

## **Houses in Multiple Occupation**

### **Guidance on making an objection or representation in relation to an application submitted under Part 5 of the Housing (Scotland) Act 2006**

It is open to any member of the public to submit an objection or representation in relation to an application for a licence for a House in Multiple Occupation (HMO).

To enable the Council to entertain an objection or representation it must:

- Set out the name and address of the respondent.
- Be signed by or on behalf of the respondent
- Made on or before the deadline for making objection or representations. The deadline being 21 days of the notice of application being displayed at the premises to be licensed. (The Council may consider late objections or representations only if they can be satisfied that there is sufficient reason why it was not made in time).

Section 130 of Part 5 of Housing (Scotland) Act 2006 states that a Licensing Authority may refuse to grant a licence where the applicant or anyone else detailed on the application is not a fit and proper person

Section 131 of the same Act also states that a Licensing Authority may grant a licence only if it considers that the living accommodation concerned is:

- suitable for occupation as an HMO; or
- can be made suitable by including conditions in the HMO licence.

and in determining whether any living accommodation is, or can be made to be, suitable for occupation as an HMO must consider:

- its location
- its condition
- any amenities it contains
- the type and number of persons likely to occupy it
- the safety and security of persons likely to occupy it
- the possibility of undue public nuisance

The objection or representation should detail clearly the reasons for the objection/representation, justify why the applicant and /or premises are not suitable and should provide clear and concise reasons for the objection/representation.

The person(s) submitting the objection or representation will be invited to attend a meeting of the Highland Licensing Committee and speak to the letter of objection/representation. The objector(s) must attend the Meeting should they wish to appeal to the Sheriff against the Committee's decision to grant or renew a licence.

The applicant or their representative will be given the opportunity to state why the application should be granted. Thereafter the objector or their representative will be allowed to speak to their letter of objection. Members of the Committee may then ask questions. The Committee will then decide whether to grant or refuse the application. The decision and any voting will take place in public. (A copy of the Council's hearing procedure is appended below).

Where the Committee decides to grant the application for a new licence or renewal the persons making the objection/representation may ask for reasons for the decision at the meeting or within 14 days of receiving notice of the decision and these reasons will be produced by the Legal Manager within 14 days of the request.

The person(s) making the objection/representation have a right of appeal to the Sheriff Court only if they have taken every opportunity to state their case to the Committee as has been made available. The appeal must be lodged within 28 days of the meeting.

Should you require any further information in relation to making an objection or representation please find the relevant contact details below.

## **Contacts**

### **Caithness Sutherland and Easter Ross**

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### **Ross, Skye and Lochaber**

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### **Inverness, Nairn and Badenoch and Strathspey**

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## CIVIC GOVERNMENT (SCOTLAND) ACT 1982

### PROCEDURE FOR HEARINGS

1. The Chairman will introduce the Members and Officials present. **If the representations/objection(s) were submitted timeously and there are no spent convictions to be considered then proceed directly to number 4.**
2. If the representation/objection (from the Police or any other party) has been received late the Committee must hear details as to why the representation/objection was late and be satisfied that there is sufficient reason why it was not made in the time required. If they agree that then the representation/objection can be heard otherwise it should be disregarded.
3. If spent convictions are to be referred to then the guidance notes for spent convictions (attached) should be followed for each conviction. **The Committee should resolve to go into private whilst considering spent convictions.**
4. **The Hearing procedure below should now be followed.**
  - (a) ***The Applicant or his representative will put his/her case to the Committee.***
  - (b) ***The person(s) who submitted the representation/objection(s) will have the opportunity to ask the Applicant relevant questions.***
  - (c) ***The Committee Members will have the opportunity of asking the Applicant relevant questions.***
  - (d) ***The person(s) who submitted the representation/objection(s) will put their case to the Committee.***
  - (e) ***The Applicant will have the opportunity to ask the person(s) who submitted the representation/objection(s) relevant questions.***
  - (f) ***The Committee Members will have the opportunity of asking the person(s) who submitted the representation/objection(s) relevant questions.***
  - (g) ***The Applicant or his representative will sum up.***
  - (h) ***The person(s) who submitted the representation/objection(s) will sum up.***
  - (i) ***At the sole discretion of the Members, the Committee may decide to retire to consider the representations/objections in private.***
  - (j) ***The Committee will invite the parties to return to the meeting and the Chairman will invite Members to take a decision. NOTE: If during private deliberations, the Committee receive advice on a legal submission from the Clerk which is contrary to the view of the party making the submission or the Committee believe additional information would be relevant, then these points should be raised with the parties, in public, prior to any decision being made.***
  - (k) ***If the decision of the Committee is to suspend, refuse or refuse to suspend a licence, a relevant person has a right to request within 28 days of the meeting, the Committee's reasons for arriving at their decision, unless the circumstances of the case justify immediate suspension, the suspension shall not take effect for 28 days from the date of the decision.***

***The Applicant shall be notified in writing of the decision within 7 days of the Hearing and shall be advised of his/her right to seek written reasons and appeal to the Sheriff Court.***

***Appeals against the decision of the Committee must be lodged with the Sheriff Clerk within 28 days of the date of the decision.***