

EAST RENFREWSHIRE COUNCIL12 SEPTEMBER 2018Report by Deputy Chief ExecutiveLICENSING COMMITTEE – AMENDMENTS TO SCHEME OF ADMINISTRATION**PURPOSE OF REPORT**

1. To seek approval for amendments to the terms of reference for the Licensing Committee.

**RECOMMENDATION**

2. That the Council:-
- a) Notes the legislative change associated with the licensing of Houses in Multiple Occupation; and
  - b) Approves a change to the terms of reference for the Licensing Committee to include The Housing (Scotland) Act 2006 in the list of legislation in respect of which the committee exercises the powers and functions of the Council in relation to licensing, registration and the determination of applications for permits and permissions.

**REPORT**

3. In 1991, local authorities in Scotland were given discretionary powers to introduce licensing of houses in multiple occupation (HMOs) under the Civic Government (Scotland) Act 1982. East Renfrewshire Council introduced such a scheme.

4. In 2000, a new Order under that Act was made, making it mandatory for all authorities to introduce an HMO licensing regime.

5. Mandatory HMO licensing operated under the Civic Government (Scotland) Act 1982 since 2000. Part 5 of the Housing (Scotland) Act 2006 brought HMO licensing into housing legislation in 2011/12. Both regimes were broadly similar, but some important differences were introduced under Part 5:-

- More enforcement options are available
- Local authorities have to take account of the statutory guidance issued by Scottish Ministers
- Amendments were made in the Private Rented Housing (Scotland) Act 2011, particularly in relation to the giving of reasons for decisions and increasing the penalty for operating an unlicensed HMO.

6. The Commencement Order in respect of the new licensing regime set out the transition and explained that:-

- in the main, on 31 August 2011 licences in force under the old regime became licences under the new regime, with the original expiry date and conditions the same,
- local authorities must have advised all their licence holders of the impending change of licensing regime (ERC did this in August 2011), and
- existing rights of appeal under the Civic Government regime are preserved where a licence applied for prior to 31 August 2011 was pending or specific proceedings were ongoing.

7. It has only recently come to the attention of the Housing Service that the Housing (Scotland) Act had not been added to the list of legislation contained in the terms of reference for the Licensing Committee.

8. It should be noted that although not specifically mentioned in the list, the wording of paragraph (a) of the terms of reference is such that the committee was still empowered to deal with HMO licensing matters. However, for the avoidance of doubt, it was considered appropriate for the legislation to be specifically included in the list, as this will clarify the committee's responsibilities in respect of HMO licensing.

## **RECOMMENDATION**

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Background papers

None