

South Ayrshire Council

**Report by Depute Chief Executive and Director of Education
to Cabinet
of 27 August 2024**

Subject: Short Term Let Licensing Policy Amendment

1. Purpose

- 1.1 The purpose of this report is to seek Cabinet approval to amend the Short Term Let Licensing Policy previously agreed by members on 30 August 2022.

2. Recommendation

- 2.1 **It is recommended that the Cabinet approves the amendments to sections 5.1 and 7.1 of the policy as outlined in Appendix 1 to this report.**

3. Background

- 3.1 In October 2022, the Scottish Government introduced new legislation governing the licensing of Short Term Lets (STLs) across Scotland. Through the introduction of the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022, local authorities were required to incorporate a scheme to regulate the operation of STLs within the area.
- 3.2 The Cabinet of 30 August 2022 approved the approach to licensing in South Ayrshire. Since then, and in line with several key dates, the Council has received 917 STL licence applications so far, broken down as follows:

<i>Type</i>	<i>Number of Applications</i>
Home Let	37
Home Let/Share	27
Home Share	38
Secondary Let	421
Temporary Application	394*

**Majority of Temporary Applications relate to the hosting of the 152nd Open Golf Championship.*

- 3.3 Whilst the service has been able to process most applications, a number remain outstanding and cannot be determined due to being submitted without the full evidence being provided. Officers have 9 months to determine new hosts entering the sector and 12 months for those operators who have been operating prior to the legislation coming into force. However, to make these determinations officers require fully completed applications and a full submission of supporting evidence.

4. Proposals

- 4.1 Members are being asked to approve the revisions to the Short Term Let Licensing Policy document and sections 5.1 and 7.1 specifically. This would see the addition of clause 5.1.1, 5.1.2 and 7.1.3 and these additions are highlighted on the draft revised policy attached as Appendix 1.
- 4.2 The aim of these revisions is to clarify the position that applications submitted to the service can be rejected if submitted without full supporting evidence and after attempts by officers to contact hosts.
- 4.3 Officers also intend to return to Cabinet in due course to provide an update on how the new scheme has bedded in and to recommend any changes to our policy position. This will be in line with Scottish Government guidance that schemes be reviewed within a 3-year period of being incorporated.

5. Legal and Procurement Implications

- 5.1 Legal and Licensing have been consulted as part of this report and their feedback is incorporated within.
- 5.2 There are no procurement implications arising from this report.

6. Financial Implications

- 6.1 Not applicable.

7. Human Resources Implications

- 7.1 Not applicable.

8. Risk

8.1 *Risk Implications of Adopting the Recommendations*

- 8.1.1 There is a risk that on adoption of the recommendations, some operators whose applications are rejected may continue to operate without an appropriate licence. Officers will pursue these operators through our enforcement powers contained within the legislation.

8.2 *Risk Implications of Rejecting the Recommendations*

- 8.2.1 There are risks that if the recommendations are rejected, some STL applications could be automatically approved (a 'deemed grant' under the legislation) for a 1-year period, if we are unable to determine or reject the application within a 9-month period for new operators or 12-month period for existing operators.

9. Equalities

- 9.1 A full Equalities Impact Assessment was conducted as part of the policy introduction and submitted as part of the Cabinet report of 30 August 2022. This can be referenced as part of the background papers and is still relevant.

10. Sustainable Development Implications

10.1 **Considering Strategic Environmental Assessment (SEA)** - This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy, or strategy.

11. Options Appraisal

11.1 An options appraisal has not been carried out in relation to the subject matter of this report.

12. Link to Council Plan

12.1 The matters referred to in this report contribute to Commitment 2 of the Council Plan: Live, Work and Learn.

13. Results of Consultation

13.1 There has been no public consultation on the contents of this report.

13.2 Consultation has taken place with Councillor Martin Kilbride, Portfolio Holder for Buildings, Housing and Environment and Councillor Alec Clark, Portfolio Holder for Tourism, Culture and Rural Affairs, and the contents of this report reflect any feedback provided.

14. Next Steps for Decision Tracking

14.1 If the recommendations above are approved by Members, the Depute Chief Executive and Director of Education will ensure that all necessary steps are taken to ensure full implementation of the decision within the following timescales, with the completion status reported to the Cabinet in the 'Council and Cabinet Decision Log' at each of its meetings until such time as the decision is fully implemented:

<i>Implementation</i>	<i>Due date</i>	<i>Managed by</i>
Revised policy implemented	30 September 2024	Coordinator, Housing Policy and Strategy

Background Papers **Report to Cabinet of 30 August 2022 - [Short Term Let Licensing Scheme](#)**

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Date: 15 August 2024

South Ayrshire Council Short Term Let Licensing Scheme.

Policy 2nd version September 2024.

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1. Introduction

- 1.1 In July 2018, the Scottish Government produced its report in response to the Scottish Expert Advisory Panel on a Collaborative Economy, which recommended that solutions be introduced to mitigate challenges associated with the increase of Short-Term Lets and their prominence in cities such as Edinburgh and other locations within Scotland. The report highlighted the benefits of these types of accommodation has on Local Economies and Tourism, but measures should be put in place to ensure safeguards and protections to surrounding issues associated with, such as anti-social behaviour, noise nuisance and the loss of sense of community as an example.
- 1.2 This formed the basis of a wide consultation process involving stakeholders, professionals, Local Authorities and interested parties across many sectors with an interest in Short-Term Lets resulting in legislation coming into force in March 2022 through the Civic Government (Scotland) Act 1982, (Licensing of Short-term Lets) Order 2022. This Order places an obligation on Hosts of properties that are let for short periods of time to be licensed by their Local Authority in order to operate. Local Authorities are required to oversee and administer a licensing scheme in their area as well as proper enforcement of said scheme. A public data base of all Short-Term Lets within their area should also be managed by the Local Authority.

2. Important Timescales

- 2.1 From the 1st of October 2022, any new host or operator must have a licence in place prior to operating a Short-Term Let. This means that if you were not using your property as a Short-Term prior to this date, you will not be able to accept visitors until a licence has been approved.
- 2.2 An existing host that has been utilising a property prior to the 1st of October 2022, will still be allowed to operate, however must submit a licence application by the 1st of April 2023. This means for this period, existing hosts will still be allowed to operate without a licence, unless they have had a licence application submitted and refused.
- 2.3 The final deadline date for all hosts and properties to be licensed is the 1st of January 2025.

3. Definitions

3.1 Legal definition

3.1.1 A short term let is defined in the Act as the use of residential accommodation provided by a host in the course of business to a guest, where all the following criteria are met-

- (a) The guest does not use the accommodation as their only or principal home
- (b) The short term let is entered into for commercial consideration
- (c) The guest is not
 - a. An immediate family member of the host
 - b. Sharing the accommodation with the host for the principal purpose of advancing the guest's education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or
 - c. An owner or part owner of the accommodation
- (d) The accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host or to another member of the host's household
- (e) The accommodation is not excluded accommodation
- (f) The short term let does not constitute an excluded tenancy

3.2 Excluded Accommodation

3.2.1 This relates to accommodation which is, or is part of:

- an aparthotel
- premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect and where the provision of accommodation is an activity listed in the operating plan as defined in section 20(4) of the 2005 Act
- a hotel which has planning permission granted for use as a hotel
- a hostel
- residential accommodation where personal care is provided to residents
- a hospital or nursing home
- a residential school, college, or training centre
- secure residential accommodation (including a prison, young offenders' institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation, or accommodation used as military barracks)
- a refuge
- student accommodation,

- accommodation which otherwise requires a licence for use for hire for overnight stays
- accommodation, which is provided by the guest,
- accommodation, which is capable, without modification, of transporting guests to another location
- a bothy
- accommodation owned by an employer and provided to an employee in terms of a contract of employment or for the better performance of the employee's duties

3.3 Excluded Tenancies

3.3.1 Any of the following tenancy types will not fall into the scope of Short-Term let Licensing:

- protected tenancy (within the meaning of section 1 of the Rent (Scotland) Act 1984)
- an assured tenancy (within the meaning of section 12 of the Housing (Scotland) 1988 Act)
- a short, assured tenancy (within the meaning of section 32 of the Housing (Scotland) Act 1988)
- a tenancy of a croft (within the meaning of section 3 the Crofters (Scotland Act 1993)
- a tenancy of a holding situated out with the crofting counties (within the meaning of section 61 of the Crofters (Scotland Act 1993) to which any provisions of the Small Landholders (Scotland) Acts 1886 to 1931(8)) applies
- a Scottish secure tenancy (within the meaning of section 11 of the Housing (Scotland) Act 2001)
- a short Scottish secure tenancy (within the meaning of section 34 of the Housing (Scotland) Act 2001)
- a 1991 Act tenancy (within the meaning of section 1(4) of the Agricultural Holdings (Scotland) Act 2003)
- a limited duration tenancy (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 2003)
- a modern limited duration tenancy (within the meaning of section 5A of Agricultural Holdings (Scotland) Act 2003)
- a short, limited duration tenancy (within the meaning of section 4 of the Agricultural Holdings (Scotland) Act 2003)
- a tenancy under a lease under which agricultural land is let for the purpose of its being used only for grazing or mowing during some specified period of the year (as described in section 3 of the Agricultural Holdings (Scotland) Act 2003)
- a private residential tenancy (within the meaning of section 1 of the Private Housing (Tenancies) (Scotland) Act 2016)
- a student residential tenancy

3.4 Licence Types

- 3.4.1 As part of the licensing scheme, there are 4 types of licence which can be applied for. The licence granted must relate to the following:
- (a) Secondary Letting
 - (b) Home Letting
 - (c) Home Sharing; or
 - (d) Home Letting and Home Sharing
- 3.4.2 Home sharing and home letting concern the use of the host or operator's only or principal home whereas secondary letting makes use of a separate premises
- 3.4.3 A separate licence is required for each **premises**. However, a single licence may be issued in respect of unconventional accommodation (not a **dwelling house**) where there is more than one separately bookable property on the site and would be considered on a case-by-case basis.
- 3.4.4 A dwelling house is defined as an independent dwelling (with its own front door, kitchen, bathroom, living facilities) such as a flat, house, cottage etc.
- 3.4.5 Separate licences will not be required for separate rooms let within the same dwelling house. For example, if two separate rooms are let out within the same house, only one licence is required.
- 3.4.6 It should be noted that if a property is licensed as a House of Multiple Occupancy (HMO), if the rooms within are being used as a Short-Term Let then a Licence for this purpose will also be required.
- 3.4.7 Unconventional accommodation relates to accommodation being used for residential purposes, not defined as a dwelling house, for example Glamping Pods.

4. Planning Considerations Prior to Application for STL

4.1 Planning Permission

- 4.1.1 Under provisions within the Licensing Order, a preliminary ground for refusing to consider an application for a Short Term Let is that the use of the proposed premises would constitute a breach of planning controls set out under the Town and Country Planning (Scotland) Act 1997 by virtue of section 123 (1) (a) or (b) of that Act
- 4.1.2 Hosts and operators are, therefore, encouraged to engage with the Council's planning department prior to submitting a licence application to confirm whether they require planning permission or a certificate of lawful use of development.

4.2 Short-Term Let Control Areas

- 4.2.1 Under The Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 the Planning Authority can introduce Short-term Let Control Zones which would require any change of use for a premises within the designated zone to obtain planning permission. In addition, Short-term Let Control Areas would require all STL licence applications, for any of the previously mentioned types of licences to have planning permission (where required) before applying for a licence. An application would be refused at the preliminary stage if consent had either not been granted. At present there are no Short-term Let Control Areas in place in South Ayrshire.
- 4.2.2 Should a Short-Term Let Control Area be introduced in the future, there would be a requirement at that point for any existing host where planning permission was not previously required, to take steps to ensure continued compliance. This would mean, that if a Control Area were to come into force during the lifespan of an existing Licence, that host would then be required to apply to the local planning authority for consent. It would become a mandatory condition of the licence to do so, and should a host not take those steps, they would be in breach of the regulations and enforcement action would be taken.
- 4.2.3 Whilst the current position is that South Ayrshire has no Short-Term Let Control Areas, this will remain under constant review, and may change as the regulations take hold. Whilst it should be noted that powers to introduce a Short-Term Let Control Area falls under powers within the Planning Authority and Planning Legislation, a collaborative approach would be undertaken to assess any area which was felt to merit further scrutiny as to whether a STL control area is required and to work together to consult and then submit evidence to Scottish Ministers in line with the Guidance.

5. Handling Applications and Notifications

- 5.1 Applications will require to be submitted online through the Councils website at [Short-Term Let Licencing Scheme South Ayrshire - South Ayrshire Council \(south-ayrshire.gov.uk\)](https://south-ayrshire.gov.uk).

Payment of the application will also require to be made online and will only be accepted once all supporting information and fully completed application have been submitted. A checklist will be provided to any Host on what information is required as part of that process.

- 5.1.1 An application will be rejected where all required evidential documentation in the checklist has not been submitted along with the application. Where additional documentation is required to be submitted after an application is deemed to be fully submitted and accepted under 5.2 below, the Authority will advise the applicant of this directly. Failure to submit the required document within the timescale notified by the Council will result in the application being rejected and returned.

5.1.2 In both cases under 5.1.1, the payment made for application will not be refunded.

- 5.2 An application will be deemed to be fully submitted when all the required evidential documentation is provided for along with a fully completed application form. Supporting submissions from third party accreditation sources will be accepted as part of this process, such as bodies the host may be part of, for example, Quality in Tourism or Visit Scotland.
- 5.3 Under the terms within the Order, any host applying must display a notice for a period of 21 days beginning with the date on which the application was submitted to the Authority at or near the premises so that it can be conveniently read by the public.
- 5.4 The notice shall state that an application has been made for a licence, the main facts of the application, that objections and representations in relation to the application may be made and how to make those objections or representations. To assist with this, a template of the Notice will be made available to the applicant when an application is submitted.
- 5.5 As part of the application process, Hosts are also required to certify compliance that they have displayed the site notice as soon as possible after the 21 days has expired. To assist with this, a template will be provided to the applicant once an application is submitted.
- 5.6 As part of the application process, we will be required to engage with key stakeholders and as such, any submitted application can be forwarded to be considered by any of the following:
- Police Scotland
 - Scottish Fire and Rescue Service
 - Planning Service
 - Environmental Health
 - Building Standards
 - Waste Management
 - Anti-Social Behaviour Team
- 5.7 An intelligence risk-based approach will be used when considering the level of scrutiny on an application. For example, as part of application process, digital submission of supporting evidence will be encouraged, such as photos, videos as well as documentation. The authority will have the right to visit any location and may choose to mandate that visits be carried out where a higher number of Short Term Let are present, or that intelligence received would encourage further scrutiny on the suitability of the property.
- 5.8 When considering the suitability of a property, we want to ensure that the property is safe, of good quality and has sufficient access to facilities for the occupants staying. The following will be taken into account when considering:
- The location, the type and the character of the accommodation

- The condition of the accommodation, with at minimum meeting the Repairing Standard
- Available facilities within the accommodation
- Proposed occupancy levels
- The safety and security of people likely to be staying
- The possibility of undue public nuisance, public order or public safety
- Where there is a risk of affecting the privacy and safety of neighbours

5.9 Occupancy levels will be based on how many bedrooms are available within a property and numbers will not include children under the age of 10. Hosts will need to ensure accurate occupancy of a let as part of their licence conditions. The following guide can be used; however applications can be discussed on a case by case basis:

Bedroom size	Number of guests
1 bedroom (single)	1
1 bedroom (double)	2
2 bedroom (1 single + 1 double)	3 (excluding children under 10)
2 bedroom (2 double)	4 (excluding children under 10)

6. Objections and Representation

6.1 Any member of the public, neighbour or surrounding resident will be able to submit an objection or representation to any proposed Short Term Let Licence application within an area.

6.2 For an objection or representation to be considered it must be submitted to the Authority in writing (email would be preferred), it must specify the grounds of the objection or state the nature of the representation. The name and address of the person making the submission must be given as well as being signed by them, or on their behalf. Finally, it must also be received by the Authority within 28 days from when the notice of application has been displayed. Further guidance will be made available on the Councils website along with information on how to submit an objection

6.3 Any anonymous objection or representation will not be considered

6.4 If an objection or representation is received late, and outside the 28-day period required, this would be considered on a case-by-case basis as whether the submission would be allowed, depending on the circumstances of the late submission.

6.5 Competent grounds for objection to a licensing application include:

- Concerns that an application is inaccurate or misleading
- Concerns about the safety of guests, neighbours, or others
- Concerns about noise or nuisance; and

- Concerns that the application runs contrary to other legal or contractual requirements

6.6 Having poor relations with a host, or not liking Short Term Lets in general would-be examples of invalid grounds for objections, and where an objection does not meet the grounds of 6.5, they can be disregarded.

7. Determining a STL Application

For the avoidance of doubt, determination of a STL application includes the refusal to consider an application (see clause 4.1 above); or the grant of an application; or the refusal of an application.

7.1 Determining where no Objection or Representation

7.1.1 All named parties (Hosts/Managing Agents/Board) will be subject to a Fit and Proper person check carried out by Police Scotland who will carry out background checks and advise. Further statutory checks will also be carried out on the premises as is necessary.

7.1.2 Should there be no adverse comments, or any comments do not bring into question the ongoing fit and properness of the applicants, the application will be determined under delegated authority of the authorised officer.

7.1.3 Where an application is deemed incomplete under clause 5.1.1 above, the application will be rejected and returned under delegated authority of the authorised officer.

7.1.4 Under the 1982 Act, the authority will have 9 months to determine the Short Term Let licence application from the date it is received with all the required documentation. However, for applications received prior to 1 April 2023 where the Short Term Let was in existence before 1 October 2022, the authority will have 12 months to determine the application. The authority will, where possible, attempt to prioritise new applications where hosts are not able to let until they are determined however this will be resource and demand dependent.

7.2 Determining where delegated approval cannot be made.

7.2.1 If the application receives adverse objections/representation or feedback which requires further scrutiny, the application will be referred to the Council's Regulatory Panel made up of Elected Members for determination.

7.2.2 Both the applicant and person or persons who have objected or made representation will be invited to this panel to state why their application should be approved, or why the objections or representation are valid. Both parties would be given at least 14 days' notice of the Regulatory Panel hearing. Further information will be provided on how a hearing will be conducted.

7.2.3 The Regulatory Panel will be able to ask questions of all parties as well as representatives from stakeholders and will come to a determination on the application. Grounds for refusing an application include:

- Anybody being named on the application being disqualified from holding a licence
- Anybody named on the application not being a fit and proper person.
- Some other persons would benefit from this activity who would be refused a licence if they had applied themselves
- The premises is not suitable or convenient having regard to: -
 - The location, character, or condition of the premises.
 - The nature and extent of the proposed activity
 - The kind of person likely to be in the premises
 - The possibility of undue public nuisance; or
 - Public order or public safety; or
- There is other good reason to refuse (cannot be applied in a blanket fashion and must be relevant to that case)
- Unable to demonstrate, or secure compliance of mandatory licence conditions
- Unable to secure compliance of any other conditions the authority would seek to apply on a particular licence.

7.2.4 Applications will be heard in public unless required to be taken privately on the grounds of disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.

7.2.5 Should an application be refused, an applicant will not be able to reapply for a licence in the area within one year of that decision, unless there has been a material change in circumstances since the application was refused. Evidence of such, may be required as part of any fresh application.

8. Right of Appeal

8.1 An applicant can appeal a negative decision by summary application to the sheriff. This must be done within 28 days from the date of the authority's decision, unless good reason is given for being late. The sheriff would decide on whether to consider a late application.

8.2 The sheriff may uphold an appeal if they consider that the authority, in arriving at a decision has erred in law, or that the decision not to approve application is based on incorrect material fact, that the authority has acted contrary to natural justice or have exercised their discretion in an unreasonable manner.

8.3 Where the sheriff upholds an appeal, they may ask the authority to reconsider the decision made or change the decision as part of their determination.

8.4 Parties should consider their own independent legal advice in relation to an appeal.

9. Licence Duration and Renewal

9.1 Licence Duration

9.1.1 A licence duration will apply from the date on which the licence comes into force. This will be noted on the licence which will also note the expiry date.

9.1.2 A licence will be effective:

- For a period of 3 years from the date the licence comes into force, or
- For a shorter period, where the authority determines otherwise when granting a licence taking into account the provisions of this policy. The authority will set out their reasons for a shorter period when issuing the licence.

9.2 Licence Renewal

9.2.1 When an application to renew a licence is made prior to the expiry of the current one, the existing licence will continue until such time a decision is made on the renewal application.

9.2.2 Scottish Government guidance promotes that unless there are good reasons to, licences should be renewed for a period of 3 years. It would also not be anticipated that renewing licences would be renewed for a period of more than 3 years.

10. Mandatory and Additional Licence Conditions

10.1 The Licensing Order outlines several mandatory conditions which will apply to all Short Term Lets within Scotland and should be noted on the licence itself. Those conditions can be found at appendix 1.

10.2 In addition to the mandatory conditions which are required to be met by all Short Term Lets, authorities can impose additional conditions to a licence. These conditions will be relevant to that Short Term Let and be used to mitigate any local challenges or concerns that may be experienced. A list of additional conditions can be found at appendix 2. It is proposed that all additional conditions will be applied where appropriate to short term lets operating in South Ayrshire

11. Temporary Licences

- 11.1 The authority has the power to grant temporary licences, for a short period of time of no more than 6 weeks and would be applicable where a host only intends to utilise their property as a short term let for one of big events (such as the Open Championship) or wishes to trial a potential short term let before applying for a full licence.
- 11.2 Whilst a temporary licence cannot be renewed, should a host decide to then apply for a full short term let licence, any temporary licence that had been awarded will continue until a full determination is made. Costs would be applicable in that instance for both the temporary licence and the full licence.
- 11.3 Hosts and operators granted a temporary licence will be expected to adhere to all mandatory and additional conditions that apply to the short term let.

12. Temporary Exemptions

- 12.1 At this time, the authority will not embark on issuing temporary exemptions for short term lets. This will be reviewed after a period of 3 years.

13. Enforcement and Continued Compliance.

13.1 Complaints about Licensed Short Term Lets

- In the first instance, any guest or neighbour should try to resolve any complaint regarding a Short Term Let by approaching either the Host/Letting Agent or the platform used to advertise the let. Should there be no resolution forthcoming the authority would become involved. The Council accepts this may not always be possible and where a complainer has been unable to contact a host for good reason, we would not refuse to investigate the complaint.
- The authority will consider any complaint or information which may bring into question the fit and properness of the host or other, the suitability of the Short Term Let or any potential breach of licence condition. The Council will aim to respond to complaints within 5 working days and more complex complaints within 20 working days. Where required, complaints may be passed onto other services for input, such as Police Scotland, Scottish Fire and Rescue etc.
- Details of the complaint should be provided in writing to Shorttermlets@south-ayrshire.gov.uk or by post to:
 - Short Term Let Licencing, Riverside House, 21 River Terrace, Ayr, KA8 OAU
 - Examples where a complaint may be valid include:
 - The number of people staying in a property;
 - Noise, disturbance or instances of anti-social behaviour;

- Issues around maintenance, guests in common areas and accumulation of refuse; or
- Suspected unlicensed short term lets.
- Complaints re quality of guest stay or disputes re agreements between guest and the host, would not be applicable for consideration as this is outside the scope of the licensing scheme.
- Records will be kept of any complaints regarding a host/owner/ agent or property and could be used in any re-determination of the continued suitability of the host or the property as a short term let.

13.2 Enforcement of Licensed Short Term Let

- If a complaint cannot be resolved, the authority may have grounds to take further enforcement action against a licensed Short Term Let. This may involve the inclusion of additional conditions upon a licence and/or the issuing of an enforcement notice. The authority may also consider whether there are grounds to refer a licence to Regulatory Panel for consideration on suspending or revoking the licence.
- [If complaints are extremely serious, the authority may seek pursuing of a prosecution.]
- Should an enforcement notice be served, it must clearly set out the reasons a breach has occurred, what requires to be done to resolve this breach and by which date this matter must be resolved. A failure to provide a remedy may result in further enforcement action being taken, such as seeking to have the licence suspended or revoked.
- Where a visit is carried out to the let property following a complaint and where it results in a determination that there has been a breach of licence conditions, the licence holder may be charged a fee for the visit.

13.3 Unlicensed Short Term Let

- With the introduction of regulation, it will become a criminal offence to conduct short term let activity without having a licence or without having a reasonable excuse to be unlicensed.
- As referenced in section 2, the Scottish Government have provided information on important dates that authorities, hosts, and agents acting on behalf of should give due regard to. A summary explains that.
 - From 1st October 2022, New Hosts cannot accept bookings or operate a short term let until a licence application has been determined.
 - Existing hosts must apply for a licence by the 1st of April 2023 at the latest.

- Existing hosts operating before the 1st of October 2022 will be allowed to continue hosting whilst an application is being determined and it was submitted prior to 1st April 2023.
- By 1st July 2024 all short term let should be licensed, and hosts should not operate if not determined by this point.
- The authority will manage and maintain a public register of all short term lets licensed in its area. This register will be made available and will be reported to the Scottish Government on a quarterly basis.

13.4 Other Compliance Considerations

- All hosts will receive a unique licence number upon approval. They will be responsible for ensuring this is provided as part of any advert relating to their short term let.
- Hosts and those managing property on their behalf will be responsible for ensuring continued compliance with all mandatory and additional conditions within a licence. Any failure to comply may result in enforcement action and may constitute a criminal offence.
- The licence holder will be responsible for ensuring the details of the licence are kept up to date. It will be a breach of such and may constitute a criminal offence not to notify the authority of a material change in circumstances.
- The authority has the power to carry out site visits as part of the application process, or during a licence as well as ask for up to date relevant paperwork at any time to ensure continued compliance.

14. Suspension or Revocation of Licence

14.1 If upon receipt of a complaint, that has been found to be true, or a breach of licence condition or other, the authority can seek to suspend or revoke the licence.

14.2 The grounds for suspension or revocation may include but are not limited to the following:

- the licence holder is no longer a fit and proper person to hold the licence.
- the licence holder is managing the property on behalf of someone who would have been refused the grant or renewal of the licence.

- the short-term let is causing or is likely to cause undue public nuisance or a threat to public order or public safety; or
- a condition of the licence has been contravened.

14.3 Where the authority revokes a licence, no further application can be made by that host or operator in the area within one year of the date of revocation.

15. Variation of Licence

15.1 At any point through the duration of a short term let licence, the licence holder may make a request to the Council for a variation to the licence. There will be no requirement for this variation to be advertised, however the authority would consult with stakeholders as mentioned in 5.6. A charge will be applicable.

15.2 Examples of where a request to vary a licence would be applicable include:

- New owner/host or managing agent operating the let
- Requesting to amend the occupants within a licence
- Any changes to the structure of a property.

16. Equality

16.1 The 2010 Act introduced a new public sector equality duty which requires public authorities to try and eliminate discrimination; promote equality and good relations across a range of protected characteristics.

16.2 Prior to the Cabinet making the decision to on the short term let policy an equality impact assessment will be undertaken. This can be viewed [insert once finalised]

17. Fees

17.1 Authorities are required to charge fees in respect of processing and determining, the consideration of applications, the issue of duplicate licences and other matters. They must ensure that the fees are sufficient to cover their administrative expenses and are reviewed periodically

17.2 Fees will be non-refundable due to the costs incurred to the authority in the determination of the licence application

17.3 Fees for a short term let licence will vary dependant on the type of licence being applied for and the maximum occupancy.

17.4 Fees are proposed as.

New Licence	Max Occupancy (up to 4)	Max Occupancy (5 or more)
Secondary Let	£250.00	£400.00
Home sharing or Home Letting (or both)	£125.00	£250.00

Renewal Licence	Max Occupany (up to 4)	Max Occupany (5 or more)
Secondary Let	£200.00	£350.00
Home Sharing or Home Letting (or both)	£75.00	£200.00

Othe Applicable Fees	Cost
Temporary licence	£100.00
Variation	£75.00
Replacement/Duplicate licence	£50.00

Appendix 1 – Mandatory Conditions.

Agents

1. Only those named as a holder of the licence can carry out the day-to-day management of the short-term let of the premises.

Type of licence

2. The holder of the licence may only offer the type of short-term let for which the licence has been granted.

Fire safety

3. The holder of the licence must ensure the premises has satisfactory equipment installed for detecting, and for giving warning of—

- (a) fire or suspected fire, and
- (b) the presence of carbon monoxide in a concentration that is hazardous to health.

4. The holder of the licence must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988

Gas safety

5. Where the premises has a gas supply—

- (a) the holder of the licence must arrange for an annual gas safety inspection of all gas pipes, flues, and appliances in the premises,
- (b) if, after an annual inspection, any appliance does not meet the required safety standard, the holder of the licence must not allow a short-term let of the premises until the works necessary to bring the appliance to the required safety standard have been carried out.

Electrical safety

6. Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the holder of the licence must—

- (a) ensure that any electrical fittings and items are in—

- (i) a reasonable state of repair, and
 - (ii) proper and safe working order,
- (b) arrange for an electrical safety inspection to be carried out by a competent person at least every five years or more frequently if directed by the competent person,
- (c) ensure that, following an electrical safety inspection, the competent person produces an Electrical Installation Condition Report on any fixed installations,
- (d) arrange for a competent person to—
- (i) produce a Portable Appliance Testing Report on moveable appliances to which a guest has access, and
 - (ii) date label and sign all moveable appliances which have been inspected.

7. In determining who is competent, the holder of the licence must have regard to guidance issued by the Scottish Ministers under section 19B (4) of the Housing (Scotland) Act 2006(2).

Water safety: private water supplies

8. Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017

Water safety: legionella

9. The holder of the licence must assess the risk from exposure to legionella within the premises, whether the premises are served by a private water supply.

Safety & repair standards

10.(1) The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.

(2) Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the holder of the licence must ensure that the premises meet the repairing standard.

Maximum Occupancy

11. The licence holder must ensure that the number of guests residing on the premises does not exceed the number specified in the licence.

Information to be displayed

12. The holder of the licence must make the following information available within the premises in a place where it is accessible to all guests—

- (a) a certified copy of the licence and the licence conditions,
- (b) fire, gas, and electrical safety information,

- (c) details of how to summon the assistance of emergency services,
- (d) a copy of the gas safety report,
- (e) a copy of the Electrical Installation Condition Report, and
- (f) a copy of the Portable Appliance Testing Report.

Planning Permission

13. Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”), the holder of the licence must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either—

- (a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or
- (b) planning permission under the 1997 Act is in force.

Listings

14.(1) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises includes—

- (a) the licence number, and
- (b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008

(2) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises is consistent with the terms of the short-term let licence.

Insurance

15. The holder of the licence must ensure that there is in place for the premises—

- (a) valid buildings insurance for the duration of the licence, and
- (b) valid public liability insurance for the duration of each short-term let agreement.

Payment of fees

16. The holder of the licence must pay any fees due to the licensing authority in respect of the licence on demand.

False or misleading information

17. The holder of the licence must not provide any false or misleading information to the licensing authority.

Interpretation

18. In this schedule—

“Electrical Installation Condition Report” means a report containing the following information—

- (a) the date on which the inspection was carried out,
- (b) the address of the premises inspected,
- (c) the name, address and relevant qualifications of the person who carried out the inspection,
- (d) a description, and the location, of each installation, fixture, fitting, and appliance inspected,
- (e) any defect identified,
- (f) any action taken to remedy a defect,

“Energy Performance Certificate” means a certificate which complies with regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008,

“Gas safety report” means a report containing the following information—

- (a) the date on which the appliance or flue was checked,
- (b) the address of the premises at which the appliance or flue is installed,
- (c) a description of and the location of each appliance or flue checked,
- (d) any safety defect identified,
- (e) any remedial action taken,
- (f) confirmation that the check undertaken complies with the requirements of an examination of—
 - (i) the effectiveness of any flue,
 - (ii) the supply of combustion air,
 - (iii) subject to head
 - (iv), its operating pressure or heat input or, where necessary, both,
 - (iv) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,
 - (v) its operation so as to ensure its safe functioning,
 - (g) the name and signature of the individual carrying out the check, and
 - (h) the registration number with which that individual, or that individual’s employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998,

Appendix 2 – Additional Conditions

Anti-Social Behaviour

1. The licence holder must take reasonable steps to manage the premises in such a way as to seek to prevent and deal effectively with any antisocial behaviour by guests to anyone else in the short-term let and in the locality of the short-term let.
2. The licence holder must take reasonable steps to:
 - ensure that no disturbance or nuisance arises within or from the premises, for example by explaining the house rules to the guests.
 - deal effectively with any disturbance or nuisance arising within or from the premises, as soon as reasonably practicable after the licence holder is made aware of it; and ensure any vehicles belonging to guests are parked lawfully, for example explaining where any designated parking spaces are to be found and highlighting any local rules.

Privacy and Security

1. The licence holder must manage the premises in such a way as to respect and protect the privacy and security of neighbours.
2. The licence holder must ensure:
 - guests know and understand any rules applying to shared areas and entrances.
 - guests understand that shared doors should be properly and securely closed after use; and the provision of access codes or keys to guests cannot be used by guests to gain access to shared areas after they have finally departed.
 - Guests are aware if private parking bays are in use and avoid using other spaces than those dedicated to the short term let.

Noise

1. The licence holder must ensure that the bedrooms, living room and hallway in the premises are carpeted. **(This condition may be imposed in instances of flatted accommodation with pre-existing laminate flooring where complaints received regarding noise)**
2. The licence holder must ensure that noise monitoring equipment [of type x] is maintained in full working order [in location y] and that the maximum reading does not exceed [a] decibels between 7 am and 11 pm, nor [b] decibels between 11 pm and 7 am. **(this condition may be imposed following**

investigation or through representation at application stage of issues of noise from a particular property)

3. The licence holder must take reasonable steps to ensure that guests do not first arrive or finally depart from the property between the hours of 11 pm to 7 am. The licence holder must advise guests of this as part of their booking terms and conditions.

(Note: “reasonable steps” allows for exceptions, such as significantly delayed transport.)

4. Where properties are located in blocks of accommodation, with shared access and communal areas, steps should be taken to install door closures to reduce noise from doors unduly causing a disturbance.

5. Licence holders must take steps to ensure guests to not play amplified music after the hours of 11pm within the property and any external garden areas if provided. (this condition may be imposed following investigations into noise complaints or at application stage of a particular property.)

4.

Littering and Waste Disposal

1. The licence holder must provide adequate information on, and facilities for, the storage, recycling, and disposal of waste.

2. The licence holder must advise guests of:

- their responsibilities.
- the use of the bins / sacks provided for the premises; and
- the location of the nearest recycling centre or recycling point.

3. The licence holder must:

- clearly label bins as belonging to the premises.
- ensure that guests manage their waste in compliance with (2), including when they depart; and maintain the bin storage area and the exterior of the premises in a clean and tidy condition.

Damage to Property

1. The licence holder must not affix a key box, or other device to facilitate guest entry to the property, to any public or jointly owned private infrastructure without prior written permission of the relevant authority or owner(s). The licence holder must be able to produce the permission to the licensing authority on request.

Maintenance of Property.

1. Where there is a solid fuel appliance within the premises (i.e., wood burning stove), the holder of the licence shall ensure:

- i. the chimney/flue associated with the appliance is inspected and cleaned annually by a suitably competent person.

- ii. a record of the annual inspection and cleaning of the flue can be produced, on request by the Council
2. Where there is a hot tub provided at the premises, the holder of the licence shall ensure:
- i. that it is suitably located and maintained to ensure it can be safely operated and used by guests.
 - ii. that suitable and sufficient cleaning and disinfection procedures are in place.
 - iii. that guests are provided with clear instructions on its safe use and any restrictions on its use.
 - iv. that it is kept securely covered when not in use.

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