



**SERVICES FOR THE COMMUNITY POLICY DEVELOPMENT AND SCRUTINY PANEL**

**PRIVATE LANDLORD REGISTRATION ENFORCEMENT - IMPLEMENTATION OF RENT PENALTY NOTICES**

**REPORT BY HEAD OF HOUSING, CUSTOMER AND BUILDING SERVICES**

**A. PURPOSE OF REPORT**

This report sets out for consideration by the Panel the proposed processes for applying various enforcement tools in relation to unregistered and registered landlords.

**B. RECOMMENDATION**

It is recommended that Panel members approve the enforcement process proposals.

**C. SUMMARY OF IMPLICATIONS**

<b>I Council Values</b>	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; working in partnership.
<b>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	The Anti-Social Behaviour etc. (Scotland) Act 2004 placed a duty on local authorities to maintain a public register of private landlords.
<b>III Implications for Scheme of Delegations to Officers</b>	None.
<b>IV Impact on performance and performance Indicators</b>	None.
<b>V Relevance to Single Outcome Agreement</b>	None.
<b>VI Resources - (Financial, Staffing and Property)</b>	None.
<b>VII Consideration at PDSP</b>	N/A
<b>VIII Other consultations</b>	Legal Services Team; Environment Health Team; Community Safety Unit; Housing Need Team; Housing Strategy and Development.

## **D. BACKGROUND**

All private landlords, with some exceptions (**Appendix 1**) are required to apply for registration in the register of landlords. The aim of landlord registration is to make sure that all private landlords in Scotland are fit and proper people in letting residential property.

This requirement enables councils to remove disreputable landlords from the housing market in order to protect tenants and the wider community from the impact of antisocial behaviour and mismanaged property.

The Landlord Registration Scheme was relocated from Legal Services to Housing, Customer & Building Services in April 2017. Since the scheme moved to Housing, Customer & Building Services there has been a lot of progress to date on the implementation of new processes and next stages of the development of enhanced enforcement.

Where a landlord is found not to be registered, an initial letter advising them of their legal requirements is issued to the landlord requesting them to register within 14 days. If no application is received within this time scale the landlord is issued with a second reminder letter giving the landlord a further 7 days to register. If again no application is received a final reminder is issued to the landlord giving them a final 7 days in which to register and advising that a late application fee will be applied.

In 2017 40 complaints against unregistered landlords were received, 38 of which registered before a final reminder was issued. However if the issue is not resolved an enforcement tool should be available to apply in proportion to the breach of the scheme.

Guidance published by the Scottish Government in 2017 stated that all local authorities should use the said guidance as part of a continuing drive to raise standards and ensure greater consistency in enforcement across Scotland.

### **D.1 RENT PENALTY NOTICES**

Under Part 8 of the Antisocial Behaviour, etc. (Scotland) Act 2004, it is a requirement for all persons leasing residential property in Scotland to be registered with the local authority and for those properties to be included on the register. It is a criminal offence for a landlord to enter into a lease or occupancy agreement without being so registered.

In addition, the local authority has the power to issue a "Rent Penalty Notice" under Section 94 of the 2004 Act, the effect of which is to prevent the landlord collecting rent from any residential properties whilst s/he is unregistered. 'Submitting a case to the Procurator Fiscal for their consideration is the most severe sanction a local authority can take in relation to an unregistered landlord'.

The Rent Penalty Notice will give a period of 28 days prior to its commencement during which the landlord may still register. If the landlord registers during this period, the Rent Penalty Notice will be revoked prior to commencement. If however, no application has been made within the 28 days, the Rent Penalty Notice will be effective until the notice is revoked or overturned by appeal.

Implementing Rent Penalty Notices as an enforcement tool has notable benefits in terms of improving performance and compliance in our private rented sector. However, it is recognised that the implementation is not without challenges and a clear process and joint working with other council services has been created. **(Appendix 2)**

Available evidence from the Scottish Government shows that the threat of RPN is enough to prompt approximately 3 in every 4 affected landlords to take action to comply with registration requirements. West Lothian Council is currently the only Local Authority in Scotland not using Rent Penalty Notices as an enforcement tool.

## **E. Conclusion**

West Lothian Council are currently the only local authority within Scotland, who do not use Rent Penalty Notices as an enforcement tool on landlords who fail to register after pre enforcement action. Having available enforcement tools in place will ensure compliance with legislation, reduce corporate risk, and will improve performance within this activity.

## **F. Background References**

### **Appendices/Attachments: 2**

Appendix 1 – Exemptions

Appendix 2 – Rent Penalty Notice Process Map

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Date of Meeting: **11<sup>th</sup> December 2016**