



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 92(2) of the Antisocial Behaviour etc. (Scotland) Act 2004 (“the 2004 Act”)

Chamber Ref: FTS/HPC/GL/24/5604

Parties:

**Mr Bonaventure Okacha,
 (“the Applicant”)**

**Glasgow City Council, Licensing and Regulatory Committee, Landlord
Registration, Neighbourhoods Regeneration & Sustainability, 231 George
Street, Glasgow, G1 1QU (“the Respondent”)**

Tribunal Members:

Ruth O'Hare (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) grants the application and makes an order that requires the local authority to enter the Applicant in the register maintained by it under Section 82(1) of the 2004 Act.

The Tribunal further specifies that the entry is deemed to be made under subsection (3) of Section 84 of the 2004 Act.

Background

- 1 This is an appeal against the Respondent’s refusal to enter the Applicant in the register maintained by it under section 82(1) of the 2004 Act (“the landlord register”).
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 30 April 2025. The Tribunal gave notice of the CMD to the parties in accordance with rule 17(2) of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017.
- 3 Both parties were invited to make written representations in advance of the CMD. On 28 March 2025 the Tribunal received written representations from the Respondent.

The CMD

- 4 The CMD took place on 30 April 2025 by teleconference. The Applicant joined the call and was represented by Mr Daniel Onifade. The Respondent was represented by Ms Fiona Robinson. Having heard from the parties, the Tribunal determined to refer the application to a hearing, having identified the issue to be resolved as whether the Applicant is a fit and proper person to act as a landlord. A Direction was issued following the CMD requiring parties to submit any further evidence, details of witnesses, and authorities in advance of the hearing.
- 5 On 21 October 2025 the Tribunal received written submissions and a list of authorities from the Respondent.

The hearing

- 6 The hearing took place on 3 November 2025 by videoconference. The Applicant was present and represented by Mr Onifade. The Respondent was represented by Ms Robinson.
- 7 As a preliminary matter, the Tribunal confirmed with Mr Onifade that no further representations had been submitted by the Applicant in response to the Direction. The Applicant was content to rely upon the documentary evidence submitted with the application. Mr Onifade explained that he intended to reference the authorities submitted by the Respondent.
- 8 Ms Robinson confirmed that the Respondent did not intend on leading any evidence.
- 9 The Tribunal had the following documents before it:-
 - (i) Form G application form;
 - (ii) Copy letter from Edinburgh City Council to the Applicant dated 7 August 2018;
 - (iii) Private residential tenancy agreement;
 - (iv) Full management agreement between Zone Lettings and the Applicant dated 25 June 2024;
 - (v) Copy letter from Mosovo Public Protection Unit to the Applicant dated 27 November 2024;
 - (vi) Title sheet GLA182710;
 - (vii) Written mandate from the Applicant authorising Mr Daniel Onifade to represent him;
 - (viii) Copy letter from Glasgow City Council to the Applicant dated 26 November 2024;
 - (ix) Written representations from the Respondent dated 28 March 2025 together with response and inventory of productions; and
 - (x) Written submissions and list of authorities from the Respondent dated 21 October 2025.

- 10 The Tribunal proceeded to hear evidence from the Applicant, and submissions from the Applicant and Respondent. The following is a summary of the key elements and is not a verbatim account.

The Applicant's evidence

- 11 The Applicant applied to the Respondent to be entered in the landlord register on 25 June 2024. The Applicant was convicted of serious crimes in 2004 and received a six year custodial sentence. He was placed on the sex offender register. He no longer requires to sign on to the register. His application for registration was put before the Respondent's licensing committee in November 2024. He was asked questions about his conviction. He made it clear to the committee that whilst he was still on the sex offenders register, he no longer had any requirement to sign on. He explained to the committee that he would have no contact with any tenants. The committee was aware that the Applicant was registered as a landlord in Edinburgh. The application was refused by the committee. The Applicant received generic advice from the Respondent regarding the conditions of landlord registration but was not told what steps he would need to take to be considered a fit and proper person.
- 12 The Applicant was entered in the landlord register by Edinburgh City Council back in 2018. His registration has been renewed successfully every three years. His registration is due to expire in April 2027. There have been no complaints or issues with his Edinburgh property. The Applicant is fully compliant with his responsibilities as a landlord. The property is fully managed by an agent as the Applicant resides in England, around 275 miles away. At no point has the Applicant visited the property. It has been well managed by his letting agent.
- 13 The Applicant has sold his rental property in Edinburgh to purchase a property in Glasgow. The property in Glasgow is fully managed by Zone Lettings. The Applicant signed the management contract with them in June 2024. Zone Lettings hold all keys for the property. If a tenant has an issue, they contact Zone Lettings. The Applicant has no direct contact with any of the tenants. He has no plans to visit the Glasgow property as there is no reason for him to do so.
- 14 The Applicant is 50 years old. He is married with three children. He is settled in England. His conviction was very damaging to his life and to the people around him. He had no previous convictions. He hurt his mother greatly, as well as a lot of the people around him. The incident happened when he was relatively young. He reflects on it every day. He is extremely remorseful for what happened and the impact on the victims and others.
- 15 The Applicant has a property letting business. It is his only source of income to support his family. He has had a rental property in London since 2014. There have been no issues with that property. It is well managed. He has two rental properties in Glasgow and East Kilbride.

- 16 In response to cross-examination from Ms Robinson, the Applicant confirmed that his name remains on the sex offender register but he no longer requires to sign on.

Submissions

- 17 Ms Robinson adopted the Respondent's written submissions. In addition, she highlighted that it was not for the Respondent's licensing committee to tell the Applicant how he could gain entry to the landlord register. They were simply reviewing his application to determine whether he was fit and proper. Ms Robinson questioned whether the Applicant had shown remorse for his victims. He appeared to focus more on how his conviction had affected his family. The Applicant would have been in his late 20s or early 30s when the crime was committed. He was not a particularly young man at the time. The Applicant had admitted breaking the trust of his family members, but he expected the Respondent to trust him to be entered in the landlord register for three years. The onus was on the Applicant to establish that he is a fit and proper person. His reason in support of this appears to be that Edinburgh City Council approved his application. However, the 2004 Act is not passport legislation. Just because one local authority finds a landlord to be fit and proper, does not mean that another local authority will reach the same view. The Respondent's committee is best placed to decide who is a fit and proper person in their area and for their standards.
- 18 Ms Robinson submitted that it was now up to the Tribunal to decide whether the Applicant is fit and proper. There is no mechanism whereby the Tribunal can condition entry to the register. The Applicant would be registered for three years. It was not outwith the realms of possibility that the Applicant would be able to access keys for a property he owns. The Applicant had suggested placing conditions on his registration. Ms Robinson questioned why conditions would be needed if the Applicant felt he was a fit and proper person.
- 19 Mr Onifade made submissions on behalf of the Applicant. He referenced the refusal of the Applicant's application for registration which was based on a 21 year old conviction. The Applicant did not seek to diminish the seriousness of his conviction. However, the Respondent's licensing committee had failed to properly consider the significant mitigating factors in this case, such as the passage of time and the Applicant's exemplary conduct, and proven record as a responsible landlord. The Applicant has served his custodial sentence in full. He is no longer subject to any notification requirements in terms of the sex offenders register, albeit he will be on the register for life. The Applicant has been registered with Edinburgh City Council since 2018. His property in Edinburgh was managed through a reputable letting agency. There have been no reports, complaints, or breaches, nor any enforcement action taken. The Applicant has successfully renewed his registration with Edinburgh City Council. He has faced scrutiny at times but has passed all checks.
- 20 Mr Onifade pointed out that the Applicant has now sold his Edinburgh property to purchase a property in Glasgow. He has engaged another letting agency to

manage that property and ensure compliance with standards relating to proper management and tenant welfare. Mr Onifade submitted that the existence of the previous conviction should not in itself present a barrier to registration, referring to the case of *Sharma v East Renfrewshire Council [2023] CSOH 40*. A local authority must consider all relevant circumstances in determining whether a person is a fit and proper person. The Respondent's licensing committee appeared to have disregarded this, relying solely on the conviction without a balanced assessment of the Applicant's conduct. The Applicant has expressed remorse regarding his conviction, not just in terms of his family but also the victims. The Respondent's licensing committee failed to fully consider the mitigating factors in this case, such as the age of the conviction, evidence of rehabilitation, absence of reoffending and consistent good conduct as a landlord since 2018 in Scotland. Mr Onifade submitted that in assessing whether a person is fit and proper, whilst the local authority must have regard to the nature and seriousness of any conviction, it must also consider the period of time that has elapsed since the offence occurred, the relevance of the conduct to the responsibilities of a landlord and any evidence of subsequent good character or rehabilitation. The fit and proper person test was designed to be a holistic one, requiring an assessment of the Applicant's present suitability rather than a mechanistic reliance on past conduct.

- 21 Mr Onifade referred again to the decision of *Sharma* which highlighted Scottish Government guidance for local authorities when administering applications for registration. The guidance supported the principle that local authorities must, in considering the past actions of the applicant, consider whether any offence is likely to occur again and whether it is likely to affect the applicant's letting activity. The assessment should be made on the risk that the Applicant may fail to act properly in relation to future letting activity. Mr Onifade submitted that in this case, the Applicant has put appropriate controls in place by employing the services of a reputable letting agency. The Applicant had been open and cooperative with authorities. The Respondent's decision had effectively imposed a lifetime disqualification from the landlord register in Glasgow. The Applicant's registration with Edinburgh City Council demonstrated that he had been found to be fit and proper by a competent authority.
- 22 Mr Onifade referred to paragraph 24 of the decision in *Sharma*, highlighting the duty on local authorities when refusing an application for registration to consider whether any action could be taken by the applicant to avert a refusal, and provide advice on what action the applicant can take. The Respondent had failed to do so in this case. It was an absolute ban. This was not the intention of the legislation.
- 23 Mr Onifade submitted that the Applicant has demonstrated through his professional conduct that he poses no risk to his tenants. He is no longer required to register with the police, therefore the police and other authorities must have assessed the risk to the public as low, if not non-existent. Mr Onifade pointed out the Applicant's consistent use of letting agents. Excluding the Applicant from the landlord register would serve no legitimate purpose and was contrary to the principle of rehabilitation. The structure that the Applicant has put in place, in respect of the management of the property, should be taken

into consideration. Mr Onifade pointed out that the Scottish Government guidance provides that the nature of any agency arrangement in place should be taken into account when assessing fitness. This was reflected in the decision of *Sharma*.

- 24 Mr Onifade invited the Tribunal to determine the Applicant's application for registration *de novo* and enter him on the landlord register. Whilst the Tribunal had to consider the seriousness of the conviction, the significant mitigating factors such as the passage of time, the appointment of a letting agent, and the Applicant's registration with Edinburgh City Council along with his positive engagement with regulatory agencies should be given greater weight. Everything pointed to the risks to tenants being extremely low.

Reasons for decision

- 25 The Tribunal considered the documentary evidence before it, the oral evidence at the hearing, and the submissions and authorities from the parties in reaching its decision.

- 26 The statutory framework for landlord registration is set out in Part 8 of the 2004 Act. Section 84 provides that a person can make an application to be entered in the landlord register, and the local authority is obliged to enter that person in the register if they conclude that "*the relevant person is a fit and proper person to act as landlord*". Section 85 lists matters that the local authority must have regard to in deciding whether a person is fit and proper, which include various criminal offences and contraventions of landlord and tenant law.

- 27 Where an application for landlord registration is refused, section 92 of the 2004 Act provides that:-

*"The First-tier Tribunal may, on the application of the person, make an order—
(a) requiring the authority to enter the person in the register; and
(b) specifying whether the entry shall be deemed to be made by virtue of subsection (3) or (4) of section 84."*

- 28 Section 92 of the 2004 Act thereby allows any person who has been refused entry to the landlord register by the relevant local authority to appeal to the Tribunal against the refusal. The jurisdiction of the Tribunal in such appeals was considered in the case of *Sharma v East Renfrewshire Council* ([2023] CSOH 40). Prior to *Sharma*, the Tribunal's approach had been to restrict consideration of section 92 appeals to a review of the decision of the local authority, essentially determining whether the local authority's decision was one that no reasonable authority could have reached in accordance with the principle established in *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* ([1948] 1 KB 223).

- 29 In *Sharma*, Lady Carmichael took a different view. Paragraph 54 of her judgement provides:-

“It cannot have been the intention of Parliament that a person’s name should be included on the register on the basis that the FT (or, formerly, the sheriff) concluded that the local authority had not been entitled to reach the conclusion that it did. There is no presumption that a person is a fit and proper person unless there is a finding otherwise. On the contrary, he requires to provide information to show that he is a fit and proper person when he seeks registration. It would be contrary to the purpose of part 8 of the 2004 Act were the FT to be able to require a local authority to enter a person on the register where neither the local authority nor the FT had been satisfied that the person was a fit and proper person. Unless the FT is empowered to make a decision in substitution for that of the local authority, rather than just setting it aside, it cannot make a determination that a person is a fit and proper person. I therefore conclude that the jurisdiction of the FT in an application under section 92 is to consider the question of whether the person is a fit and proper person of new.”

- 30 The Tribunal must therefore determine anew whether the Applicant is a fit and proper person to be entered in the landlord register.
- 31 The Tribunal carefully considered the circumstances of this application. It is not in dispute that the Applicant was convicted of a serious offence, in respect of which he remains on the sex offenders register, albeit without the notification requirements. He was open and frank about this in his oral evidence at the hearing.
- 32 There are, however, significant mitigating factors in this case to which the Tribunal has given weight. The offence was committed around 21 years ago. There is no evidence of any further reoffending on the Applicant’s part. He has shown a willingness to engage with the local authority and has not sought to obfuscate his situation. He has demonstrated compliance with his responsibilities as a landlord in Scotland by virtue of his period of unblemished registration with Edinburgh City Council since 2018. The Tribunal accepts that a decision of one authority is not binding on another, but the fact that the Applicant has been letting property in Scotland without evidence of any concerning issues is a factor that the Tribunal can give weight to in its assessment of the fit and proper test.
- 33 Whilst the Tribunal accepts that landlord registration cannot be conditioned, nevertheless the arrangements that the Applicant has put in place to manage his rental properties is another mitigating factor relevant to the fit and proper test. In paragraph 34 of *Sharma*, Lady Carmichael observes that *“There may be things that an individual has changed, or could change, which have a bearing on the decision-makers assessment. Examples might include situations in which the decision maker is satisfied that the individual has put in place structural safeguards such as the engagement of a reputable letting agent as intermediary”*.
- 34 The Tribunal accepted the Applicant’s evidence regarding the management of his rental properties in Scotland. This was supported by the tenancy agreement and management agreement produced with the application. The Tribunal

accepted that the Applicant does not intend to have any direct contact with his tenants. He resides some distance away with his family in England. Logistically it would not make any practical sense for him to be involved in the management of the tenancies.

- 35 In *Sharma*, Lady Carmichael concludes that there should be a forward looking approach in applying the fit and proper person test. Having considered the particular facts and circumstances of this case, the Tribunal has concluded that any risks that may be perceived from the Applicant's previous conviction have been suitably mitigated by the passage of time, the absence of reoffending, the management arrangements he has put in place and his demonstrable conduct of his letting activity in Edinburgh.
- 36 In reaching its decision, the Tribunal does not seek to diminish in any way the seriousness of the Applicant's conviction. It can understand why the Respondent's licensing committee took the decision to refuse the application. However, in its own assessment of the evidence in this case the Tribunal has concluded that the mitigating factors are sufficient to establish that the Applicant is a fit and proper person to act as a landlord.
- 37 The Tribunal therefore made an order requiring the Respondent to enter the Applicant in the landlord register. The decision of the Tribunal was unanimous.

Right of Appeal

In terms of Section 92(5) of the 2004 Act, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland. The appeal must be made within the period of 21 days beginning with the day on which the decision appealed against was made.

Section 92(6) of the 2004 Act provides that the decision of the Upper Tribunal on an appeal is final.

R O'Hare

20 November 2025

Legal Member/Chair

Date