

**PE1778/B**

Petitioner submission of 9 May 2020

Further to your email dated 16th April 2020 and in response to the Governments decision to my petition I wish to make it clear that I am extremely disappointed that they have found little ground to agree with the three areas of my concerns which were raised within it

It would appear they have only reiterated the information that is freely available online in relation to the existing guidance for Local Authorities and in my opinion they have failed to take into consideration the obvious loopholes that I have highlighted. (See Below)

***1. Lack of scrutiny and investigation of individuals in determining whether they are a 'fit and proper' person to hold landlord registration;***

**Government's response**

**"The fit and proper person test is intended to provide a level of assurance that the landlord or agent is a suitable person to let privately rented property. It is a standard that all private landlords are required to uphold throughout the time that they operate as a private landlord. Unless a local authority is satisfied that the applicant is a fit and proper person to let houses, the application should not be approved. Additionally a local authority can review an approved registration at any time if information becomes available that indicates that a landlord is not meeting these standards".**

**7th June 2019: Further to our Local Authority Licensing Section's comments in relation to Landlords Registration, my wife and I asked the following:**

***"Is our interpretation of your comments correct in saying, when a person applies on-line to the Council for a Landlords Registration, there will be literally no scrutinisation as to who that person is and no investigation to determine if they are a fit and proper person to hold a Landlords Registration, therefore relying solely on the Applicant to be honest in what information they may decide to disclose? and no matter what the person's background or history, they will be virtually certain to be granted a Landlord's Registration."***

**The Licensing Section of our local Council replied:**

**"You are correct in saying"**

The fact that the Licensing Section of my local Authority have not only openly accepted but confirmed that there is no scrutinisation of any applicants for Landlords Registration only underlines my concerns that it is possible for any dishonest prospective landlords to submit false information on the Application for Landlord Registration in order to be accepted onto the register, therefore allowing them, the very people that the Landlords Registration Scheme is in place in order to prevent from operating outside the law within the private sector to slip through the net. It is

my belief that a dishonest prospective landlord would be more likely to submit false information than an honest prospective landlord.

In my opinion it would be relatively easy to satisfy a local authority that the applicant is a fit and proper person to let houses by simply submitting details that would not be detrimental to the application such as criminal convictions etc, in effect false information..

Although the 'fit and proper' test as it stands is intended to provide a level of assurance that the landlord or agent is a suitable person to let privately rented property, it is abundantly clear from our local Council's confirmation that it is open to abuse therefore not 'fit for purpose'.

I believe the Local Authority's confirmation to our question totally contradicts the Scottish Government's belief that there are sufficient provisions in place throughout the 'fit and proper' test for local Councils to determine whether a person is indeed 'fit and proper'. In addition to this I would also question the logic in assuming that the majority of landlords are fit and proper persons as there is clearly no way of determining that throughout the process.

### **Conclusion:**

As there is no scitisation to determine whether an individual is a 'fit and proper' person to hold landlord registration, the Local Authority has to rely solely on applicants being honest in submitting the information which would be required to be accepted onto the register, therefore the system is wide open to abuse as it allows virtually anyone to become a registered landlord.

***2. No checks are carried out by any relevant authority in relation to a landlord's compliance with their legal responsibilities and obligations;***

### **16th April 2020: The Government stated:**

**"Local authorities do carry out checks as part of processing applications for registration".**

### **7th June 2019, my wife asked the Licensing Section of our local Council**

***"Is our interpretation of your comments correct in saying, when a person applies on-line to the Council for a Landlords Registration, there will be literally no scrutinisation as to who that person is and no investigation to determine if they are a fit and proper person to hold a Landlords Registration, therefore relying solely on the Applicant to be honest in what information they may decide to disclose? and no matter what the person's background or history, they will be virtually certain to be granted a Landlord's Registration."***

The Licensing Section of our Local council's reply in agreeing to our statement clearly contradicts the Government's statement that Local authorities do carry out checks as part of processing applications for registration and landlords are also required to make detailed declarations that they meet the existing obligations around

letting houses when they make their application for Landlord Registration and even if this was correct, the system still leaves the local authority at the mercy of the honesty of the Applicant by accepting the details that they have submitted irrespective whether they are true or false.

Although the Government has stated that Landlords are now required to make detailed declarations that they meet the existing obligations around letting houses when they make their application for Landlord Registration, which covers key elements such as gas and electrical safety, appropriate fire and carbon monoxide detection, legionella risk assessments along with compliance around Energy Performance Certificates, the fact is that there are no physical checks made by the Local authority in order to determine if the Applicant/Landlord is being truthful. Therefore, it once again leaves the system wide open to abuse as the Local Authority has to rely on and accept the honesty of the Applicant/Landlord

**Text below copied from our Local Council's Application for Landlord Registration**

**I agree that \*\*\*\*\* may share the information provided in this form, and other relevant information it holds about me, with other local authorities in Scotland to which I have applied for registration, to help those other authorities determine whether I am a fit and proper person to act as a landlord, or to act for a landlord, in terms of the Antisocial Behaviour etc (Scotland) Act 2004.**

**Signed..... Date..... Print name.....**

**Important**

**“Anyone who gives false information on this form, or fails to give information required by this form, is committing an offence which could lead to prosecution”.**

I personally have first hand knowledge of a property being recently let by using an incorrect Landlords Registration over a period of ten years or so, where there would have had to have been at least four separate declarations being signed on the three yearly Applications for Landlord Registration and despite me bringing the irregularities in the registrations to the attention of my local Authority, no action was taken against the owners. Therefore I believe this shows that the system is not “fit for purpose”.

**Conclusion:**

Although I believe that all local Authority Application for Landlord Registration forms in Scotland are constructed as idiot proof and each one requires a mandatory signed declaration, the fact remains that there are no checks and the information which has been submitted by the applicants will be accepted without question as being truthful, irrespective of whether they are true or false. Therefore the system is not ‘fit for purpose’.

### ***3. The emphasis of Scottish Government guidance for local authorities on a 'light touch' approach to implementing landlord registration.***

**This approach accords with the legislation and with the Scottish Government advice to local authorities that they should adopt a "light touch" (quote) approach. It follows that where a person applies to the Council asking for Landlord Registration, there is a presumption that the Council will grant the Registration. He/she supplies the information upon which the Registration is based, and the system relies on his/her honesty when it asks questions such as, in effect, "do you have a criminal record?".**

The 'light touch' approach that the Government advises local authorities to adopt, in accordance with legislation, apparently allows the Council to grant the Registration on the assumption that the information provided by a prospective landlord will be honest when it asks questions such as, "do you have a criminal record?".

However, as I have pointed out above, the more dishonest person will have more cause to provide false information than an honest person, therefore allowing the very people that the Landlords Registration Scheme is in place in order to prevent from letting out property within the private sector to slip through the net.

#### **Conclusion:**

In my opinion the Scottish Government guidance for local authorities on a 'light touch' approach to implementing landlord registration is not fit for purpose as it totally relies on the Applicant being truthful in submitting the information that would enable them to be accepted onto the register.

Although the aim of the Scottish Government is to prevent legitimate landlord businesses being undercut by landlords who operate outside the fact is that the system as it currently stands allows a dishonest prospective landlord who has provided false information in order to be accepted as a registered landlord will be virtually certain to be granted a Landlords Registration, therefore being allowed to operate outside the law.

I would ask you to take into account the above comments and request that you reconsider my original petition.