

THE HIGHLAND LICENSING COMMITTEE

LANDLORD REGISTRATION HEARINGS

Before the Highland Licensing Committee reaches a decision as to whether a landlord is a fit and proper person for the purposes of determining whether they should be entered in or removed from the register of private landlords maintained by the Council under section 82(1) of the Antisocial Behaviour etc (Scotland) Act 2004, the Committee will give the landlord the opportunity to be heard by the Committee members.

Any information, such as complaints or previous convictions, to be referred to by the Clerk, Police Scotland or other third parties at the hearing as being relevant to the question of whether the landlord is a fit and proper person shall have been copied to the landlord by the Clerk at least seven days before the date of the hearing.

Before the hearing commences, members of the Committee will be invited to resolve that the public be excluded from the meeting during the hearing and the Committee's determination.

It should be noted that, by virtue of Article 3 of the Rehabilitation of Offenders (Exclusions and Exemptions) (Scotland) Order 2013 and Paragraph 16 of Schedule 3 to that Order, the Committee may have regard to a landlord's spent convictions at the hearing in determining whether to refuse registration or to remove the landlord from the register.

If a landlord has spent convictions which are classed as "protected convictions" under Article 2A of the 2013 Order, the Committee may only have regard to them (and be given details of them) if first satisfied that justice cannot be done in the case without admitting those protected convictions into evidence. If Police Scotland or a third party seek to introduce any protected convictions, the onus will be on them to satisfy the Committee that justice cannot be done in the case without the Committee considering the protected convictions. The landlord will be given the opportunity to address the Committee on this before the Committee decides whether to admit the protected convictions into evidence. The hearing will then proceed.

At the start of the hearing, the Chairman will identify which parties are present and/or represented. If any party is not present or represented, and has not made a request for a postponement, and if the Committee is satisfied that a written invitation to the hearing was duly sent, the hearing will proceed in the absence of that party. Any written representations previously made by the absent party will, however, still be considered by the Committee.

Parties will usually be invited to speak in the following order, but the Chairman has discretion to depart from this order if he or she considers it necessary to do so in the interests of fairness.

1. The Chairman will introduce the item and identify who is present for the hearing and who intends to speak.
2. The Clerk will outline the information about the landlord held by the Council which has triggered the Clerk's decision to refer the matter to the Committee for a hearing to determine whether the landlord is a fit and proper person.
3. Where the information includes the landlord's previous convictions, spent or unspent, Police Scotland will be asked to confirm details of those convictions.
4. Where the information includes information provided by other third parties, they will be asked to confirm details of that information.
5. The Committee members will be given the opportunity to ask Police Scotland and/or any other third party who has spoken relevant questions.
6. The landlord or his/her representative will then be given the opportunity to ask Police Scotland and/or any other third party who has spoken relevant questions.
7. The landlord or his/her representative will then be given the opportunity to address the Committee members in relation to the information put forward by the Clerk, Police Scotland and/or any other third party and to put forward any further information relevant to his/her case that he/she is a fit and proper person to be entered in the register, or to remain entered in the register, as the case may be.
8. The Committee members will be given the opportunity to ask the landlord relevant questions.
9. Police Scotland and/or any other third party who has spoken will be given the opportunity to ask the landlord relevant questions, following which they will be invited to sum up.
10. The landlord will be given the opportunity to respond to any final matters raised by Police Scotland and/or any other third party in their summing up, following which the landlord will be invited to sum up.
11. The Chairman, if satisfied that all parties have said all they wish to say will invite the Committee members to commence their deliberation and then make their decision and outline their reasons. During the Committee's deliberation, parties will not generally be given further opportunity to speak unless a member raises further questions for clarification purposes or any new matter is raised by a member which has not previously been put to the landlord or other parties for comment. Should a new matter be raised, an adjournment of the hearing to allow parties time to consider the new matter before commenting may be allowed by the Chairman if considered required in the interest of fairness.