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## **NORTH AYRSHIRE COUNCIL**

**7 March 2018**

### **Licensing Committee**

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**Title:** **Landlord Registration under the Antisocial Behaviour etc (Scotland) Act 2004, Part 8**

**Purpose:** To inform the Committee of Landlord Registration matters.

**Recommendation:**

1. That the Committee should decide whether or not to make a Resolution excluding the public from the meeting at which this Report and its Schedules is to be considered;
2. For each Application or Review Proposal described in the Schedules: That the Committee should consider each case and:
  - (a) Decide whether or not the Application should be granted, or the Relevant Person should be removed from the Register;
  - (b) If appropriate, decide whether or not to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of any house, or to delegate authority to the Clerk to issue such a Notice.

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## **1. Executive Summary**

- 1.1 The Licensing Committee has delegated authority from the Council to administer the Council's functions under the Landlord Registration Scheme regulated by the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8.

## **2. Background**

- 2.1 The Clerk has received information set out in the Schedules. This information suggests that there may be a basis for the Committee concluding that the Landlord is not 'fit and proper', and that either the Application should be refused or the Registration already granted should be removed.
- 2.2 The Schedules are marked "Not for Publication" and are excluded from the published Agenda under Local Government (Scotland) Act 1973, Section 50B(2) and (5). This has been done as the Clerk considers that the meeting is likely not to be open to the public while those Schedules are being considered, as they contain "Exempt Information" described in Schedule 7A to the Act. The Schedules are in the background papers given to Committee Members and will be sent to the respective Landlords before the Meeting.

### 3. Proposals

- 3.1 The Committee should consider each case and decide whether or not to grant the Application, or remove the Registration.
- 3.2 If the Committee decides to refuse an Application, or to remove a Registration, and if it is satisfied that the house is presently occupied by a Tenant, it should then decide whether or not to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice' or 'RPN') in respect of any house referred to in the Application or Registration.
- 3.3 If it is are not so satisfied, it may delegate authority to the Clerk to issue a RPN if and when the Clerk is so satisfied. Given that there would be nothing to stop the Landlord receiving Housing Benefit even if he/she was unregistered, the Committee may wish to delegate authority to the Clerk to issue a RPN if the Clerk later receives information that any house which is currently covered by the Registration is occupied by a Tenant.

### 4. Implications

<b>Financial:</b>	If a RPN is issued, the Housing Benefit Office will be informed, so that the Landlord will no longer receive Housing Benefit.
<b>Human Resources:</b>	None.

<p><b>Legal:</b></p>	<p>Where the Council makes any decision to refuse or revoke Registration, to make a RPN, or to refuse to recall a RPN, the Landlord may appeal to the Sheriff or the First Tier Tribunal.</p> <p>If the Council issues a RPN, only the Tenant's liability to pay rent will cease. The other rights and obligations of the Lease will be unaffected: Section 94(3) &amp; (8).</p> <p>For example:</p> <ul style="list-style-type: none"> <li>(a) the Tenant will continue to have whatever security of tenure he already had (he cannot be evicted for non-payment of rent where that non-payment is due to the RPN);</li> <li>(b) the Landlord will only be entitled to evict the Tenant if the Sheriff grants a Decree;</li> <li>(c) the Landlord continues to have repairing obligations.</li> </ul> <p>If a RPN is revoked by the Sheriff or Tribunal on appeal by the Landlord, the Tenant only has to pay 'arrears' of rent if, and to the extent, ordered. If a RPN is revoked by the Council then 'arrears' are not due (Section 95(3)).</p>
<p><b>Equality:</b></p> <p><b>Children and Young People:</b></p>	<p>The Clerk has considered the "Public Sector Equality Duty" in preparing this report and any specific equalities impacts will be evaluated where appropriate. Unless the Clerk advises the Committee otherwise in a particular case, there are no significant equalities impacts to be considered.</p> <p>None</p>
<p><b>Environmental &amp; Sustainability:</b></p>	<p>None.</p>
<p><b>Key Priorities:</b></p>	<p>None.</p>
<p><b>Community Benefits:</b></p>	<p>Preventing unfit Landlords from operating may contribute to the wellbeing of the community. Preventing Housing Benefit being paid to unregistered Landlords safeguards public funds.</p>

## 5. Consultation

- 5.1 No consultations are appropriate. Depending on the circumstances, the Schedules contain information supplied by the Police, North Ayrshire Council Directorates, or other agencies.



Elma Murray OBE  
Chief Executive

Reference WO'B/PAT

For further information please contact **William O'Brien, Solicitor (Licensing)** on **01294 324305**.

### Background Papers

None