

ANGUS COUNCIL

SPECIAL CIVIC LICENSING COMMITTEE – 15 AUGUST 2019

LANDLORD REGISTRATION – GUIDANCE TO THE DIRECTOR OF COMMUNITIES

REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this report is to consider guidance to the Director of Communities in the exercise of delegated powers in relation to entering a person in its register of landlords in terms of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004.

1. RECOMMENDATION

It is recommended that the Committee provide Guidance to the Director of Communities that in the following cases applications for entry in the register require be referred to the Civic Licensing Committee:

Applications for entry in the register if it is ascertained that the relevant person (as defined in the Antisocial Behaviour etc. (Scotland) Act 2004) has:-

- (a) committed any offence involving–
 - (i) fraud or other dishonesty,
 - (ii) firearms (within the meaning of section 57(1) of the Firearms Act 1968),
 - (iii) violence; or
 - (iv) drugs.
- (b) committed a sexual offence (within the meaning of section 210A(10) of the Criminal Procedure (Scotland) Act 1995).
- (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 under section 92A of the Antisocial Behaviour etc. (Scotland) Act 2004,
 - (ii) the law relating to housing; or
 - (iii) landlord and tenant law.
- (e) committed an offence under, or been disqualified by virtue of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004 or Part 5 of the Housing (Scotland) 2006.
- (f) been the subject of a repairing standard enforcement order in terms of Section 24(2) of the Housing Scotland Act 2006.
- (g) committed any act (or failed to act) as regards antisocial behaviour affecting a house subject to a lease or occupancy agreement in relation to which the relevant person was the landlord or acting for the landlord.
- (h) committed any other offence(s) or contravened any other legal requirement(s) which the Director of Communities considers is relevant to the question of whether the relevant person is a fit and proper person to be entered in the register.
- (i) acted in any other way which the Director of Communities considers is relevant to the question of whether the relevant person is a fit and proper person to be entered in the register.

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.
- 2.2 This Committee, at its meeting on 16 May 2019, considered a report by the Director of Legal and Democratic Services in relation to the Council’s functions in terms of the Act (report 161/19 refers). Following consideration of this report, the Committee agreed to 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; and
 - (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.
- 2.3 The above recommendation of this Committee was approved by Angus Council at its meeting on 20 June 2019.

3. REPORT

- 3.1 The Guidance contained in the recommendations reflects the material the Council is required by the Act to have regard to and is considered to balance the need to ensure that all relevant matters are brought to the attention of the Committee and to effectively, efficiently and economically process applications for entry in the register.

4. CONCLUSION

- 4.1 It is recommended that the Committee approve the recommendations contained in this report.
- 4.2 The Act permits the Council to remove a person from the register should they, for example, no longer be a fit and proper person. A decision to remove a person from the register will require to be made by the Committee.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications arising directly from this report.

REPORT AUTHOR: David Thompson, Manager – Legal Team 1
EMAIL DETAILS: LEGDEM@angus.gov.uk