

EAST AYRSHIRE COUNCIL

HOUSING COMMITTEE – 6 SEPTEMBER 2006

REGISTRATION OF PRIVATE LANDLORDS

Report by Executive Director of Neighbourhood Services

1. PURPOSE OF REPORT

- 1.1 To seek Committee approval for the proposed procedure for assessing private landlord applications for registration.

2. BACKGROUND

- 2.1 Under part 8 of the Antisocial Behaviour Etc. (Scotland) Act 2004, all landlords and letting agents, apart from registered social landlords, and some other exceptions, must register with the local authority. It will be an offence to let any residential property without being registered. In order to be registered, the local authority must be satisfied the applicant is a 'fit and proper' person.
- 2.2 Each Local Authority must develop their own policy for determining if an applicant is a 'fit and proper person'.
- 2.3 Each Local Authority must determine their own protocol for assessment, approval, refusal and appeal of applications.

3. DECISION MAKING

3.1 The Fit and Proper Person Test

- 3.1.1 It is proposed that the Council adopt the '*light touch*' approach outlined in the guidance in section 85 of the 2004 Act, which stipulates that applications are taken at 'face value' unless there is information to the contrary.
- 3.1.2 However, in addition, during each year of the three year registration period, one third of all applications will be more fully scrutinised. Part of the scrutiny will involve a survey of the applicant's tenants. Consequently over the three year period, all registered landlords will be fully scrutinised.

3.2 Potentially not 'fit and proper' person

- 3.2.1 If the applicant, as defined by the Act and its associated guidance as issued by the Scottish Executive, is considered by the Registration Officer not to be a 'fit and proper' person, the Registration Officer will provide full details of the applicant to a scrutiny panel consisting of officers from

Housing and Legal Services which will determine whether or not the person is 'fit and proper', and should be registered.

3.2.2 A right of appeal to the Head of Housing will be available to any applicant who is rejected for registration and should that appeal for registration be rejected, it is proposed that there will be a further right of appeal to the Housing Appeal Sub-Committee comprising of elected members.

3.2.3 In any event, as covered in section 92 of the Antisocial Behaviour etc (Scotland) Act 2004, the applicant will have recourse to the Sheriff.

4. FINANCIAL IMPLICATIONS

4.1 The cost of regulating the National Registration Scheme for Landlords is being met through current Scottish Executive funding and fees paid by landlords for registration.

5. LEGAL AUTHORITY/IMPLICATIONS

5.1 The Council requires to comply with the terms of Part 8 of the Antisocial Behaviour Act 2004 in relation to the registration of private landlords. The recommendations as outlined, will assist the Council in meeting its statutory obligations under this legislation.

6. POLICY IMPLICATIONS

6.1 Implementation of the regulations will assist the Council in meeting its relevant policy objectives as set out in the Council's approved Local Housing and Homeless Strategies.

7. RECOMMENDATIONS

7.1 The Committee are recommended to:-

(i) approve the above proposals for determining applications for registration by private landlords under the terms of the Antisocial Behaviour Etc (Scotland) Act 2001 as set out in Paragraph 3 above; and

(ii) otherwise note the contents of the report.

William Stafford
Executive Director of Neighbourhood Services

CMCA/LC/LA

16 August 2005

LIST OF BACKGROUND PAPERS

1. **Regulation of Private Landlords under The Antisocial Behaviour etc. (Scotland) Act 2004.**

Any person wishing further information or to inspect the background papers listed above should telephone 01563 - 576614 and ask for Joseph Cassidy, Development and Strategy Manager.

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