

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 16 MAY 2019

LANDLORD REGISTRATION

REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this report is to advise Committee of its powers to order the immediate suspension of a licence if it is of the opinion that the carrying on of the activity to which the licence relates is causing or is likely to cause a serious threat to public order or public safety; and to delegate authority to exercise this power.

1. RECOMMENDATION

It is recommended that the Committee recommend to Angus Council:-

- (i) that the Order of Reference to Committees be amended to delegate to the Civic Licensing Committee the functions of the Council in terms of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004.
- (ii) that the Scheme of Delegation to Officers be amended to authorise the Director of Communities to:-
 - (a) Maintain a register for the purposes of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004 (landlord registration); and
 - (b) Enter relevant persons in the register maintained for the purposes of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004 (landlord registration) in accordance with guidance to be issued by the Civic Licensing Committee from time to time.

2. BACKGROUND

2.1 The Antisocial Behaviour etc. (Scotland) Act 2004 ("the Act") introduced a requirement for certain landlords to register with the local authority in whose area the property let is located. Since 2006 the Council has maintained a register and processed applications for registration from landlords. The Council's current Scheme of Delegation to Officers delegates to the Head of Communities (now Director of Communities) authority to:-

operate a Private Sector Landlords Registration Scheme under the Anti-Social Behaviour etc. (Scotland) Act 2004.

2.2 Before the Council can enter a person on its register, it must be satisfied that the person (and any agent) are fit and proper persons to be a landlord (or an agent for a landlord as the case may be). In determining whether a person is a fit and proper person to be a landlord or an agent, the Council shall have regard (among other things) to any material specified in the Act. Material specified in the Act includes:-

- (a) Material which shows a person has been convicted of any offence involving:-
 - (i) fraud or other dishonesty;
 - (ii) firearms;
 - (iii) violence; or
 - (iv) drugs.

- (b) committed a sexual offence;
- (c) practised unlawful discrimination in, or in connection with, the carrying on of any business;
- (d) contravened any provision of:-
 - (i) any Letting Code issued by the Scottish Ministers;
 - (ii) the law relating to housing; or
 - (iii) landlord and tenant law.
- (e) material in relation to antisocial behaviour on the part of a person.

The material referred to in the Antisocial Behaviour etc. (Scotland) Act 2004 is not prescriptive and the Council can take into account other material which it considers relevant to whether a person is a fit and proper person to be entered in the register.

- 2.3 The Council has never had cause to refuse an application to register a landlord or their agent.

3. REPORT

- 3.1 Following review, it is considered that the above arrangements are not satisfactory as it delegates authority to an officer to refuse an application to register a landlord or their agent. This is also contrary to practice in relation to other areas of Council regulatory activity where (with limited exceptions) only the Civic Licensing Committee can refuse a licence or consent.

- 3.2 It is therefore proposed that the Order of Reference to Committees be amended to delegate to the Civic Licensing Committee:-

The functions of the Council in terms of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004.

- 3.3 In addition, and to avoid the requirement for all applications for registration to be considered by the Committee, it is proposed that the Scheme of Delegation to Officers be amended to authorise the Director of Communities to:-

- (a) Maintain a register for the purposes of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004 (landlord registration); and
- (b) Enter relevant persons in the register maintained for the purposes of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004 (landlord registration) in accordance with guidance to be issued by the Civic Licensing Committee from time to time.

- 3.4 The above wording will permit the Civic Licensing Committee to issue guidance to the Director of Communities to ensure that applications for registration are processed effectively, efficiently and economically and that as few as possible applications are referred to the Civic Licensing Committee for determination.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications arising from this report.

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