holders

3.3.3 Enforcement of Short Term Let Properties

After 1 October 2022, new hosts and operators cannot operate until they have obtained a licence. Existing hosts and operators may continue to operate without a licence, however the deadline for existing hosts and operators to apply for a licence is 1 April 2023. All hosts and operators will need to be licensed by 1 July 2024.

3.3.4 Complaints regarding unlicensed Short Term Lets can be reported to ShortTermLets@aberdeencity.gov.uk Complaints will be investigated, and advice provided to unlicensed hosts and operators on how to apply. Police Scotland are the enforcement body for unlicensed Short Term Lets, however Aberdeen City Council as the licensing authority will attempt to resolve matters directly with the host/operator in the first instance. Aberdeen City Council will be reporting unlicensed hosts and operators to Police Scotland after attempts to encourage hosts and operators to submit an application for a short term let for consideration.

3.3.5 Licensed Short Term Let properties must adhere to mandatory licence conditions. In addition to the mandatory licence conditions contained within the 2022 Order, Licensing Authorities have the discretion to introduce Additional Conditions (also known as Discretionary Licence Conditions). Additional Conditions can assist Licensing Authorities to respond to local issues and specific concerns. On 6th September 2022 the Licensing Committee approved two Additional Conditions that must be adhered to within Aberdeen City. The Additional Conditions were around Anti-Social Behaviour and Waste Disposal. The full set of Short Term Let licence conditions within Aberdeen City are available online: <https://www.aberdeencity.gov.uk/short-term-lets>

3.3.6 The Council can step in with regards to licensed properties by serving enforcement notices, varying, suspending, or revoking a licence. These activities would be investigated and then the route of enforcement action determined by Council's Licensing Committee. Given the Short Term Let regime only came into effect on 1 October 2022, Aberdeen City Council has not yet granted any licence nor required to take any enforcement action to date.

4. **FINANCIAL IMPLICATIONS**

4.1 Aberdeen City Council can recover the costs of running the Landlord Registration function and establishing costs for HMO and Short Term Let

licensing. Fee income should cover the associated costs of running the scheme by the Licensing Authority. HMO and Short Term Let fees are set and reviewed each financial year by Aberdeen City Council. The fees are subject to annual review based on the cost of delivering the service and any changes will be decided at full Council.

4.2 Landlord Registration fees are set nationally by the Scottish Government.

5. LEGAL IMPLICATIONS

5.1 There are no direct legal implications as a result of this report.

Aberdeen City Council will continue to uphold its statutory duty to implement and perform the requirements of:

- Landlord Registration under [Part 8 of the Antisocial Behaviour etc. \(Scotland\) Act 2004](#)
- HMO Licensing under [Part 5 of the Housing \(Scotland\) Act 2006](#)
- Short Term Lets under [Civic Government \(Scotland\) Act 1982 \(Licensing of Short Term Lets\) Order 2022](#)

6. ENVIRONMENTAL IMPLICATIONS

6.1 No environmental implications.

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	Legislative changes within the private rented sector.	Keep up to date with changes through Scottish Government updates.	L	No
Compliance	Data Protection	Privacy Notices for all areas.	L	No
Operational	There is a risk if the Council does not have resources in place to support the delivery of statutory duties	Staff training on new Short Term Let legislation and processes.	L	No

	e.g staff shortage.	Recruitment ongoing to fill posts for Short Term Let activities.		
Financial	There is a financial risk if the Council does not fully recover the costs associated with these activities.	The HMO and Short Term Let fees will be reviewed annually at budget each year.	L	Yes
Reputational	Failure to enforce the provisions of policies and legislation may lead to reputational damage regarding the safety of properties in the rental market across Aberdeen.	Appropriate governance and staffing will mitigate this risk.	L	Yes
Environment / Climate	No significant risks identified			

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN 2022-2023</u>	
	Impact of Report
Aberdeen City Council Policy Statement	This report supports the delivery of the Council Delivery plan under Economy:
<u>Working in Partnership for Aberdeen</u>	Enhance the city centre and increase city centre footfall by commissioning in 2022/23: vi. Establish a licensing regime for short term lets
<u>Aberdeen City Local Outcome Improvement Plan 2016-26</u>	
Prosperous Economy Stretch Outcomes	No impact on the Aberdeen City Local Outcome Improvement Plan.
Prosperous People Stretch Outcomes	All people in Aberdeen are entitled to live within our community in a manner which they feel safe. As part of the HMO & Short Term Lets application process, properties will be inspected by a Private

	Sector Housing Officer. Additionally, copies of safety certificates will be required from the owner before any Licence is issued, ensuring safety of the property.
Prosperous Place Stretch Outcomes	No impact on the Aberdeen City Local Outcome Improvement Plan.
Regional and City Strategies	<p>Supports the delivery of the Local Housing Strategy (2018 to 2023) of which key actions related to private sector housing are:</p> <ul style="list-style-type: none"> • Work with private landlords and letting agents to improve management standards in the private rented sector • Work with private landlords and tenants to improve property condition in the private rented sector

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	Full impact assessment not required
Data Protection Impact Assessment	Not required.
Other	

10. BACKGROUND PAPERS

- 10.1 [Short Term Lets – New Licensing Powers, report heard at Licensing Committee 06 September 2022](#)

11. REPORT AUTHOR CONTACT DETAILS

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