

# Regulatory Committee

10.00am, Friday, 21 June 2024

## Landlord Registration Fees

Executive/routine  
Wards

All

### 1. Recommendations

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- 1.1 Committee is asked to note this report and discharge the [action](#) agreed by the Council on 9 May 2024, attached at Appendix 1 of this report.

**Peter Watton**

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## Landlord Registration Fees

### 2. Executive Summary

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- 2.1 This report seeks to discharge a [motion](#) raised by Councillor Mumford, from the Full Council on 9 May 2024 (Appendix 1), by providing information in relation to the fees which can lawfully be collected in relation to the Landlord Registration system.

### 3. Background

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- 3.1 On 9 May 2024, Council approved a motion by Councillor Mumford as detailed in Appendix 1. This report addresses the motion by setting out the statutory basis for the fees which can be charged for Landlord Registration Scheme.
- 3.2 The Landlord Registration scheme was introduced in 2006 under the [Antisocial Behaviour etc. \(Scotland\) Act 2004](#) ('the Act'). Subject to certain statutory exceptions, it requires landlords of let properties, including Houses of Multiple Occupation, to register with their local authority.
- 3.3 The Act provides that registration lasts for three years. The [Private Landlord Registration \(Fees\) \(Scotland\) Regulations 2019](#) ('the Regulations') make provision for the fees that a person must pay in order to make a valid application for registration as a landlord.
- 3.4 As at January 2024, approximately 43,000 landlords are registered within the City of Edinburgh Council area.

### 4. Main report

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- 4.1 Part 8 of the Act sets out the statutory basis for the Landlord Registration Scheme. Section 83(3) gives Scottish Ministers the power to prescribe the fees payable by landlords seeking registration. Ministers have exercised that specific power, and the current statutory provisions are contained within the Regulations.
- 4.2 Each landlord pays a registration fee of £80 for their registration. In addition, the landlord would pay a fee £18 for each property they include within their registration. Where a landlord is registered in more than one local authority their registration fee is £40 per local authority that they register with. There are exemptions from paying

the fees, most commonly where the landlord has obtained a House in Multiple Occupation (HMO) Licence. Following amendments to the structure of the legislation in 2019, the Regulations provide a methodology to revise the fees annually to reflect inflation.

- 4.3 The Act and Regulations contain no powers for a local authority to amend or add to the prescribed fees. The Regulations make reference at paragraph 2 to ‘additional fees’ but these are also prescribed. The ‘additional fee’ is in fact a sanction which allows a double charge to be made when a landlord is late in renewing their registration. The ‘late’ fee is therefore £160, and the Council applies this fee where appropriate.
- 4.4 Committee will be aware that the terms of the agreed motion asked the Convener to write to the relevant Scottish Minister asking for the power to amend the fees to be delegated to Local Authorities. Members are asked to note that, if Ministers were minded to do this, it is unlikely that any such new powers would permit the Council to amend the fees to allow spending on other Council priorities. There are separate specific statutory duties, including the Provision of Services Regulations 2009, which impose legal duties on public authorities creating or amending any ‘authorisation scheme’. As a general principle, fees charged for a licensing or registration scheme should reflect only the cost of operating that system. Any fee-setting beyond that would require detailed consideration of the legal risks of challenge.

## **5. Next Steps**

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- 5.1 Committee notes the report and discharges the outstanding remit.

## **6. Financial impact**

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- 6.1 There is no direct financial impact on the Council. All costs are contained within existing income from landlord registration fees.

## **7. Equality and Poverty Impact**

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- 7.1 Matters described in this report have no relationship to the public sector general equality duty, thus no direct equalities impact arises from this report.

## **8. Climate and Nature Emergency Implications**

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- 8.1 No climate or environmental impact arises from the contents of this report.

## **9. Risk, policy, compliance, governance and community impact**

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- 9.1 The Council's approach to managing the landlord registration process and associated enforcement activity contributes to the Council's strategic priority to create good places to live and work in Edinburgh.
- 9.2 Any departure from the statutory basis for setting fees would present legal risks that would require detailed consideration. As the fee structure is prescribed in legislation, the Council has no power to impose additional or increased fees beyond those prescribed, and any attempt to do so would be likely to attract a successful legal challenge.

## **10. Background reading/external references**

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- 10.1 [Landlord Registration webpage](#)
- 10.2 [Being a Landlord in Scotland Resource](#)

## **11. Appendices**

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- Appendix 1 Motion by Councillor Mumford as agreed by the City of Edinburgh Council on 9 May 2024.

## Appendix 30

### Composite Motion

#### City of Edinburgh Council

9<sup>th</sup> May 2024

#### Landlord Registration Fees

**Council :**

- 1) Notes that, as of 1 April 2024, the fee for landlord registration is £80 plus £18 per property, with a late application fee of £160
- 2) Finally, notes that the private rented sector has been identified as an area which requires further scrutiny and action as part of the Housing Emergency Action Plan
- 3) Notes that there is conflicting advice regarding the ability of local government to set additional landlord registration fees.”  
Therefore:
- 4) Requests the Convener of the Regulatory Committee to write to the Scottish Minister for Local Government to ask the Minister to confirm who holds powers to set Landlord Registration fees, including introducing additional fees and, if it is confirmed that Local Authorities are unable to do this, to request devolution of these powers;
- 5) Further requests a report to the June Regulatory Committee – if possible – setting out the position and possible next steps as appropriate.

**Moved by: Cllr**

**Seconded by: Cllr**

