

Report To: Safe, Sustainable Communities Committee **Date:** 30 August 2011
Report By: Corporate Director Education & Communities **Report No:** SCS/68/11/AH/DH
Contact Officer: Drew Hal **Contact No:** 714272
Subject: Private Landlord Registration Scheme

1.0 PURPOSE

1.1 To advise Committee on work undertaken to fulfil the Council's statutory duties in respect of the Registration of Residential Landlords.

2.0 SUMMARY

2.1 Since 30 April 2006 it has been a criminal offence to let or communicate with another person with a view to entering into a lease or letting agreement for residential property in Scotland. Registrations are renewable every three years.

2.2 Officers of Safer and Inclusive Communities have received 1,877 applications relating to 3092 flats or houses. Two applications have been refused and one Registration revoked.

2.3 Officers, in close co-operation with other Councils and various Inverclyde Council services e.g. Housing Benefit, Council Tax, Anti Social Behaviour Investigations Team and Environmental Health staff, are continually working to identify unregistered landlords and are initiating informal and formal action to require them to apply for Registration.

3.0 RECOMMENDATIONS

3.1 That the Committee note the progress made in implementing the Private Residential Landlord Registration Scheme.

Albert Henderson
Corporate Director of Education & Communities

4.0 BACKGROUND

4.1 The Antisocial Behaviour etc, (Scotland) Act 2004 made provision for the introduction of a mandatory registration scheme for private sector landlords. From 30 April 2006, it became a criminal offence to let, or to offer to let, private residential property unless application had been made for Registration in respect of both the landlord and the property.

4.2 The stated aims of the legislation were to;

1. identify all the private rented properties in their area;
2. concentrate resources on (1) landlords who require assistance in managing their properties and tenants, or, in the minority of cases (2) dealing with landlords who refuse to implement good management practice, fulfilling their legal obligations to their tenants and the neighbouring community; and
3. create a successful registration scheme which would also help the Council improve the Local Housing Strategy by filling in gaps in current knowledge about this sector.

5.0 IMPLEMENTATION OF THE REGISTRATION SCHEME

5.1 The then Scottish Executive commissioned an internet based software registration tool which was intended to provide landlords, and their agents, with a convenient way of applying for registration, (particularly for those with multiple properties), whilst obtaining a discount on the registration fee.

5.2 Unfortunately, there were significant technical problems which resulted in delays to the commencement date of the scheme and caused problems for many users, including local authorities. Hard copy registration documents were, and still are, available for circumstances where landlords do not have access to the internet or do not wish to use this route.

5.3 Officers, in co-operation with other Councils and various Inverclyde Council services e.g. Housing Benefit, Council Tax, Anti Social Behaviour Investigations Team (ASIST) and Environmental Health staff, are continually working to identify unregistered landlords and are initiating informal and formal action to require them to apply for registration.

5.4 Applicants must sign a declaration confirming that they have no relevant convictions and comply with current legal standards regarding letting and tenancy management; we are required to rely on this declaration unless we hold information to the contrary.

5.5 To be accepted for registration, the landlord must fulfil a 'fit and proper person test'. This encompasses not only relevant convictions but also considers whether the landlord or agent have met their legal obligations in respect of landlord-tenant law and related issues, including maintenance and management of their property.

5.6 As the service was aware of existing gas safety issues in the area this Council made it a mandatory requirement, before approving any application, that the current landlord's gas safety certificate for each and every gas installation and appliance be produced.

5.7 It is recognised that many landlords are not familiar with all the legislation applying to letting property and property maintenance, there is, therefore, a requirement on the Council to provide assistance and support in this regard. In addition to "one to one" contact with landlords and their agents, Officers have taken part in a number of local events targeted at private sector landlords.

6.0 SANCTIONS AND PENALTIES

- 6.1 It is an offence to let a property without applying for registration as a landlord and registering the property in question. Various enforcement options are available, these include a referral to the Procurator Fiscal for possible action in the Sheriff Court and service of a Rent Penalty Notice to stop the payment of rent and/or housing benefit.
- 6.2 Where landlords do not meet the fit and proper person test at the application stage their application can be refused which would then allow the Council to use the sanctions at 6.1 above
- 6.3 Where a registered landlord breaches relevant legislation, or otherwise fails the fit and proper person test after being registered, the Council has the option of revoking the Registration or again possible referral to the Procurator Fiscal.
- 6.4 The consequences of using these sanctions, for the tenant, landlord and council, (which will have to provide support and assistance including the possibility of taking over management of the premises for a time), are significant and none of these actions can be taken without extensive consultation with appropriate agencies.

7.0 IMPLICATIONS

- 7.1 **Legal:** The Council is obligated to administer this legislation.
- 7.2 **Financial:** No financial implications. Fees from the registration scheme support part of the Council's administration costs.
- 7.3 **Equalities:** When delivering services to our customers, full cognisance is taken of equality and diversity processes and procedures.

8.0 CONSULTATION

- 8.1 This report has been prepared in consultation with Officers from Finance and Legal Services.

9.0 CONCLUSION

- 9.1 The mandatory registration of private sector landlords has given the Council some powers, for the first time, to tackle the worst performing landlords who, by their behaviour and attitude, mismanage their properties or fail to act in respect of their antisocial tenants, causing misery for their own tenants or other residents and the community at large. It is worthy of note that by virtue of these powers and early intervention Officers have been able to force some landlords to carry out fabric repairs, ensure the return of unfairly retained deposits and even prevent threatened illegal evictions.
- 9.2 It is clear that the law abiding landlords, who are the greater majority, do benefit from the additional support and advice available to them from the Council and from an enforcement approach which will ensure, so far as is possible, that the sector is properly regulated.
- 9.3 Unresolved problems do still exist, clearly there are still some bad landlords in Inverclyde, due, in part, to the limitations in the investigatory powers available to enforcement officers and the essential need for reluctant tenants to give corroborating evidence in court against their landlords.
- 9.4 A recent review of the operation of the scheme, instructed by the Scottish Government, has, unfortunately, not recommended, in spite of strong and detailed recommendations by this Council, any significant changes to the system of sanctions and penalties.