

# LICENSING COMMITTEE INFORMATION SHEET

15 March 2023

## Private & Confidential Application

**TYPE OF APPLICATION:** APPLICATION FOR LANDLORD REGISTRATION  
(NEW)

**APPLICANT:** JAMES WATT

**RENTAL PROPERTY:** SECOND FLOOR RIGHT, 7 ELMBANK ROAD,  
ABERDEEN

### INFORMATION NOTE

The Committee is requested to consider whether the applicant is a 'fit & proper' person to be registered as a landlord in light of information declared within the 'Obligations' section of the registration application.

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. This requires applicants to be more explicit about their compliance with existing legal responsibilities in relation to property management and condition.

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.

### THE LEGISLATION

This application for Landlord Registration is being dealt with under the provisions of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004, as amended. The Act states that when deciding whether a landlord is fit and proper, the local authority is entitled to take into account specified categories of information (albeit these are not exhaustive). There are three categories specified in the Act which can be summarised as follows:-

- (1) Material that shows that the applicant has—
  - committed any offence involving sexual offences; fraud or other dishonesty; violence or drugs;
  - practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business; or
  - contravened any provision of the law relating to housing; or landlord and tenant law.
- (2) Material that relates to any actings of the applicant as respects antisocial behaviour affecting a house subject to a relevant lease or occupancy arrangement;
- (3) Material the authority considers is relevant to the question of whether the applicant is a fit and proper person.

The Act further states that if an applicant knowingly provides false mandatory information or knowingly omits mandatory information (eg. A relevant conviction), the applicant will have committed a criminal offence under the Act.

## THE APPLICATION FOR LANDLORD REGISTRATION

James Watt submitted an application on 16 February 2020 for Landlord Registration with the Council. Mr Watt paid the relevant fee and declared one rental property at Second Floor Right, 7 Elmbank Road, Aberdeen.

Within the 'Obligations' section of the application, Mr Watt has selected 'No' to holding the following safety certificates:

- Electrical Installation Condition Report (EICR)
- Electrical Appliance Test (PAT)
- Energy Performance Certificate (EPC)

Contact was made on the following occasions regarding these issues, however no action from Mr Watt:

- 17 February 2020 (Email)
- 11 March 2020 (Email)
- 22 June 2021 (Email)
- 01 December 2022 (Phone call)
- 01 December 2022 (Email forwarded following phone call)
- 16 February 2023 (Email)

Mr Watt's application is valid and he may therefore act as a landlord until his application has been determined.

## OBJECTIONS/REPRESENTATIONS

- Police Scotland – no objections

## REASON FOR REFERRAL TO LICENSING COMMITTEE

The Licensing Committee is requested to determine James Watt's application for Landlord Registration in light of information declared within the 'Obligations' section of the registration application.

## OTHER CONSIDERATIONS

- The above-mentioned legislation requires this local authority to determine James Watt's application for Landlord Registration based on whether he is considered to be a 'fit & proper' person.
- The above-mentioned legislation allows local authorities to approve or refuse Registration applications and revoke approved Registrations. Where

applicants are refused Registration or Registrations are revoked, an appeal to the Housing & Property Chamber for Scotland, First-tier Tribunal, is available to the applicant/landlord.

- The above-mentioned legislation does not include any time limit for determining Registration applications. Accordingly, applicants may legally operate as landlords if they have submitted valid Registration applications, whilst a local authority is considering their applications.
- If a local authority refuses an application, and the applicant does not appeal the decision, or any appeal is not upheld, the applicant cannot, by law, act as a landlord.
- The application under consideration is a 'new' application.