Evaluation of the Impact and Operation of Landlord Registration in Scotland
EVALUATION OF THE IMPACT AND OPERATION OF LANDLORD REGISTRATION IN SCOTLAND

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The views expressed in this report are those of the researcher and do not necessarily represent those of the Scottish Government or Scottish Ministers.
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EXECUTIVE SUMMARY

The Scottish Government commissioned DTZ to carry out research to:

- examine the operational impact of the policy and legislative framework; and
- review the effectiveness of the associated administrative systems.

The specific research objectives were to:

- assess whether or not the Landlord Registration Scheme has been effective in meeting its goal of raising standards of service provided by landlords in the private rented sector;
- report on the effectiveness of the systems being used to administer Landlord Registration; and
- make recommendations for continuous improvement in both areas.

This report details the key findings from the quantitative and qualitative data collected.

Context

The origins of Landlord Registration in Scotland are contained within the Antisocial Behaviour etc. (Scotland) Act 2004, which required almost all private landlords to apply for registration with their local authority.

The Scottish Government Leaflet 'Landlord Registration' (2006) states that:

‘All private landlords must register with their local authority. This gives tenants assurance that landlords are fit and proper people to let property, and gives the local authority a full picture of the private rented sector in their area.

The aim of Landlord Registration is to ensure that all private landlords in Scotland are fit and proper to be letting residential property. The requirement will help local authorities to remove disreputable landlords from the market, protect tenants, and protect communities from the impact of antisocial behaviour and mismanaged property.’

Landlord Registration Guidance for Local Authorities 2009 maintains that:

- Landlord Registration is a key policy to increase standards in the private rented sector
- Information collected through the scheme increases local authority knowledge about the sector
- Registration provides an effective tool for tackling bad landlords
- For the majority of landlords who operate lawfully, the scheme should be light touch

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1 Scottish Government Landlord Registration Leaflet http://www.scotland.gov.uk/Topics/Built-Environment/Housing/privaterent/landlords/registration/leaflet
• The success of the scheme relies on effective local administration
• Local authorities have a duty to provide advice and assistance to both landlords and tenants

The Guidance affirms the Scottish Government commitment to ensuring a well-managed, thriving private rented sector in Scotland that provides quality and security for tenants stating:

‘Mandatory registration is an important strand of the Government’s wider policy framework for the private rented sector, designed to secure good management, good standards and good behaviour across the sector, and by so doing to reinforce the positive contribution it makes to meeting housing need in Scotland.’

Methodology

The methodological approach involved base-lining and mapping current practice through the analysis of financial and administrative information provided to the Scottish Government by local authorities. In order to develop appropriate research tools the IT and administrative systems currently in place were reviewed and relevant research in the field was examined. An online survey of local authorities was carried out. Case studies were used to gain a more detailed understanding of the issues raised in the review and survey. A workshop with key stakeholder organisations was held in order to more fully understand and explore the wider perspective.

Key Findings

The Landlord Registration Scheme has created a Register in excess of 175,000 private sector landlords in Scotland, all of whom have been subject to a ‘fit and proper person’ test. This is the first time there has been such a systematic approach to supervision of the private rented sector. At this stage, it continues to be difficult to quantify exactly how many landlords have not yet registered and whether they do not register because they are unaware of the requirement to do so or because they ignore this requirement.

Operational Impact of the Policy and Legislative Framework

Purpose of Scheme

Landlord Registration was introduced through the Anti Social Behaviour, etc Scotland Act (2004) leading some commentators to view its primary purpose to be in tackling anti social behaviour. The Local Authority Guidance clearly states the intention is to secure good management, good standards and good behaviour across the sector. However, there is some confusion in relation to the purpose of the

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2 Registration of Private Landlords: Guidance for Local Authorities http://www.scotland.gov.uk/Publications/2009/10/08102524/1
scheme. Interpretation of the purposes is varied as a result and clarification is required across the sector. For example, respondents questioned whether it is simply to create a register of landlords, whether it is intended to tackle ASB or whether it is intended to drive up standards of property management and condition.

**Effectiveness of the Scheme**

The research indicates that the Landlord Registration Scheme has some impact in meeting its goal of raising standards in the private rented sector. There is evidence that the sector is now more aware of its obligations when acting as a private sector landlord and there have been some improvements in landlord behaviour. However, the evidence collected suggests that Landlord Registration has not removed the ‘worst’ landlords from the sector.

The research highlighted a small number of cases where property conditions have improved due to Landlord Registration officer involvement, although Landlord Registration does not enable any interventions in respect of property condition. Nor does it have a direct mission to improve property condition. The role of the Private Rented Housing Panel is crucial in this respect and Landlord Registration teams work to promote the Private Rented Housing Panel as a route for improvement of property conditions.

Property management is similarly an area which appears to have benefited from the Landlord Registration Scheme. The research findings reveal that landlords are now more likely to have access to information and advice provided by local authority Landlord Registration teams. However, there is no guarantee that management of property among private sector landlords reaches a specified standard.

**Collaborative working**

There is evidence of good collaboration within local authorities, both internally working with Houses in Multiple Occupation (HMO) Licensing, Anti-social Behaviour (ASB), Housing Benefit, Council Tax, Environmental Health, Housing and Legal Services and externally with the police and other agencies.

**Legislation**

The legislative framework is broadly accepted by the range of study participants, although there were a few specific suggestions for improvements to the legislation. Overall, there are currently few sanctions available when landlords do not comply. However, the legislative framework has not yet been fully tested. Conclusions on the legislative framework have been reached on the basis of a small number of consultations and the Scottish Government should work with their legal teams to determine the full implications of the changes suggested below.

Overall, we would urge caution over incremental legislative change at this stage. Changes should be made without recourse to legislation and statutory instruments where possible and only once processes involved in operating the scheme (e.g. administrative, enforcement, etc.) have been in place long enough to fully understand the implications of these.
**General approach by local authorities**

Local authorities have, in the spirit of the legislation, adopted a ‘light touch’ approach, reviewing only those applicants where: previous convictions are disclosed; complaints have been made; there is a history of involvement with the landlord; or the landlord is on a ‘review list’. For those adopting the light touch approach, no evidence is requested from the landlord unless an investigation is undertaken.

Advice and information was said to be the main focus in encouraging landlords to register, although the approach was described as ‘less light touch’ for landlords who are renewing their registration. Local authorities do not all have landlord and tenant awareness raising strategies in place. In general, local authorities developed extensive information giving exercises at the outset of Landlord Registration, although this is less in evidence now.

**Sanctions**

The Rent Penalty Notice is thought to be the most effective sanction in relation to breach of landlord registration requirements. While late application fees are also thought to be effective, some local authorities do not issue these and others generate income in this way. The threat of both these measures is often sufficient to ensure landlord compliance. Reports to the Procurator Fiscal were used in far fewer cases than other measures, with only four local authorities having used this measure. The resources required to take a case to the Procurator Fiscal are costly for local authorities and it is difficult to obtain tenant corroboration.

**Performance monitoring**

Many local authorities do not have a performance and monitoring system in place for Landlord Registration.

**Effectiveness of Administrative Systems**

**IT**

While feedback from the survey of local authorities, case studies and stakeholder consultation indicates that the IT system has improved, there continue to be many frustrations with the system and suggestions for improvement.

The remit and membership of the IT sub group\(^3\) should be reconsidered to include input to the drafting of a functional specification for the IT system. The upcoming retendering exercise for hosting of the system, alongside the question of updating of servers, presents a good opportunity to address the current problems inherent in the system and create an up-to-date, fit for purpose system for the future.

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\(^3\) The remit of the Group is to progress IT issues to improve local authority and public experience when using the system; to identify improvements to the existing IT system, canvas local authority opinion and provide feedback on any proposed changes
Landlords are the main user group of the Landlord Registration website. Problems with the user friendliness of the website are evident and a clear picture of the problems which landlords have in using the system is required before any changes are made.

**Administrative systems**

There is evidence of effective administration and sound management within local authorities. Each has a clear organisational framework and processes in place to guide staff in Landlord Registration. The problems associated with the landlord website (such as user difficulties, labelling, joint applications and reporting tools) and associated administrative systems add to the administrative burden within local authorities.

A simplified, more effective administrative system may enable greater levels of investigation and enforcement activity. Within the central administration of the scheme, there is scope for improvements in relation to the administrative process associated with fee payment, reporting and governance.

**Fees**

The fee payment system generates delays in payment processing and failed payments are resource intensive and take a long time to rectify. If timescales are improved, local authorities will be able to more effectively plan resources and reconcile the data with their records, which should be standard practice.

The fees associated with Landlord Registration are low in comparison to other registration schemes. In the main, fees do not cover local authority costs, many being supplemented from other budgets. This lack of income means that resources are focused on the administration of the scheme rather than investigation or enforcement activity. A balance must be reached in order to ensure registration while generating sufficient income to cover costs.

**Administrative costs**

At present, there is no clear understanding of the overall administrative costs of Landlord Registration and this is not taken into account in any of the fee structures. Local authorities need to improve budgetary practices, so that they are aware of the income and expenditure associated with Landlord Registration.

**Appetite for local administration**

The research findings suggest there is little or no appetite for the administration of Landlord Registration (those functions currently undertaken centrally) to be carried out locally. Indeed, it may be more complex and resource intensive to deliver the system in this way. An alternative, which merits consideration, is the external administration of the scheme by an independent party or regulatory body.
Recommendations

1. The Scottish Government should be explicit about the purpose of Landlord Registration and this should be clearly communicated to Local Authorities, Landlords, Private Sector Tenants and the general public.

2. The current legislative framework should be further tested before any legislative change is undertaken. Any future legislation change should be consolidated into a meaningful raft of legislation rather than incremental change. This should include monitoring whether further investigatory powers, to enable the provision of evidence acceptable to the courts, are needed by local authorities.

3. Local authorities should develop landlord and tenant awareness raising strategies where these are not in place. National Tenant Information and Landlord Information Packs should be developed to raise awareness. The Scottish Government should co-ordinate national advertising of the Landlord Registration Scheme at regular intervals.

4. We would recommend that local authorities carry out a small random sample of checks on landlords, as there is no method of ensuring information provided on application forms is accurate.

5. Local authorities should develop more systematic performance and monitoring systems which are used to improve service delivery and practices.

6. Fees should continue to be set nationally, although fee levels should undergo more detailed scrutiny in order to ascertain more appropriate levels.

7. Agents should be required to register. This function should be included within the remit of the current Landlord Registration administration and enforcement.

8. Third Party Referral Rights to the Private Rented Housing Panel should be introduced for local authorities under specific circumstances.

9. Administration of the Landlord Registration Scheme should continue to be carried out centrally, either by the Scottish Government or an independent external provider.

10. The central administration of the scheme should be reviewed and improved in relation to the administrative process associated with fee payment, reporting and governance.

11. Overall, the Landlord Registration Scheme should be more formally constituted with clear levels of responsibility demarcated for both the Scottish Government and local authorities. An agreement should be developed which clearly sets out roles and responsibilities.

12. Local Authority Guidance should be updated and clarified. This process should seek input from a selection of local authority representatives.

13. Local authorities need to improve budgetary practices so that they are aware of income and expenditure associated with Landlord Registration.

14. Clear procedures should be in place to ensure consistent reporting to local authorities with reports being produced on the same day each month.

15. Website servers should be replaced. The current database should be migrated to SQL Server 2008.

16. A formal functional specification for the website should be developed before retendering.

17. Landlord views of the website should be sought to ensure future developments are more user friendly.

18. The remit and membership of the IT sub group should be reconsidered to include input to the drafting of such a functional specification.
1 INTRODUCTION

1.1 The Scottish Government commissioned DTZ to carry out research to assess:

- the impact of Landlord Registration on standards of service provided by landlords to tenants in the private rented sector; and
- the effectiveness of the national IT system installed to assist administration of Landlord Registration by Scotland’s local authorities.

1.2 The purpose of the research is to assess the impact of the policy and to identify the factors affecting the implementation, operation and management of Landlord Registration. Obtaining the views and experiences of local authorities, landlords and other stakeholders is a key element of this study.

Study Objectives

1.3 The evaluation has two key elements:

- examination of the operational impact of the policy and legislative framework
- review of the effectiveness of the associated administrative systems.

1.4 The specific objectives of the research are to:

- assess whether or not the Landlord Registration Scheme has been effective in meeting its goal of raising standards in the private rented sector;
- report on the effectiveness of the systems being used to administer Landlord Registration; and
- make recommendations for continuous improvement in both areas.

Landlord Registration

1.5 The Scottish Government Leaflet ‘Landlord Registration’ (2006) states that:

‘All private landlords must register with their local authority. This gives tenants assurance that landlords are fit and proper people to let property, and gives the local authority a full picture of the private rented sector in their area.

The aim of Landlord Registration is to ensure that all private landlords in Scotland are fit and proper to be letting residential property. The requirement will help local authorities to remove disreputable landlords from the market, protect tenants, and protect communities from the impact of antisocial behaviour and mismanaged property. ’

1.6 Landlord Registration Guidance for Local Authorities 2009 maintains that:

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4 Scottish Government Landlord Registration Leaflet http://www.scotland.gov.uk/Topics/Built-Environment/Housing/privaterent/landlords/registration/leaflet
1.6 Landlord Registration Guidance for Local Authorities 2009 maintains that:

- Landlord Registration is a key policy to increase standards in the private rented sector
- Information collected through the scheme increases local authority knowledge about the sector
- Registration provides an effective tool for tackling bad landlords
- For the majority of landlords who operate lawfully, the scheme should be light touch
- The success of the scheme relies on effective local administration
- Local authorities have a duty to provide advice and assistance to both landlords and tenants

1.7 The Guidance affirms the Scottish Government commitment to ensuring a well-managed, thriving private rented sector in Scotland that provides quality and security for tenants stating:

‘Mandatory registration is an important strand of the Government’s wider policy framework for the private rented sector, designed to secure good management, good standards and good behaviour across the sector, and by so doing to reinforce the positive contribution it makes to meeting housing need in Scotland.’

1.8 Landlord Registration Guidance for Local Authorities 2009 also states that:

- Registration is expected to remove the worst landlords and agents from the rental market
- A sound management and organisational framework is needed to support successful implementation of the scheme
- Co-operation between council departments and joint working is a key part of delivery
- Robust and clear processes are required for effective delivery
- Appropriate delegated authority for decision making should be established
- Performance should be regularly monitored

1.9 Other policy and legislative initiatives of relevance to the private rented sector include:

- modernisation of the Repairing Standard for private landlords;
- establishment of a Private Rented Housing Panel and Committee to support tenants who are in disputes over repairs with their landlord;
- production by Communities Scotland of National Core Standards for private landlords;

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5 Registration of Private Landlords: Guidance for Local Authorities
http://www.scotland.gov.uk/Publications/2009/10/08102524/1
6 Registration of Private Landlords: Guidance for Local Authorities
http://www.scotland.gov.uk/Publications/2009/10/08102524/1
7 www.scotland.gov.uk/Topics/Built-Environment/Housing/PrivateRenting/RepairingStandard
8 www.prhpscotland.gov.uk/prhp /1.html
• support for the national voluntary accreditation scheme, Landlord Accreditation Scotland\(^{10}\);
• placing the system for mandatory licensing of Houses in Multiple Occupation (HMOs) in a new, more appropriate, statutory housing framework\(^{11}\)

**Legislation**

1.10 The legislation that provides the framework for the operation of Landlord Registration in Scotland is:

- The Antisocial Behaviour etc. (Scotland) Act 2004 – Part 8
- The Private Landlord Registration (Appeals Against Decision as to Rent Payable) (Scotland) Regulations 2005
- The Private Landlord Registration (Advice and Assistance) (Scotland) Regulations 2005 + 2008 amendment (SSI 20081402)
- The Private Landlord Registration (Information and Fees) (Scotland) Regulations 2005 and 2006 + (20081403 amendment)
- The Private Landlord Registration (Modification) (Scotland) Order 2009 20051650 agricultural exemptions SSI

1.11 A number of changes to the legislation underpinning registration came into force on 12 February 2009. The changes mainly relate to the fee and discount structure and are designed to simplify the application process.\(^{12}\) In addition, the European Services Directive is of particular relevance to the fees collected by landlords.

**Methodology**

1.12 The methodological approach involved base-lining and mapping current practice through the analysis financial and administrative information provided to the Scottish Government by local authorities. In order to develop appropriate research tools the IT and administrative systems currently in place were reviewed and relevant research in the field was examined. An online survey of local authorities was carried out and all 32 local authorities completed the survey. Interviews were conducted in eight case study areas to gain a more detailed understanding of the issues raised in the review and survey. The case studies were selected using the following criteria.

- Achieving a geographic spread and obtaining a mix of rural/urban authorities
- Location of Landlord Registration administration
- Particular examples of good practice

\(^{10}\) [http://www.landlordaccreditationscotland.com/](http://www.landlordaccreditationscotland.com/)


\(^{12}\) [http://www.scotland.gov.uk/Topics/Built-Environment/Housing/PrivateRenting/registrations/Introduction](http://www.scotland.gov.uk/Topics/Built-Environment/Housing/PrivateRenting/registrations/Introduction)
A workshop with key stakeholder organisations was held in order to explore the wider perspective. The methodology is explained in more detail in Appendix 1. The overall project plan followed for this study is set out in Figure 2.1, below.

Figure 2.1 Project Plan

1.13 The following two chapters report the key findings from all of the research instruments. Chapter 2 outlines the findings about the operational impact of Landlord Registration and Chapter 3 details the findings on the effectiveness of the administrative systems associated with Landlord Registration. The final chapter (Chapter 4) details the overall conclusions and our recommendations. The appendices contain information about the methodology and a summary of key findings from the local authority survey; stakeholder workshop; and case studies.
2 STUDY FINDINGS: OPERATIONAL IMPACT OF LANDLORD REGISTRATION

2.1 This chapter details the key findings from all of the research instruments used in this study relating to the operational impact of the Landlord Registration Scheme.

Landlords

2.2 The number of private sector landlords in each local authority varies considerably. The largest numbers were around 47,000 in Edinburgh and almost 31,000 in Glasgow. Seven local authorities estimated there were between 5,000 to 10,000 landlords in their area; 15 estimated between 1,000 and 5,000. Three island authorities all reported less than 1,000 landlords.

2.3 As expected, there was a correlation between the number of private landlords and the number of private properties in a local authority. Edinburgh estimated the highest number of private sector rented properties at 61,000. In Glasgow, the figure was 45,500 properties. Three local authorities estimated between 10,000 to 15,000 properties; eight estimated between 5,000 to 10,000 properties; 12 estimated between 1,000 to 5,000 properties. Two authorities estimated that there are less than 1,000 private rented sector properties in their area.

2.4 The majority of landlords own one or two properties, although there were a small number of landlords in each area with property portfolios. Landlord Registration staff tend to have more contact with the larger landlords by virtue of the greater number of properties being dealt with, rather than any particular issues with landlords with larger portfolios. In each local authority, there were exceptions to this, with cases where portfolio landlords generated increased workload.

Overall Views on the Impact of Landlord Registration

2.5 Of particular importance for respondents was the question of what Landlord Registration set out to achieve and whether there are expectations of what it can achieve which are far beyond the intended purpose. A number of perceived positive outcomes of Landlord Registration were identified. For example, it was noted that the scheme:

- has created a Register of Landlords, providing information and statistics on the private rented sector
- sends a clear message to the sector, as landlords now know that they are regulated and are more aware of their responsibilities (including requirements such as Gas Safety Certificates and Energy Performance Certificates)
- has resulted in people taking the role of landlord more seriously
- has led to improvements in the image of the private rented sector and improved standards across the sector
- makes it much easier for local authorities to contact landlords over issues such as burst pipes
• has increased collaboration within local authorities
• has provided anecdotal evidence of reductions in illegal evictions (although this could not be verified or quantified)
• creates a lever through which other issues can be tackled (through Environmental Health, or Anti Social Behaviour Teams).

2.6 The survey findings suggest that:

• Less than half (46%) of local authority respondents regard the current Guidance as satisfactory\(^\text{13}\).
• There is a belief that there is a lack of tenant awareness of the scheme. This may be a symptom of a lack of tenant awareness strategies (70% of local authorities do not have a strategy for raising tenant awareness).
• While Landlord Registration has increased local authority knowledge of the sector, less than half of local authorities believe that it has improved property management (46%) and property conditions (36%) in the private rented sector, (although this is not what it was introduced to achieve).
• It is believed to have improved the quality of landlords in the sector, although it has not removed the ‘worst’ landlords (only 7% of respondents thought it had removed the worst landlords).
• The vast majority of respondents (93%) agree Landlord Registration is ‘light touch’ for those landlords who operate lawfully.

2.7 A number of other survey comments from local authorities related to what Landlord Registration has not achieved were provided:

‘if it was intended to identify landlords in cases of ASB, it is not doing this – ASB teams have other means of dealing with this’

‘it won’t remove bad landlords if you can’t find them or they can use an agent’

‘it will not change the worst landlords’

‘it has not raised property management standards or property conditions – but it did not set out to do this’

‘it has not removed bad landlords – but it has improved some behaviours’.

Legislative Framework

2.8 The Scottish Government Guidance to Local Authorities clearly states the intention of the Landlord Registration Scheme is to secure good management, good standards and good behaviour across the sector. Findings from the local authority survey, case studies and wider stakeholders show that interpretation of the purpose is varied and clarification is required across the sector. Research participants were not clear on the purpose of Landlord Registration

\(^{13}\) The PRH Bill provides for the Guidance to be moved to a statutory footing
– is it simply to create a register of landlords? Is it intended to tackle ASB? Is it intended to drive up standards of property management and condition? Landlord Registration was introduced through the ASB, etc Scotland Act (2004), leading some to view its primary purpose to be in tackling ASB.

2.9 The legislative framework was broadly accepted by the range of research participants, although there were a few specific suggestions for improvements to the legislation. Overall, it was thought that there are currently few sanctions available when landlords do not comply. This view was informed by the perceived lack of engagement of and low priority assigned to Landlord Registration by Procurators Fiscal. Some consultees felt that there has not yet been sufficient time to fully test the powers which are in place and further evidence is required before making any further changes.

2.10 One area where changes were suggested was in relation to ‘investigatory’ powers for local authorities. Participants stated that the 2004 Act created a series of offences which effectively cannot be prosecuted due to the lack of ‘investigatory’ powers. The difficulty is that, although local authorities have been granted a power to report matters to the Procurator Fiscal, this is not being backed up with an appropriate investigatory power which would allow the evidence of a local authority officer to be taken and lead to a successful prosecution. The key element is in being able to gather and present evidence which will be successful in the court process. For example, if a tenant is in a property, let by an unregistered landlord and the landlord remains unregistered, the landlord commits an offence, in terms of the Act, by continuing to take rent from the tenant and failing to register. However, successful prosecution of this offence is critically dependant on the tenant giving evidence to a Court. Consultees indicated that a number of Procurators Fiscal have confirmed that, without the corroborating evidence from the tenant, the chances of a successful prosecution are low\textsuperscript{14}.

2.11 Another suggestion relates to the use of Rent Penalty Notices\textsuperscript{15}. Consultations undertaken as part of this research showed that Rent Penalty Notices are used as an alternative to a report to the Procurator Fiscal. Current legislation restricts the use of Rent Penalty Notices to landlords who have failed to apply for Registration and it was suggested that this approach could be used in other circumstances such as poor property condition.

2.12 While there was acknowledgement of recent legislative changes, which will enable the Private Rented Housing Panel to report cases to the local authority and that this would be of benefit, some thought that there should be third party referral rights to Private Rented Housing Panel. At present, local authorities can signpost tenants to the Private Rented Housing Panel but have no involvement thereafter.

\textsuperscript{14} The Private Rented Housing (Scotland) Act 2011 gives local authorities the power to serve a notice on a person requiring them to provide information on the nature of their interest in the house, partly in order to ensure that vulnerable tenants are not put in a situation whereby they can be intimidated.

\textsuperscript{15} A rent penalty notice prevents a landlord from charging rent while the notice is in force.
One consultee stated they would like to be able to issue fixed penalty notices for non-compliance. This relates to the issue above about ‘investigatory’ powers and evidence required for the Procurator Fiscal. A lower level of proof would be required for fixed penalty notices than is required in criminal cases. One specific point was raised in relation to the wording of the legislation in relation to levels of proof. The Act states that it is an offence to ‘knowingly provide false information’. Questions were raised as to how it can be proven that the landlord ‘knowingly’ provided false information. One local authority thought that there should be a statutory timescale for determining an application. At present, no such timescales are in place and timescales are not known.

Unregistered Lets

2.13 It is difficult to quantify how many unregistered landlords there are and local authorities continue to discover unregistered landlords. Unregistered landlords may be new to the market place, unaware of the requirement to register as a landlord, or ignore the requirement to register.

2.14 There is good evidence of local authorities carrying out proactive searches for unregistered landlords. Some did not use this terminology and considered ‘proactive searches’ to be following up newspaper ‘to let’ adverts and following up ‘to let’ signs observed outside properties when out of the office.

2.15 There are good relationships with housing benefit colleagues and Landlord Registration teams are notified when a new housing benefit application is made in the private rented sector. Housing benefit colleagues tend to check whether the property or landlord is registered and inform Landlord Registration where this is not the case. A number of housing benefit departments request the Landlord Registration number be included on each housing benefit application.

2.16 Some Landlord Registration staff also carry out council tax checks and check with Registers of Scotland to determine the ownership of the property. Some local authorities have developed close links with council tax and, in one area, a weekly check is carried out on private sector landlords and relevant information passed to Landlord Registration. We have considered such methods to be ‘proactive searches’. Other methods of proactive searches for unregistered lets include:

- Searching Registers of Scotland
- Checking letting agents websites
- Checking newspaper to let adverts
- Calling landlords advertising properties to let
- Officers noting properties for let when out on visits and checking these against the register
- Local knowledge of statutory notices
- Landlords identified through general inquiries
- Information received from Antisocial Behaviour teams

2.17 The three mechanisms which are thought to be the most effective are: Housing Benefit records, Council Tax records; and internet/ websites.
2.18 Advice and information was said to be the main focus in encouraging landlords to register, although the approach was described as ‘less light touch’ for landlords who are renewing their registration. This is on the basis that if the landlord has previously registered, they are aware of the requirement to do so.

2.19 The type of action taken to follow up unregistered lets usually involves an initial letter advising the landlord that they are required to register and the consequences of non registration. Some respondents include an application pack in this correspondence. A number of authorities would carry out visits to the property. After two warning notices, most respondents would then pursue late application fees and, where appropriate, begin the process to apply a Rent Penalty Notice.

Landlord Awareness

2.20 Sixty six per cent (66%) of local authorities have a local strategy in place for raising landlord awareness of Landlord Registration. Those which do have a strategy have publicised the scheme primarily through web based and written promotional and material, landlord fora, landlord training and other landlord communication.

2.21 A number of local authorities have landlord fora in operation, although the frequency of these has dwindled recently with two per year now common. Some areas have found attendance has waned and now only hold events when there are specific reasons such as change in legislation. The format of landlord fora tends to be that of information giving by the local authority, with relevant invited speakers, followed by open debate and question time for landlords.

2.22 In general, local authorities developed extensive information giving exercises at the outset of Landlord Registration. These activities included newsletters to landlords, website information, television adverts, poster, newsletters and leaflets. Newsletters were the most frequently used form of landlord communication at the time of the case studies. One local authority held a landlord tenant conference and collaborated with a neighbouring authority to run a series of radio adverts. Two of the case study areas have developed Landlord Guides to Registration which could be replicated in other areas. Information provided through these media includes:

- Legislative changes
- Local Housing Allowance
- Housing Benefit
- Private Sector Bill
- Environmental Health.

2.23 A number of case study participants called for co-ordinated national advertising of the Landlord Registration Scheme.

2.24 Landlord enquiries are not recorded by all the local authorities, although it was thought the main type of enquiries include:
• Landlord Questions: Do I have to register? Why do I have to do it? What do I get? Why do I have to register a joint owner?
• Complaints about the IT system
• Renewals and the problem of having created a new application when trying to renew existing registration
• Tenant rent payment
• Benefits
• ASB.

Tenant Awareness

2.25 In general, there is thought to be a lack of awareness among tenants of the Landlord Registration Scheme. A number of the local authorities had engaged in extensive tenant awareness raising campaigns. Some of these approaches included website information, newsletters, a bus poster campaign and leaflets. It was recognised that tenants in the private rented sector are difficult to engage with and only tend to make contact when they have problems.

2.26 Despite this, 70% of local authorities do not have a local strategy in place for raising tenant awareness of Landlord Registration. Those which do have a strategy have publicised the scheme primarily through written promotional and web based material, and telephone support.

Lapsed Registrations

2.27 There is good evidence of local authorities actively pursuing lapsed registrations (93% of survey respondents). The mechanisms in place for this are similar to those employed for searching for unregistered lets and include:

• First and second notification letters, and in some areas a third reminder letter
• Where letters are not responded to, email and telephone contact is attempted in some areas followed by visits to the property and contact made with the tenant
• Checks on housing benefit and council tax records to verify property is let
• Late Penalty Charges
• Rent Penalty Notices.

2.28 Where lapsed registrations are not pursued, this is thought to be a resource issue, with efforts being concentrated on reaching landlords who have never registered.

Review Lists

2.29 Each local authority maintains a list of landlords who are ‘under review’. Those applicants who state that they have convictions on the application form may become ‘under review’ until investigations are undertaken to determine whether the convictions are relevant, will impact on the tenant or management of the property and will prohibit the applicant from registering as a landlord. In other areas, any reason to cast doubt on whether the landlord is fit and proper may warrant addition to the list until an internal investigation is completed. A
review case may also be raised where there has been a complaint made about a landlord.

**Fit and Proper Person**

2.30 Local authorities were asked to describe the process by which they assess a landlord's eligibility under the ‘fit and proper person’ criteria. A number of local authorities stated that, in the spirit of the legislation, they had adopted a ‘light touch’ approach, reviewing only those where: previous convictions are disclosed; complaints have been made; there is a history of involvement with the landlord; or the landlord is on a ‘review list’.

2.31 For those adopting the light touch approach, no evidence is requested unless an investigation is undertaken. Where investigations are undertaken sources of information include:

- Conviction information from the landlord
- Police reports
- ASB responses
- Houses in Multiple Occupation investigations
- Private Rented Housing Panel decisions
- Checking of internal databases – environmental health, Council Tax, Housing Benefit
- Internal approval panel was used by one authority
- Information from tenants, neighbours, Registered Social Landlords
- One authority includes large Council Tax debts, failure to comply with statutory notices issued by the Council
- One authority undertakes a random sample (10%) of applications selected for Property Inspections and Gas Safety Certificates, where applicable, are requested.

**Decision Making**

2.32 In 60% of local authorities, officers make the decision to approve a registration; in 37% of local authorities, managers make the decision. In the majority of areas, there are a wide range of people who may approve a registration, ranging from clerical and administrative assistants to Heads of Service. This is proportionate with the ‘light touch’ approach, where approval is based on information provided in the application form. In more complex cases, processes are in place to escalate the seniority of the decision maker.

2.33 In the matter of refusing an application, there is a marked change in the seniority of staff who would make this decision. Only in a small percentage of authorities (6%) would the officer make the decision to refuse or revoke a registration and in no cases would this be a decision for administrative and clerical staff. Senior officers are involved in 24% of authorities, 24% use Joint Officer Working Groups, 47% Managers and 53% involve the Head of Service.
2.34 Other mechanisms for decision making in relation to refusal or revocation include:

- Licensing Panel/Board
- Committee – Sanctions Committee, Licensing Committee/ Sub Committee, Regulatory Committee
- The Executive Director
- Scrutiny/ Review Panel

2.35 The process by which local authorities would refuse or revoke a registration involve detailed reports being prepared at officer level. These reports are then presented or submitted to the decision makers such as Head of Service, Committees, Scrutiny/ Review Panel, as shown above. In a number of cases, it was stated that the applicant is offered the opportunity to respond to the report. Other authorities work with the landlord to rectify any issues which may prevent registration. A number of respondents cited partnership working with ASB teams, the police, Environmental Health, Houses in Multiple Occupation Licensing, Housing Department. Two authorities asked for Disclosure checks where convictions were unspent. Two authorities carry out interviews with the landlord to gather more information about convictions or property issues. One authority carries out property inspections and gathers evidence statements.

2.36 Around one fifth (21%) of local authorities require landlords to provide information over and above the mandatory information required. The additional information requested includes:

- Signature and valid gas safety record
- A copy of power of attorney documents where applicable
- Seeking clarification where the contact address is not the landlord address or agent address
- Request telephone number and e-mail address if applicable
- Whether applicant is related to a Councillor or senior officer. If so, application has to go to a members panel
- Energy Performance Certificates if questions have been raised by tenants
- Additional information to assist in the decision making process, or where there is reason to believe the landlord has withheld information
- Disclosure Scotland where appropriate.

2.37 Where an application has been withdrawn, many authorities do nothing more with the information. Some, where resources allow, will carry out further checks on the property to verify that it is no longer being let; some respondents carry out visits, checks with local agents, council tax record checks, and land register checks to confirm whether the property has been sold and to ascertain the identity of the new owner. Three local authorities require written confirmation from the landlord that they are no longer letting the property.
Role of Agents

2.38 Overall, it was thought that there are some very good agents and some poorer quality agents. Some agents only manage one property but the majority are companies with larger portfolios. In some cases, agents were described as beneficial because they know the legislation, results can be quicker and agents often back up what the council has said. Good agents were described as a benefit to the system and good relationships with agents were in evidence throughout the case studies. It is the poorer quality agents which cause increased workload for the Landlord Registration teams. Research participants felt that it is generally those agents who are not engaging with Landlord Registration who are not managing property so well. These tend to be the agents who do not want to receive advice or attend interviews to improve practices. A weakness of the Landlord Registration system, identified by numerous research participants and highlighted at the stakeholder workshop in particular, is that agents do not have to register. This means that an agent may be poor but continue to practice and can act for a registered landlord. The requirement for agents to register was thought to sit well within the current process and is something that could be incorporated within the Landlord Registration team remit. Regulation of agents was also raised: agents are acting on behalf of landlords and will be taking a fee for the service, but they may not be meeting required standards on behalf of the landlords.

Licensing of Houses in Multiple Occupation

2.39 A passport system operates whereby, if a landlord has passed the fit and proper person test for a House in Multiple Occupation (HMO) licence, this will be taken into account for Landlord Registration. One area carries out joint visits on a regular basis with HMO officers who are based in the same office. A number of case study areas have multidisciplinary meetings with colleagues across the local authority area. Attendees include:

- Housing
- Private Sector Team
- Anti Social Behaviour
- Housing Benefit
- Council Tax
- Rent Deposit Scheme
- Police
- Social Work.

Enforcement and Breaches

Enforcement

2.40 Local authorities were asked what the main focus of their enforcement activity is. The category which received the most responses was ‘other’. In some cases, ‘other’ was encouraging registration and providing advice and assistance to landlords. The second most common focus was that of
searching for unregistered lets, followed by identifying unregistered landlords and pursuing failures to renew registration.

2.41 Respondents were asked why their enforcement activity was focused in this way. Many are focussing on registration of landlords and some of the reasons given imply a resource issue in enforcement. Specific reasons given include:

*To enable the register to be as comprehensive as possible and to ensure all landlords are complying with the legislation.*

*Because we feel there are still many landlords who have failed to register.*

*We have backlogs of 2000+ un-registered landlords identified via council tax records this being a focus for enforcement, to cause landlords to comply with legislation for private renting.*

*In order to achieve collection of good quality and accurate information on private landlords, and to generate income.*

*The amount of enforcement activity that can be undertaken is driven by the resources that are available (determined by our fee income) and the need to manage the significant volume of administration and customer support required to support the application process.*

*The complexities of the registration process and the difficulties customers experience using the online system means that we have been required to expend the significant majority of our resources on processing activities and this has left less than we would have wished to address enforcement issues.*

2.42 A number of respondents said that they were currently focussing their resources on renewal as large numbers of Landlord Registrations were due to expire. It was thought that to ensure re-registration before expiry would lead to less resources being required on subsequent investigations and enforcement.

**Breaches**

2.43 The most common type of breach identified is failure of a registered person to notify the local authority of a change in circumstances (78%). The second most common type of breach is failure to register while continuing or attempting to let a property (12%), the third most common is provision of false information (9%).

2.44 These figures are driven by the total number of breaches identified by all local authorities. It is worth noting that failure to notify a change in circumstance was identified by 42% of local authorities who responded to this question as a breach they had observed. Failure to register while letting a property was identified by 37% of respondents and 32% of respondents identified the provision of false information. Thirty seven per cent (37%) of respondents had not identified any breaches.
Sanctions

2.45 It is notable that the powers in relation to a breach which are deemed to be most effective are quite clearly Rent Penalty Notices and Late Application Fees. Rent Penalty Notices were thought to be very effective or effective by 87% of survey respondents; Late Application Fees were thought to be very effective or effective by 70% of survey respondents. Only a minority used reports to the Procurator Fiscal.

2.46 Additional comments made include:

*There is a lot of doubt about the effectiveness of any of these actions, frankly they all seem a little indirect when it comes to the real problems tenants face (i.e. charges and repairs problems).*

*Rent penalty warning and late fees have produced results without actually being issued.*

*We are concerned about the low level of fines being handed out by the Courts.*

*We are reluctant to serve Rent Penalty Notices due to the adverse effect on the tenants, the resources required to set them up and the subsequent resources that would be required to follow through the enforcement action. The threat of the RPN is effective, but enactment is not.*

*There are no/ inadequate powers to enable staff to secure evidence to ensure effective court proceedings but this is being rectified in the current private housing bill.*

Late Application Fees

2.47 The majority (87%) of survey respondents charge late application fees, while 13% do not. Those who do apply late fee charges follow the guidance issued. Eighteen respondents were able to provide the number of late fee penalties imposed during 2010. These ranged from 0 to 154. Further analysis shows, on average, a late fee penalty is imposed once for every 363 landlords. This ranges from one for every 26 landlords to one for every 3,135 landlords among the local authorities.

2.48 Local authorities issue reminder letters to those landlords who are due for renewal of registration three months prior to expiry, and one month prior to expiry. Late application fees are activated in some authorities from the exact point of expiry while others allow 24 hours to lapse before applying the fee.

2.49 Over seventy per cent (70%) of respondents agreed that late fee penalties act as an incentive for landlords to pay on time. Some authorities do not apply late fee penalties as they are trying to encourage compliance; others stated that the threat of a late application penalty usually encouraged landlords to complete the process. Some respondents noted that Late Application Fees are not effective as a deterrent as much of the Landlord Registration income
is derived from these fees. Others suggested that increasing the penalty amount may have more effect.

*The fee structure should be revised to reflect the costs borne by local authorities in administering the scheme. In particular, consideration should be given to raising the late application fee which would encourage timely applications and increase penalties for landlords who fail to respond to requests to register or renew their application.*

2.50 In all the case study areas, the Late Application Fee is only applied to the lead owner. This relates to the issues which many joint owners have in registration and using the online system. Concerns were also raised that the landlord will simply continue to let the property. If no evidence can be secured from tenants and landlords do not co-operate there is little that can be achieved by Late Application Fees.

2.51 The use of Late Application Fees was reported to generate many landlord complaints. A number of these complaints are because the landlord has not received the reminder letter. In these cases, local authorities tend to remind the landlord of the requirement to notify any change of circumstance to the Landlord Registration team. From consultation, it seems that local authorities do not easily waive the late application fee.

### Rent Penalty Notices

2.52 Seven of the eight case study areas found Rent Penalty Notices (RPN) to be the most effective tool they have. They have found that only a small number of RPN applied for actually become active. In the majority of cases, the threat of the RPN is sufficient to facilitate registration by the landlord. The financial impact of a RPN is far greater than that of a late application fee. One dissenting voice expressed the view that use of RPN is unmanageable in an area with many thousands of landlords.

2.53 Where RPN are in place, a number of local authorities carry out a tenant interview to make the tenant aware of the situation and the processes involved. In the majority of cases, tenants are on housing benefit and this shields them from the stress and vulnerability of withholding rent from their landlord. Housing benefit works with Landlord Registration to suspend payment of the rent. It is more difficult to monitor where tenants are not on benefit and they may continue to pay rent, and where there may be landlord intimidation.

### Report to Procurator Fiscal

2.54 Reports to the Procurator Fiscal were used in far fewer cases than other measures, with only four local authorities having used this measure. The resources required to take a case to the Procurator Fiscal are costly for local authorities. Several case study areas cited the recent City of Edinburgh case, which resulted in a £65 fine for the landlord. Many had been awaiting the outcome of this case to determine effectiveness of this approach. Most view the RPN to more effective.
2.55 In terms of reports to the Procurator Fiscal, case study participants stated that it is difficult to get corroboration. In most cases, there is only the tenant’s confirmation that a tenancy exists. Local authorities require a paper trail that proves that rent has been paid and this is not usually present.

**Property Management and Conditions**

2.56 The processes which local authorities have in place for dealing with complaints about poor property management include a wide range of public health and housing legislation; revoking registration; interviews with landlords and agents; investigations; referrals to other agencies; and advice to landlords on their responsibilities. It appears that many of the systems for dealing with this are quite ad hoc and variable across the local authorities. In the main, property management and condition issues are not the priority of the Landlord Registration teams. A number of quotes outline these concerns.

*In line with Landlord Registration National Enforcement Approach, investigations will be carried out and landlords would be invited to discuss the issues and develop an Action Plan, attend training, etc. where appropriate, aiming to improve tenancy management practices. If this process fails, to put on Review List, take the case to the Panel for refusal.*

*Powers of investigation are pretty weak so we often find landlords deny poor management practices and it's difficult to prove.*

*No clear process, this is one of our biggest areas of work outside registration. We treat them all on their merits, and meet and speak to the agents as required.*

**Property Conditions**

2.57 In terms of dealing with complaints about poor property condition management, local authorities cited similar approaches to those used above in relation to poor property management. In addition, many more respondents would inform the tenant about the Private Rented Housing Panel and explain the powers that exist therein. The following comments provided in this section provide a useful insight to the approach to complaints about poor property condition:

*There is no authority within Landlord Registration legislation to tackle poor property condition. This would require the involvement, assessment and enforcement by other agencies, the courts or tribunals and as such complainers are signposted to relevant agencies.*

*We would normally visit the property and check the condition. Advice is also given concerning the remit of the Private Rented Housing Panel. If the complaint is justifiable contact is made with the owner to try and resolve the matter. If the matter is serious enforcement action would be taken as appropriate.*
Anti-social Behaviour (ASB)

2.58 Landlord Registration is viewed as ‘another tool in the box’ to combat ASB. Ninety six percent of local authorities use Landlord Registration at least sometimes (29% use it often and 18% use it always) when identifying landlords in respect of ASB. It was commonly felt that joint working within the local authorities has been enhanced by Landlord Registration, with registration helping to identify landlords in cases of ASB and ASB teams also identifying unregistered landlords for the Landlord Registration team to contact.

This has been an overlooked benefit of Landlord Registration. It was not so long ago that we struggled to deal with ASB from this sector and issues such as waste accumulations to noisy parties became difficult to resolve. We are now able to intervene at an early stage and can engage the landlord by outlining their responsibilities in relation to ASB and the detrimental impact it may have on their registration if they refuse to manage ASB.

Landlords now tend to respond more effectively to local authority requests to take action in respect of the antisocial behaviour of their tenants.

Fee Structure

2.59 There was no conclusive response when survey respondents were asked whether they thought current fee levels for landlord registration are appropriate. Forty two per cent (42%) thought current fee levels are appropriate, 39% thought they are not, while 19% did not know. In general, case study areas thought that fees and therefore income did not cover the costs associated with Landlord Registration. The lack of income meant that, in some areas, resources were focused on registration administration and little could be done in terms of proactive searches, investigation or enforcement. In other areas, additional resources were drawn from other sources including the General Fund and Private Sector Housing Grant. One local authority area stood out from the others, with fees generating enough income to cover costs and generate a small surplus.

2.60 Among the case study participants, the majority thought that fees were currently low and should be higher. Fees were thought to be disproportionate compared to other registration schemes and legal requirements.

2.61 When asked specifically whether fees charged cover investigation costs, around one third (35%) of respondents reported that they did, 42% said that they did not and 23% did not know. While several respondents referred to the answers given above, one stated that, while costs were kept within income, this had an impact on activity undertaken:

Yes, as we ensure that our costs do not exceed the fee income generated. Minimal investigation and enforcement activity has been undertaken as the significant majority of resources are directed towards administration.
2.62 When asked specifically whether fees charged cover enforcement costs, around one quarter 27% of respondents reported that they did, 39% said that they did not and 35% did not know.

2.63 Despite the local authority view that fees are low, reports were given of landlord complaints about the fee level and landlords thinking that they received little or nothing for the fee they paid. It was reported that “good landlords feel that they are paying for bad landlords”.

2.64 The online discount was cited as an issue in many cases due to the high frequency of landlords requiring assistance to complete the process online. Providing assistance is resource intensive for the local authority, but the landlord pays a reduced fee for paying online.

Landlords should have to pay online before getting their Registration Number. There is more work and cost in processing an online application with no fee than a solely paper application. Discounts can be a bit of a problem, and difficult to understand.

2.65 The majority (77%) of local authorities favoured setting the fee level nationally rather than locally. It was suggested that there should be a national approach for a national system and that it should be cheaper to administer a national system, rather than having each local authority develop its own system. A national approach was also thought to be easier for landlords who have properties in multiple local authority areas. Doubt was also expressed whether the system could cope with a variety of fee structures.

European Services Directive\textsuperscript{16}

2.66 A number of case study areas which we consulted were not fully conversant with the European Services Directive. Many stated that this was an issue which their council legal team dealt with and did not directly impact on the day to day delivery of Landlord Registration. A couple suggested that, given the fees are set nationally, this is an issue for the Scottish Government. Some case study consultees stated that landlords are aware of the imbalance in terms of what is paid and the amount of resources required.

Performance and Monitoring

2.67 Over half of all local authorities either do not have, or do not know whether they have a performance and monitoring system in place for Landlord Registration. Case study areas varied in their level of performance monitoring. Some stated they were committed to continuous improvement and performance monitoring. A number of local Landlord Registration teams hold regular internal meetings to monitor progress and discuss outstanding cases.

\textsuperscript{16} The EU Services Directive makes it easier for service businesses to set up or sell their services anywhere in Europe. Administrative practices need to be checked to ensure that they comply with the Directive’s criteria: they must be non-discriminatory; necessary and proportionate.
These meetings tend to focus on monthly, annual and cumulative figures in relation to number of landlords registered, number of properties registered and local authority league table position in terms of registrations approved. No clear evidence was found in relation to how this information is used and whether findings change administrative practices.
3 STUDY FINDINGS: EFFECTIVENESS OF ADMINISTRATIVE SYSTEMS

3.1 This chapter describes the processes and systems currently in place, highlighting current factors affecting the implementation, operation and management of Landlord Registration and reports on the effectiveness of current systems.

Landlord Registration Administration Arrangements

3.2 AMOR operates the IT system up to the point where the applicant makes the registration fee payment. RBS WorldPay provides the Landlord Registration payment processing service. The Scottish Government retains responsibility for the administration and banking systems in relation to Landlord Registration.

3.3 In the majority of local authorities (63%), Landlord Registration administration sits within the Housing function of the local authority. Almost 30% is administered through Environmental Services, and 7% through Legal Services. Five local authorities did not fall into these categories, they administer Landlord Registration through:

- An Arms Length Management Organisation
- Licensing within Finance & Corporate Services
- Legal and Licensing Section
- Planning and Regulatory Services
- Private Sector Housing Unit

3.4 The number of staff employed in Landlord Registration varied across each local authority, as would be expected according to the size of each authority. The range of staff numbers was from 0.5 Full Time Equivalent (FTE) to 16 FTE.

3.5 When asked about the future administration of the system, the consensus was that this should remain with the Scottish Government. The majority (76%) of survey respondents thought that the responsibility for the management and banking administration and associated banking costs should remain with the Scottish Government. Landlord Registration was described as a national system and consultees thought that it should be administered nationally. Issues of complexity were envisaged if the system was administered locally due to the number of landlords who let properties in more than one local authority area. It was also considered that the administrative burden would be too great for any one local authority to cope with.

3.6 National and regional meetings of Landlord Registration officers, where all 32 local authorities are invited to attend, were found to be a good way of information sharing and discussion of good practice and operational experience. However, a few case study participants highlighted that they would prefer a different approach to information sharing.
Reporting Systems

3.7 The Scottish Government collates the following data on Landlord Registration on a local authority basis:

- Number of approved registrations
- Number of approved properties
- Registrations awaiting decision
- Properties awaiting decision
- Percent approved
- Total number of applications
- Total number of properties
- Renewed registrations
- Renewals awaiting a decision
- Expired or not renewed registrations
- Revoked applications

3.8 The majority of local authorities do not rely on the Landlord Registration website as their sole source of information. Many use the database only as a register, with all other functions being done locally. Most have created local databases for producing letters and monitoring systems. A lack of training and guidance on the website and reporting functions was identified. There was a widely held view among local authorities that if administrative processes were simplified, more investigation and enforcement could be carried out.

3.9 There were requests for clearer guidance. The current (2009) guidance for local authorities on managing and administering landlord registration was thought to be unclear, have missing elements and to be out of date due to the number of amendments to legislation.

3.10 Delays in the fee payment process impacts on the ability of local authorities to reconcile the number of registrations with the fee income. Some do not reconcile the information, while others’ data do not match those of the Scottish Government due to delays and data being collated on different days each month. Some local authorities experience difficulties in planning resources due to the delay in receiving income.

3.11 Local authorities are required to have high levels of involvement in relation to failed payments. Problems experienced with the payment system include payment having been taken, but not showing on the system as ‘paid’.

Fee Administration

3.12 Sixty two per cent (62%) of local authority respondents thought that the online fee payment facility was either effective or very effective. When asked if the fee structure should be simplified, there were mixed views, including those who thought that there should be just one fee regardless of the number of properties and those who thought that it is fair that landlords with more properties pay more than landlords with only one or two properties.
3.13 Only 13 local authority areas (of the 24 who responded to this question) were able to provide an indication of the total budget their local authority provides for Landlord Registration. Where figures were provided, these ranged from £16,000 to £480,000. Five specifically said that the budget was not known. For some, this was because the costs of administering and enforcing Landlord Registration are absorbed by the wider department from which it is administered. One respondent stated that the General Fund supplements the Landlord Registration budget to the value of two full time staff. Other respondents stated that the scheme is self financing and that all income generated is used.

3.14 For those local authorities who responded the average annual budget per landlord is £23.92. This ranges from a low of £7.52 to a high of £36.75. The highest area of spend for 93% of local authorities was Administration, the second highest area of spend (67%) was Investigation and the least area of spend out of these three categories was Enforcement (lowest spend for 70%).

3.15 The highest area of staff time input for 96% of respondents was Administration, the second highest area of staff time input (61%) was Investigation and the least area of staff time input out of these three categories was Enforcement. The staff time input and highest areas of spend correlate with Administration taking up most staff time and the highest spend. This reflects the findings which show that efforts are being focussed on registration rather than investigation and enforcement.

3.16 When asked specifically whether fees charged cover administration costs, 44% of respondents reported that they did, 37% said that they did not and 19% did not know. Respondents referred to the answers given above and mentioned funds being used from the Safer and Inclusive Communities Budget, the Private Sector Housing Fund, and the General Fund.

Banking

3.17 At the end of each month, Scottish Government staff reconcile the figures to ensure the amounts recorded tally with the amount paid and received. Once the final figure is confirmed, monies are transferred (by cheque) from the holding account to the Scottish Government account, from which they may be distributed to each local authority. Distribution of monies from the Scottish Government to the local authorities requires administrative input. Any inaccuracies and failed transactions also require administrative input. Delays may be experienced in conducting this exercise and in receiving updated information from AMOR.

3.18 The monies are then used by the local authority to cover costs associated with administration, enforcement and investigation. On occasion, a local authority may enquire as to when monies will be paid in order to aid their

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17 Financial management rules mean that the Scottish Government may not receive payment directly from the individual landlord
planning processes. It is four to six weeks on average after the landlord has made payment that the local authority receives payment.

3.19 Changes were due to be made in March 2011 to the banking structure for Landlord Registration within the Scottish Government. This will remove some delays in processing as waiting for cheques to clear would be removed. There is also the potential for reduced fees through benefits associated with wider Scottish Government banking arrangements with RBS.

3.20 Overall, tighter and more efficient processes are required in the administration of Landlord Registration. Improved timescales for processing payment and ensuring this is done accurately should be in place. Any retendering exercise should take into account the complexity of the administrative function and strive to simplify this.

Landlord Registration Website

3.21 The functionality of the website was examined against our understanding of the legislation and the user documentation prepared post-inception by the AMOR Group plc to determine, as far as possible, the extent to which the design of the website meets the requirements of the legislation.

3.22 The website has two faces: Registrant Users and Public Sector Users (including local authorities and Scottish Government). Within the Registrant Users web pages is a public search facility that can be used by landlords, tenants and other members of the public.

3.23 The current service provider was viewed positively; were thought to be responsive; have a good understanding of the issues; and provide good support. While feedback from the survey of local authorities, case studies and stakeholder consultation indicates that the IT system has improved, there continue to be many frustrations with the system and suggestions for improvement. Only 31% of local authority survey respondents think that the website is easy to use. Additional comments on the website were provided by over 60% of survey respondents. While one stated that the system had improved since 2006 and continues to improve, the majority of comments were complaints about the system. These are highlighted in Appendix 3 of this document.

3.24 Forty three per cent (43%) of respondents are not satisfied with the structure and effectiveness of the governance of the website and its on-going development.

3.25 In terms of reporting mechanisms, all local authorities use their own systems and have developed spreadsheets and processes with information downloaded from the system. In this respect, it was of particular benefit that the information on the Landlord Registration website can be exported to Excel. The website and reporting systems were described as “fiddly” and “time consuming”, with staff preferring to create their own systems. It was noted that the system does not report what is needed, as it does not report the questions which the Scottish Government ask of local authorities. A lot of the reports which can be generated are not used.
3.26 The Landlord Registration website appears to provide clear information about who has to register and how much it costs to register, but not about when to register. Only 41% think the website provides all the information landlords require to register. It was reported that landlords find the system difficult to use and that it is not intuitive, even for people who are familiar with other systems. It was thought that clearer labelling would make the system easier e.g. ‘apply’ and ‘renew’ options on the front page would simplify the process for applicants, since at present, many people trying to renew registration create another application. It is not clear what each page is looking for – there is a need for more narrative on each page to fully describe what is sought.

3.27 Joint registration, in particular, is thought to be confusing – many local authorities would like to synchronise joint applications. It is especially difficult where there are different dates of registration. The lead applicant often thinks they have reregistered both joint owners when they have not. In these cases, where late application fees are generated, all case study local authorities reimburse the penalty fee.

3.28 Only 31% think the website is effective in providing information to landlords. Specifically, of the search facilities, only the property search facility is identified as providing useful information, while neither property nor landlord search facilities are thought to be easy to use.

3.29 When asked if the Landlord Registration website meets all the requirements of the legislation, 52% of local authorities thought that it did. Almost one third did not know. Specific comments in this area related to agents, as an agent can only be declared if registered but according to legislation are only required to be deemed to be a ‘fit and proper person’ and are not required to register.

3.30 The vast majority (86%) of survey respondents did not know whether the registration website provides sufficient protection against hacking, data theft. There appeared to be a lack of confidence about the security of the website, with only 45% of survey respondents agreeing that the website is secure. Over half (54%) of respondents were not satisfied that there are adequate audit trails for both local authorities and for registrants over the creation, alteration and removal of data using the registration website. We would expect periodic ‘penetration testing’ of the website and the underlying data to be best practice and expect internal auditors to review the website.

3.31 The largest problem for the website in the future relates to the difficulty of migrating the database from Microsoft SQL Server 2000 to SQL Server 2008. This is necessary as Microsoft ceased mainstream support for SQL Server 2000 in April 2008, ceased Service Pack release support in July 2007 and will withdraw the product from the market by April 2013. Failure to undertake this migration increases the risk that, in the event of software failure or data corruption, the website will cease to function. In addition, as the wind down of support for SQL Server 2000 continues, security patches and bug fixes from Microsoft will become unavailable, thereby lowering the security integrity of the website.

3.32 The work to convert the website application to run on SQL server 2008 will be a difficult and expensive exercise. Substantial reprogramming efforts will be
required due to the poor underlying design of the database structures, poor software programming and inadequate technical documentation. For example, some of the website functionality depends upon technical features within the Microsoft SQL Server 2000 database management system that are no longer supported within the Microsoft SQL Server 2008 database management system software. Consequently, any attempt to migrate the website to Microsoft SQL Server 2008 without reprogramming the Landlord Registration website application software will cause the website to cease to function.

3.33 Other observations of the registrants and administration faces of the website are as follows.

- The registration web pages do not format correctly when using a Firebird web browser. Specifically, some of the navigation icons, e.g. "continue", are wrongly positioned on the page.

- The website’s validation rules relating to the confirmation of property addresses are very strict and make it difficult for users to enter addresses that do not have postcodes (e.g. new-build properties) or where postcodes are not known or incorrect. Consequently, users can become frustrated when proceeding through the registration process.

- The website complies with the accessibility guidelines laid out by the World Wide Web Consortium Web Accessibility Initiative. Navigation is clear and simple. All text is black against a white background for maximum clarity. However, if a user increases the font size of a webpage because of a visual deficit, many of the navigation text icons, e.g. “Amend my details”, do not increase in size.

- Search functionality throughout the site is pedantic and does not always produce anticipated results. There is a limited functional capability for users to use ‘wildcard’ characters to find multiple records. However, the lack of a ‘fuzzy’ search capability makes searching for properties awkward and frustrating for users.

3.34 A review of the ICT subgroup minutes and development plans for 2010 have revealed a number of issues relating to the overall improvement in usability and information capture of the website. With one exception, none of the issues appear to be significantly important or urgent. The following bullet points summarise the documented issues:

- There are a number of requests for change relating to renewals of either landlord/agents registrations or property registrations. Similarly, there are a number of requests for change relating to capturing landlord information, e.g. e-mail addresses, telephone numbers and joint-owner information. Most of those are marked for action by AMOR to cost and none of them have any urgency status marked against them.

- There are a number of requests for change relating to reports for local authority administrators, such as selection of multiple values of Renewal Status when selecting reports, and the development of reports to assist the quarterly enforcement statistics.
• There are a number of requests for change relating to updating and enhancing help information for registrant users.

• There has been some discussion by the ICT subgroup of the issue of automatic approval of agents and landlords. However, it is not clear that there is a significant demand and there is a suggestion that any solution may be complex.
4 CONCLUSIONS AND RECOMMENDATIONS

4.1 This chapter sets out conclusions in relation to the impact of the Landlord Registration Scheme as well as recommendations for change to improve the administration and operational effectiveness of the policy and legislative framework of Landlord Registration.

Operational Impact of the Policy and Legislative Framework

Register

4.2 The Landlord Registration Scheme has created a Register in excess of 175,000 private sector landlords in Scotland, all of whom have been subject to a 'fit and proper person' test. This is the first time there has been such a systematic approach to supervision of the private rented sector. At this stage, it continues to be difficult to quantify how many landlords have not yet registered and whether they do not register because they are unaware of the requirement to do so or because they ignore this requirement.

4.3 Creation of the register has produced a wealth of useful statistical data on the private rented sector which should be used by local authorities to inform their Local Housing Strategies and for planning purposes. Overall, the Landlord Registration Scheme has followed the 'light touch' approach intended by the legislation.

Raising standards

4.4 The research indicates that the Landlord Registration Scheme has had some impact in meeting its goal of raising standards in the private rented sector. There is evidence that the private rented sector is now more aware of its obligations when acting as a private sector landlord and there have been some improvements in landlord behaviour. However, the evidence collected suggests that Landlord Registration has not removed the 'worst' landlords from the sector.

Purpose of the scheme

4.5 Some confusion remains in relation to the purpose of Landlord Registration. Interpretation of the purposes is varied as a result and clarification is required across the sector. The Local Authority Guidance clearly states the intention is to secure good management, good standards and good behaviour across the sector. However, interpretation of the purpose is varied and clarification is required across the sector.

Legislative framework

4.6 While the legislative framework is broadly accepted by the range of case study participants, there are few sanctions currently available when landlords do not comply. However, we do not believe that the legislative framework has yet been fully tested. Conclusions on the legislative framework have been reached on the basis of a small number of consultations and the Scottish
Government should work with their legal teams to determine the full implications of the changes suggested below.

4.7 Overall, we would urge caution over more incremental legislative change at this stage. Changes should be made without recourse to legislation and statutory instruments where possible and only once processes involved in operating the scheme (e.g. administrative, enforcement, etc.) have been in place long enough to fully understand the implications of these.

4.8 Local authorities have, in the spirit of the legislation, adopted a ‘light touch’ approach, reviewing only those applicants where: previous convictions are disclosed; complaints have been made; there is a history of involvement with the landlord; or the landlord is on a ‘review list’. For those adopting the light touch approach, no evidence is requested unless an investigation is undertaken. We would recommend that local authorities carry out a small random sample of checks on landlords, as there is no method of ensuring information provided on application forms is accurate. However, some local authorities were concerned about the resource implications of this.

**Sanctions**

4.9 The Rent Penalty Notice is thought to be the most effective sanction in relation to breach. While late application fees are also thought to be effective, some local authorities do not issue these and others generate income in this way. The threat of both these measures is often sufficient to ensure landlord compliance. Reports to the Procurator Fiscal were used in far fewer cases than other measures, with only four local authorities having used this measure. The resources required to take a case to the Procurator Fiscal are costly for local authorities and it is difficult to obtain tenant corroboration.

**Fees**

4.10 The fees associated with Landlord Registration are low in comparison to other registration schemes. In the main, fees do not cover local authority costs, many being supplemented from other budgets. This lack of income means that resources are focused on the administration of the scheme, rather than investigation or enforcement activity. A balance must be reached in order to ensure registration while generating sufficient income to cover costs. Fees should continue to be set nationally, although fee levels should undergo more detailed scrutiny in order to ascertain more appropriate levels.

**Performance monitoring**

4.11 Many local authorities do not have a performance and monitoring system in place for Landlord Registration. Local authorities should develop more systematic performance and monitoring systems which are used to improve service delivery and practices.
Table 4.1 Recommendations for the legislative framework and operation

| 1. | The Scottish Government should be explicit about the **purpose** of Landlord Registration and this should be clearly communicated to Local Authorities, Landlords, Private Sector Tenants and the general public. |
| 2. | The current **legislative framework** should be further tested before any legislative change is undertaken. Any future legislation change should be consolidated into a meaningful raft of legislation rather than incremental change. This should include monitoring whether further investigatory powers, to enable the provision of evidence acceptable to the courts, are needed by local authorities. |
| 3. | Local authorities should develop landlord and tenant **awareness raising** strategies where these are not in place. National Tenant Information and Landlord Information Packs should be developed to raise awareness. The Scottish Government should co-ordinate national advertising of the Landlord Registration Scheme at regular intervals. |
| 4. | We would recommend that local authorities carry out a small **random sample of checks on landlords** as there is no method of ensuring information provided on application forms is accurate. |
| 5. | Local authorities should develop more **systematic performance and monitoring systems** which are used to improve service delivery and practices. |
| 6. | **Fees** should continue to be set nationally, although fee levels should undergo more detailed scrutiny in order to ascertain more appropriate levels. |
| 7. | **Agents** should be required to register. This function should be included within the remit of the current Landlord Registration administration and enforcement. |
| 8. | **Third Party Referral Rights** to the Private Rented Housing Panel should be introduced for local authorities under specific circumstances. |

**Effectiveness of Administrative Systems**

*IT*

4.12 While feedback from the survey of local authorities, case studies and stakeholder consultation indicates that the IT system has improved, there continue to be many frustrations with the system and suggestions for improvement.

4.13 Landlords are the main user group of the Landlord Registration website. Problems with the user friendliness of the website are evident and a clear picture of the problems which landlords have in using the system is required before any changes are made.

*Fee payment system*

4.14 The fee payment system generates long delays in payment processing and failed payments are resource intensive and take a long time to rectify. If timescales are improved, local authorities will be able to more effectively plan resources and reconcile the data with their records, which should be standard practice.
Administrative costs

4.15 At present, there is no clear understanding of the overall administrative costs of Landlord Registration and this is not taken into account in any of the fee structures. Local authorities need to improve budgetary practices so that they are aware of income and expenditure associated with Landlord Registration.

Appetite for local administration

4.16 There is little if no appetite for the administration of Landlord Registration (those functions currently undertaken centrally) to be carried out locally. Indeed, it may be more complex and resource intensive to deliver the system in this way. An alternative which merits consideration is the external administration of the scheme by an independent party or regulatory body.

Table 4.2 Recommendations for Administration

<p>| | |</p>
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<tbody>
<tr>
<td>1</td>
<td><strong>Administration</strong> of the Landlord Registration Scheme should continue to be carried out centrally, either by the Scottish Government or an independent external provider.</td>
</tr>
<tr>
<td>2</td>
<td>The <strong>central administration</strong> of the scheme should be reviewed and improved in relation to the administrative process associated with fee payment, reporting and governance.</td>
</tr>
<tr>
<td>3</td>
<td>Overall, the Landlord Registration Scheme should be more formally constituted with clear levels of <strong>responsibility demarcated</strong> for both the Scottish Government and local authorities. An agreement should be developed which clearly sets out roles and responsibilities.</td>
</tr>
<tr>
<td>4</td>
<td><strong>Local Authority Guidance</strong> should be updated and clarified. This process should seek input from a selection of local authority representatives.</td>
</tr>
<tr>
<td>5</td>
<td>Local authorities need to improve <strong>budgetary practices</strong> so that they are aware of income and expenditure associated with Landlord Registration.</td>
</tr>
<tr>
<td>6</td>
<td>Clear procedures should be in place to ensure <strong>consistent reporting</strong> to local authorities with reports being produced on the same day each month.</td>
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<tr>
<td>7</td>
<td><strong>Website servers</strong> should be replaced. The current database should be migrated to SQL Server 2008.</td>
</tr>
<tr>
<td>8</td>
<td>A formal <strong>functional specification</strong> for the website should be developed before retendering.</td>
</tr>
<tr>
<td>9</td>
<td>Landlord views of the website should be sought to ensure future developments are more <strong>user friendly</strong>.</td>
</tr>
<tr>
<td>10</td>
<td>The remit and membership of the <strong>IT sub group</strong> should be reconsidered to include input to the drafting of such a functional specification.</td>
</tr>
</tbody>
</table>
APPENDIX 1 STUDY METHODOLOGY

This Appendix sets out our methodological approach used in order to meet the study requirements.

Local Authority Survey

The online survey was designed in line with the research aims and objectives as well as issues raised in the Process and Legislative Review and IT and Administrative Systems Review. It contained a mixture of open and closed questions to ensure both qualitative and quantitative data was obtained.

The survey covered the following areas:

1. Background Information
2. Scheme Administration
3. Process
4. Identifying Landlords
5. Enforcement, Breaches and Sanctions
6. IT and Administrative Systems
7. Fee Administration
8. Outcomes

We liaised closely with the Scottish Government and RAG on the draft survey and piloted the survey with three local authorities.

There are 32 Scottish local authorities, all of which will have a Landlord Registration function. Initial telephone discussions with local authorities were held in order to establish where the responsibility for the function sits; who will answer the survey and their email addresses. We then supplemented this with information held by those who administer the scheme within the Scottish Government and the contacts which they have in each area. A letter of introduction from the Scottish Government setting out the study objectives and seeking their participation was sent to all Heads of Service prior to the survey being sent.

The finalised survey was distributed to the relevant Landlord Registration contacts within all 32 Scottish local authorities. It was issued on 10th December 2010 with a closing date of 7th January 2011. This allowed respondents four weeks to complete their response, however, the holiday period made this timescale slightly shorter. During this time, several electronic reminders were sent and telephone support was made available to all local authorities. All local authorities completed the survey.

The survey used a mixture of open and closed questions to ensure we obtained both qualitative and quantitative data. The questions covered the impact of the policy of Landlord Registration and aimed to identify factors which affect implementation, operation and management of the scheme.
Survey Respondents

Survey respondents were made up of those in a variety of occupations, primarily determined by where Landlord Registration sits within the local authority. Respondents included:

- Landlord Registration Managers/ Officers and Assistants
- Private Sector Housing Manager/ Development Officer/ Co-ordinators/ Liaison Officer
- Safer Neighbourhood Team Managers
- Environmental Health Principal Officers/Manager/ Team Leaders/ Officers/ Assistants
- Head of Housing/ Housing Officers/ Private Rented Housing Officer/ Senior Housing Officers
- Homelessness Strategy Development Managers
- Licensing Officers
- Administration Officers And Assistants
- ASB Solicitor

Case Studies

The case study evidence has been drawn from a detailed examination of all of the evidence from a small number of the local authorities demonstrating good practice as identified through the survey. We considered good practice issues, location of private sector administration within the local authority and rural/ urban authorities when selecting case study local authority areas. We undertook a detailed examination of these cases to try and identify key elements of their approach which have led to positive outcomes in relation to working with landlords, raising standards in the private rented sector and administrative structures. A number of local authorities did not want to be identified and to this end we have reported thematically on the issues raised throughout all the case studies.

Stakeholder Workshop

Following the online survey and case studies, we held a workshop with key stakeholder organisations in order to more fully understand and explore particular themes/issues/ideas raised in the Process and Legislative Review; the IT and Administrative Systems Review and the survey.

The following organisations participated in the stakeholder workshop:

- Scottish Government
- Association of Residential Letting Agents
- Citizens Advice Scotland
- Consumer Focus Scotland
- COSLA
- Local authority representatives
- National Association of Estate Agents
- National Federation of Property Professionals
- National Union of Students
- Royal Institute of Chartered Surveyors
• Scottish Association of Landlords
• Scottish Council for Single Homeless
• Shelter
APPENDIX 2 LOCAL AUTHORITY SURVEY QUESTIONNAIRE

Landlord Registration

Background Information
1. Please enter your details below.
   - Name: 
   - Local Authority: 
   - Job Title: 
   - Job Description (including other functions):

2. How many private sector landlords do you estimate there to be in your local authority area? (Please provide actual number).

3. How many private rented sector properties do you estimate there to be in your local authority area? (Please provide actual number).

4. How have you identified the numbers provided at Q2 and Q3?

5. What is the typical landlord profile in your local authority area? (Please tick one only).
   - Owner of 1 property
   - Owner of 2-5 properties
   - Owner of 6-10 properties
   - Owner of 11-20 properties
   - Owner of 21-50 properties
   - Owners of over 50 properties

6. What is the typical landlord profile in your local authority area? (Please tick one only).
   - Part time landlords
   - Full time landlords
## Landlord Registration

### Scheme Administration

1. **Where within the Council is landlord registration administered?** (Please select one or specify other).
   - [ ] Housing
   - [ ] Environmental Services
   - [ ] Corporate Services
   - [ ] Legal
   - [ ] Other (please state)

2. **Do you consider this is the most efficient location for administration of landlord registration?**
   - [ ] Yes
   - [ ] No
   - [ ] Don’t Know

   Please provide reasons for your answer:

3. **How many (full time equivalent) staff are involved in the landlord registration function?** (Please provide actual number).

4. **Is the landlord registration team solely occupied with landlord registration duties?**
   - [ ] Yes - team members only work on landlord registration
   - [ ] No - team members have other roles in addition to landlord registration

   If no, what are these other roles?

5. **What grades of staff are involved in landlord registration in your local authority area?** (Please provide actual numbers)
   - [ ] Administrative
   - [ ] Assistant Officers
   - [ ] Officers
   - [ ] Senior Officers
   - [ ] Manager
   - [ ] Head of Service
   - [ ] Other
12. What enforcement qualifications/experience do staff involved in landlord registration in your local authority area hold? Please tick all that apply.

- [ ] Basic investigation enquiries, record keeping and reports
- [ ] Taking formal witness statements
- [ ] Issuing formal cautions
- [ ] Note taking to court standard
- [ ] Serving statutory notices
- [ ] Handling seized documents
- [ ] Writing Procurator Fiscal reports
- [ ] Giving evidence in court
- [ ] Report writing for formal Council decision making purposes

Other (please specify)
13. Do you rely on the Landlord Registration website as the primary method of landlord registration?
   - Yes
   - No
   - Don’t Know

If no, what other administrative arrangements do you have in place?

14. Please describe the process by which you assess a landlord’s eligibility under the ‘fit and proper person’ criteria. Include a description of the type of evidence requested.

15. Who makes the decision to approve a registration? (Please select all that apply).
   - Admin/ Clerical
   - Assistant Officers
   - Officers
   - Senior Officers
   - Managers
   - Head of Service
   - Joint Officers Working Group
   - Other (please state)

16. Who does/would make the decision to refuse/revoke a registration?
   - Admin/ Clerical
   - Assistant Officers
   - Officers
   - Senior Officers
   - Managers
   - Head of Service
   - Joint Officers Working Group
   - Other (please state)
**Landlord Registration**

17. Please describe the process by which you would refuse/revoke a registration. Please include a description of the type of evidence requested.

18. How do you provide information, advice and assistance to tenants when any enforcement activity is undertaken?

19. How many applications for registration have been withdrawn in your local authority area since the implementation of landlord registration? (Please provide actual number).

20. Do you record information on why an application may be withdrawn?
   - [ ] Yes
   - [ ] No
   - [ ] Don’t Know

21. Please provide details of the most common reasons for withdrawal of application.

22. What follow-up activity do you pursue with people who have withdrawn from the landlord registration process?

23. Do you seek any information over and above the mandatory information required?
   - [ ] Yes
   - [ ] No
   - [ ] Don’t Know

   If yes, please specify what information and why it is required
Landlord Registration

Identifying Landlords

24. Do you proactively search for unregistered lets?
   - Yes
   - No
   - Don't Know

25. What mechanisms do you have in place to record unregistered lets?

26. What processes do you have in place for investigating and taking action regarding unregistered lets?
27. Which of the following mechanisms do you use to search for unregistered lets? (Tick all that apply).

- Housing Benefit Records
- Housing Waiting List Applications
- Private Sector Housing Grant Applications
- Temporary Accommodation Address Lists
- Housing Advice Centre Records from Private Tenant Complaints
- Antisocial Behaviour Files
- Rent Deposit Scheme List
- Owners in Receipt of a Factoring Service
- Private Sector Leasing Schemes
- Consumer Complaints Records from Environmental Services
- Council Tax Records
- University/College Accommodation Services
- Letting Agents
- Property Management Agents
- Estate Agents
- Local Solicitors
- Newspaper Lettings Sections
- Internet/Websites
- Shop Window Adverts
- CABx
- Housing Aid Centres
- Tenants Associations

Other (please specify)
28. Which three of the following mechanisms would you rate as the most effective in searching for unregistered lets?

- Housing Benefit Records
- Housing Waiting List Applications
- Private Sector Housing Grant Applications
- Temporary Accommodation Address Lists
- Housing Advice Centre Records from Private Tenant Complaints
- Antisocial Behaviour Files
- Rent Deposit Scheme List
- Owners in Receipt of a Factoring Service
- Private Sector Leasing Schemes
- Consumer Complaints Records from Environmental Services
- Council Tax Records
- University/College Accommodation Services
- Letting Agents
- Property Management Agents
- Estate Agents
- Local Solicitors
- Newspaper Lettings Sections
- Internet/Websites
- Shop Window Adverts
- CABx
- Housing Aid Centres
- Tenants Associations

Other (please specify)

29. Do you actively pursue lapsed registrations?

- Yes
- No
- Don't Know

If yes, please describe this process. If no, provide reasons for not doing so.
30. What processes do you have in place for dealing with complaints about poor property management?

31. What processes do you have in place for dealing with complaints about poor property conditions?

32. Is there a local strategy in place for raising landlord awareness of landlord registration?
   - Yes
   - No
   - Don't Know

   If yes, please describe this process

33. If you answered yes to the above, how do you publicise the scheme?
   - Written promotional material
   - Web based information
   - Landlord fora
   - Landlord training
   - Other landlord communication
   - Telephone support
   - Other (please specify)

34. Is there a local strategy in place for raising tenant awareness of landlord registration?
   - Yes
   - No
   - Don't Know

   If yes, please describe this process
<table>
<thead>
<tr>
<th>Landlord Registration</th>
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<tbody>
<tr>
<td>35. If you answered yes to the above, how do you publicise the scheme?</td>
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<td>☐ Written promotional material</td>
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<td>☐ Web based information</td>
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<tr>
<td>☐ Landlord fora</td>
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<tr>
<td>☐ Landlord training</td>
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<td>☐ Other landlord communication</td>
</tr>
<tr>
<td>☐ Telephone support</td>
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<tr>
<td>Other (please specify)</td>
</tr>
</tbody>
</table>

36. If recorded, how many enquiries have you received by tenants in relation to landlord registration since implementation?
### Landlord Registration

#### Enforcement, Breaches and Sanctions

37. What is the main focus of your local authority’s enforcement activity? (Please rank)

<table>
<thead>
<tr>
<th>Issue</th>
<th>1 - Main Focus</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5 - Least Focus</th>
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<tr>
<td>Identifying unregistered landlords</td>
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<tr>
<td>Searching for unregistered lets</td>
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<td>Pursuing failures to renew registration</td>
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<td>Dealing with complaints about unfit landlords</td>
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<tr>
<td>Other</td>
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</tbody>
</table>

Why is enforcement activity focussed in this way?

38. How many reports have you made to the Procurator Fiscal since implementation? (Please provide actual number).

39. How many of each type of Breach identified by Part 8 of the 2004 Act have you identified since implementation? (Please provide actual number).

- Failure to register while continuing, or attempting to let a property
- Provision of false information or failure to include required information in an application form
- Non-registered owner communicates with a person about taking a lease or occupancy of a house
- Failure by a registered person to notify changes in circumstances
- Registered person found to be no longer a fit and proper person
- De-registered person continues to let a property
## Landlord Registration

### 40. Are the existing powers in relation to a breach effective?

<table>
<thead>
<tr>
<th></th>
<th>Very effective</th>
<th>Effective</th>
<th>Neither effective nor ineffective</th>
<th>Ineffective</th>
<th>Very ineffective</th>
<th>Don't Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report to the Procurator Fiscal</td>
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<tr>
<td>Rent Penalty Notice</td>
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<tr>
<td>Refusal of Registration</td>
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<tr>
<td>De-registration</td>
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<tr>
<td>Late payment fee</td>
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</tbody>
</table>

Any additional comments

### 41. How many appeals against decisions made in relation to existing powers have you received since implementation? (Please provide actual number).

- Report to Procurator Fiscal
- Rent Penalty Notice
- Refusal of Registration
- De-registration
- Late payment fee

### 42. How many appeals against decisions made in relation to existing powers have been upheld since implementation? (Please provide actual number).

- Report to Procurator Fiscal
- Rent Penalty Notice
- Refusal of Registration
- De-registration
- Late payment fee
# Landlord Registration

## IT and Administrative Systems

43. Please indicate your level of agreement with the following statements.

<table>
<thead>
<tr>
<th>Statement</th>
<th>Strongly agree</th>
<th>Agree</th>
<th>Neither Agree nor Disagree</th>
<th>Disagree</th>
<th>Strongly disagree</th>
<th>Don’t Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Landlord Registration Website is secure</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>The Landlord Registration Website is easy to use</td>
<td>○</td>
<td>○</td>
<td>○</td>
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<td>○</td>
<td>○</td>
</tr>
<tr>
<td>The Landlord Registration Website is clear about who has to register</td>
<td>○</td>
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<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>The Landlord Registration Website is clear about when to register</td>
<td>○</td>
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<td>○</td>
<td>○</td>
<td>○</td>
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</tr>
<tr>
<td>The Landlord Registration Website is clear about how much it costs to register</td>
<td>○</td>
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<td>○</td>
<td>○</td>
</tr>
<tr>
<td>The Landlord Registration Website is effective in providing information to landlords</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>The Landlord Registration Website provides all the information landlords require to register</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>The Landlord Search facility on the Landlord Registration Website is easy to use</td>
<td>○</td>
<td>○</td>
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</tr>
<tr>
<td>The Property Search facility on the Landlord Registration Website provides useful information</td>
<td>○</td>
<td>○</td>
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</tr>
<tr>
<td>The Property Search facility on the Landlord Registration Website is easy to use</td>
<td>○</td>
<td>○</td>
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<td>○</td>
</tr>
</tbody>
</table>
Landlord Registration

Use
The Property Search facility on the Landlord Registration Website provides useful information

Please provide reasons for your response.

44. Does the landlord registration website provide you with the analytical information you require?
   - Yes
   - No
   - Don't Know

45. Is there any additional analytical information that you require?

46. Does the registration website meet all of the requirements of the legislation?
   - Yes
   - No
   - Don't Know

If no, in what ways is the website deficient?

47. If the Scottish Government no longer wished to provide day-to-day administration of the registration website, would you be willing to act as a 'lead authority'?
   - Yes
   - No
   - Don't Know

48. Are you satisfied with the structure and effectiveness of the governance of the website and its ongoing development?
   - Yes
   - No
   - Don't Know

If not, what could be done to improve matters?

61
49. Please state your level of agreement with the following statements:

<table>
<thead>
<tr>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Neither Agree nor Disagree</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
<th>Don't Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>When system updates are made there is sufficient notice and lead in time provided.</td>
<td></td>
<td></td>
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<tr>
<td>When system updates are made there is detailed information of these changes.</td>
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</tbody>
</table>

50. Are you confident the registration website provides sufficient protection against hacking, data theft and unauthorised use?

- [ ] Yes
- [ ] No
- [ ] Don't Know

51. Are you satisfied that there are adequate audit trails for both local authorities and for registrants over the creation, alteration and removal of data using the registration website?

- [ ] Yes
- [ ] No
- [ ] Don't Know

52. Do you have a performance and monitoring system in place?

- [ ] Yes
- [ ] No
- [ ] Don't Know

If yes, please describe
53. How effective is the online fee payment facility?
   - Very effective
   - Effective
   - Neither effective nor ineffective
   - Ineffective
   - Very Ineffective
   - Don’t Know

54. Should the fee structure be simplified? How and why?

55. What is the total budget in your area per annum for landlord registration?

56. Please rank the following activities in terms of the highest budget spend.
   - Administration
   - Investigation
   - Enforcement

   1 - Highest spend  2  3 - Lowest spend

57. Please rank the following activities in terms of staff time input.
   - Administration
   - Investigation
   - Enforcement

   1 - Most staff time  2  3 - Least staff time

58. Do the fees charged cover administration costs?
   - Yes
   - No
   - Don’t Know

If no, what is the source of additional funds?
<table>
<thead>
<tr>
<th>Question</th>
<th>Options</th>
<th>Additional Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>59. Do the fees charged cover investigation costs?</td>
<td>Yes, No, Don't Know</td>
<td>If no, what is the source of additional funds?</td>
</tr>
<tr>
<td>60. Do the fees charged cover enforcement costs?</td>
<td>Yes, No, Don't Know</td>
<td>If no, what is the source of additional funds?</td>
</tr>
<tr>
<td>* 61. Do you charge late fee penalties?</td>
<td>Yes, No</td>
<td></td>
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<tr>
<td>Late Fees</td>
<td></td>
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<tr>
<td>62. Please describe your policy for charging late fee penalties.</td>
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<tr>
<td>63. How many late fee penalties have you imposed during the calendar year 2010?</td>
<td></td>
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</tbody>
</table>
### Landlord Registration

#### Fee Administration

<table>
<thead>
<tr>
<th>Question</th>
<th>Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>64. Should local authorities set fee structures locally?</td>
<td>Yes, No, Don’t Know</td>
</tr>
<tr>
<td>65. Do you operate discounts to accredited landlords?</td>
<td>Yes, No, No - we don’t have an accreditation scheme, Don’t Know</td>
</tr>
<tr>
<td>66. Do late fee penalties act as an incentive for landlords to pay on time?</td>
<td>Yes, No, Don’t Know</td>
</tr>
</tbody>
</table>

If no, what are your reasons for this answer? [ ]

<table>
<thead>
<tr>
<th>Question</th>
<th>Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>67. Do you think that current fee levels are appropriate?</td>
<td>Yes, No, Don’t Know</td>
</tr>
<tr>
<td>68. Where should the responsibility for the management and banking administration and associated banking costs sit in the future?</td>
<td>[ ]</td>
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</tbody>
</table>
## Landlord Registration

### Outcomes

69. Please state your level of agreement with the following statements?

<table>
<thead>
<tr>
<th>Statement</th>
<th>Strongly agree</th>
<th>Agree</th>
<th>Neither Agree nor Disagree</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
<th>Don't Know</th>
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<tbody>
<tr>
<td>Scottish Government Guidance on landlord registration is satisfactory</td>
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<td>Amendments to the registration fee and discount structure have simplified the process and reduced bureaucracy</td>
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<td>Landlord registration has improved the quality of property management in the private rented sector</td>
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<tr>
<td>Landlord registration has improved the quality of property condition in the private rented sector</td>
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<tr>
<td>Landlord registration has improved the quality of landlords in the private rented sector</td>
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<tr>
<td>Tenants are aware of landlord registration</td>
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<tr>
<td>Introduction of a duty on local authorities to provide tenants and prospective tenants with general advice on letting and landlord registration has been beneficial</td>
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<tr>
<td>Landlord registration has helped tenants make informed choices about their landlords</td>
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<td>For those landlords who operate lawfully landlord registration is 'light touch'</td>
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<tr>
<td>Landlord Registration</td>
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<tr>
<td>Landlord registration has removed the 'worst' landlords and agents from the market</td>
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<tr>
<td>Landlords with multiple properties do register each property</td>
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<tr>
<td>Information gathered through landlord registration increases local authority knowledge of the sector</td>
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<tr>
<td>The public register provides useful information to tenants and prospective tenants</td>
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<tr>
<td>Adequately resourced &amp; properly managed landlord registration is a good thing for private rented sector tenants &amp; the 'good' landlords</td>
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<tr>
<td>Landlord registration performs no useful function</td>
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</tbody>
</table>

70. How often has the landlord register been used to identify landlords in relation to antisocial behaviour?
- Never
- Sometimes
- Often
- Always

71. How useful has landlord registration been in tackling antisocial behaviour?
72. Please provide any other views or comments on the landlord registration process.
APPENDIX 3 SURVEY FINDINGS

Private Sector Landlords

Number of Landlords

Local authorities have, as would be expected, a wide range of private sector landlords in their area. The largest numbers were around 47,000 in Edinburgh and almost 31,000 in Glasgow. Seven local authorities estimated there were between 5,000 to 10,000 landlords in their area, 15 estimated between 1,000 and 5,000. Three island authorities all reported less than 1,000 landlords.

Figure A3.1 How many private sector landlords do you estimate there to be in your local authority area?

Number of Private Rented Sector Properties

As expected, there was a correlation between the number of private landlords and the number of private properties in a local authority. Edinburgh estimated the highest number of private sector rented properties at 61,000. In Glasgow the figure was 45,500 properties. Three local authorities estimated between 10,000 to 15,000 properties; eight estimated between 5,000 to 10,000 properties; 12 estimated between 1,000 to 5,000 properties. Two authorities estimated that there are less than 1,000 private rented sector properties in their area.
Further analysis of this shows that the relationship between the number of landlords and the number of properties is around 1 or 2 properties per landlord.

Figure A3.3  Relationship between Number of Landlords and Number of Properties
When asked “How have you identified the numbers provided at Q2 and Q3?”, local authorities used a variety of complex calculations to arrive at these figures. Those authorities which responded to this question indicated the use of the following methods. It appears that some local authorities make an allowance for those that are not registered, through a variety of sources, whereas others do not.

*The number of those registered plus one third, rounded up to the nearest ten*

*From the register*

*Current registrations, census data, unregistered complaints*

*Council Tax, Benefits, Estate & Letting Agents, Adverts*

*A recent Private Sector Housing Condition Survey - actual figures are likely to be a little lower as these include exempt properties such as resident landlord and family lets*

*Best guess*

*Random events plus research has indicated we currently may have a large number of privately let properties not on the public register. We consider 20 – 30% on top of what we’ve received to date could be the figure*

*Data extracted from Landlord Registration system with an estimated 25% added for unregistered landlords and properties*

**Landlord Profile**

In terms of typical landlord profile within local authorities, the majority (65%) were owners of one property (65%) followed by owners of 2-5 properties (32%). One local authority stated that the typical profile was that of an owner of 21-50 properties. With the exception of one local authority area, the typical landlord owns between one and five properties.
All respondent local authorities stated that the typical profile was of small, part time landlords. We are aware that there will be some landlords who hold property portfolios but these are not typical within the landlord population.

**Scheme Administration**

**Location of Landlord Registration Administration**

Mostly (in 63% of the local authorities who answered this question) Landlord Registration administration sits within the Housing function of the local authority. In almost 30% of local authorities this is administered through Environmental Services, and in 7% through Legal Services. Five local authorities did not fall into these categories, they administer Landlord Registration through:

- An Arms Length Management Organisation
- Licensing within Finance & Corporate Services
- Legal and Licensing Section
- Planning and Regulatory Services
- Private Sector Housing Unit
When asked if they considered the current location of Landlord Registration administration to be the most efficient location, the vast majority (80%) said that it was. Thirteen per cent did not agree and 7% did not know.

Those who administer Landlord Registration from a housing function made the following statements in relation to location of administration:

*This location ensures a proper link to other housing related activities including advice, housing options and homelessness*

*The Housing Department has the background knowledge to provide advice and information to tenants and landlords regarding all aspects of housing legislation*

*The Advice Section used to manage Landlord Registration however we have now merged to become Homelessness & Advice and it does not sit as well. The register for Landlord Registration can assist with housing options and/or assists in ensuring good practice in management as well as improving property conditions*

*It dovetails with other Housing Functions. Relationships Housing already have with Environmental Health, Council Tax and Benefits*

*It's a housing function aimed at improving standards. Registration should be more than just a paper exercise in registering people*

*Location is not as important as officer's skills and knowledge which should be from a Housing Management background*

*Within the Housing Dept the Private Sector Services Unit provides a one-stop-shop approach for private sector landlord by providing the services of the*
Scheme of Assistance, Care & Repair, Advice & Liaison, HMO [House in Multiple Occupation] Licensing, Landlord Registration and Landlord Accreditation

Located within housing we already had strong links to Environmental Health, Planning, Building Control and Licensing

We have a dedicated team within Strategic Housing Services

Those which administer Landlord Registration from environmental health stated:

We also administer HMO licensing and carry out other private rented housing duties

There is a constant flow of info re ASB / Statutory Notices etc Local knowledge

Information aspect is useful, but actual registration process is purely an administrative function

Enforcement action is used, where appropriate, and is effective in achieving objectives. Landlord Registration recently transferred to Environmental Health from Legal Services as it was felt this was a better location within the Council

When considering the current financial climate, environmental services are able to offer a resource that can administer and enforce the legal requirements of the Landlord Registration regime due to the wide experience of the officers within the section

Enforcement expertise and experience

Those who administer Landlord Registration from legal service stated:

This section also administers HMO licensing and other regulatory functions involving similar processes and considerations

Staff

The number of staff employed in Landlord Registration varied across each local authority, as would be expected according to the size of each authority. The range of staff numbers was from 0.5 Full Time Equivalent (FTE) to 16 FTE. We further analysed this data to show that, on average, there are 1,800 landlords per FTE staff member.

Around 81% of local authorities have Landlord Registration staff who also have other duties in addition to Landlord Registration, 19% of local authorities have dedicated Landlord Registration staff with no other functions to perform.

Those staff who did have other duties performed a wide range of functions, often determined by the location of Landlord Registration administration. These included:

- Environmental Health duties
- House in Multiple Occupation licensing
- Financial support
- ASB, child law, community safety & admin duties, public health duties
• landlord and tenant liaison, landlord forums, landlord training, Landlord Accreditation
• care and repair functions, grants, small repairs
• general office and administrative functions
  • Mortgage to rent Scheme/ rent Deposit scheme
  • Administration of Civic Government Licensing (all licence types, including Houses in Multiple Occupation); plus Gambling Act registrations, Civil Marriage Venues, Firework curfew dispensations, Charitable Collections; Public Processions
• Homelessness Assessment/Housing Options Advice Service/Rent Deposit Applications/ Grants
• Managing Community Safety Team

Over 80% of local authorities have administrative staff working on Landlord Registration duties; 50% have senior officers, and 50% have managers. Through the survey, a total of 138 staff were identified across the 32 authorities. The majority of these are at administrative and officer levels. There are relatively few at senior ranks.

**Figure A3.6 What grades of staff are involved in Landlord Registration in your local authority area?**

All local authority respondents have staff who are experienced in basic investigations enquiries, record keeping and reports. The majority (81%) have staff experienced in report writing for internal Council decision making purposes; 74% experienced in serving statutory notices; 65% have staff experienced in giving evidence in court and taking formal witness statements. Less than half have staff experienced in writing reports to the Procurator Fiscal; note taking to court standard; issuing formal cautions and handling seized documents. This seems to show more experience on the processing and investigation side than enforcement.
Figure A3.7 What enforcement qualifications/experience do staff involved in Landlord Registration in your local authority area hold?

Further analysis shows that there is no clear relationship between the type of experience staff have and the location of the administration of Landlord Registration.

**Process**

**Landlord Registration Website**

Eighty per cent of respondents use the Landlord Registration website as the primary method of Landlord Registration. The 20% who do not use the Landlord Registration website as the primary method of Landlord Registration also use the following tools:

- Paper copies of all documents retained in files for individual landlords
- Access database
- Excel spreadsheets
- FLARE recording systems
- Recording of enforcement activity, evidence.

For some, the Landlord Registration website is used to manage applications for registration and provide the public with access to relevant information. For at least
ten local authorities back-up systems are in place to facilitate reporting and enable case management and enforcement activity.

**Fit and Proper Person**

Local authorities were asked to describe the process by which they assess a landlord's eligibility under the 'fit and proper person' criteria.

A number of landlords stated that, in the spirit of the legislation, they had adopted a 'light touch' approach, reviewing only those where: previous convictions are disclosed; complaints have been made; there is a history of involvement with the landlord; or the landlord is on a 'review list'.

For those adopting the light touch approach, no evidence is requested unless an investigation is undertaken.

Where investigations are undertaken sources of information include:

- Conviction information from the landlord
- Police reports
- ASB responses
- House in Multiple Occupation investigations
- Private Rented Housing Panel decisions
- Checking of internal databases – environmental health, council tax, Housing Benefit
- Internal approval panel was used by one authority
- Information from tenants, neighbours, Registered Social Landlords
- One authority includes large council tax debts, failure to comply with statutory notices issued by the Council
- One authority requires the landlord to sign a summary sheet stating that they will comply with all legal requirements relating to letting of properties
- One authority undertakes a random sample (10%) of applications selected for Property Inspections and Gas Safety Certificates, where applicable, are requested.

Some of these investigations go considerably beyond a ‘light touch’ approach, others combine registration and investigation with other enforcement activity.

**Decision Making**

In 60% of local authorities, officers make the decision to approve a registration; in 37% of local authorities, managers make the decision. In the majority of areas, there are a wide range of people who may approve a registration, ranging from clerical and administrative assistants to Heads of Service. This is proportionate with the ‘light touch’ approach, where approval is based on information provided in the application form. In more complex cases, processes are in place to escalate the seniority of the decision maker.
In the matter of refusing an application, there is a marked change in the seniority of staff who would make this decision. Only in a small percentage of authorities (6%) would the officer make the decision to refuse or revoke a registration and in no cases would this be a decision for administrative and clerical staff. Senior officers are involved in 24% of authorities, 24% use Joint Officer Working Groups, 47% Managers and 53% involve the Head of Service.

Other mechanisms for decision making in relation to refusal or revocation include:

- Licensing Panel/Board
- Committee – Sanctions Committee, Licensing Committee/ Sub Committee, Regulatory Committee
- The Executive Director
- Review Panel.
Four local authorities reported that they have not yet revoked or refused a registration. The process by which local authorities would refuse/revoke a registration involve detailed reports being prepared at officer level. These reports are then presented or submitted to the decision makers such as Head of Service, Committees, Review Panel, as described above. In a number of cases, it was stated that the applicant is offered the opportunity to respond to the report. Other authorities work with the landlord to rectify any issues which may prevent registration. A number of respondents cited partnership working with ASB teams, the police, Environmental Health, House in Multiple Occupation Licensing, Housing Department. Two authorities asked for Disclosure checks where convictions were unspent. Two authorities carry out interviews with the landlord to gather more information about convictions or property issues. One authority carries out property inspections and gather evidence statements.

Local authorities were asked how many applications for registration have been withdrawn. The term ‘withdrawn’ was deemed to be ambiguous and not easily understood; 14 respondents either did not know or did not understand the question. We have assumed withdrawn applications to be those where an applicant starts the registration process, but does not complete full registration. Some authorities would describe this as 'pending' applications and a number of authorities review these pending lists on a regular basis and remove those who have not completed the application within 14 days. Eight of the 14 respondents recorded no withdrawn applications. Those who did record withdrawn applications ranged in number from 640-1,115.
For those respondents where information on the reason for withdrawn applications is recorded, the main reasons for withdrawal were:

- The applicant is no longer a landlord
- Change of personal circumstance
- System errors including multiple registrations by the same applicant
- Applications where exemptions apply.

Where an application has been withdrawn, many authorities do nothing more with the information. Some, where resources allow, will carry out further checks on the property to verify that it is no longer being let; some respondents carry out visits, checks with local agents, council tax record checks, and land register checks to confirm whether the property has been sold and to ascertain the identity of the new owner. Three respondents require written confirmation from the landlord that they are no longer letting the property.

Around one fifth (21%) of local authorities require landlords to provide information over and above the mandatory information required. The additional information requested includes:

- Signature and valid gas safety record
- A copy of power of attorney documents where applicable
- Clarification where contact address is not landlord address or agent address
- Telephone number and e-mail address if applicable
- Energy Performance
- Whether applicant is related to a Councillor or senior officer. If so, application has to go to a members panel
- Certificates if questions have been raised by tenants
- Additional information to assist in the decision making process, or where there is reason to believe the landlord has withheld information
- Disclosure Scotland where appropriate.

Identifying Landlords

Unregistered Lets

A majority (83%) of local authorities proactively search for unregistered lets, while 17% do not. Of those who responded all of those authorities who administer Landlord Registration through legal services proactively search for unregistered lets, 95% of those in housing services and 75% of those in environmental services do. From the information provided there is thought to be around 43,000 landlords in the four areas (one of the five respondents did not provide data on the number of landlords in their area) which do not actively search for unregistered lets. The 24

18 Information provided by four local authority survey responses. Case study research indicates that those local authorities who stated that they did not proactively search for unregistered lets were likely to be doing this through information provided by tenants, the public and Housing Benefit applications.
landlords who do proactively search for unregistered lets in their area account for around 135,000 landlords.

It may be the case that, in the areas with very large numbers of landlords, all resources are currently used in pursuing those landlords they are aware of and encouraging them to register. In many cases, public information and enquiries will identify unregistered lets without the need to proactively search for these properties.

The mechanisms which are in place for recording unregistered lets include: checking to let advertisements on notice boards; websites and in newspapers; local knowledge of statutory notices; landlords identified through general enquiries; information received from other departments e.g. housing benefit, council tax, ASB and pest control. Respondents hold this information in local databases, usually in Excel but also in Access.

The type of action taken to follow up unregistered lets usually involves an initial letter advising the landlord that they are required to register and the consequences of nonregistration. Some respondents include an application pack in this correspondence. A number of authorities would carry out visits to the property. After two warning notices, most respondents would then pursue late application fees and, where appropriate, begin the process to apply a Rent Penalty Notice. Many respondents cited the guidance and stated that they pursue the landlord in accordance with the procedures set out there. One respondent visits the tenant to carry out an interview to obtain a tenant statement and a copy of the lease agreement.

The most common mechanisms for searching for unregistered lets are:

- Housing Benefit records
- Letting agents
- Newspaper lettings
- Council tax records
- Internet/ websites
- ASB files
- Estate agents
- Consumer complaints.

They regarded the term ‘proactive’ to mean searching newspapers letting adverts and investigating where ‘to let’ signs are observed.
Figure A3.10  Which of the following mechanisms do you use to search for unregistered lets?

The three mechanisms which respondents rate as most effective are:

- Housing Benefit records
- Council Tax records
- Internal websites.

Figure A3.11  Which three of the following mechanisms would you rate as the most effective in searching for unregistered lets?
**Lapsed Registrations**

The vast majority of local authorites (93%) actively pursue lapsed registrations. The mechanisms in place for this are similar to those employed for searching for unregistered lets and include:

- First and second notification letters
- Some areas issue a third reminder letter
- Where letters are not responded to, email and telephone contact is attempted in some areas followed by visits to the property and contact made with the tenant
- Checks on Housing Benefit and Council Tax records to verify property is let
- Late Penalty Charges
- Rent Penalty Notices.

One respondent stated that there are insufficient resources to enable expired applications to be pursued. This is on the basis that, in this area, 20% to 25% of applications due for renewal do not renew. The most common reasons for this are thought to be they have not received reminders; have ignored reminders; or no longer let property and have failed to advise the council of this.

**Property Management**

The processes which local authorities have in place for dealing with complaints about poor property management include a wide range of public health and housing legislation; revoking registration; interviews with landlords and agents; investigations; referrals to other agencies; and advice to landlord on their responsibilities. Some of the comments provided in this section provide useful insight to the approach to complaints about poor property management. It does appear that many of the systems for dealing with this are quite ad hoc and variable across the local authorities.

There is no authority within Landlord Registration legislation to tackle poor property management. This would require the involvement, assessment and enforcement by other agencies, the courts or tribunals and as such complainers are signposted to relevant agencies.

*In line with Landlord Registration National Enforcement Approach, investigations will be carried out and landlords would be invited to discuss the issues and develop an Action Plan, attend training, etc. where appropriate, aiming to improve tenancy management practices. If this process fails, to put on Review List, take the case to the Panel for refusal*

*The officer will usually contact the landlord to discuss the complaint and seek to resolve the matter. The landlord would be reminded of their legal obligations if the complaint was of a serious matter. We are*
currently working with the local police to put in place a policy for
dealing with illegal eviction, illegal charges, etc.

Powers of investigation are pretty weak so we often find landlords deny
poor management practices and it's difficult to prove.

Complaints are referred to the Council’s Private Rented Services team
and the appropriate advice and/or action is taken depending on the
circumstances. This may include providing advice, making a referral to
another service or partner agency, inviting the landlord to attend a
meeting to discuss performance, putting an improvement plan in place,
monitoring the landlord's performance, reviewing any HMO [House in
Multiple Occupation] licences that the landlord has, etc.

No clear process, this is one of our biggest areas of work outside registration.
We treat them all on their merits, and meet and speak to the agents as
required

**Property Conditions**

In terms of dealing with complaints about poor property condition management, local
authorities cited similar approaches to those used above in relation to poor property
management. In addition, many more respondents would inform the tenant about the
Private Rented Housing Panel and explain the powers that exist therein. Some of the
comments provided in this section provide useful insight to the approach to
complaints about poor property condition.

*There is no authority within Landlord Registration legislation to tackle
poor property condition. This would require the involvement,
assessment and enforcement by other agencies, the courts or tribunals
and as such complainers are signposted to relevant agencies.*

*Environmental Health check and or refer tenant to Citizens Advice
Bureau for information, advice and assistance in an application to
Private Rented Housing Panel.*

*We have a Service Level Agreement with Environmental Service and
the designated Technical Officers deals with and investigate all
complaints relating to Housing Conditions in the Private Rented Sector

*Letter sent to Landlord to advise about property defects/non
compliance and timescale given to affect repairs. Follow up visit
undertaken to confirm repairs have been carried out.*

*The complaint would be logged onto the database and allocated to an
officer. The officer would discuss the issue with the complainant and
decide whether to deal with the issue or refer the matter. The housing
department currently deal with disrepair issues and tenants are
advised to contact the Private Rented Housing Panel as soon as
possible if the matter is in relation to the repairing standard.*
An Enforcement Officer (and sometimes a Surveyor) will inspect property and advise on Private Rented Housing Panel. Enforcement Officer will contact landlord with view to resolve, and assist tenant make application to Private Rented Housing Panel if necessary. Await result of Private Rented Housing Panel and refer landlord to Licensing Committee on grounds or fitness if necessary.

We would normally visit the property and check the condition. Advice is also given concerning the remit of the Private Rented Housing Panel. If the complaint is justifiable contact is made with the owner to try and resolve the matter. If the matter is serious enforcement action would be taken as appropriate.

Landlord Awareness

Sixty six per cent (66%) of local authorities have a local strategy in place for raising landlord awareness of Landlord Registration. Those which do have a strategy have publicised the scheme primarily through web based and written promotional and material, landlord fora, landlord training and other landlord communication.

Figure A3.12 If you answered yes to the above, how do you publicise the scheme?
**Tenant Awareness**

In contrast, 70% of local authorities do not have a local strategy in place for raising tenant awareness of Landlord Registration. Those who do have a strategy in place were all administered through the housing function of the local authority. Those which do have a strategy have publicised the scheme primarily through written promotional and web based material, and telephone support. Only 30% publicise this through landlord fora or other landlord communication. Around 10% have publicised this through landlord training.

**Figure A3.13** If you answered yes to the above, how do you publicise the scheme?

![Bar chart showing percentages of publicisation methods.]

Respondents were asked about the number of enquiries received from tenants in relation to Landlord Registration. Ten respondents stated that they did not record this information. Six respondents provided numbers of tenant enquiries – these ranged from 1 to (an estimate of) 4,750.

Further analysis reveals that there is no correlation between the number of landlords in an area and the number of tenant enquiries. Where data is available, tenant enquiries as a ratio of the number of landlords range from 1:1.5 to 1:1.848.

**Enforcement, Breaches and Sanctions**

Local authorities were asked what the main focus of their enforcement activity is. The category which received the most responses was ‘other’. The second most common focus was that of searching for unregistered lets, followed by identifying unregistered landlords and pursuing failures to renew registration.

Respondents were asked why their enforcement activity was focused in this way. Many are focussing on registration of landlords to enable the register to be as
comprehensive as possible and to ensure all landlords are complying with the legislation. Some of the reasons given imply a resource issue in enforcement. ‘Other’ is encouraging registration. We try not to take enforcement action in all our activities particularly if persuasion and encouragement can ensure compliance.

Because we feel there are still many landlords who have failed to register

We concentrate resources on actual problems for tenants rather than "technical" offences. All points are covered by the Service overall and if unregistered landlords are identified then they are pursued.

We have backlogs of 2000+ un-registered landlords identified via Council Tax records this being a focus for enforcement, to cause landlords to comply with legislation for private renting.

In order to achieve collection of good quality and accurate information on private landlords, and to generate income.

This is the best way to make use of the resources that we have. Elements of the Registration Scheme are due to move to another service within the Council (Legal Services) early in the New Year where a much greater and more effective focus on enforcement will be given.

There is a lack of enforcement powers currently available to allow us to deal with problems in relation to unfit landlords. The main focus of the team is identifying unregistered landlords and pursuing them accordingly.

The amount of enforcement activity that can be undertaken is driven by the resources that are available (determined by our fee income) and the need to manage the significant volume of administration and customer support required to support the application process. The complexities of the registration process and the difficulties customers experience using the online system means that we have been required to expend the significant majority of our resources on processing activities and this has left less than we would have wished to address enforcement issues.

A number of respondents said that they were currently focussing their resources on renewals as large number of landlords were due to expire. It was thought that to ensure re-registration before expiry would lead to less resources being required on subsequent investigations and enforcement.
Figure A3.14 What is the main focus of your local authority's enforcement activity? (please rank)

Only four local authorities have made any reports to the Procurator Fiscal to date. Two had done so on one occasion, one had made 3 reports and one had made 8 reports. One stated that, of the 3 reports made, none had been successful due to lack of corroboration.

Figure A3.15, overleaf, shows the most common types of breach based on the response average provided by respondents. The most common type of breach identified is failure of a registered person to notify the local authority of a change in circumstances (78%). The second most common type of breach is failure to register while continuing or attempting to let a property (12%), the third most common is provision of false information (9%).

These figures are driven by the total number of breaches identified by all local authorities. It is worth noting that failure to notify a change in circumstance was identified by 42% of local authorities who responded to this question as a breach they had observed. Failure to register while letting a property was identified by 37% of respondents and 32% of respondents identified the provision of false information. Thirty seven per cent (37%) of respondents had not identified any breaches. This indicates that the majority of local authorities have not identified these breaches.
It is notable from Figure A3.16, overleaf, that the powers in relation to a breach which are deemed to be most effective are quite clearly Rent Penalty Notices and Late Application Fees. Rent Penalty Notices were thought to be very effective or effective by 87% of respondents; Late Application Fees were thought to be very effective or effective by 70% of respondents.

Additional comments made include:

*There is a lot of doubt about the effectiveness of any of these actions, frankly they all seem a little indirect when it comes to the real problems tenants face (i.e. charges and repairs problems).*

*Rent penalty warning and late fees have produced results without actually being issued.*

*We are concerned about the low level of fines being handed out by the Courts.*

*We are reluctant to serve Rent Penalty Notices due to the adverse effect on the tenants, the resources required to set them up and the subsequent resources that would be required to follow through the enforcement action. The threat of the RPN is effective, but enactment is not.*

*There are no/ inadequate powers to enable staff to secure evidence to ensure effective court proceedings but this is being rectified in the current private housing bill.*
The most common area for appeals made in relation to existing powers is Late Application Fees although these have only been reported by a total of five local authorities.

Very few appeals have been made against rent penalty notices (3 reported by 3 local authorities), refusal of registration (3 by 3 authorities) or deregistration (1 instance). No appeals have been made against a report to the Procurator Fiscal.

Appeals have been most successful against the use of late application fees, with 74% being upheld. Appeals against refusal of registration and rent penalty notices have been less successful, with one third of both having been upheld. The one case of an appeal against deregistration was not upheld.

**Figure A3.16 How many appeals against decisions made in relation to existing powers have you received since implementation?**

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**IT and Administrative Systems**

Survey respondents were asked to indicate their level of agreement with a range of statements about the landlord registration website. These statements and the percentage of respondents who either strongly agreed or agreed are provided below.
### Table A3.1 IT and Administrative Systems

<table>
<thead>
<tr>
<th></th>
<th>Agree</th>
<th>Neither Agree nor Disagree</th>
<th>Disagree</th>
<th>Don't Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Landlord Registration Website is secure</td>
<td>45%</td>
<td>24%</td>
<td>7%</td>
<td>24%</td>
</tr>
<tr>
<td>The Landlord Registration Website is easy to use</td>
<td>31%</td>
<td>17%</td>
<td>52%</td>
<td>0%</td>
</tr>
<tr>
<td>The Landlord Registration Website is clear about who has to register</td>
<td>66%</td>
<td>10%</td>
<td>17%</td>
<td>7%</td>
</tr>
<tr>
<td>The Landlord Registration Website is clear about when to register</td>
<td>48%</td>
<td>21%</td>
<td>14%</td>
<td>17%</td>
</tr>
<tr>
<td>The Landlord Registration Website is clear about how much it costs to register</td>
<td>62%</td>
<td>7%</td>
<td>21%</td>
<td>10%</td>
</tr>
<tr>
<td>The Landlord Registration Website is effective in providing information to landlords</td>
<td>31%</td>
<td>34%</td>
<td>34%</td>
<td>0%</td>
</tr>
<tr>
<td>The Landlord Registration Website provides all the information landlords require to register</td>
<td>41%</td>
<td>17%</td>
<td>34%</td>
<td>7%</td>
</tr>
<tr>
<td>The Landlord Search facility on the Landlord Registration Website is easy to use</td>
<td>41%</td>
<td>14%</td>
<td>38%</td>
<td>7%</td>
</tr>
<tr>
<td>The Landlord Search facility on the Landlord Registration Website provides useful information</td>
<td>45%</td>
<td>21%</td>
<td>31%</td>
<td>3%</td>
</tr>
<tr>
<td>The Property Search facility on the Landlord Registration Website is easy to use</td>
<td>38%</td>
<td>21%</td>
<td>38%</td>
<td>3%</td>
</tr>
<tr>
<td>The Property Search facility on the Landlord Registration Website provides useful information</td>
<td>55%</td>
<td>17%</td>
<td>17%</td>
<td>10%</td>
</tr>
</tbody>
</table>

On this basis, the Landlord Registration website appears to provide clear information about who has to register and how much it costs to register, but not about when to register. Of particular concern is that only 31% think that the website is easy to use and only 31% think the website is effective in providing information to landlords. Specifically, only 41% think the website provides all the information landlords require to register. Of the search facilities, only the property search facility is identified as providing useful information, while neither property nor landlord search facilities are thought to be easy to use.

Additional comments in this area were provided by over 60% of respondents. While one stated that the system had improved since 2006 and continues to improve, the majority of comments were complaints about the system. Specific comments which represent those provided by several respondents include:

> It is noted that there can be difficulty in identifying property addresses which have been manually entered to the system - where PAF does not provide a suitable match. We are unsure on the security of the website, however there have been no breaches in respect of sensitive data. Complaints are regularly received from landlord users that they find the site difficult to use and that it is not intuitive. It would be appropriate for the Scottish Government to consult further on these matters to identify any development or improvement to the system.
Our answers are based on level of customer complaints we receive and enquiries seeking information cannot, but should be, obtainable from the website. In particular in relation to who has to register, the information does not fully represent the requirement to register and the exemptions and could more closely reflect the exemptions in the legislation.

The public search information is not robust as approved registrations frequently do not appear depending whether property address manually input or otherwise.

Applicants are confused by the charges and discounts particularly at renewal where joint owners have to renew separately unlike their first application which allowed both to submit and pay at the same time. When the first one is charged they are afraid to renew the joint owner in case they also are charged. If the joint owner registers first they are not charged and they both think they have renewed and there is no fee. When we contact the lead landlord via no payment made and only one owner renewed this is met by anger and frustration and refusal to go back online thereby increasing our workload and ever increasing number of paper applications and off line payments for on-line applications.

The site is really not user friendly. We spend a lot of time chasing up incorrect applications or talking people through the process over the phone. We often just tell people to send in a paper app and we'll award the online discount anyway.

When asked if the Landlord Registration website provides all the analytical information required, over 60% of respondents said that it did not. Additional information which local authorities require includes:

- Report on withdrawn applications
- Registration status reports
- Number of properties per landlord
- Number of tenants
- Number of late application fees paid
- A diary of expiry and reminder dates
- Running totals within the reports generated
- The ability to generate ad hoc reports
- To record all notices
- Reports on enforcement
- Reports on sanctions applied by local authority and outcome
- Expired House in Multiple Occupation licences
- Ability to filter out agents
- Unique Property Reference Numbers.
When asked if the Landlord Registration website meets all the requirements of the legislation, 52% of local authorities thought that it did. Almost one third did not know. Specific comments in this area related to agents. Specifically, that an agent can only be declared if registered but according to legislation are only required to be deemed to be a ‘fit and proper person’ and are not required to register.

Seventy two per cent (72%) of local authorities would not be willing to act as a lead authority in the provision of day to day administration of the Landlord Registration website. A quarter did not know, but one did volunteer.

Forty three per cent (43%) of respondents are not satisfied with the structure and effectiveness of the governance of the website and its on-going development. When asked what could be done to improve matters responses included:

The support from RTEL/Amor is good however changes being suggested/required by local authorities may not be carried out due to budget constraints. The system has been flawed from the beginning and maybe a completely new site would solve many of the problems and mean future development would be easier to undertake.

I believe those involved are working hard to improve the system and the support service from Amore/RTEL on day to day issues is prompt, helpful and reliable. There are still however ongoing system errors particularly with status history (renewal approval and expiry dates) and payment issues etc and the system does not readily provide the statistics sought even by SG themselves on enforcement, or for surveys such as this, or for LA’s budgeting and income projections. There is still therefore a need for ongoing development to improve effectiveness of system

There should be more definitive guidance - often decisions left to the discretion of the local authorities. This can lead to inconsistencies.

Development has proved difficult as there is an agreement required from all local authorities. If the system could be developed with bespoke functions for individual local authorities this may be helpful. For example the ability to change the wording fully on the registration renewal reminder emails. It would also be helpful if local authorities could access audit trails through the system. This could help identify users who have made changes and a landlords actions where there are disputes.

It is also recommended that user testing by the public is carried out on the system to gain first hand feedback of the customer experience
Despite the comments above, when asked to provide their level of agreement with the following statements the vast majority of local authorities either agreed or strongly agreed:

- When system updates are made there is sufficient notice and lead in time provided – 72%
- When system updates are made there is detailed information of these changes – 69%

The vast majority (86%) of survey respondents did not know whether the registration website provides sufficient protection against hacking, data theft.

The majority (54%) of respondents were not satisfied that there are adequate audit trails for both local authorities and for registrants over the creation, alteration and removal of data using the registration website.

**Performance and Monitoring**

Forty four per cent (44%) of local authority respondents have a performance and monitoring system in place, 44% do not and 11% of respondents did not know.

**Fee Administration**

Sixty two per cent (62%) of respondents thought that the online fee payment facility was either effective or very effective. When asked if they thought the fee structure should be simplified, there was a mix of responses for and against this. Some of the specific comments made include:

- **One off fee regardless of no of properties**

  Landlords should have to pay online before getting their Registration Number. There is more work and cost in processing an online application with no fee than a solely paper application. Discounts can be a bit of a problem, and difficult to understand

- **I don't think the fee structure is overly complex. I am of the opinion that it is quite fair as landlords with more properties pay more than landlords with one or two properties**

- **Changes to the structure have helped simplify the system**

  The fee structure should be revised to reflect the costs borne by local authorities in administering the scheme. In particular consideration should be given to raising the late application fee which would encourage timely applications and increase penalties for landlords who fail to respond to requests to register or renew their application
Figure A3.17 How effective is the online fee payment facility?

Of the 24 local authorities who responded to this question, only 13 were able to provide a figure for the current budget. Where figures were provided these ranged from £16,000 to £480,000. Five specifically said that the budget was not known. For some, this was because the costs of administering and enforcing Landlord Registration are absorbed by the wider department from which it is administered. One respondent stated that the General Fund supplements the Landlord Registration budget to the value of two full time staff. Other respondents stated that the scheme is self financing and that all income generated is used.

Figure A3.18 What is the total budget in your area per annum for Landlord Registration?
Further analysis shows that for those local authorities who responded the average annual budget per landlord is £23.92. This ranges from a low of £7.52 to a high of £36.75. The relationship between average annual budget and number of landlords is illustrated in Figure A3.19, below.

**Figure A3.19 Relationship between Budget and Number of Landlords**

The highest area of spend for 93% of respondents was Administration, the second highest area of spend (67%) was Investigation and the least area of spend out of these three categories was Enforcement (lowest spend for 70%).

**Figure A3.20 Please rank the following activities in terms of the highest budget spend**
The highest area of staff time input for 96% of respondents was Administration, the second highest area of staff time input (61%) was Investigation and the least area of staff time input out of these three categories was Enforcement (lowest spend for 68%).

The staff time input and highest areas of spend correlate with Administration taking up most staff time and the highest spend. This reflects the earlier findings which show that efforts are being focussed on registration rather than investigation and enforcement.

Figure A3.21 Please rank the following activities in terms of staff time input

When asked specifically whether fees charged cover administration costs, 44% of respondents reported that they did, 37% said that they did not and 19% did not know. Respondents referred to the answers given above and mentioned funds being used from the Safer and Inclusive Communities Budget, the Private Sector Housing Fund, and the General Fund. Further analysis indicates that there is no clear correlation between the number of landlords in an area and whether fees charged cover administration costs. There is no clear correlation with location of administration and whether fees charged cover costs.

One respondent called for clarification and review with specific reference to the fees only being applied to the purpose for which they are generated, in keeping with the European Services Directive.
When asked specifically whether fees charged cover investigation costs, around one third 35% of respondents reported that they did, 42% said that they did not and 23% did not know. While several respondents referred to the answers given above one stated that while costs were kept within income this had an impact on activity undertaken:

    Yes, as we ensure that our costs do not exceed the fee income generated. Minimal investigation and enforcement activity has been undertaken as the significant majority of resources are directed towards administration.

Further analysis indicates that there is no clear correlation between the number of landlords in an area and whether fees charged cover administration costs. There is no clear correlation with location of administration and whether fees charged cover costs.

When asked specifically whether fees charged cover enforcement costs, around one quarter 27% of respondents reported that they did, 39% said that they did not and 35% did not know. All referred to the answers given above. Again there was no clear correlation between whether fees charged covered costs and number of landlords or the location of administration.
**Late Fee Penalties**

Eighty seven per cent (87%) of respondents charge late penalty fees, while 13% do not. When asked to describe the policy for charging late penalty fees none of those respondents who do not charge these fees provided any information on why this is not done. Those who do apply late fee charges follow the guidance issued. In the main two notifications are sent (although a number of authorities send three) after expiry of registration.

Eighteen respondents were able to provide the number of late fee penalties imposed during 2010. These ranged from 0 to 154.

Further analysis shows, on average, a late fee penalty is imposed once for every 363 landlords. This ranges from one for every 26 landlords to one for every 3,135 landlords among the local authorities. The relationship between the number of landlords and the number of late application fees is shown in Figure A3.23 below.

**Figure A3.23 Relationship Between Late Fee Penalties and Number of Landlords**

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**Fee Structures**

The majority (77%) of local authorities thought that local authorities should not set fee structures locally.

While only 37% of respondents stated that they did not have an accreditation scheme, 62% said that they did not operate discounts to accredited landlords. This would suggest that 82% of those with accreditation schemes do not operate discounts to accredited landlords. Further analysis shows that in the three local authorities where they do offer a discount to accredited landlords the total landlord population is around 11,500 landlords.
Over seventy per cent of respondents agreed that late fee penalties act as an incentive for landlords to pay on time. Some authorities do not apply late fee penalties as they are trying to encourage compliance; others stated that the threat of a late application penalty usually encouraged landlords to complete the process. Some respondents noted that, given the amount of income derived from late fee penalties, they were of little effect. Others suggested that increasing the penalty amount may have more effect.

There was no conclusive response when respondents were asked whether they thought current fee levels are appropriate. Forty two per cent (42%) thought current fee levels are appropriate, 39% thought they are not, while 19% did not know.

The majority (76%) of survey respondents thought that the responsibility for the management and banking administration and associated banking costs sit in the future should remain with the Scottish Government.

Outcomes

In relation to outcomes associated with Landlord Registration, survey respondents were asked to what extent they agreed with a number of statements. These statements and the percentage of respondents who either strongly agreed or agreed are provided overleaf:
Table A.3.1 Outcomes

<table>
<thead>
<tr>
<th></th>
<th>Agree</th>
<th>Neither Agree nor Disagree</th>
<th>Disagree</th>
<th>Don't Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scottish Government Guidance on Landlord Registration is satisfactory</td>
<td>46%</td>
<td>21%</td>
<td>32%</td>
<td>0%</td>
</tr>
<tr>
<td>Amendments to the registration fee and discount structure have simplified the process and reduced bureaucracy</td>
<td>61%</td>
<td>14%</td>
<td>21%</td>
<td>4%</td>
</tr>
<tr>
<td>Landlord Registration has improved the quality of property management in the private rented sector</td>
<td>46%</td>
<td>21%</td>
<td>29%</td>
<td>4%</td>
</tr>
<tr>
<td>Landlord Registration has improved the quality of property condition in the private rented sector</td>
<td>36%</td>
<td>29%</td>
<td>32%</td>
<td>4%</td>
</tr>
<tr>
<td>Landlord Registration has improved the quality of landlords in the private rented sector</td>
<td>37%</td>
<td>37%</td>
<td>26%</td>
<td>0%</td>
</tr>
<tr>
<td>Tenants are aware of Landlord Registration</td>
<td>32%</td>
<td>29%</td>
<td>39%</td>
<td>0%</td>
</tr>
<tr>
<td>Introduction of a duty on local authorities to provide tenants and prospective tenants with general advice on letting and Landlord Registration has been beneficial</td>
<td>57%</td>
<td>39%</td>
<td>0%</td>
<td>4%</td>
</tr>
<tr>
<td>Landlord Registration has helped tenants make informed choices about their landlords</td>
<td>29%</td>
<td>25%</td>
<td>39%</td>
<td>7%</td>
</tr>
<tr>
<td>For those landlords who operate lawfully Landlord Registration is 'light touch'</td>
<td>93%</td>
<td>4%</td>
<td>4%</td>
<td>0%</td>
</tr>
<tr>
<td>Landlord Registration has removed the 'worst' landlords and agents from the market</td>
<td>7%</td>
<td>14%</td>
<td>68%</td>
<td>11%</td>
</tr>
<tr>
<td>Landlords with multiple properties do register each property</td>
<td>46%</td>
<td>25%</td>
<td>25%</td>
<td>4%</td>
</tr>
<tr>
<td>Information gathered through Landlord Registration increases local authority knowledge of the sector</td>
<td>93%</td>
<td>4%</td>
<td>4%</td>
<td>0%</td>
</tr>
<tr>
<td>The public register provides useful information to tenants and prospective tenants</td>
<td>43%</td>
<td>14%</td>
<td>32%</td>
<td>11%</td>
</tr>
<tr>
<td>Adequately resourced &amp; properly managed Landlord Registration is a good thing for private rented sector tenants &amp; the 'good' landlords</td>
<td>86%</td>
<td>4%</td>
<td>11%</td>
<td>0%</td>
</tr>
<tr>
<td>Landlord Registration performs no useful function</td>
<td>11%</td>
<td>11%</td>
<td>79%</td>
<td>0%</td>
</tr>
</tbody>
</table>

On the basis of this evidence, the Guidance is not viewed as satisfactory and should be revisited. There is a belief that there is a lack of tenant awareness, this may be a symptom of the lack of tenant awareness strategies described above. Landlord Registration has increased local authority knowledge of the sector, and nearly half of landlords agree that it has improved the quality of property management. Around a third agree that it has improved property condition in the private rented sector (although this is not a direct aim of the scheme). It is, however, believed to have improved the quality of landlords in the sector, although it has not removed the 'worst' landlords. Overall, respondents agree that adequately resourced and properly managed Landlord Registration is a good thing for private rented sector tenants and the 'good' landlords, and is 'light touch' for those landlords who operate lawfully.
Anti-social Behaviour

Half of local authority respondents stated that the landlord register has been used to identify landlords in relation to anti-social behaviour ‘sometimes’; 29% said that it was used often; 18% said it was always used, while 4% said it was never used for this purpose.

Some survey respondents thought that while Landlord Registration was ‘another tool in the box’ to combat anti-social behaviour, it was of limited effect. Others questioned whether any further tools were required to combat anti-social behaviour as this was not seen as a particular problem in the sector. Another made the point that the register generally contains details of the good landlords, so where there are instances of anti-social behaviour, these are invariably within properties that are not on the register.

Specific comments citing the benefits of Landlord Registration in tackling anti-social behaviour included:

- Very useful due to the joint working arrangements between Conflict Resolution and Private Sector.

- Useful in identifying landlords for ASB team but ASB cases have more frequently identified unregistered landlords.

- The Environmental Health team is authorised to enforce part 7 and part 8 of the ASB act. We have formed close links with other agencies such as the police and housing authorities to share information about individuals and properties where there is anti-social behaviour. Once notified of ASB in relation to a private let, the investigating officer will contact the landlord to advise of this. If it is an ongoing problem, the officer will work closely with landlords, agents, the police and others to manage the situation.

- This has been an overlooked benefit of Landlord Registration. It was not so long ago that we struggled to deal with ASB from this sector and issues such as waste accumulations to noisy parties became difficult to resolve. We are now able to intervene at an early stage and can engage the landlord by outlining their responsibilities in relation to ASB and the detrimental impact it may have on their registration if they refuse to manage ASB.

- Very useful - ASB officers check all enquiries against the Register. There has been a lot of co-operation between ASB officers and our Enforcement Officers (both being situated in the Housing Department) having worked together to resolve issues.
This has proved effective as both the antisocial behaviour investigators and Landlord Registration teams advise the landlord of their responsibilities and the consequences of failing to adhere to these. This can include the investigation costs being passed to the landlord and also enforcement action under Part 7 of the 2004 Act which can impact on an application for registration. Landlords now tend to respond more effectively to local authority requests to take action in respect of the antisocial behaviour of their tenants.

Additional Comments

When asked to provide any other views or comments on the Landlord Registration process. The following responses were given:

The "light touch" approach was the civil service way of undermining a policy that it never really supported. The levels of poor practice, unlawful activity and poor conditions in private renting, not to mention to power balance between landlords and tenants demand better regulation and stronger protection for tenants. Landlord Registration is an important part of the answers but it needs more appropriate sanctions and a stronger link to the law on property condition and tenant's rights. More helpful would be to push the whole issue of service quality into the field of consumer protection rather than property law.

Serious deficiencies in the legislation allied to Scots law requirements for corroboration virtually preclude the opportunity of cases going to court via the PF [Procurator Fiscal] due to tenants refusing or being moved on by landlords before giving evidence in court.

This system could be improved in terms of its effectiveness if proper enforcement powers were to be given to councils. The system itself does not provide the most useful info - this could be improved greatly. The level of fees should be higher and more realistic - this would allow a proper check on a decent percentage of applicants.

If Landlord Registration was a discretionary scheme, we would not have implemented it.

Whilst the scheme provides useful information, it is debatable as to its actual role in improving conditions for tenants, although I can understand a need for full time landlords with large portfolios, involving unscrupulous agents. The website and structure of the information requires a fundamental review to simplify its use for landlords, tenants and local authorities.
Landlord Registration has helped tenants in this area to enforce their right to a decent property. Greater awareness of registration is required among tenants; however, enforcement requires to be resourced sufficiently to meet expectations. Registration is helpful to tenants to make informed decisions if they are aware of registration. Most of the review cases we have raised have resulted in a satisfactory conclusion this is due to the fact that a landlord is made aware of the consequences of not taking the appropriate action.

Summary of Survey Findings

In summary, the survey findings show:

- The majority of local authorities have between 1,000 to 5,000 landlords in their area
- The majority of landlords estimate that they have between 1,000 to 5,000 private rented properties in their area
- Landlords typically own between one and five properties and are part time landlords
- The majority of local authorities administer Landlord Registration through Housing or Environmental Health Departments; the current locations are, in the main, considered to be most effective
- There are, on average, 1,800 landlords per member of Landlord Registration staff
- Around 81% of local authorities have Landlord Registration staff who also have other duties in addition to Landlord Registration
- 19% of local authorities have dedicated Landlord Registration staff with no other functions to perform
- The majority of local authorities have adopted a ‘light touch’ in relation to Landlord Registration and most often officers make the decision to approve a registration
- More senior staff, including Heads of Service, Committees, Panels and Joint Working Groups make the decision to refuse or revoke an application
- One fifth of local authorities require registering landlords to provide information beyond that which is mandatory
- 83% of local authorities search for unregistered lets: Housing Benefit records, Council Tax records and other internal website are deemed to be most effective
- There are ongoing issues with the Landlord Registration Website and associated IT – many applicants find it difficult to use
• 61% of respondents find the current fee administration effective

• The highest area of budget spend associated with Landlord Registration is administration

• The highest area of staff time spent is on administration

• In terms of available sanctions Rent Penalty Notices and Late Application Fees are viewed as most effective

• 87% of respondents levy late application fees which are thought to be an incentive for Landlord Registration, but also generate income for further Landlord Registration activity

• There is no conclusive evidence in relation to views on current fee levels – some authorities think they are appropriate and sufficient while others suggest higher rates leading to higher levels of income generation

• 77% think that fee structures should be not set locally

• 76% would prefer continued scheme administration by the Scottish Government

• There is a lack of tenant awareness of Landlord Registration, this may be a symptom of the lack of tenant awareness strategies

• Landlord Registration has increased local authority knowledge of the sector, and nearly half of landlords agree that it has improved the quality of property management. Around a third agree that it has improved property condition in the private rented sector (although this is not a direct aim of the scheme). Landlord Registration is, however, believed to have improved the quality of landlords in the sector, although it has not removed the 'worst' landlords

• Overall, respondents agree that adequately resourced and properly managed Landlord Registration is a good thing for private rented sector tenants and the 'good' landlords, and is 'light touch' for those landlords who operate lawfully
APPENDIX 4 SUMMARY OF CASE STUDY FINDINGS

Case Study Findings have been reported on throughout the main body of the report. In summary, the case study findings show:

Outcomes

- Many case study participants found it difficult to quantify the outcomes of Landlord Registration at this stage.

- Of particular issue was the question of what Landlord Registration set out to achieve and whether there are expectations of what it can achieve which are far beyond the intended purpose.

Legislation

- The legislative framework was broadly accepted by the range of case study participants, although there were a few specific suggestions for improvements to the legislation.

- Overall, it was thought that there are few sanctions where landlords do not comply. This view was informed by the perceived lack of engagement of and low priority assigned to Landlord Registration by Procurators Fiscal.

- Some consultees felt that there has not yet been sufficient time to fully test the powers which are in place and further evidence is required before making any further changes.

Administrative systems

- While all of the case study consultees agreed that the IT system had improved, there were many frustrations with the system and suggestions for improvement.

- In terms of reporting mechanisms, all case studies used their own systems and had developed spreadsheets and processes with information downloaded from the system.

- The website and reporting systems were described as ‘fiddly’ and ‘time consuming’ with staff preferring to create their own systems.

- Some stated that there has been a lack of training and guidance on the website, and reporting functions. It was a widely held view that if administrative processes were simplified more investigation and enforcement could be carried out.

- Fee payment system delays impact on the ability to reconcile the number of registrations with the fee income.
• When asked about the future administration of the system the consensus within the case study areas was that this should remain with the Scottish Government.

Maintaining registers

• In each area, staff found it difficult to quantify how many unregistered landlords there were and all continue to discover unregistered landlords. Unregistered landlords may be new to the market place, or unaware of the requirement to register as a landlord.

• A weakness of the Landlord Registration system identified by numerous case study participants is that agents do not have to register.

• All of the case study areas carried out proactive searches for unregistered landlords. Some did not use this terminology and considered ‘proactive searches’ to be following up newspaper ‘to let’ adverts and following up ‘to let’ signs observed outside properties when out of the office.

• Advice and information was said to be the main focus in encouraging landlords to register, although the approach was described as ‘less light touch’ for renewals. This is on the basis that if the landlord has previously registered they are aware of the requirement to do so.

• A number of the case study areas have landlord fora in operation. The format of landlord fora tends to be that of information giving by the local authority, with relevant invited speakers, followed by open debate and question time for landlords.

• In general local authorities developed extensive information giving exercises at the outset of Landlord Registration. These activities included newsletters to landlords, website information, television screen adverts, poster, newsletters and leaflets.

Enforcement

• Seven of the eight case study areas found Rent Penalty Notices (RPN) to be the most effective tool they have.

• Reports to the Procurator Fiscal were used in far fewer cases than other measures as the resources required are costly for local authorities.

Costs

• In general, case study areas thought that fees and therefore income did not cover the costs associated with Landlord Registration.
Performance monitoring and good practice

• Case study areas varied in their level of performance monitoring. Case study areas stated they were committed to continuous improvement and performance monitoring.

• National and regional meetings of Landlord Registration officers were found to be a good way of information sharing and discussion of good practice and operational experience.
APPENDIX 5 STAKEHOLDER WORKSHOP

Following the online survey and case studies, we held a workshop with key stakeholder organisations in order to more fully understand and explore particular themes/issues/ideas raised in the Process and Legislative Review; the IT and Administrative Systems Review and the survey.

We approached the following organisations to participate in the stakeholder workshop:

- Scottish Government
- Association of Residential Letting Agents
- Chartered Institute of Housing
- Citizens Advice Scotland
- Consumer Focus Scotland
- COSLA
- Local authority representatives
- National Association of Estate Agents
- National Federation of Property Professionals
- National Union of Students
- Royal Institute of Chartered Surveyors
- Scottish Association of Landlords
- Scottish Council for Single Homeless
- Shelter

A summary of workshop discussions is presented below. Two breakout sessions were held:

- Consumers
- Landlords

Consumers

Views on tenant awareness and interest:

- Lack of general awareness of the scheme by tenants, especially for groups such as young people and international students.
- Raising tenant awareness not considered a priority?
- However, tenants now have more general awareness of their rights through increased sources of advice.
• Details on the scheme should be made available when starting a tenancy, or when the tenant is having a problem with their landlord.

• Landlord Registration is just one element of a complex regulatory structure. Tenants need the broader picture, but the structure also needs to be more coherent. It also needs to manage tenant expectations in terms of what the scheme can do/achieve.

• Landlord Registration is not really tenant facing, but it should be tenant focused, helping to achieve better outcomes for tenants.

• Some local authorities do engage with tenants on a regular basis and see Landlord Registration as part of this.

Knowledge and experience of tenant engagement strategies

• One local authority has staff awareness training around Landlord Registration and landlord training. This could be used as a basis to also raise tenant awareness?

• Shortly, landlords will have to provide a Tenant Information Pack. This should include information on the Landlord Registration Scheme.

• There needs to be a strategic approach on all rights and responsibilities (landlords and tenants). There is an opportunity now to do this with so much change in housing regulation.

• There should be a one-stop shop or portal to inform tenants, with key information and contacts. The current sources of information are too disparate.

**Fit and proper person test and enforcement**

• The fit and proper person test may be misleading in terms of Landlord Registration. It is not an effective mechanism for getting rid of bad landlords.

• It is not possible to identify if a person is fit and proper unless they honestly tell you about their background.

• Tenants need to know the objectives of the scheme and what it was and was not designed for.

• The scheme has helped to improve standards in some local authorities.

• There is a lack of performance measures on outcomes. Landlord Registration is too process focused and not tenant focused. It is not clear that Landlord Registration has made a difference to ASB.

• The administration of the scheme is too burdensome – leaves little resource for enforcement.

• Many tenants have little choice in the rental market, which impacts on their ability to pursue any action. There are also concerns about landlord intimidation.
Role of agents

- There are pros and cons to having agents involved. On the plus side, they are usually better informed and can provide professional advice. However, the use of an agent will usually mean a cost to the consumer (tenant).
- Agents are likely to be biased towards landlords, therefore are not a fair intermediary. Their Key Performance Indicators are also to do with things like occupancy rates rather than anything tenant focused.
- There is a worry that unscrupulous agents know how to get away with dubious practices, e.g. retaining deposits.
- If there is a good landlord using a bad agent, what can Landlord Registration do?

Impacts

- It is not clear what the impacts of the scheme have been. The priorities and implementation of Landlord Registration is not clear and differs across local authorities.
- How can impacts be measured? It requires baseline data. Often, what can be measured is only perception. There may be useful proxies though, such as complaints resolution.
- There needs to be buy-in from landlords to the scheme, therefore greater clarity is required about what it is intended to do.

Legislation

- There needs to be a fundamental review of housing regulation legislation, starting with what should be its strategic objectives.
- The system needs to be restructured to better meet the requirements of all key stakeholders.
- This would require a lot of work, e.g. consultation across the sector, but would have longer term benefits.
- Previous legislation is too incremental and narrowly focused, with too much of a focus on administration/process and not enough on outcomes.

Landlords

Views on landlord awareness

- It is though that the majority of landlords are aware of Landlord Registration and why it was put in place.
- Consultees still come across new landlords who don’t know about Landlord Registration.
• The least aware landlords are the most difficult to reach.
• There is not enough visible publicity out there and some local authorities have not done any publicity.
• In rural areas farmers who are landlords often do not think the legislation applies to them as letting of agricultural holdings is ancillary to their main business.
• Those landlords who are most aware are those who are regulated.
• It was suggested that landlords fall into three categories: those who comply; those who do not comply because they are unaware; and those who are aware but do not comply.
• Landlords may not be aware they have to register in each local authority in which they own property.

Views on landlord opinion of Landlord Registration
• There are mixed feelings amongst landlords whether the scheme works or not.
• Landlords would like to know what they are getting for the fee they pay, many believe they get nothing, others view the scheme as a money making exercise for the local authority.
• Landlords want to know that something is being done to those landlords who are not registered.

Views on landlord awareness
• Some confusion exists amongst tenants who may have heard of landlord accreditation but not registration.

Is Landlord Registration light touch?
• One example was given of landlords having to go to the police station for a criminal record check – this is not light touch.
• Gas Safety checks were thought to be a statutory requirement of management so were more reasonable.
• It was thought that the size of the local authority area may determine what investigations can be done and whether the scheme is light touch.

Views on fit and proper person test
• Sharing of information with local authorities has improved and there are usually good links between Landlord Registration, House in Multiple Occupation licensing, Revenues & Benefits and Public Health so the fit and proper person check benefits from wider knowledge.
• Consultees have had little specific feedback on the fit and proper person test.

**Views on enforcement activity**

• There are a number of landlords who do not register all the properties which they own. They know they won’t get caught.

• The Landlord Registration website hampers registration of all properties as it is difficult to enter multiple properties online.

**The role of agents**

• With the economic downturn there are now frequent examples of ‘sales agents’ becoming involved in the lettings market. There is less awareness amongst this group.

• There is no minimum standard of competence for agents and no licensing of agents. The group raised the question of whether agents should be registered.

• ‘Bad’ landlords may hide behind agents, the agent does not have to be letting agent – so some thought that agents should also be required to register.

• Some landlords assume that the agent is managing all aspects of the letting process and do not realise that it is their responsibility to register.

• The term ‘agents’ causes difficulties in rural farms due to this meaning something else in an agricultural context.

• Agents may trigger registration which is a positive thing – but there are also ‘bad’ agents.

**Outcomes**

• There needs to be clarity around what Landlord Registration intended to achieve – what has been achieved is to bring many landlords into the local authority information systems.

**IT Issues**

• There are no prompts to tell landlords they are required to renew registration.

• Applications may be incomplete, yet landlords think they have been approved.

• The address view does not match what is on the system, so a property may be registered by the wrong person.