

**ITEM No ...5.....**

**REPORT TO: COMMUNITY SAFETY & PUBLIC PROTECTION COMMITTEE – 4 JUNE 2018**

**REPORT ON: CONSULTATION RESPONSE ON A REVIEW OF LANDLORD REGISTRATION APPLICATIONS AND FEES**

**REPORT BY: EXECUTIVE DIRECTOR OF NEIGHBOURHOOD SERVICES**

**REPORT NO: 172-2018**

**1. PURPOSE OF REPORT**

1.1 To seek Committee's approval for the Council's proposed response to the Scottish Government consultation entitled Landlord Registration in Scotland - a review of landlord registration applications and fees.

**2. RECOMMENDATIONS**

2.1. It is recommended that Committee approves the attached response and remits the Executive Director of Neighbourhood services to submit this to the Scottish Government accordingly.

**3. FINANCIAL IMPLICATIONS**

3.1. There are no financial implications arising from this report.

**4. MAIN TEXT**

**4.1. Background**

4.1.1. Part 8 of the antisocial Behaviour etc. (Scotland) Act 2004 placed a duty on local authorities to prepare and maintain a public register of private sector landlords with registration commencing in 2006. There are in excess of 11,000 registered landlords and 18,000 private rented properties in Dundee.

4.1.2. At the present time, a landlord is required to make a general declaration that they meet their legal duties to let houses in the private sector. The Scottish Government consider that this is not enough to ensure that all private sector lets are compliant and we would agree. Property condition is an area where many landlords fail to meet the Repairing Standard. Some due to a lack of knowledge of the legislation and others who purposely avoid their legal obligations and rent poor quality property to vulnerable tenants.

4.1.3. The consultation includes proposals to ask for additional information about compliance with legal duties and certification relating to letting houses in the private sector when on application or renewal of registration. We support the principal and have commented on the practicality of evidencing compliance.

4.1.4. In addition to the level of prescribed information required with an application for registration, the Scottish Government are proposing to review the fee structure for registration which has remained static since 2006. We would support an increase

and simplification of the fees charged to reflect the increased workload in administering the system.

#### 4.2. **Consultation Response**

- 4.2.1. The Scottish Government has invited responses to the consultation by the 7<sup>th</sup> June 2018. Appendix 1 sets out the proposed responses to the consultation questions posed. A copy of the full consultation document is available on the Scottish Government website.

#### 5. **POLICY IMPLICATIONS**

- 5.1. This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management. No major issues were identified.

#### 6. **CONSULTATIONS**

- 6.1 The Council Management Team were consulted in the preparation of this report and agree with the content.

Elaine Zwirlein  
**Executive Director of Neighbourhood Services**

Tom Stirling  
**Head of Community Safety & Protection**

10<sup>th</sup> May 2018

## Consultation on landlord registration applications and fees.

### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

Dundee City Council

Phone number

01382 436832

Address

Private Sector Services Unit, 5 City Square, Dundee

Postcode

DD1 3BA

Email

colin.mccrae@dundeecity.gov.uk

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (without name)  
 Do not publish response

#### Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes  
 No



## Consultation Answer Form

### Part 1 – Landlord registration: Prescribed information

**Question 1a:** Do you think that landlords should have to confirm whether they comply with each of the requirements specified above? Please explain your answer

Yes  No  Unsure

Please tick only one box and explain your answer below.

The proposed approach will both inform landlords and prevent a claim of lack of awareness of the relevant standards and legislation.

**Question 1b:** If not, which requirement(s) do you think landlords should not have to confirm that they comply with and why?

Please explain your answer below?

N/A

**Question 1c:** Do you think that landlords should be required to provide evidence of compliance with any of the requirements specified above?

Yes  No  Unsure

Please tick only one box and explain your answer below.

It is considered however that self-certification by the landlord when making an application or renewing is a more practical approach. Applicants could be asked to provide the details of any certification (date and reference number of certificates, whether there is gas in the property etc.) as well as signing a statement of compliance. Random sampling/inspections on a risk basis can be carried out by the local authority, if necessary to a minimum targeted percentage.

It is considered that there are a number of practical issues, associated with requiring landlords to provide evidence in the form of copies of certification with their application, which would make such an approach unworkable and this includes:

- a. How would they be submitted; hard copy, originals electronic, attached to or separate from the on-line application?
- b. How and where would certification be held and viewed?
- c. Electronic and photocopied documents are more open to fraud.
- d. Variety of certificate styles (i.e. EICR & PAT).
- e. NICEIC or SELECT Contractors only?
- f. A lack of electronic central databases to check EICRs, PAT and Gas safety including CO detection.
- g. What verification of certification would be required?
  - Technical (EICR)
  - Assessing accuracy of PAT certification
  - Currency in respect of 3 year registration renewal/5 yearly EICR/10 yearly EPC
  - Annuality of certification (e.g. Gas)
  - Assessing continuity of certification
  - Determining the need for gas certification
  - Determining compliant Fire and CO detection
- h. A preferred requirement for a link to the EPC database through RoS/LRS
- i. A significantly higher administrative workload:
  - Receipt and recording of up to four certificates per property over a 3 year cycle (70,000 certificates in the case of Dundee)
  - Chasing missing and incorrect certification, including correspondence and enforcement action
  - Potential third party referrals to FTT
  - Maintenance of supporting data management systems out with the functionality of the existing LRS
  - Volume of recording and monitoring correspondence
  - Storage space, either hard copy or electronically
- j. An additional need for technical input and or training as most registration teams will comprise administrative staff.
- k. Impact on fee scale to support additional workload.

A requirement to provide evidence of certification would effectively result in these properties being regulated in a similar manner to HMOs, as far as certification was concerned and the associated workload.

**Question 2:** What other questions, if any, do you think should be included in an application for landlord registration?

Please explain your answer below.

Specific reference to having adequate property insurance in place would be beneficial, particularly in the case of flatted property.

**Question 3** If a minimum energy efficiency standard linked to an EPC rating is introduced, do you think that landlords should be asked to provide the domestic EPC rating for property?

Yes  No  Unsure

Please tick only one box and explain your answer below.

The landlord should have this information available and it may prompt those who do not have an EPC in place to obtain one.

**Question 4:** Do you think that the applicants should only be required to provide a home address and a correspondence address?

Yes  No  Unsure

Please tick only one box and explain your answer below.

It is considered that applicants should provide:

- A home address (required by legislation)
- A contact address (Public search address, could be an agent)
- A correspondence address (address for personal correspondence, particularly for overseas)

Merging the contact and correspondence addresses as suggested may not suit all circumstances. It removes the ability to have the public search (contact address) as their agent but a separate correspondence address (i.e. a local relative in the case of someone living or working overseas) listed to receive personal mail from the local authority. There would be nothing to prevent all three being the same address or the correspondence and contact address being the same.

**Question 5:** Do you think that applicants should be required to provide an email address, home and mobile phone number (if they have one)?

Yes  No  Unsure

Please tick only one box and explain your answer below.

The provision of this information eases communications with the applicant and enables efficient dissemination of information. The use of e-mail addresses to issue our eNewsletter is a prime example. Renewal reminders being sent by e-mail in addition to letters are also beneficial in ensuring an applicant is aware of the need to renew their registration.



## Part 2 – Landlord registration: Application fees

**Question 6:** Do you think it is reasonable to increase registration fees in line with inflation, to reflect the increased cost to local authorities?

Yes  No  Unsure

Please tick only one box and explain your answer below.

Increasing workloads and staffing costs need to be taken into account and an annual review as is the case when we set HMO fees is the prudent approach.

It is not considered that the fee difference between a discounted on-line application (10% discount) and the non-discounted fee reflects the difference in workload involved in processing hard copy applications administered by the local authority Landlord Registration Team (LRT). A review of the fee structure could be used to address this issue.

Issues with the functionality of the new system also mean that landlords have frequently had difficulty accessing the system, which has led to the LRT renewing applications on a landlord's behalf (daily basis) and sending invoices to the landlords, with the 10% discount applied.

**Question 7:** Do you think it is reasonable for local authorities to charge a lower additional fee, in cases where the maximum set fee exceeds the costs of the work undertaken to prompt a landlord to make an application?

Yes  No  Unsure

Please tick only one box and explain your answer below.

Varied fees would be difficult to manage, particularly with on-line applications, would require more work in invoicing and tracking payments and would potentially lead to a greater number of challenges. On balance a set fee will be easier to administer.

**Question 8:** Do you think that the 10% discount applied to on-line applications should be changed? If so, what should be changed?

Yes  No  Unsure

Please tick only one box and explain your answer below.

Mixed views. On one hand it seems to be enough to encourage the majority to apply/renew online but a view has been expressed that the level of discount should be increased to reflect the difference between an on-line

application and processing a paper application or supporting an applicant to make an on-line application (see also answer to Q6 above). The level of any discount applied will be influenced by the level of funding required to deliver the service. Whatever the approach decided, it needs to be simple.

**Question 9:** What are your views on including an amount in the application fee to cover the operating costs of the on-line registration service?

Please explain your answer below.

We would support a reasonable contribution being directed towards the operating costs where the funding was also used to improve the functionality of the system at a greater pace than is currently being achieved. Functionality issues with the system are placing a significant additional burden on Landlord Registration Teams.

**Question 10:** Do you think that a local authority should receive an application fee when they carry out a fit and proper person test on a joint owner?

Yes  No  Unsure

Please tick only one box and explain your answer below.

We agree that this would simplify the fee system and reflect the fact that registration of a joint owner involves the same level of work as a lead owner. An individual owner may question why they are paying the same fee to register as joint owners, who are both required to register. With all owners required to pay a fee the proposed level of increase to fees may be reduced. It is not considered that the property fee should be paid by the lead owner only.

**Question 11:** Do you think that each local authority should receive an application fee when a person applies to more than one local authority, and the fit and proper person assessment is required?

Yes  No  Unsure

Please tick only one box and explain your answer below.

We agree with the points outlined in the consultation regarding multiple area discounts and see the removal of this discount as simplifying the fee structure. We cannot see which other local authorities and applicant is registered with and still require to apply our own fit and proper test.

**Question 12:** Do you think that landlords should receive a 100% discount on the application fee for a letting agent who has applied to be registered with the Scottish Government?

Yes  No  Unsure

Please tick only one box and explain your answer below.

As Letting Agents are now required to register on the Letting Agents Register, there should be no charge applied under Landlord Registration. Where an agent is not required to register on the Letting Agent Register, they should be required to register on Landlord Registration. We would suggest that it would simplify matters if an agent required to be registered on landlord registration was responsible for their own registration and the relevant fee.

The current lack of functionality between the LRS and LAR and the likelihood that this will require landlords to submit paper applications is very disappointing and will add to the increasing workload of hard pressed staff.

**Question 13:** What are your views on charging a fee for specific changes in circumstance to an existing registration?

Please explain your answer below.

There are a range of changes which may be required to an existing registration ranging from changes in personal circumstances, to changes in agent and bulk uploading of additional properties. It is difficult to decide how best to accommodate this additional work, other than to allow for such changes within the base fee. That said any changes which require a review of the persons fitness should perhaps incur an additional fee.

**Question 14:** What are your views on offering incentives to landlords and agents to apply for registration and/or improve their practice?

Please explain your answer below.

Whilst, through our own existing mechanisms, we support and encourage landlords to gain relevant training and qualifications, it is not considered that a discount on the relatively small fee required to register, would incentivise landlords to pay for and complete suitable training or to comply with registration and improve standards. This is particularly true of those who purposely avoid compliance with the legislation. Any discounts applied would also have to be capable of being applied automatically on-line, otherwise this would likely create additional workload. In addition, the overall aim should be to simplify the fee scale and reduce or remove discounts.



### Part 3 – Landlord Registration: Impact Assessments

**Question 15:** Are there any proposals in this consultation which impact or have implications on ‘equality groups’? Choose from the following options:

Yes  No  Unsure

Please tick only one box and explain your answer below.

Regardless of ‘equality group’ registration should apply to all.

**Question 16:** Do any of the proposals in this consultation have any financial, regulatory or resource implications for you and/or your business (if applicable)? Choose from the following options:

Yes  No  Unsure

Please tick only one box and explain your answer below.

The level of evidence of compliance required from landlords and the need to check certification could have a significant impact on resources and therefore the cost or efficiency of the service.

