

# Notice of meeting and agenda

## Regulatory Committee

**10.00am, Monday, 7th August, 2023**

Dean of Guild Court Room - City Chambers

This is a public meeting and members of the public are welcome to attend or watch the webcast live on the Council's website.

### Contact

Email: [taylor.ward@edinburgh.gov.uk](mailto:taylor.ward@edinburgh.gov.uk) / [carolanne.eyre@edinburgh.gov.uk](mailto:carolanne.eyre@edinburgh.gov.uk)

## **1. Order of Business**

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- 1.1 Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

## **2. Declaration of Interests**

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- 2.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

## **3. Deputations**

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- 3.1 If any.

## **4. Minutes**

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- 4.1 Minute of the Regulatory Committee of 1 May 2023 – submitted for approval as a correct record 5 - 12

## **5. Rolling Actions Log**

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- 5.1 Rolling Actions Log 13 - 20

## **6. Business Bulletin**

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- 6.1 Regulatory Committee Business Bulletin 21 - 30

## **7. Executive Decisions**

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- 7.1 Licensing Income from Fees 2022/23 – Report by the Executive Director of Place 31 - 40
- 7.2 Short-term Lets Licensing Scheme - Update – Report by the Executive Director of Place 41 - 66

## **8. Routine Decisions**

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- 8.1 Licensing Performance Targets – Report by the Executive Director of Place 67 - 72

<b>8.2</b>	Late Hours Catering Enforcement – Report by the Executive Director of Place	73 - 76
<b>8.3</b>	No Cold Calling Zones in Edinburgh – Report by the Executive Director of Place	77 - 82

## **9. Motions**

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**9.1** None.

### **Nick Smith**

Service Director, Legal and Assurance

## **Committee Members**

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Councillor Neil Ross, (Convener), Councillor Jack Caldwell, Councillor Denis Dixon, Councillor Margaret Arma Graham, Councillor Martha Mattos Coelho, Councillor Joanna Mowat, Councillor Susan Rae, Councillor Val Walker and Councillor Norman Work

## **Information about the Regulatory Committee**

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The Regulatory Committee consists of 9 Councillors and is appointed by the City of Edinburgh Council.

This meeting of the Regulatory Committee is being held in the City Chambers, High Street, Edinburgh and virtually by Microsoft Teams.

## **Further information**

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If you have any questions about the agenda or meeting arrangements, please contact Taylor Ward, Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, email [taylor.ward@edinburgh.gov.uk](mailto:taylor.ward@edinburgh.gov.uk) / [carolanne.eyre@edinburgh.gov.uk](mailto:carolanne.eyre@edinburgh.gov.uk)

A copy of the agenda and papers for this meeting will be available for inspection prior to the meeting at the main reception office, City Chambers, High Street, Edinburgh.

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# Minutes

## Regulatory Committee

10.00am, Monday 1 May 2023

### Present

Councillors Ross (Convener), Caldwell, Dalgleish, Dixon, Fullerton, Mattos Coelho, Meagher (substituting for Labour Group vacancy), Mowat and Rae.

### 1. Minutes

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#### Decision

- 1) To approve the minute of the Regulatory Committee of 6 February 2023 as a correct record.
- 2) To approve the minute of the Regulatory Committee of 13 March 2023 as a correct record.

### 2. Rolling Actions Log

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The Rolling Actions Log for May 2023 was presented.

#### Decision

- 1) To agree to close the following actions:
  - Action 1 Licensing Policy Development – Street Trading Update
  - Action 3 (1&2) – Age Limitation and Emissions Standards for Taxis and Private Hire Cars Update
  - Action 4 – Business Bulletin – Briefing Session on the Low Emissions Zone
  - Action 6 – Taxi Fares Review 2023

- 2) To note the remaining outstanding actions.

(Reference – Rolling Actions Log, submitted.)

### 3. Regulatory Committee Business Bulletin

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The Regulatory Committee Business Bulletin for May 2023 was presented.

#### Decision

- 1) **Card Payments in Taxis** – to note that Legal Services would revisit the advice provided to Committee on making acceptance of card payments in taxis mandatory and report back on the outcome of this reconsideration.

- 2) **Licensing Workload** – to record Committee’s thanks to the Licensing Staff Team for their hard work and efforts towards eliminating the post-Covid backlog of applications.
- 3) **Driver Skills Development Training Programme** – to note the intention to extend the training programme to existing drivers once the course had obtained the relevant accreditation.
- 4) To otherwise note the Business Bulletin.

(Reference – Business Bulletin, submitted.)

#### **4. Sexual Entertainment Venues (SEVs): Update Following Judicial Review**

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The Air Weapons and Licensing (Scotland) Act 2015 added new sections to the Civic Government (Scotland) Act 1982, enabling local authorities to introduce a discretionary licensing system for sexual Entertainment Venues (SEVs).

On 31 March 2022, the Council resolved to licence SEVs in terms of section 45B and Schedule 2 of the 1982 Act with an initial implementation date of 1 April 2023.

As a result of a Judicial Review of the SEV licensing policy in the Court of Session where the Court had found against the Council in favour of the petitioners, the Regulatory Committee had postponed the implementation date to 31 December 2023.

It was proposed to carry out a statutory consultation over a period of 12 weeks to seek community and business views on what the appropriate number of SEVs should be for Edinburgh and for each relevant locality within the city. The consultation would also seek views on the existing SEV policy statement and conditions framework.

#### **Motion**

- 1) To agree to carry out a statutory consultation process to seek community and business views on:
    - i) what the appropriate number of Sexual Entertainment Venues (SEVs) for Edinburgh should be.
    - ii) what the appropriate number of SEVs for each relevant locality within the city should be.
    - iii) the existing SEV policy statement and conditions framework.
  - 2) To note the update on the legal costs incurred in respect of the Judicial Review of the existing SEVs.
- moved by Councillor Ross, seconded by Councillor Caldwell

#### **Amendment 1**

- 1) To agree to carry out a statutory consultation process to seek community and business views on:
  - i) what the appropriate number of Sexual Entertainment Venues (SEVs) for Edinburgh should be.

- ii) what the appropriate number of SEVs for each relevant locality within the city should be.
  - iii) the existing SEV policy statement and conditions framework.
- 2) To note the update on the legal costs incurred in respect of the Judicial Review of the existing SEVs.
  - 3) To note it was regretful that, at the Regulatory Committee on 31 March 2022, despite the legal advice given to Committee which they did not heed, and the risk of the Council being taken to a Judicial Review, the Labour Group along with their Conservative colleagues voted against Sexual Entertainment Venues. Additionally, neither Labour nor Conservative Councillors gave any thought for the consequences this vote would have on those working in this industry.
  - 4) To note the Judicial Review held on 10 February 2023 found against the Council and as a result the cost for defending this decision amounted to circa £117,000, money that could have been spent on Council services.
  - 5) To thank officers for the great deal of additional work they undertook as a result of defending a case which was doomed to be a failure.
- moved by Councillor Fullerton, seconded by Councillor Rae

#### **Amendment 2**

- 1) To agree to carry out a statutory consultation process to seek community and business views on:
    - i) what the appropriate number of Sexual Entertainment Venues (SEVs) for Edinburgh should be.
    - ii) what the appropriate number of SEVs for each relevant locality within the city should be.
    - iii) the existing SEV policy statement and conditions framework.
  - 2) To note the update on the legal costs incurred in respect of the Judicial Review of the existing SEVs.
- moved by Councillor Mowat, seconded by Councillor Dalgleish

In accordance with Standing Order 22(12), Amendment 1 was accepted as an addendum to the motion.

#### **Voting**

For the motion (as adjusted): 6 votes

For Amendment 2: 3 votes

(For the motion (as adjusted) – Councillors Caldwell, Dixon, Fullerton, Mattos Coelho, Rae and Ross.

For Amendment 2 – Councillors Dalgleish, Meagher and Mowat.)

## Decision

To approve the following adjusted motion by Councillor Ross:

- 1) To agree to carry out a statutory consultation process to seek community and business views on:
  - i) what the appropriate number of Sexual Entertainment Venues (SEVs) for Edinburgh should be.
  - ii) what the appropriate number of SEVs for each relevant locality within the city should be.
  - iii) the existing SEV policy statement and conditions framework.
- 2) To note the update on the legal costs incurred in respect of the Judicial Review of the existing SEVs.
- 3) To note it was regretful that, at the Regulatory Committee on 31 March 2022, despite the legal advice given to Committee which they did not heed, and the risk of the Council being taken to a Judicial Review, the Labour Group along with their Conservative colleagues voted against Sexual Entertainment Venues. Additionally, neither Labour nor Conservative Councillors gave any thought for the consequences this vote would have on those working in this industry.
- 4) To note the Judicial Review held on 10 February 2023 found against the Council and as a result the cost for defending this decision amounted to circa £117,000, money that could have been spent on Council services.
- 5) To thank officers for the great deal of additional work they undertook as a result of defending a case which was doomed to be a failure.

(References – Regulatory Committee 13 March 2023 (item 1); report by the Executive Director of Place, submitted)

## 5. Review of Taxi Fare Structure – Outcome of Consultation

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On 6 February 2023, Committee had agreed that the proposed revised taxi fare scales be advertised for public consultation under section 17(2) of the Civic Government (Scotland) Act 1982.

The proposed changes to the taxi fare scale reflecting the feedback received were submitted.

## Decision

- 1) To note the report by the Executive Director of Place and that the Council's statutory duties had been met in relation to the consultation.
- 2) To note the representations received during the statutory public consultation period as attached at Appendix 3 of the report.
- 3) To agree the fare changes, as set out in paragraph 4.2, to fix the taxi fare scales (Appendix 2) with an effective date of 9 June 2023.



- 4) To note that, following the determination of the fare charges by the Committee, officers would carry-out the statutory notification procedures for the revised taxi fare scales.

(References – Regulatory Committee 6 February 2023 (item 6); report by the Executive Director of Place, submitted)

## **6. Short Term Let Licensing Policy – Minor Updates**

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The Committee had previously agreed a Policy and Conditions with respect to Short Term Lets in the City of Edinburgh.

Minor typographical errors had been identified in the Policy and approval was sought to rectify these in advance of the forthcoming hearing on the Policy. No further changes to the Policy were proposed.

### **Decision**

- 1) To note the report by the Executive Director of Place.
- 2) To agree the minor amendments to the Short Term Lets Licensing Policy described in paragraphs 4.1 and 4.3 of the report.

(References – Regulatory Committee 29 September 2022 (item 4); report by the Executive Director of Place, submitted)

## **7. Licensing Policy Development – Street Trading Update**

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An update was provided on proposals for street trading and market operator licensing with the city and specifically the city centre.

### **Decision**

- 1) To note the report by the Executive Director of Place.
- 2) To note that the completion of works at the National Galleries of Scotland had been delayed until 2024 and that further work would be undertaken by the Council officers in relation to the wider plans for the use of Mound Precinct and Playfair Steps following the completion of the construction works.
- 3) To continue the current arrangement preventing street trading on the High Street and Hunter Square until a review was carried out.
- 4) To agree to consult on the current trading policy with emphasis on the issues identified in paragraph 4.2 of the report.
- 5) To note that a further report would be submitted to Committee.

(References – Regulatory Committee 18 January 2021 (item 5); Culture and Communities Committee 13 December 2022 (item 1); report by the Executive Director of Place, submitted)

## 8. Food Health and Safety Business Plan 2023-24

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The annual Food Health and Safety Business Plan for 2023-24 was submitted. The format and content of the Plan relating to food was governed by the Framework Agreement on Local Authority Food Law Enforcement.

Members received a presentation from officers detailing the overall work and responsibilities of the Environmental Health service.

### Decision

- 1) To note the report and that the Business Plan would be submitted to Food Standards Scotland when requested.
- 2) To note the challenges recruiting Environmental Health Officers which had led to a lower rate per population than the Scottish average, therefore to request an update in the Business Bulletin in two cycles outlining the steps being taken to train and recruit more students.

(Reference – report by the Executive Director of Place, submitted)

## 9. Trusted Trader Scheme Annual Report

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An overview was provided on the Edinburgh Trusted Trader Scheme. The Scheme had been introduced in Edinburgh to increase consumer protection by providing access to vetted traders who agreed to comply with agreed complaint resolution processes.

Members received a presentation from officers highlighting the work undertaken by the Service.

### Decision

To note the report.

(Reference – report by the Executive Director of Place, submitted)

## 10. Changes to Legislation on the Sale and Use of Fireworks in Scotland – referral from the Culture and Communities Committee

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The Culture and Communities Committee had referred a report on the changes to legislation on the sale and use of fireworks in Scotland to this Committee to consider if any relevant outputs from the report should be included within the further update report requested for Autumn 2023 on the changes and implications for the City of Edinburgh Council.

### Decision

- 1) To note the report.
- 2) To include an update in the next Business Bulletin on costs to the Council of administering the provisions of the new Scottish Government legislation.

(Reference – referral report from the Culture and Communities Committee 13 December 2022 (item 11), submitted)

## 11. Motion by Councillor Ross – Hire Trade Age Policy

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The following motion by Councillor Ross was submitted in terms of Standing Order 17(1):

“Committee notes:

1. The previous representations it has received from representatives of the taxi and private hire car trades concerning the high demand for, and low supply of, second-hand Euro 6 standard taxis and the high cost of new and second-hand electric vehicles.
2. There were 259 Euro 5 taxis and 268 Euro 5 PHCs in Edinburgh, representing respectively 20% and 13% of the total numbers, along with 761 Euro 6 taxis and 1,227 Euro 6 PHCs, representing respectively 60% and 59%, as recorded in the report presented to committee in November 2022.
3. Euro 5 taxis, that have been retrofitted via a Clean Vehicle Retrofit Accreditation Scheme (CVRAS) approved by the Energy Saving Trust, will be able to enter Edinburgh’s Low Emission Zone without penalty when enforcement starts on 1 June 2024, as outlined in the Business Bulletin presented to committee in February 2023.
4. Euro 6 vehicles will start being impacted by the 10-year age limitation in 2024.
5. There are a number of issues, in addition to those listed above, which are likely to have an impact on the number of taxis and PHCs in the next few years, such as the availability of vehicles capable of carrying wheelchair passengers.

Committee therefore agrees:

6. For the temporary period only from 1 May 2023 to 30 April 2024 inclusive (“the relevant period”), to amend standard condition 256 of the Council’s standard conditions for the holders of existing taxi licences to permit the use of Euro 6 vehicles, and CVRAS retrofitted Euro 5 vehicles, less than 15 years old to be licensed as taxis. Accordingly, such a licensed vehicle submitted for test during the relevant period in respect of renewal of a taxi licence prior to the 14th anniversary of its registration may continue to operate as a taxi.
7. For the temporary period only from 1 May 2023 to 30 April 2024 inclusive, (“the relevant period”) to amend standard condition 303 of the Council’s standard conditions for existing PHC licences to permit the use of Euro 6 vehicles, less than 15 years old to be licensed as private hire cars (PHCs). Accordingly, a licensed vehicle submitted for test during the relevant period in respect of renewal of a PHC licence prior to the 14th anniversary of its registration may continue to operate as a PHC.
8. That there will be no change to the requirement to meet the relevant Euro Standard, notwithstanding the temporary amendment to conditions outlined above.
9. To ask officers to engage with the hire car trade to discuss these issues along with possible solutions and any possible licensing responses and to bring a report to committee in four cycles.

10. To ask the Convener to write to the Scottish Government to seek engagement on vehicle age and emission issues as they apply to the hire car trade.”

- moved by Councillor Ross, seconded by Councillor Caldwell

A joint written submission from Central Taxis, City Cabs (Edinburgh) Ltd, the Scottish Taxi Federation and Unite the Union as representatives of the taxi trade supporting the terms of the motion was also submitted.

### **Decision**

To approve the motion by Councillor Ross.

(Reference – joint written submission, submitted)

# Rolling Actions Log

## Regulatory Committee

07 August 2023

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
1	27.06.2022	<a href="#">Licensing Service Update and Draft Regulatory Committee Work Programme</a>	1) That the following items would be added to the Committee's workplan: a) to conduct a review of the Council's policy on parades and processions; b) to review the operation of the Scheme of Delegation as it applies to licensing matters.	Executive Director of Place	June 2023		<b>Recommended for Closure</b>  Report on agenda for this meeting.
			2) That the Executive Director of Place will report back to Committee in one year with an update on progress.	Executive Director of Place	August 2023		<b>Recommended for Closure</b>  Report on agenda for this meeting.

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
2	21.11.2022	<a href="#">Age Limitation and Emissions Standards for Taxis and Private Hire Cars – Update</a>	3) To request officers review whether changes may be required in the wording of taxi conditions, and elsewhere, to accommodate the conversion of the engines of taxi and Private Hire Cars to electric.	Executive Director of Place	May 2023	1 May 2023	<b><u>Update August 2023</u></b> Update provided in Business Bulletin for this meeting
3	06.02.2023	<a href="#">Response to Motion by Councillor Younie - Sexual Entertainment Venues</a>	To instruct officers to prepare for a statutory twelve week consultation to review the Licensing Policy on Sexual Entertainment Venues, in particular, the provision for a 'nil cap'. This consultation would be launched only after the court decision had been published and considered by elected members and officers at a subsequent meeting of the Regulatory Committee.	Executive Director of Place	July 2023	May 2023	<b>Recommended for Closure</b> Reports provided in March and May 2023 and consultation launched on 10 July 2023.

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
4	06.02.23	Motion by Councillor Neil Ross – Delay in Start Date for Short Term Lets Licensing	To request a report to the meeting of this committee prior to the summer recess in 2023 to consider the implications of the intended delay in the start date for the licensing of existing hosts being imposed on the Council by the Scottish Government.  (Full text available on agenda.)	Executive Director of Place	August 2023		<b>Recommended for closure</b>  <b><u>Update May 2023</u></b>  An update for members was included in the Business Bulletin for this meeting.  <b><u>Update August 2023</u></b>  A separate report is on the agenda for this meeting which addresses this action.
5	06.02.23	Houses of Multiple Occupation (HMO) – Raising Standards Motion Update	1) To agree to consult on the terms of a proposed Best Practice Guide for HMP licence holders and agents as at Appendix 4 of the report by the Executive Director of Place.	Executive Director of Place			

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
			<p>2) The consultation on the Best Practice Guide should include provisions designed to encourage:</p> <ul style="list-style-type: none"> <li>i) Improved neighbour notification of HMO licence applications, whether new or renewals.</li> <li>ii) Enhanced contact details being provided to neighbouring residents on an annual basis by including the names of both the landlord and the agent, if there is one, and the telephone number and email address of a named individual.</li> <li>iii) Better compliance with Council Waste</li> </ul>				



No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
			<p>policies by subcontractors acting on behalf of a landlord or agent to make appropriate arrangements with the Council or other collecting contractor for the disposal and/or uplift of any building materials, bulky items or other refuse which are inappropriate for residential waste streams.</p>				
5	01.05.23	Business Bulletin – Card Payments in Taxis	To note that Legal Services would revisit the advice provided to Committee on making acceptance of card payments in taxis mandatory and report back on the outcome of this reconsideration	Executive Director of Place			

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
6	01.05.23	Sexual Entertainment Venues (SEVs): Update Following Judicial Review	<p>To agree to carry out a statutory consultation process to seek community and business views on:</p> <ul style="list-style-type: none"> <li>i) what the appropriate number of Sexual Entertainment Venues (SEVs) for Edinburgh should be.</li> <li>ii) what the appropriate number of SEVs for each relevant locality within the city should be.</li> <li>iii) the existing SEV policy statement and conditions framework.</li> </ul>	Executive Director of Place	December 2023		<p><b><u>Update August 2023</u></b></p> <p>Consultation launched on 10 July 2023.</p>
7	01.05.23	Licensing Policy Development - Street Trading Update	1) To agree to consult on the current trading policy with emphasis on the issues identified in paragraph 4.2 of the report by the Executive Director of Place.	Executive Director of Place	Dec 2023		
			2) To note that a further report would be submitted to Committee.		April 2024		

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
8	01.05.2023	Food Health and Safety Business Plan 2023-24	To request an update in the Business Bulletin in two cycles outlining the steps being taken to train and recruit more students.	Executive Director of Place	October 2023		
9	01.05.2023	Changes to Legislation on the Sale and Use of Fireworks in Scotland – referral from the Culture and Communities Committee	To include an update in the next Business Bulletin on costs to the Council of administering the provisions of the new Scottish Government legislation	Executive Director of Place	August 2023		<b>Recommended for Closure</b> Update provided in the Business Bulletin.
10	01.05.23	Motion by Councillor Ross – Hire Trade Age Policy	1) To ask officers to engage with the hire car trade to discuss these issues along with possible solutions and any possible licensing responses and to bring a report to committee in four cycles.	Executive Director of Place	Feb 2024		
			2) To ask the Convener to write to the Scottish Government to seek		July 2024		<b><u>Update August 2023</u></b>

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
			engagement on vehicle age and emission issues as they apply to the hire car trade.				Letter to the Scottish Government sent July 2023.

# Business Bulletin


## Regulatory Committee

10.00am, Monday, 7 August 2023

Dean of Guild Court Room, City Chambers, High Street, Edinburgh



# Regulatory Committee

Convener:	Members:	Contact:
<p>Convener Councillor Neil Ross</p> 	<p>Councillor Jack Caldwell Councillor Denis Dixon  Councillor Margaret Graham Councillor Martha Mattos-Coelho Councillor Joanna Mowat Councillor Susan Rae Councillor Val Walker  Councillor Norman Work</p>	<p><a href="#">Taylor Ward</a> Committee Services</p>

Recent News	Background	Contact
<b>LICENSING</b>		
<p><b>Tax Conditionality</b></p> <p>Legislation is currently progressing through Parliament, and it is expected to receive Royal Assent over the summer. It is also expected that face to face checks for applicants will be extended to October 2023.</p> <p>HMRC has published revised guidance on tax conditionality.</p> <p><b>Applicants</b> First time: <a href="#">your-tax-responsibilities-when-applying-for-a-taxi-private-hire-or-scrap-metal-licence</a></p> <p><b>Renewal:</b> <a href="#">complete-a-tax-check-for-a-taxi-private-hire-or-scrap-metal-licence</a></p> <p><b>Licensing bodies</b></p> <p><b>First time:</b> <a href="#">tax-responsibilities-for-taxi-private-hire-or-scrap-metal-licence-applications</a></p> <p><b>Renewal:</b> <a href="#">confirm-a-tax-check-for-taxi-private-hire-or-scrap-metal-licence-applications</a></p> <p><b>Toolkit</b> <a href="#">To help stakeholders communicate what the tax check is and its purpose.</a></p>	<p>Tax conditionality is an additional tax check that needs to be carried-out when a licence holder applies to renew a licence. This check is carried-out by licence holders online via their HMRC account. They are then provided with a code to give to their licensing authority when applying for licence renewals. The Council will not be able to grant a licence without that being completed.</p>	<p><a href="#">Catherine Scanlin</a> Licensing Manager 0131 529 4208</p>
<p><b>Taxi Fares Review</b></p> <p>The most recent statutory review of the taxi fare tariff was completed when revised fares came into effect on <a href="#">9 June 2023</a>.</p> <p>The next review must be completed by December 2024. Procurement has commenced for a contractor to carry-out this work on the Council's behalf.</p>	<p>The Council, as Licensing Authority under the <a href="#">Civic Government Scotland (Act) 1982</a> is required to review and fix the scale of fares and other charges which may be used by taxis licensed within the city. There are no equivalent controls on fares charged</p>	<p><a href="#">Catherine Scanlin</a> Licensing Manager 0131 529 4208</p>

	by Private Hire Cars (PHCs).	
<p><b>Updated Taxi Best Practice Guide</b></p> <p>This updated guidance has been prepared to offer best practice advice to licensing authorities on a range of issues relating to the licensing of taxis, private hire cars and their drivers.</p> <p>The title has been updated to highlight that, as well as being for licensing authorities, it should be read by taxi and private hire car operators.</p> <p>The new guidance can be found <a href="#">Scottish Government Taxi and Private Hire Car Licensing Best Practice Guidance</a></p>	<p>The aim of the licensing regime, as set out in the <a href="#">Civic Government Scotland (Act) 1982</a> continues to be to ensure that taxi and private hire car customers have a safe, reliable and accessible service.</p> <p>A working group was set-up by the Scottish Government in 2022 to review the existing guidance.</p>	<p><a href="#">Catherine Scanlin</a> Licensing Manager 0131 529 4208</p>
<p><b>New licence plate supplier</b></p> <p>Following a successful bid, VIP-System Ltd were awarded the contract to supply all Taxi and Private Hire Licence Plates and ancillary Signs. The contract duration is two years, with two optional 12-month extension periods. The plates and brackets fitted to vehicles use security buttons (yellow) and the colour of the buttons can be changed annually. The plates have several sustainability benefits including:</p> <ul style="list-style-type: none"> <li>• The plates and the brackets are manufactured using recovered industrial plastic waste;</li> <li>• The plates are low profile so use less plastic than moulded counterparts;</li> <li>• Expired plates can be securely disposed of on-site (by the Taxi Examination Centre) using a standard office shredder, in turn eliminating the related fuel consumption and carbon emissions; and</li> <li>• All materials to be supplied are 100% recyclable and biodegradable.</li> </ul> <p>The first plates were fitted at the beginning of May 2023.</p>	<p>Taxi Examination Centre undertakes an annual vehicle compliance test on the City of Edinburgh Council's, Midlothian Council and West Lothian Council's licensed taxis and PHCs.</p> <p>After the vehicle compliance test, the Taxi Examination Centre prepares vehicle licence plates for fitting to the vehicle.</p>	<p><a href="#">Catherine Scanlin</a> Licensing Manager 0131 529 4208</p>



<p><b>Licensing Hub – Murrayburn Depot</b></p> <p>As part of the ongoing modernisation plans for Taxi and Private Hire Licensing, the Taxi Examination Centre (TEC) functions will be expanded in preparation for a move to new premises in 2024.</p> <p>This will include increasing the team in the TEC to enable end to end processing of all Taxi and Private Hire Licences.</p> <p>From 26 June 2023, the TEC restarted the <a href="#">face to face documentation checks</a> required by the Immigration Act 2016. Once driver document checks are successfully completed, a driver can submit their application and make payment on site.</p> <p>Where owners are experiencing difficulties, they be able to get assistance to complete their application.</p> <p>The TEC is to be rebranded as the ‘Licensing Hub’ with its own dedicated email <a href="mailto:Licensinghub@licensing.gov.uk">Licensinghub@licensing.gov.uk</a>. A dedicated telephone number will be confirmed.</p>	<p>The testing of taxis and Private Hire Cars has been carried out at the Council’s Taxi Examination Centre (TEC) for many years.</p>	<p><a href="#">Catherine Scanlin</a> Licensing Manager 0131 529 4208</p>
<p><b>Licensing workload</b></p> <p><u>Current position</u></p> <p>The workload position continues to improve with 4,558 applications in the system. Less than 250 of these are in the backlog (having taken longer than 12 weeks for initial consideration).</p> <p>The number of temporary licences currently being processed is high as would be expected running into the crucial festival period.</p>	<p>Committee has requested an update on progress in dealing with the operational backlog</p>	<p><a href="#">Andrew Mitchell</a> Head of Regulatory Services 0131 529 4208</p>
<p><b><u>HMO best practice guide consultation</u></b></p> <p>The consultation on a best practice guide for Housing of Multiple Occupation (HMO) went live on the consultation hub on 18 May and will run until 10 August 2023 <a href="https://consultationhub.edinburgh.gov.uk/sfc/hmo-best-practice-guide-2023/">consultationhub.edinburgh.gov.uk/sfc/hmo-best-practice-guide-2023/</a></p>	<p>The Council licensing Houses in Multiple Occupation to ensure that the properties are safe, and the landlord is fit and proper.</p>	<p><a href="#">Andrew Mitchell</a> Head of Regulatory Services 0131 529 4208</p>

<p><b><u>Licensing Forum</u></b></p> <p>The Forum met the Licensing Board on 3 June 2023 and further joint meetings may take place throughout the year.</p> <p>On 9 June 2023, an information sharing event organised by Scottish Government was held in Glasgow and attended by the facilitator of Edinburgh’s Licensing Forum. Speakers included licensing solicitors, Forum members from across the country, Alcohol Focus Scotland, Police Scotland and the Minister for Victims and Community Safety. It is anticipated that the event will be repeated.</p>	<p><a href="#">Licensing (Scotland) Act 2005</a> requires a local Licensing Authority to establish a Licensing Forum.</p>	<p><a href="#">Isla Burton</a> Trading Standards Officer  0131 529 4208</p>
<p><b>TRADING STANDARDS</b></p>		
<p><b><u>Fireworks Control Zones</u></b></p> <p>The Scottish Government has published “<a href="#">Firework Control Zones: Guidance for Local Authorities</a>” in relation to the Fireworks and Pyrotechnic Articles (Scotland) Act 2022.</p> <p>A firework control zone is an area within a local authority’s boundary in which it is a criminal offence for a member of the public to ignite a firework, including on private property such as a garden. Public firework displays will continue to be permitted within an area designated as a firework control zone, subject to certain requirements.</p> <p>The consultation and implementation of the fireworks control zones is delegated to Culture and Communities, and the Community Safety Partnership. Enforcement responsibility for the Firework Control Zones sits with Police Scotland.</p> <p>The Regulatory Service will have joint enforcement responsibility for the new licensing system with Police Scotland, however, this will be delayed until 2024 at the earliest and therefore likely costs are not known. An update will be provided to Committee when more information emerges.</p>	<p>Update on previous report to committee on <a href="#">1 May 2023</a>.</p>	<p><a href="#">Tom Veitch</a> Trading Standards and Licensing Enforcement Manager  0131 469 3871</p>

<p><b><u>Naloxone visits</u></b></p> <p>The Naloxone project joint visits with NHS Lothian were completed at the end of May, with a total of 14 licensed premises identified as being potentially suitable as hubs for naloxone.</p> <p>Nine of these premises identified an interest in taking part subject to further discussions, and four premises agreed to sign up to the programme immediately. There was only one premises which indicated they did not wish to take part.</p> <p>NHS Lothian will subsequently be setting up the appropriate training and distribute Naloxone kits to the interested premises.</p>	<p>Previous report to Regulatory Committee on <a href="#">21 November 2022</a>.</p>	<p><a href="#">Tom Veitch</a></p> <p>Trading Standards and Licensing Enforcement Manager</p> <p>0131 469 3871</p>
<b>ENVIRONMENTAL HEALTH</b>		
<p><b><u>Food Safety Plan</u></b></p> <p>Following approval of the Food Safety Business plan for Environmental Health (which the Committee noted in May 2023), the Council has been notified that Food Standards Scotland intends to carry out a desktop audit of all Scottish Local Authorities Food Safety Business plans. A copy of the letter is attached below.</p>	<p>The Council is required to have arrangements in place to discharge its duties under the Food Law Code of Practice. Food Standards Scotland is responsible to monitoring local authorities' compliance with the Code of Practice.</p>	<p><a href="#">Stephen Williamson</a></p> <p>Environmental Health Manager</p> <p>0131 529 4934</p>
<b>BEREAVEMENT</b>		
<p><b><u>Inspection of Mortonhall Crematorium</u></b></p> <p>The Senior Inspector for Burial, Cremation and Funeral Directors (Scotland) carried out an inspection of the Crematorium at Mortonhall on 14 April 2023. The inspection report was received with no issues to be addressed. The overall assessment was positive, and that section of the report is set out in full below.</p> <p>'The Inspection found no shortcomings in any aspect of the cremation process at Mortonhall</p>	<p>The Council operates one crematorium and that is subject to regulation and periodic inspection as provided for by the Burial and Cremation (Scotland) Act</p>	<p><a href="#">Jane Matheson</a></p> <p>Bereavement Services Manager</p> <p>0131 664 4314</p>

<p>Crematorium with good practice observed throughout the different stages.</p> <p>The Inspector was afforded the opportunity to meet all available employees at the crematorium (without any managers present).</p> <p>The Inspector highlighted that it was evident from their meeting with the team are very enthusiastic about their respective roles and enjoy working in a close and united team, led by experienced and knowledgeable management. The Cremation Authority, are very fortunate in having such a team and that collectively staff at Mortonhall Crematorium are performing to a high standard providing a first-class service to the local community and beyond'.</p>	2016.	
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Audit Assurance Division  
 Food Standards Scotland  
 Pilgrim House, Old Ford Road  
 Aberdeen AB11 5RL  
[LAudit@fss.scot](mailto:LAudit@fss.scot)

To: Heads of Service,  
 Lead Food Officers

22 May 2023

FSS/ENF/23/002

Dear Colleague,

**Local Authority Performance Monitoring and Audit Programme 2023/2024  
 Service Plans**

Previously we wrote indicating that as part of this year’s Audit Programme, we would be carrying out a desktop review of Food Authority Service plans for 2023/2024.

Programme	Brief Outline	Timescale
<b>Desktop Review</b>  Annual Service Plan	Each Food Authority should complete an annual Service Plan. The overall plan should be subject to approval timeously at the appropriate governance level within the Authority. Service Plans are intended to be forward looking and provide details for the coming year.	Request to be made for a copy of the Service Plan from all 32 LAs.  May 2023.

Service planning is key to performance monitoring and, as required by the Food Law Code of Practice, these annual plans for the coming year should set out planned intervention programmes and service delivery arrangements.

We indicated that a request for a copy from all 32 Local Authorities would be made in May.

**Please take this letter as a formal request for that submission.**

If you have submitted a plan to us previously as part of an audit response, no action is required unless significant change to planning has taken place.

Whilst we appreciate that plans may not have reached a fully approved stage within your Authority we would ask that draft versions be submitted with an understanding that later amendment and adjustment may occur.

The intention is to use these to provide a baseline view of the delivery landscape across Scotland at the current time both as an aide to performance monitoring and to inform the Scottish Authority Food Enforcement Rebuild (SAFER) project.

**Please could these be submitted to us at: [LAudit@fss.scot](mailto:LAudit@fss.scot) by 21<sup>st</sup> June 2023**

Yours sincerely



Tony Sykes  
Head of Domestic Assurance  
Food Standards Scotland  
Pilgrim House, Old Ford Road, Aberdeen, AB11 5RL  
07471 633926  
[tony.sykes@fss.scot](mailto:tony.sykes@fss.scot)

## Regulatory Committee

10.00am, Monday, 7 August 2023

### Licence Income from Fees 2022/23

Executive/routine Wards Council Commitments	All
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#### 1. Recommendations

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1.1 Regulatory Committee is asked to note the contents of this report.

**Paul Lawrence**

Executive Director of Place

Contact: Andrew Mitchell, Head of Regulatory Services

E-mail: [andrew.mitchell@edinburgh.gov.uk](mailto:andrew.mitchell@edinburgh.gov.uk) | Tel: 0131 529 4208

# Report

## Licence Income from Fees 2022/23

### 2. Executive Summary

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- 2.1 This report provides Committee with high level information on the income collected from licensing fees during the last full financial year. The report gives detail on income from the three main licence categories and provides a breakdown of the areas of expenditure against this.

### 3. Background

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- 3.1 The Council's activities as a Licensing Authority are funded directly by income raised from licence application fees and therefore the operations of Licensing services are not funded from the Council's general revenue fund. The fees currently charged are approved by the Council as part of the budget process. A small number of fees are fixed or capped by legislation and are thus not set by the Council. Notwithstanding that, Regulatory Committee has the power to amend the fee structure and most recently did this by amending the Houses in Multiple Occupation (HMO) licence fee structure in 2022.
- 3.2 Fees are designed to fully recover the costs of the service. Income in relation to Taxi and Private Hire Car (PHC) Licences and HMOs is ringfenced, and any surplus is maintained separately. Income from all other types of licence is not ringfenced, and any surplus which exists at the end of the financial year, is included within the Council's end of year accounts. In practice, this offsets the cost of the other council services that support the Licensing Service but do not receive any monies for their work as consultees, e.g. Parks. Planning, Roads etc.
- 3.3 The [Air Weapons and Licensing \(Scotland\) Act 2015](#) introduced a requirement for Licensing Boards to report income and expenditure. As requested by the then Committee, a similar report is now submitted to Regulatory Committee annually to increase transparency. This report provides the information for financial year 2022/23.
- 3.4 Following some disruption to licensing functions over the pandemic, the Licensing Service has returned to normal service levels and related income has largely stabilised.



## 4. Main report

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- 4.1 Income is collected from [licence applications](#) and is coded against three main licence types:
- 4.1.1 Taxis and Private Hire Cars (PHCs) etc;
  - 4.1.2 Houses in Multiple Occupation (HMOs); and
  - 4.1.3 Civic (which includes any other licence types dealt with by the Council not in 4.1.1 and 4.1.2 above).

- 4.2 Details of the income and expenditure in these accounts are attached at Appendix 1. The structure of both civic and taxi/PHC fees was last fully reviewed in 2015 with minor changes thereafter. As part of its budget process, the Council considers whether any annual increase of fees is required, therefore this report does not deal with any fee changes.

### **Taxi and Private Hire Car licence income**

- 4.3 In relation to income from taxi and PHC licences, the Council does not further break down income to show, for example, income for taxis as opposed to PHCs, and for vehicles as opposed to drivers. This is because the staff resource necessary to deal with these is the same and there is no operational need for the service to further breakdown income or spend in this category.

### **HMO licence income**

- 4.4 The fee structure for HMOs was last reviewed in 2022, and on 29 September 2022 Regulatory Committee agreed to the reintroduction of a one year licence at a reduced fee rate.

### **Civic licence income**

- 4.5 Civic licence fees are not subject to the same ring-fencing as taxi/PHC and HMO fees (as explained in paragraph 3.2). The position remains that many services do not receive specific funding to contribute to licensing work (e.g. Roads and Parks), and therefore any surplus income contributes to the Council's overall financial position through the Place Directorate's financial position. Conversely, the Directorate would be expected to contain any overspend as a pressure.
- 4.6 Post-COVID civic licence income recovery has not been as strong as other categories, reflecting that the return of events and street-based activities was slower in the first six months of the financial year as businesses emerged from the lockdown restrictions and experienced the financial impact of the pandemic. This was offset, to a certain extent, by corporate funding for COVID-related impacts which was used to mitigate this on a one-off basis.
- 4.7 As an interim measure, income of £0.027m collected for Short Term Lets (STL) in 2022/23 has been transferred into the HMO reserve. Ongoing requirements for STL service support will be assessed as the new licence scheme continues to bed in.

## **Reserves**

- 4.8 The current reserves are set out in Appendix 2.
- 4.9 As explained in paragraph 3.2, income from taxis/PHCs and HMOs is ringfenced and if there is a surplus of income this is held in reserve accounts. These accounts are monitored regularly to ensure that they remain proportionate. A separate report to Finance and Resources Committee provides a comprehensive financial summary of any reserves maintained by the Council. This includes the licensing reserves.

### **HMO Reserve**

- 4.10 In relation to the HMO reserve, Committee may recall that at the time of implementation of the new HMO fee structure (as set out at paragraph 4.4), the long-term plan was to allow this reserve to reduce as the effect of three year licences became apparent.
- 4.11 The setting of the revised HMO licence fees took the level of the reserve into account. This will continue to be monitored and adjustments recommended, if necessary, in advance of the Council setting its budget in February 2024. There was a small draw down from the reserve last year. As highlighted in paragraph 4.7, the HMO reserve balance includes a small sum for STL related income.
- 4.12 In the budget setting for 2023/24, HMO fees were not increased, despite inflationary pressures, in order to allow that adjustment to have effect.
- 4.13 A major review of HMO fees was conducted this year to address the size of the reserve. Income in the reserve looks healthy for a number of reasons:
- 4.13.1 2022/23 was Year 1 of the three year licence cycle and therefore the income is weighted towards the first year of the cycle. A share of this income has been carried forward into the reserve and will be needed to offset the cost of HMO licensing services in years 2 and 3;
  - 4.13.2 The HMO trade appear to be using the one year licence option more often than had been expected. This is being monitored; and
  - 4.13.3 The Licensing Service has had challenges in filling vacancies due to a shortage of candidates, despite several attempts to recruit. The means that the staff costs for the service have been less than anticipated. Recruiting to these posts is essential and work is ongoing to fill all remaining vacancies.

### **Taxi and PHC Reserve**

- 4.14 Taxi and PHC income have remained consistent, and the reserve remains healthy as the Licensing Service works towards completion of a move to the new Vehicle Examination Centre. The current estimate of costs for the Vehicle Examination Centre stands at £1.56m and reflects a better understanding of the anticipated costs following detailed surveys, inflation (which for construction is significantly higher than headline inflation) and, for the first time, an estimate of the costs of ramps etc which will be required.
- 4.15 Also included in the reserve is £0.237 of income from the Scottish Government for processing COVID era taxi grants. These have been placed in that account as a

contingency against cost over-runs. Therefore, the actual reserve of income for licence holders would be net of that amount.

4.16 There was a small draw down from the reserve last year.

## **5. Next Steps**

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### **Issues for Financial Year 2023/24**

- 5.1 There are a number of issues which will require further work and may require Committee consideration in 2023/24. These include:
- 5.1.1 Identifying long term funding for the additional new licensing enforcement officers. This was funded on a one-off basis for 2021/22 and 2022/23;
  - 5.1.2 A range of issues that have been raised in relation to fees charged for some Public Entertainment Licences, including sunbed/tanning operations. It is anticipated that a report on this will be submitted next cycle; and
  - 5.1.3 Income from Short Term Lets has thus far been low, reflecting numbers of applications received as a result of the delayed date for existing operators to apply. Further work will be required to ensure that appropriate cost centres are in place to ensure that costs and income can be recorded once the scheme is fully operational.

## **6. Financial impact**

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- 6.1 This report is for information only and provides details of the income received by the Licensing Service in 2022/23. The Council's scale of fees for licensing applications was approved by as part of the budget process for 2023/24, with effect from 1 April 2023.

## **7. Stakeholder/Community Impact**

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- 7.1 The report provides members with information. No direct policy implications arise from the report. Decisions on fees and expenditure are made as part of the Council's budget process.

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

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- 8.1 [Current licence fees](#) (2023/24).
- 8.2 Licence Income from Fees 2019/20, 2020/21, 2021/22 [report](#) to Regulatory Committee on 6 February 2023.

## **9. Appendices**

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- 9.1 Appendix 1 – Income and expenditure for 2022/23
- 9.2 Appendix 2 – HMO and taxi/PHC reserve accounts

## Appendix 1

### City of Edinburgh Licensing Services Financial Report

#### Year Ending: 31 March 2023

This report has been prepared using unaudited financial data taken for year ending 31 March 2023. It should be noted that not all expenditure is directly attributable to certain licensing categories. Where general costs have been incurred, these have been allocated to the Licensing category based on a best estimate of the expenditure incurred. The report accordingly should not be relied upon as a precise reflection of income and expenditure.

The financial statement is as follows:

	2022/23	2022/23	2022/23	2021/22	2021/22	2021/22
<b><u>Income</u></b> <sup>1</sup>	Cab Licensing	Civic Licensing	HMO Licensing	Cab Licensing	Civic Licensing	HMO Licensing
Licensing Income	-1,781,017	-732,274	-1,906,606	-1,678,546	-524,080	-3,436,143
Other Income	-130,968	0	0	-158,698	-0	-0
<b>Total</b>	<b>-1,911,985</b>	<b>-732,274</b>	<b>-1,906,606</b>	<b>-1,837,244</b>	<b>-524,080</b>	<b>-3,436,143</b>
<b><u>Staff Costs</u></b> <sup>2</sup>						
Regulatory Services Staff	494,971	41,829	1,246,585	458,631	111,810	1,039,646
Legal Services	68,105	25,651	74,029	58,073	19,937	80,646
Taxi Examination Centre	464,907	0	0	438,070	0	0
Administrative Support	33,591	12,652	174,197	28,242	9,696	151,977
<b>Total</b>	<b>1,061,574</b>	<b>80,132</b>	<b>1,494,812</b>	<b>983,016</b>	<b>141,444</b>	<b>1,272,269</b>

#### **Other Direct Costs**<sup>3</sup>

ICT Equipment	28,455	14,982	-45,420	6,273	4,385	192,145
Training	0	2,100	0	11,900	0	0
Postage	8,822	340	3,602	6,890	52	256
Printing/Stationery/Photocopying	7,532	316	325	13,139	101	99
Capital funded through revenue	0	0	0	0	0	0
Consultant Fees	68,738	0	0	38,593	0	0
Medical Fees	0	0	0	0	0	0
Operational Materials	80,447	0	545	43,776	0	0
Recharges from public bodies	141,944	0	56,782	131,302	0	0
Property Charges	114,987	419	6	57,537	0	0
Legal Fees	4,406	244,374	1,212	13,233	7,450	6,696
Transport	3,564	272	1,099	3,754	82	120
Other expenses	86,706	26,017	3,771	21,369	9,990	3,373
Internal Charges	12,764	133,663	81	0	160,876	933
<b>Total</b>	<b>558,365</b>	<b>422,483</b>	<b>22,003</b>	<b>347,766</b>	<b>182,936</b>	<b>203,623</b>
<b><u>Indirect Costs</u></b> <sup>4</sup>						
ICT/Telecommunications	23,720	8,934	25,783	21,080	7,237	29,274
Business Support	18,808	7,084	20,444	16,635	5,711	23,101
Property	99,859	37,611	108,545	86,158	29,580	119,648
Corporate & Democratic Core	46,640	17,567	50,697	38,135	13,092	52,958

Other <sup>5</sup>	135,945	51,784	296,975	153,132	52,573	360,308
<b>Total</b>	<b>324,972</b>	<b>122,979</b>	<b>502,444</b>	<b>315,140</b>	<b>108,194</b>	<b>585,288</b>
<b>Net (Surplus)/Deficit<sup>6</sup></b>	<b>32,926</b>	<b>-106,680</b>	<b>112,653</b>	<b>-191,323</b>	<b>-91,507</b>	<b>-1,374,963</b>

**Notes:**

1. Denotes income from applications and annual fees received in 2022/232.
2. Denotes salary, superannuation, national insurance and pension costs associated with Legal Services/Depute Clerk, Licensing Officers, Licensing Standards Officers and other Council staff responsible for administrative support. HMO staffing costs include a share of Private Rental Sector enforcement officers. Where costs are not directly attributable to the Licensing Categories, costs have been allocated based on the proportional share of licensing applications.
3. Denotes direct budgetary costs associated with the exercise of the Licensing functions, such as travel and transport costs, stationery, supplies and services etc.
4. Denotes the portion of centralised administrative costs such as ICT, training, property costs etc. that are allocated to Licensing and PRS Enforcement. These allocations are derived from the Council's Central Support Cost model.
5. This represents a share of services such as Legal & Risk, HR, Finance, Strategy & Insight and Communications.
6. To note that surplus income from ringfenced accounts after covering expenses is transferred to reserves. If costs in ringfenced accounts exceed income recovery for the year i.e., a deficit, the equivalent shortfall will be drawn from reserves.

## Appendix 2

### City of Edinburgh Licensing Services – Balance of Reserves

#### Year Ending: 31 March 2023

The end of financial year position for each licence type will determine the action required in respect of reserves adjustments. When full year costs have been established for the respective financial year, if the position shows a surplus of in-year income, the balance will be transferred to the reserves account for each licence type. However, if expenditure exceeds in-year available fee income, a draw from reserves will be required to make sure full year costs are funded. Movement on the reserves can be seen in table 1.

Table 1

Type	21/23 Balance b/f £	22/23 Movement £	22/23 Balance c/f £	Notes
Taxi and PHC <sup>1</sup>	1,796,794	32,926	2,000,368	Draw from reserves required
HMO <sup>2</sup>	3,113,773	112,653	3,001,119	Draw from reserves required.

<sup>1</sup> Includes £0.237m of income from the Scottish Government for processing COVID era taxi grants (see 4.15 above)

<sup>2</sup> Includes £0.027m of income relating to Short Term Lets (see 4.7 and 4.11 above)

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# Regulatory Committee

10.00am, Monday, 7 August 2023

## Short-term Lets Licensing Scheme - Update

Executive/routine Wards Council Commitments	All
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### 1. Recommendations

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- 1.1 Regulatory Committee is asked to:
- 1.1.1 Note the outcome of the Judicial Review of the Council's Short-Term Lets Licensing Policy and Conditions;
  - 1.1.2 Note that the Council has decided not to appeal the judgement;
  - 1.1.3 Note that the Short-term Lets Licensing Policy and Conditions at Appendix 2 have been amended to take the Court's decision into account;
  - 1.1.4 Agree the Short-Term Lets Policy and Conditions will be reviewed commencing no later than June 2024 as set out in paragraphs 4.25 and 4.26;
  - 1.1.5 Note that a separate legal advice paper was previously provided by the Council's Legal Service prior to agreement of the Policy and Conditions on 29 September 2022; and
  - 1.1.6 Discharge the actions arising from the motions agreed by the Council on [22 June 2023](#) and by this Committee on [6 February 2023](#) and agree to refer this report to the Planning Committee for noting.

#### Paul Lawrence

Executive Director of Place

Contact: Andrew Mitchell, Head of Regulatory Services

E-mail: [andrew.mitchell@edinburgh.gov.uk](mailto:andrew.mitchell@edinburgh.gov.uk) | Tel: 0131 529 4208

## Short-term Lets Licensing Scheme - Update

### 2. Executive Summary

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- 2.1 This report provides an update on the outcome of a Judicial Review of the Council's Short-term Lets (STL) Licensing Policy and Conditions Framework in the Court of Session, following the issuing of the Court's opinion on 8 June 2023 and subsequent interlocutor setting out its decision on 22 June 2023. The report also addresses the terms of the amended motion agreed by the Council on [22 June 2023](#).
- 2.2 The report also sets out proposed next steps for the STL licensing scheme following the Court's judgement, and the Council's decision not to lodge an appeal. It explains the amendments to the licensing policy and conditions necessary to reflect the Court's opinion and subsequent interlocutor setting out its decision.
- 2.3 An update is also provided on other items which have taken place at a national level in respect of STLs, including updated guidance issued by Scottish Government and seeks to discharge any outstanding remit from the Council and Committee relating to the STL Licensing Scheme.

### 3. Background

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- 3.1 The Council has previously called for additional regulation of the STL sector through changes to planning classifications and the introduction of a licensing system. The relevant factors are set out more fully in previous Committee reports and there remains significant public interest about the operation of the STL sector.
- 3.2 Following the commencement of the [Civic Government \(Scotland\) Act 1982 Licensing of Short Term Lets \(Order 2022\) \(the 2022 Order\)](#), which brings short-term letting within the scope of licensable activities covered by the statutory provisions of the Civic Government (Scotland) Act 1982 ('the 1982 Act'), on 29 September 2022 the Council adopted a licensing policy and additional conditions for STLs.
- 3.3 The STL licensing scheme opened for applications on 1 October 2022. Initially operators who were already operating a short-term let at that date had until 1 April 2023 to apply for a licence, but the Scottish Government extended this date until 1 October 2023. Where an application is received from such an operator prior to 1 October 2023, the operator can continue to operate the short-term let until the application is finally determined.

- 3.4 Committee had agreed to keep the STL licence system under regular review and made a commitment to review the position with respect to the duration of STL secondary let licences within 18 months of commencement of the licensing scheme (i.e. March 2024). That 18 month period commitment reflected the original deadline date of 1 April 2023 for applications from existing operators. In practice very few existing operators have applied thus far. Anecdotal information suggests that this may have been due to operators awaiting the outcome of the judicial review proceedings. Appendix 1 shows the number of applications received and determined as at 1 August 2023.

## 4. Main report

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### Outcome of Judicial Review

- 4.1 Following adoption of the STL Licensing Policy by Regulatory Committee on 29 September 2022, a number of businesses operating in that sector (‘the petitioners’) raised a legal challenge in the form of a judicial review (JR). The JR hearing took place on 11 and 12 May 2023 at the Court of Session, and on 8 June 2023 the Court issued its opinion. The Council was successful in defending large parts of the STL policy, however the petitioners were successful in challenging certain aspects of the policy, as explained below.
- 4.2 The legal challenge to the policy largely focused on how the Council intended to treat applications for secondary letting (STLs where the property is not the host’s primary residence). The Council had agreed to adopt measures which included restricting the ability of STL operators in tenemental and shared main door properties to obtain STL licences on the basis that such premises were considered to be unsuitable for use as STLs. This policy measure was set out in the policy as a “rebuttable presumption”, explaining to applicants that STL licences for tenemental and shared main door properties would only be granted in exceptional circumstances. This approach and other measures were aimed at protecting residents from long-standing concerns about the negative impacts of secondary letting, particularly in tenemental properties.
- 4.3 The key aspects of the policy dealing with secondary letting which were challenged were as follows:
- 4.3.1 The presumption against the grant of STL secondary letting licences in tenemental and shared main door properties;
  - 4.3.2 The presumption against issuing temporary STL licences for all secondary letting;
  - 4.3.3 The restriction of STL secondary letting licences to a one year period only when other licence types had a duration of three years;
  - 4.3.4 The difference in fees charged by the Council between House in Multiple Occupation (HMO) licences and those charged for STL licences;
  - 4.3.5 The Council’s approach to licensing was oppressive given the planning controls available; and
  - 4.3.6 The lawfulness of the condition requiring carpets in secondary letting properties.
- 4.4 The Council’s planning controls on STLs were not challenged as part of the JR and the judgement has no effect on them.

- 4.5 The Council was successful in defending large parts of the policy and the Court did not criticise any aspect of the Council's consultation or the evidence base which it used to reach its decision. The challenges in relation to the different fees set for HMO licences and STL licences, the period of the licence and how the licensing and planning systems work together were unsuccessful (4.3.3 to 4.3.5 above).
- 4.6 The Court ruled that the presumption against secondary letting in tenemental, and shared main door properties went too far, particularly as these properties would in any event require planning permission. The Court also considered that the rebuttable presumption in the policy stating that the grant of STL licences for secondary letting in tenemental property would be exceptional, did not reflect the evidence provided by the Council that any well-run property would have a reasonable prospect of being granted a licence. The Court also ruled that the restriction on issuing temporary licences went too far and could not be justified. Finally, the Court agreed that the 'carpet condition' as originally worded was unduly onerous and disproportionate and could not be justified (4.3.1, 4.3.2 and 4.3.6 above).
- 4.7 A further court hearing on the terms of the Court's order took place on 22 June 2023. This followed on from the issue of the Court's opinion on 8 June 2023. Counsel for the Council were successful in persuading the Court to grant an order as proposed by the Council, rather than the wider order sought by the petitioners which would have resulted in the Council's entire policy on secondary letting being declared unlawful. The Council was also successful to a more limited degree in reducing the amount of expenses sought by the petitioners.
- 4.8 The Council gave an undertaking to the Court that it would clarify its position regarding how renewal applications would be dealt with, and this information has now been published on the Council's website [Licences-permits-applications](#). In effect, the clarification is consistent with the long-standing position that unless there is a material change in circumstances or complaint, the Council would expect to grant a renewal unless there had been a change of policy.
- 4.9 The Council also gave an undertaking to update the STL policy with information on renewal applications, and the policy (as amended to take account of the court order) now includes information on renewals at paragraphs 4.31 to 4.34 (of the Policy) to reflect the undertaking given to the Court.
- 4.10 Following the Court's decision, the Council sought legal advice on the prospects of success should it seek to appeal. Following consideration of that advice, consultation with Group Leaders and licensing spokespersons from each group, and taking account of the fact that any appeal would create continued uncertainty with regard to the STL licensing scheme, the Council decided not to lodge an appeal. Accordingly the Council must now implement the steps necessary to comply with the Court's decision.

### **Current STL Licensing Policy**

- 4.11 The Court's decision means that the Council's STL policy remains intact. However, there is a requirement to delete all references to the following three areas in the policy, since these have been quashed by the court:

- 4.11.1 The presumption against the grant of STL secondary letting licences in tenemental and shared main door properties;
- 4.11.2 The presumption against issuing temporary STL licences for all secondary letting;
- 4.11.3 The condition requiring carpets in secondary letting.
- 4.12 The following paragraphs of the policy originally agreed on 29 September 2022 are therefore deleted: 2.9, 4.13 - 4.16, 4.18 - 4.20. So too is Standard Condition 9 in Appendix 2. The remaining sections of the policy have been renumbered accordingly.
- 4.13 Taking account of these deletions and the additional text on renewals, the updated policy which is currently in effect is set out at Appendix 2.
- 4.14 The remainder of the STL policy remains intact. It is important to note that this means that the Council has an STL licensing policy in effect and can continue to process and determine applications for STL licences without being required to consult on, and thereafter agree, the terms of a new STL policy.

### **Revised STL Licensing Policy**

- 4.15 The fact that the policy remains largely intact and has not been struck down provides options for next steps. Taking each aspect of the policy that was successfully challenged in turn, the undernoted paragraphs explain what this means in practice and sets out the intended next steps, subject to Committee agreement.

### **Suitability of Tenemental Property for Secondary letting**

- 4.16 The issue which has been most contentious, and which was subject to the most scrutiny in the JR hearing, is whether tenemental and shared main door properties would be suitable for STL licences. The aspect of the policy which has been struck down would have required any applicant for secondary letting in such properties to overcome a rebuttable presumption in the Council's policy against the grant of STLs in tenemental and shared main door properties. Applicants would have had to persuade Committee of the exceptional circumstances which applied in their individual cases and why a STL licence should be granted, taking into account the presumption against the grant of a STL licence. The Court ruled that this went too far and that ordinarily it would be for the Council exercising its planning functions to determine whether a particular property was suitable for short-term letting. The Court ruled that the Council could consider individual cases, but should not adopt a general position against these properties within its licensing policy.
- 4.17 Any application for secondary letting in a tenemental or shared main door property will not now have to show that it is suitable. Rather the onus will be on the Council to demonstrate why it considers that the property should not be granted a licence, having regard to the terms of the Council's policy and the statutory grounds of refusal set out in the 1982 Act. Typically, any such consideration would come from dealing with an objection or representation in relation to a licence application. If there was no such objection or representation there would generally be no reason for the Council not to grant the application, having regard to the Council's policy and statutory grounds for refusal of an application.

- 4.18 Any application for secondary letting, including in a tenemental or shared main door property, will still be required to demonstrate that they have the requisite planning permission which would ordinarily have already dealt with issues of amenity. Any complaints about the impact of a STL licence having been granted for secondary letting (including in a tenemental or shared main door property) can be responded to by enforcement activity and/or at renewal of the licence.
- 4.19 The Licensing service therefore intends to operate the licensing system for STL letting and, in particular, secondary letting without any further review of the licensing policy at this time. As set out below this will be kept under review.

### **Temporary Licences for Secondary Letting**

- 4.20 The previous policy stated that temporary licences were not suitable for secondary letting. That aspect of the policy has been deleted following the Court ruling. This means that the Council is obliged to accept such applications and must consider them against the revised policy and the terms of the 1982 Act.
- 4.21 It is anticipated that the most likely category of applicants for temporary licences will be owners of Houses of Multiple Occupation (HMOs) who are seeking to let their properties as STLs during the summer or other term time holidays.
- 4.22 It is therefore proposed to operate the STL system on the basis that temporary licences may be sought by all STL licence types including secondary letting, and such applications will be considered on a case by case basis and granted unless there is a clear reason to refuse an application. Further, it is important to note that there is no right under the 1982 Act for members of the public to object to the grant of a temporary licence, and therefore it is anticipated that all but exceptional cases will be granted by officers under delegated powers.
- 4.23 Where sequential applications for temporary licences are made for an individual property, meaning that it is operating over a continuous and extended period of time, the Licensing service will encourage the operator to seek an annual licence. If, as a result, there is a concern or unresolved complaints about the impact of that particular property, then such applications will be referred to Committee for determination.
- 4.24 For the avoidance of doubt, it is recommended that Committee agrees that the fee structure previously agreed on 29 September 2022 for temporary STL licences will also apply to secondary letting.

### **Additional Licence Conditions**

- 4.25 The Court's judgement struck down additional licence condition STL9, which required carpeting or similar floor covering in all secondary letting. This condition has therefore been deleted from the additional local conditions which will apply to STL licences. When considering objections or complaints on a case by case basis, the Council can consider attaching a similar condition. However, the onus will be on the Council to demonstrate that it is reasonable and proportionate to do so in the circumstances of that case, rather than as a general approach. Applicants for STLs would have the right to make representations about any such condition at the time of determination.

### **Revised STL Licensing Policy**

- 4.26 It is acknowledged there may be concern that the deletion of elements of the STL policy could cause anxiety for residents in that they may now consider that

the protections from any adverse impacts of STLs to be insufficient. Equally, it is acknowledged that the challenge to the policy has added uncertainty for STL operators seeking to understand the Council's agreed licensing scheme. If the Council were to decide to review its STL licensing policy in full at this time, then this could add to a continuation of that uncertainty at a crucial time in the run-up to the 1 October 2023 deadline for existing operators. It is therefore recommended that a review is not commenced at this time beyond the amendments required to the policy to take account of the decision in the JR and the Council's commitment to the Court to add information about the renewal of STL licences to the policy.

- 4.27 As explained above, the Council committed to review the period of grant for STL secondary licences within 18 months (i.e. by March 2024). That date was intended to be 12 months after the deadline for existing operators to have submitted an application (31 March 2023). However, this deadline has been delayed by six months due to legislative change. It is therefore recommended that any such review and its terms should be considered in a report to Committee before the summer recess of 2024. If the operation of the revised policy in respect of impact on secondary letting, temporary licences and additional licence conditions causes unforeseen concerns, then this would provide an opportunity for Committee to decide the need for a wider review at that time.
- 4.28 An issue around the correct interpretation of the paragraph in the legislation dealing with temporary exemptions has been raised with the Council subsequent to the Judicial Review. Paragraph 4.17 of the Council's STL policy reflects the relevant Scottish Government guidance to licensing authorities in that it states that only one exemption may be granted in any 12 month period. This restriction to a single exemption has been questioned. The Council has received advice on this and a further report on this point will be provided once officers have considered the advice and liaised with relevant stakeholders, including the Scottish Government.

#### **Outstanding Remit from Regulatory Committee on 6 February 2023**

- 4.29 There is an outstanding remit to update Committee on the date for existing operators to apply for a STL Licence. This was delayed by the Scottish Government amending the STL legislation and moving the effective date from 1 April 2023 to 1 October 2023. As at the date of writing, the position of Scottish Ministers is that no further delay will be required, but the Scottish Government continues to be under pressure from the STL sector to agree to a further delay. The practical effects of the revised date and the uncertainty arising from the JR in Edinburgh are that most existing operators have not yet applied for an STL licence. It is acknowledged that some will also be awaiting the outcome of planning applications, and this could be a further factor in respect of the low numbers of STL applications received.
- 4.30 The Licensing service expects (and has advised Scottish Government) that the vast majority of STL applications will be received in the final few weeks before the 1 October 2023 deadline. If there is any change to the current transitional arrangements then Committee will be so advised at the earliest opportunity.

## **Revised Guidance to Licensing Authorities**

- 4.31 The Scottish Government originally published guidance for licensing authorities in March 2022. The guidance was drafted with input from a stakeholder working group, to which the Council contributed.
- 4.32 On 30 June 2023 the Scottish Government produced revised guidance for licensing authorities, having taken on board feedback from SOLAR's short-term let working group, of which Council officers and Visit Scotland's Industry Advisory Group formed a part. Revised guidance was also issued for hosts and operators. Along with providing feedback as part of the SOLAR working group, Council officers provided feedback directly to Scottish Government on behalf of the Council. Links to the updated guidance can be found in section 8 of this report. The determination of any application will take into account all guidance which is relevant at the time of consideration.

## **5. Next Steps**

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- 5.1 The revised policy will be published and kept under review. An update report will be submitted before the summer recess in 2024 setting out the scope of any required review of the STL policy.

## **6. Financial impact**

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- 6.1 Any costs incurred for implementing policy are not currently included within the service budget, however the fees previously set by the Council are intended to recover these costs.
- 6.2 Information on the full cost of defending the JR is not yet known and will be provided to Committee once available.

## **7. Stakeholder/Community Impact**

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- 7.1 The report previously provided to Committee on [29 September 2022](#) set out the required information for this section. There has been no change to the policy other than that which is required as a result of the court judgement.
- 7.2 Paragraph 4.25 and 4.26 sets out when it is intended to further review the policy at which time a full consultation with stakeholders will be completed.

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

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- 8.1 [The Civic Government \(Scotland\) Act 1982 \(Licensing of Short-term Lets\) Order 2022](#)
- 8.2 Short-term Lets: New Licensing Powers Consultation – Regulatory Committee – [31 March 2022](#)
- 8.3 Short-term Letting in Edinburgh Update – Corporate Policy and Strategy Committee – [14 May 2019](#)
- 8.4 [Short-Term Lets – Part 1 – Guidance for hosts and operators – Scottish Government](#)
- 8.5 [Short-Term Lets – Part 2 – Supplementary guidance for licensing authorities, letting agents and platforms – Scottish Government](#)



## **9. Appendices**

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- 9.1 Appendix 1 – Current STL Application Figures
- 9.2 Appendix 2 – Updated STL Licensing Policy following the Interlocuter of the Court dated 22 June 2023

## **Appendix 1**

Applications granted.	144
Applications refused.	0
Applications withdrawn.	12
Applications in process	123
<b>Total STL applications received.</b>	<b>279</b>

Figures as at 1 August 2023

## **Appendix 2**

# **City of Edinburgh Council Short-term Lets Licensing Policy**

## **Introduction**

- 1.1 The City of Edinburgh Council (“the Council”) is required to regulate short-term lets (STLs) through the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (the 2022 Order), which brings STL within the scope of licensable activities covered by the statutory provisions of the Civic Government (Scotland) Act 1982 (the 1982 Act).
- 1.2 The Council’s Regulatory Committee agreed this policy on 29 September 2022 following two periods of public consultation.
- 1.3 The Council must prepare a statement of its policy with respect to the exercise of its functions in relation to the licensing of STL. This policy provides information on the following areas:
  - 1.3.1 Licence Duration and Renewal
  - 1.3.2 Temporary Licences
  - 1.3.3 Temporary Exemptions
  - 1.3.4 Additional Conditions which will apply
  - 1.3.5 Compliance and Enforcement
- 1.4 This policy provides guidance for prospective applicants, existing licence holders and those who may wish to object to an application. The Council will have regard to the terms of its policy when determining applications. This policy will be reviewed and revised when necessary.
- 1.5 The key aims of licensing are the preservation of public safety and order and the prevention of crime. A specific licensing regime for STL allows the Council to take into account local circumstances when setting out its licensing policy and to exercise appropriate control and regulation to ensure any STL premises licensed meet the requisite safety standard.

## **Key Dates**

- 1.6 Owners or operators of STL accommodation should note the key dates for the implementation of the STL licensing scheme set out below:

Date	Hosts operating a STL before 1 October 2022	Never operated a STL before 1 October 2022
1 October 2022	<ul style="list-style-type: none"> <li>• You can continue to operate your premises as a STL - must comply with existing laws and regulations;</li> <li>• You must apply to the Licensing Authority where your premises is situated for a STL licence before 1 April 2023; and</li> <li>• If your STL Licence application is refused by the Licensing Authority you must stop using your premises as a STL within 28 days of the decision</li> </ul>	<ul style="list-style-type: none"> <li>• Must not operate a STL without a licence being granted by the Licensing Authority where your premises is situated;</li> <li>• If you wish to operate a STL you must apply to the Licensing Authority in which your premises is situated;</li> </ul>
1 October 2023	<ul style="list-style-type: none"> <li>• Can only operate without a licence if a STL licence application has been submitted to the Licensing Authority where your premises is situated, and it has not been refused; and</li> <li>• You must stop operating as a STL if your application is refused by the Licensing Authority, subject to appeal</li> </ul>	Same as above
1 July 2024	All hosts must have a STL licence.	Same as above

## Definition of a Short-term Let as set out in the 2022 Order

- 2.1 As per the terms of the 2022 Order, “short-term let” (STL) means the use of residential accommodation provided by a host in the course of business to a guest, where all of the following criteria are met –
- 2.1.1 The guest does not use the accommodation as their only or principal home
  - 2.1.2 The STL is entered into for commercial consideration
  - 2.1.3 The guest is not –
    - An immediate family member of the host,
    - 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 education institution, or
    - An owner or part-owner of the accommodation
  - 2.1.4 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
  - 2.1.5 The accommodation is not [excluded premises](#), and
  - 2.1.6 The STL does not constitute an [excluded tenancy](#).
- 2.2 “Secondary letting” means a short-term let consisting of the entering into of an agreement for the use of accommodation which is not, or not part of, the licence holder’s only or principal home.
- 2.3 “Home letting” means a short-term let consisting of the entering into of an agreement for the use, while the host is absent, of accommodation which is, or is part of, the host’s only or principal home.
- 2.4 “Home sharing” means a short-term let consisting of the entering of an agreement for the use, while the host is present, of accommodation which is, or is part of, the host’s only or principal home.
- 2.5 “Accommodation” includes the whole or any part of a premises.
- 2.6 “Host” means a person who is the owner, tenant or person who otherwise exercises control over occupation and use, of the accommodation which is the subject of a STL.
- 2.7 “Guest” means a person who occupies accommodation under a short-term let.
- 2.8 It must be noted that the above definitions are set out in legislation and the Council has no discretion in this regard.

## Types of Short-term Let Licence

- 3.1 The Council will consider licence applications for the following types:
- a. Secondary Letting
  - b. Home Letting
  - c. Home Sharing or
  - d. Home Letting and Home Sharing

## STL Application Process

- 4.1 Where appropriate, the Council will grant a STL licence for the following time periods:
- a. Secondary Letting – 1 year
  - b. Home Letting – 3 years
  - c. Home Sharing – 3 Years
  - d. Home Letting and Home Sharing – 3 Years
- 4.2 An application for the grant, variation or renewal of a full licence must be made to the Council together with the appropriate fee and layout plan, as well as providing copies of the following certification – *please only provide copies of documents as originals will not be returned*:
- a. Annual Gas Certificate (for accommodation with a gas supply)
  - b. Current Electrical Installation Condition Report
  - c. Annual Portable Appliance Test Certificate
  - d. For secondary letting only, Planning permission under the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) for the use of the premises as a STL; or proof that an application for planning permission has been made under the 1997 Act, which has not yet been determined; or proof that planning permission is not required (for example, a certificate of lawfulness).
- 4.3 As part of the application process, applicants will be required to confirm, by self-declaration, that the following documentation is held for the accommodation:
- a. Current Fire Safety Risk Assessment – (required for new and any

subsequent renewal applications or where there has been a change to the number of occupants)

- b. Current Energy Performance Certificate
  - c. Current Building Insurance Certificate
  - d. Current Public Liability Insurance Certificate
  - e. Current legionella risk assessment
  - f. Annual Emergency Lighting Certificate (Secondary letting only, for accommodation with 5 occupants and above)
- 4.4 An application, whether for a new licence or the renewal of an existing licence, will only be considered as complete if it comprises of the completed application form accompanied by all copies of required certificates and layout plan. Any applications deemed to be incomplete will be returned and not processed.

Notice of Application (excluding temporary licences and temporary exemptions)

- 4.5 The applicant must display a notice of the application on or near the premises where it can be conveniently read by the public. The notice must be displayed for 21 consecutive days from the date the application is lodged with the Council. A copy of a display notice can be downloaded from the Licensing Service website. As soon as possible after the expiry of the period of 21 days, the applicant shall submit to the Council a certificate (available online) which states that a notice was duly exhibited for the required period.
- 4.6 The notice will include the following information, as required by the 1982 Act:
- a. The type of licence applied for (Secondary Letting, Home Letting, Home Sharing or Home Letting and Home Sharing);
  - b. If applying as an individual, the applicant's full name and address. If not applying as an individual, the full name of the organisation together with the registered or principal office address, names of directors or persons responsible for the management of the premises;
  - c. Person responsible for the day to day management of the premises
  - d. Address of the STL premises;
  - e. The number of bedrooms in the premises;
  - f. The maximum number of occupants for the premises;
  - g. Details of any other SLT licences that have been granted to the applicant (included on the application form);

- h. The name and address of the owner(s) where the applicant is not the owner of the premises or on the land on which the premises is located (included on the application form);
  - i. Confirmation that the owners consent to the application for the property to be used as a STL (included on the application form);
  - j. Where objections and representations in relation to the application can be made to, the 28 day timescale for submitting an objection or representation and the statutory requirements of an objection or representation (in writing, providing name and address etc).
- 4.7 The application fee table for licence applications can be found [here](#)
- 4.8 Applicants should note that the application fee is non-refundable in the event of the licence application being refused or being withdrawn prior to determination. To view the Council's policy on refunds, click [here](#).

#### Evidence of Operation as a STL before 1 October 2022

- 4.9 Where an applicant has been operating a STL before 1 October 2022, the applicant will be required to certify this when submitting a STL licence application. Checks to confirm this may be made by the Council.

#### Links With Planning

- 4.10 On 27 July 2022, Scottish Ministers approved plans to designate the City of Edinburgh Council area as a STL control area. It requires residential accommodation owners wholly letting accommodation, which is not their principal home, as a STL in the Council area, to apply for planning permission for a 'change of use' to a STL. The designation came into effect on 5 September 2022.
- 4.11 It is a mandatory condition of licence that a host or operator has planning permission or has made an application for planning permission where all of the following conditions apply
- a. The accommodation is in a STL control area;
  - b. The accommodation is being used for secondary letting; and
  - c. It is a dwelling house. (*Notwithstanding the definition of a dwelling house in the Town and Country (Use Classes) (Scotland) Order 1997, the definition of dwelling house for the purposes of this policy shall include flatted residential accommodation*).
- 4.12 In these circumstances, the host or operator must have made an application for planning permission or already have planning permission or have proof that planning permission is not required before they apply for a licence.



### Temporary Licences

- 4.13 As per paragraph 7(1) of Schedule 1 of the 1982 Act, the Council can issue temporary licences for STL, which may be granted for a duration of up to 6 weeks. Temporary licences cannot be renewed under the 1982 Act.
- 4.14 Any temporary licence which is issued will be subject to the mandatory conditions of licence, as set out in the 1982 Act.
- 4.15 Temporary licences will also be subject to the additional conditions set out in the Council's STL Conditions Framework.
- 4.16 The fee for temporary licence applications can be found [here](#)

### Temporary Exemptions

- 4.17 As per paragraph 1A of Schedule 1 of the 1982 Act, the Council can grant a temporary exemption to the requirement to have a STL licence. Under the terms of the 1982 Act, temporary exemptions can be issued for a specified single continuous period not exceeding 6 weeks in any period of 12 months. The 6 weeks limit on a licence is a maximum, and not a default.
- 4.18 The Council may grant temporary exemptions to the requirement to obtain a STL licence in certain circumstances as set out below:
  - a. During Edinburgh Festival Fringe and Edinburgh International Festival
  - b. During Edinburgh's Christmas & Hogmanay Festive Period
  - c. For Major Sporting Events
  - d. For Major International Events
- 4.19 Temporary Exemptions will be issued for the following types of let:
  - a. Home Letting;
  - b. Home Sharing;
  - c. Home Letting and Home Sharing; and
  - d. Secondary Letting
- 4.20 The licensing service will aim to process and determine a temporary exemption application within 3 months of the application being received.
- 4.21 Any temporary exemption which is issued will be subject to the mandatory conditions of licence, as set out in the 1982 Act.
- 4.22 Temporary exemptions will also be subject to the additional licence conditions set out in the Council's STL Conditions Framework at appendix two.

4.23 The fee for a temporary exemption application can be found [here](#)

#### Accommodation Inspections

4.24 Inspections of STL accommodation, as part of the application process, will be undertaken on a risk-based approach.

#### Making an Objection or Representation

4.25 It is possible for any person to submit an objection or representation in respect of the grant of an application for a full STL licence. Objections must be made in writing (emails are accepted) and sent to the Licensing Service ([licensing@edinburgh.gov.uk](mailto:licensing@edinburgh.gov.uk)) within 28 days of the application being advertised. If an objection is lodged out with this period, it must explain why it has been lodged late. It would then be a matter for the Council to consider the explanation and if it is satisfied that there is sufficient reason why the objection was not made in the time required.

4.26 The 1982 Act does not provide for objections or representations in respect of temporary licence applications or temporary exemption applications.

4.27 To be considered as competent, objections or representations should include the following information:

- a. The name and address of the person or organisation making the objection or representation
- b. The accommodation to which the objection or representation relates
- c. The grounds of objection or representation, and
- d. The objection or representation must be signed by the objector, or on their behalf

#### Determining an Application

4.28 Each STL application will be considered on its own merits having regard to the terms of the relevant statutory provisions, Scottish Government guidance and this policy. The process by which an application is determined will be in accordance with the Council's Committee terms of reference and the scheme of delegation.

#### Timescale for Determining Applications

4.29 Under the terms of the 1982 Act, the Council has 9 months in which to determine a STL application from the date it is received with all the required documentation.

4.30 For those applications which were received prior to 1 April 2023 where the STL operated prior to 1 October 2022, the Council will have 12 months to determine the application.

#### Renewal Applications

- 4.31 Under the 1982 Act, if an application for a STL licence renewal application has been made to the Council before the expiry date of the current licence, the licence will continue in effect until a final decision has been made by the Council on the renewal application. Where an appeal has been lodged with the sheriff clerk within 28 days of the decision, the existing licence will remain in effect until such time as the appeal has been determined by the Sheriff Court.
- 4.32 The process for applying for a renewal of a STL licence is the same as when applying for a new STL licence, as set out above. As with new applications, the Council requires to consider applications for renewal of licences taking into consideration the statutory grounds for refusal of a licence set out in the 1982 Act. Temporary licences cannot be renewed under the 1982 Act.
- 4.33 However, an existing STL licence is likely to be renewed unless there has been a change of circumstances since the last determination of the licence. Such circumstances could include any changes to STL regulation or the Council's STL licencing policy; enforcement action by the Council in respect of the existing licence; and any objections or representations received regarding the renewal application under the 1982 Act. Where any of these circumstances apply then the renewal application may be referred to a meeting of the Licensing Sub-Committee for determination

#### Material Change in Circumstances

- 4.34 The licence holder must notify the Council in writing, as soon as is reasonable, where there is a material change in circumstances affecting the licence holder or the STL accommodation.

#### Compliance & Enforcement

- 4.35 The Council will seek to work with hosts, residents and other interested parties to ensure compliance with legislative requirements and to be satisfied the accommodation is safe for use.
- 4.36 General enforcement costs will be included in the fees for new and renewal STL licence applications. The Council will charge a separate fee to a licence holder for a visit to their accommodation, where the visit results from their failure to comply with licence conditions or a complaint relating to the accommodation. The Council notes the Scottish Government guidance on frivolous or vexatious complaints in this regard.
- 4.37 Where complaints are received in relation to the operation of a licensed STL accommodation, the Council will seek to resolve it through engagement with the host or operator in the first instance.

- 4.38 Information on how to make a complaint in against a STL licence holder or in respect of the operation of the licenced STL can be found on the Licensing Service website.
- 4.39 Where appropriate other enforcement options will be considered, which include:
- a. Additional licence conditions applied on determination of an application or through variation of an existing licence;
  - b. Compliance notices;
  - c. Variation, suspension or revocation of licence; or
  - d. Report to the Procurator Fiscal of any alleged offences under the 1982 Act.
- 4.40 A fee will be charged for an inspection following a complaint, where it is found that there are also compliance issues, whether or not those are the issues that were the subject of the complaint.
- 4.41 Where a fee is charged for inspections, the Council will produce a report of its findings to the host or operator within 28 days of the inspection.

## Conditions

- 5.1 The Council can grant or renew a STL licence on such terms and conditions as it considers appropriate. This will typically take the form of the mandatory conditions, applicable to all STL accommodation by way of the 2022 Order, as well as the additional conditions agreed by the Council's Regulatory Committee on 29 September 2022.
- 5.2 Under the 2022 Order, there are specific conditions which the Council must attach to all types of STL licence. These are known as the "mandatory conditions" and are found at appendix one of this policy. It should be noted that the Council has no power to amend these mandatory conditions.
- 5.3 The 2022 Order affords the Council the power to set certain conditions, where necessary, which can address any local concerns or issues. These are known as "additional conditions". These conditions are found at appendix two and shall apply to every full licence granted, varied or renewed by the Council, unless they have been expressly excluded or varied. The additional conditions shall also apply to every temporary licence or temporary exemption granted or varied by the Council.
- 5.4 It is an offence to operate a STL without a licence or contravene a condition of any granted licence. Licence holders alleged to be breaching the conditions of their licence may be referred to the Licensing Sub-Committee for consideration of suspension or revocation of the STL

licence.

## **Review**

6.1 This policy will be reviewed every three years or more frequently, if required

## Appendices

### 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.

#### 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 or not the premises are served by a private water supply.

## Safety and 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 certified copy of the licence and the licence conditions,
  - fire, gas and electrical safety information,
  - details of how to summon the assistance of emergency services,
  - a copy of the gas safety report,
  - a copy of the Electrical Installation Condition Report, and
  - 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—
- an application has been made for planning permission under the 1997 Act and has not yet been determined, or
  - 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—
- the licence number, and
  - 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—
- valid buildings insurance for the duration of the licence, and
  - 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 for the Mandatory Conditions 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, any defect identified,
- (e) 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,

**"holder of the licence"** means any person to whom a short-term let licence has been granted or jointly granted,

**"home letting"** means a short-term let consisting of the entering into of an agreement for the use, while the host is absent, of accommodation which is, or is part of, the host's only or principal home,

**"home sharing"** means a short-term let consisting of the entering into of an agreement for the use, while the host is present, of accommodation which is, or is part of, the host's only or principal home,

**"premises"** means the accommodation which is the subject of an application for a short-term licence or the subject of a short-term licence,

**"repairing standard"** means the steps which the holder of the licence is required to take to comply with the obligations placed on the holder by Chapter 4 of Part 1 of the Housing (Scotland) Act 2006,

**"secondary letting"** means a short-term let consisting of the entering into of an agreement for the use of accommodation which is not, or is not part of, the licence holder's only or principal home,

**"short-term let"** has the same meaning as in article 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022,



**"short-term let licence"** means a licence for a short-term let, and

**"type of short-term let"** means one of the following purposes—

- (a) secondary letting,
- (b) home letting,
- (c) home sharing, or
- (d) home letting and home sharing.

## Appendix 2 – Additional Conditions

### Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 - Additional Short-term Let Licensing Conditions

<b>STL 1</b>	The licence holder must ensure that advice to guests on action to be taken in the event of an emergency is clearly and prominently displayed within the accommodation.
<b>STL 2</b>	To secure and maintain public order and safety and to prevent undue public nuisance, the licence holder must have in place, so far as is reasonably practicable, arrangements, (such as the provision of keys or other means of entry and egress) which at all times permits the quiet and orderly entry to, and egress from, the licensed property by any persons occupying the said property as a STL.
<b>STL 3</b>	The licence holder must make the licence, including any conditions, available to guests within the accommodation where it can be conveniently read.
<b>STL 4</b>	The licence holder must take reasonable steps to manage the accommodation in such a way as to prevent and deal effectively with any anti-social behaviour by guests while in the STL or any shared areas and while entering or leaving the accommodation or any shared areas.
<b>STL 5</b>	<p>The licence holder must take all reasonable steps to manage the premises in such a way as to prevent undue nuisance to neighbours. The licence holder must have due regard to the privacy and security of neighbours.</p> <p>The licence holder must ensure:</p> <ul style="list-style-type: none"><li>• Any particular rules applying to shared areas and entrances are communicated to guests;</li><li>• Guests understand that shared doors should be quietly and securely closed after use.</li></ul>

<b>STL 6</b>	An emergency contact telephone number for the licence holder and/or management shall be available and notified to the Council for 24-hour contact purposes for emergencies or antisocial behaviour from the accommodation.
<b>STL 7</b>	The licence holder shall give a neighbour notification to every other household in the same building as the STL accommodation, and any adjoining premises within 28 days of the licence holder's receipt of the licence document, and annually thereafter while the accommodation is licensed as a STL. This will advise of the name of the licence holder or managing agent, a contact address, day-time telephone number and an emergency contact number.
<b>STL 8</b>	The licence holder shall ensure that adequate facilities are provided for the storage and disposal of refuse, and recycling. The licence holder shall be responsible for advising residents of the refuse collection day and for making arrangements for the presentation of bins for collection at the appropriate time and day.

## Regulatory Committee

10.00am, Monday, 7 August 2023

### Licensing Performance Targets

Executive/routine Wards Council Commitments	All
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#### 1. Recommendations

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- 1.1 Regulatory Committee is asked to note the update and the measures which will be used to benchmark performance moving forward.

**Paul Lawrence**

Executive Director of Place

Contact: Andrew Mitchell, Head of Regulatory Services

E-mail: [andrew.mitchell@edinburgh.gov.uk](mailto:andrew.mitchell@edinburgh.gov.uk) | Tel: 0131 529 4208

## Licensing Performance Targets

### 2. Executive Summary

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- 2.1 This report sets out the steps the Licensing Service has taken to resolve the issues caused by the disruption experienced during the COVID-19 pandemic period, and the progress which it has been made since that time.
- 2.2 Prior to the effects of the COVID-19 pandemic, the service had a series of performance measures which were routinely reported to Committee. This report sets out interim performance measures for 2023/24, which are designed to provide a benchmark which will be used to determine longer-term performance measures to operate from 1 April 2024. The use of performance data and its publication is a key step in improving transparency and responding to the needs of customers.

### 3. Background

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- 3.1 A performance framework for licensing was agreed at Committee on [2 February 2015](#).
- 3.2 Regular reports were received by Committee in the period until 2018. In 2019, an Internal Audit on Houses in Multiple Occupation (HMO) Licensing was completed and an agreed action was that the performance reporting should be updated to include HMO licensing. This work was nearing completion but was suspended when the COVID -19 pandemic altered service provision radically.
- 3.3 The key performance measures previously in place were the percentage of applications initially processed and circulated within seven days and the percentage of applications determined within 72 days.
- 3.2 As reported previously, the Licensing Service worked from home from March 2020 until February 2022, with the exception of the Taxi Examination Centre which reopened in July 2020. Demand for advice from the service increased with over 800 customer contacts per week via telephone, combined with on average 1,000 emails per week. The statutory timescales for dealing with applications were extended, reflecting the challenges of service delivery during that period.
- 3.3 The service also took on additional responsibilities for processing and issuing outdoor permits, accepting applications, processing and paying out business grants

for Taxi and Private Hire Operators, as well as carrying out property inspections to support housing Ukrainian refugees. This additional work enabled businesses to operate and to continue trading.

- 3.4 However, the additional workload impacted on service delivery and directly to the backlog which was previously reported. A backlog of over 18,000 applications existed in February 2022 when the staff group returned to the office, and it has taken until April 2023 for the service to clear this workload. Updates have been provided to Committee in the business bulletin on progress in addressing the backlog during this period.

## 4. Main report

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### Licence Numbers

- 4.1 In the year prior to lockdown (2019/20), 24,020 businesses were licensed and in the year post-lockdown (2022/23) 23,632 business were licensed. This is a decrease of 1.6%. Licence holders may submit more than one application if there is a variation or other change during the year.

	<b>Total licence holders as at 1 April each year</b>	<b>Applications submitted in the year</b>
2019	23,612	21,127
2020	24,020	19,818
2021	15,466	14,559
2022	18,165	18,443
2023	23,632	18,862

- 4.2 The above table shows the number of licence holders per year and indicates that there has been a 30% increase in licence holders in the past year, with the number now just under the pre-lockdown figure. This reflects the scale and amount of work undertaken to clear the backlog and puts the service on a stronger footing for the remainder of this financial year.
- 4.3 Demand on the service varies throughout the year, with significant peaks in applications around the months which have major festivals or events. Additionally, key renewal dates can also cause peaks (for example, when all HMOs are renewed in December of each year). Management of these variable service demands is a key priority for the service.

### Future Demand

- 4.4 It is expected that the full introduction of Short Term Let (STL) Licensing will generate several thousand more licence applications per annum. This takes account of the extension to the deadline for existing operators to apply for a STL Licence by 1 October 2023. The service expects a conservative estimate of

applications to be a minimum of 4,000 applications, which would result in an increase in the overall workload of the service by 17%.

### **Service pressures and projects**

- 4.5 The HMO inspection programme was paused at the beginning of lockdown and, at present, inspections have only resumed for new properties, or where there is a serious concern about an existing HMO property. In the interim, the staff group which would normally inspect properties has been assisting with addressing the backlog in applications. Plans are progressing to reintroduce HMO inspections during autumn 2023. The inspections will be carried out using a risk-based model and will involve inspecting 5,500 properties over a three year period. Recruitment is also underway to fill vacancies which arose during the period inspections were paused.
- 4.6 Other factors which will affect the service in the current year will be relocating the Taxi Examination Centre from Murrayburn to South Gyle, with an estimated completion date of April 2024. This is a significant project, with an anticipated cost of £1.56M, and mitigations will be necessary to minimise any disruption to service during the relocation.
- 4.7 It is anticipated that a review of the organisational structure of the service will commence in this current financial year with a particular focus on the changes necessary to improve customer service, and ensure that long term resources are in place to sustain the additional demand from STL licensing, and also deliver the integrated service at the new South Gyle facility.

### **Interim Performance Measures**

- 4.8 Given the variables of a projected increase in the number of applications, and the factors set out in 4.5 to 4.7 above, it is difficult to set long term performance measures at this point. In the interim, it is therefore intended to use the following indicators as the basis of performance monitoring during 2323/24. These will be used to inform setting robust and stretching targets for 2024/25 and beyond.
- 4.8.1 Number of applications received;
- 4.8.2 Number of applications considered within 12 weeks (target: 100%);
- 4.8.3 Average time taken to determine applications;
- 4.8.4 Number of HMO inspections carried out by the Licensing Service; and
- 4.8.5 Number of new STL licence applications determined.

### **Customer Engagement**

- 4.9 The service is committed to achieving consistent and sustained high standards of performance. Work is underway to ensure that future service delivery will meet demand, and improvements will include:
- ICT improvements;
  - Improved and increased communication with trade groups; and
  - Regular customer satisfaction surveys.

- 4.10 The engagement with trade groups and feedback from customers will be used to inform performance measures which will be developed for 2024/25 onwards.

## **5. Next Steps**

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- 5.1 Performance will be measured during the year and reported to Committee.
- 5.2 Work will continue on the improvements set out in paragraph 4.9.
- 5.3 Performance measures for 2024/25 onwards will be developed and reported to Committee.

## **6. Financial impact**

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- 6.1 There are no financial impacts arising from this report. Where costs are shown these are contained within existing budgets.

## **7. Stakeholder/Community Impact**

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- 7.1 The service will engage with stakeholders as explained in paragraph 4.10 above.

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

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- 8.1 None

## **9. Appendices**

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- 9.1 None

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# Regulatory Committee

10.00am, Monday, 7 August 2023

## Late Hours Catering Enforcement

Executive/routine Wards Council Commitments	Routine All
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### 1. Recommendations

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- 1.1 Regulatory Committee is asked to note the proactive enforcement action taken by Licensing Enforcement Officers in relation to late hours catering.

**Paul Lawrence**

Executive Director of Place

Contact: Andrew Mitchell, Head of Regulatory Services

E-mail: [andrew.mitchell@edinburgh.gov.uk](mailto:andrew.mitchell@edinburgh.gov.uk) | Tel: 0131 529 4208

## Late Hours Catering Enforcement

### 2. Executive Summary

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- 2.1 This report provides an update on enforcement activity in relation to Late Hours Catering licences across Edinburgh.

### 3. Background

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- 3.1 A Late Hours Catering Licence is required for the use of any premises between the hours of 11pm and 5am, for the sale to or consumption of food by the public.
- 3.2 Historically the approach to enforcement in relation to Late Hours Catering Licences was reactive, and any complaints were dealt with by the Licensing Enforcement team during normal office hours. Police Scotland may separately conduct their own enforcement activity relevant to the local policy priorities.

### 4. Main report

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- 4.1 Over the course of the coronavirus pandemic the number of premises with a Late Hours Catering Licence in Edinburgh fell from 179 active licences in 2019 to a low of 128 licences in 2021. Records show that the current number of active licences remains below both pre-pandemic levels and the highest recorded number of licences (230 in 2016).

Expiry date	Late Hours Catering licences
2019	179
2020	171
2021	128
2022	138
2023	158

- 4.2 Committee will also recollect from previous reports (in relation to the Environmental Health service) that there is a significant degree of turnover in ownership of this type of business.
- 4.3 Recently additional resources have enabled a team of Licensing Enforcement Officers, covering both the day and nighttime economies, to take a proactive approach to certain licensable activities, including late hours catering.

- 4.4 A compliance exercise to check late hours catering premises and also to ensure no unlicensed late hours catering has been undertaken.
- 4.5 This identified 46 premises which had failed to renew their Late Hours Catering Licences during the pandemic. These were subsequently investigated and a summary of the outcome of monitoring and visits during night time economy hours were recorded as follows:

Premises no longer operating, or no longer operating after 11pm	28
Premises subject to ongoing enforcement action due to operating without a Late Hours Catering Licence	8
Premises have now applied for a Late Hours Catering Licence as a result of enforcement action	7
Premises were already licensed but had changed operators without updating the licence.	3

## 5. Next Steps

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- 5.1 As Edinburgh’s economy continues to recover from the Coronavirus pandemic, and supported by increased engagement and enforcement action, officers will continue to monitor the number of Late Hours Catering Licences in Edinburgh.
- 5.2 In addition, a programme of annual compliance inspections for every premises with a Late Hours Catering Licence in Edinburgh has commenced. These inspections aim to increase compliance with legislation and the relevant conditions, raising standards in the sector for residents and visitors to Edinburgh.
- 5.3 Further proactive work is planned over the course of the festival and festive periods, seeking to identify new or pop up premises which have never held a Late Hours Catering Licence and are not subject to exemptions.

## 6. Financial impact

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- 6.1 Increased enforcement and compliance will produce an increase in licensing income, as well as protecting the public from unlicensed operators.

## 7. Stakeholder/Community Impact

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- 7.1 Officers are reactive to complaints and enquiries, and are now proactively engaging with businesses across Edinburgh in both the day and nighttime economies. Increased compliance contributes to the Council’s strategic priority to create good places to live and work in Edinburgh.
- 7.2 Matters described in this report have no relationship to the public sector general equality duty, thus there is no direct equalities impact arising from this report.

7.3 There is no environmental impact arising from the contents of this report.

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

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8.1 [Late Hours Catering Policy](#)

8.2 [Late Hours Catering Standard Conditions](#)

## **9. Appendices**

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9.1 None

## Regulatory Committee

10.00am, Monday, 7 August 2023

### No Cold Calling Zones in Edinburgh

Executive/routine Wards Council Commitments	Routine All
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#### 1. Recommendations

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- 1.1 It is recommended that Regulatory Committee:
  - 1.1.1 Notes the ongoing preventative benefits of No Cold Calling Zones ('NCCZs') operating across Edinburgh; and
  - 1.1.2 Supports the creation of further NCCZs where residents or Community Councils raise issues related to cold callers or doorstep crime.

**Paul Lawrence**

Executive Director of Place

Contact: Andrew Mitchell, Head of Regulatory Services

E-mail: [andrew.mitchell@edinburgh.gov.uk](mailto:andrew.mitchell@edinburgh.gov.uk) | Tel: 0131 529 4208

## No Cold Calling Zones in Edinburgh

### 2. Executive Summary

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- 2.1 This report provides an overview of No Cold Calling Zones (NCCZs) in Edinburgh. NCCZs help to empower and protect residents from doorstep crime, and can be formed when the majority of residents in a proposed area indicate their support for the proposal. After a NCCZ is established, no businesses should cold call within the zone for commercial purposes.

### 3. Background

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- 3.1 No Cold Calling Zones (NCCZs) are designated areas of the city in which a majority of residents have indicated that they do not wish to have uninvited cold callers for commercial purposes. NCCZs are set up by the Trading Standards team, usually in cooperation with Police Scotland.
- 3.2 In 2006 the outcome of a [NCCZ pilot](#) was positive and was then extended to cover other areas of the city. NCCZs have now been established throughout the city - some consisting of single streets, and others covering multiple streets within a neighbourhood or local area.
- 3.3 The number of zones has continued to grow and there are currently 135 zones in Edinburgh.

### 4. Main report

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- 4.1 Uninvited in person visits ('cold calling') are often linked to 'doorstep crime'. This phrase covers a variety of Consumer Protection offences which are enforced by Trading Standards, but also extends to other common law offences within the remit of Police Scotland, such as fraud and distraction burglary.
- 4.2 A zone is formed when a majority of residents indicate that they wish to designate their local area to be a NCCZ. This generally involves appointing a resident as a Zone Champion to act as a contact point and distributing

questionnaires to residents of the proposed zone. Trading Standards, often accompanied by Police Scotland, can also assist with questionnaire distribution to residents.

- 4.3 NCCZ residents are provided with a 'No Cold Callers' sticker for their doors, and the zones are designated using lamppost signs. Supplementary pavement stencils (using temporary paint) are used to reinforce the signs where feedback indicates that traders have unwittingly found themselves within a NCCZ.
- 4.4 NCCZs can also be proactively proposed by the Trading Standards team or Police Scotland in response to a particular doorstep crime event, or an identified area which is receiving a high level of crime reports which are believed to be related to cold callers/doorstep crime.

### **Current and Proposed NCCZs**

- 4.5 A list of the current NCCZs can be [viewed](#) on the Council website. A further two are in the the process of being formed, having been proposed by Trading Standards in response to a number of complaints.
- 4.6 Guidance documents with details of NCCZs, an interactive map showing where the zones are located, and how residents can apply to form a new NCCZ can also be [viewed](#) on the Council website.
- 4.7 Due to the nature of complaint recording by the agencies involved, it is impossible to statistically attribute a fall in doorstep crime to the formation of a NCCZ.

### **Feedback**

- 4.8 Feedback is gathered periodically once zones have been established for over a full calendar year, to ensure that it is seasonally representative.
- 4.9 Resident feedback is very positive. The results of the last feedback exercise in 2017 indicates that the level of cold callers has reduced within NCCZ areas, and residents feel more confident in refusing any traders who do call within a NCCZ, with 167 residents confirming:

Cold calling had fallen	99%
NCCZ stickers and signage had helped	81%
Residents felt more confident refusing any cold caller	89%
Zone was successful	100%

- 4.10 Informal feedback collected during 2021 from the Champion for Swanston NCCZ (a large zone set up in 2019) suggested that cold calling had definitely decreased, and that the zone has been successful.

- 4.11 Some NCCZs have been in place for many years and a small number no longer have a contact point. Moreover, the resource requirements to complete a full feedback exercise on all 135 established NCCZs would be significant.

## 5. Next Steps

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- 5.1 Trading Standards will continue to support the formation of NCCZs in response to resident requests, or where intelligence indicates that this may be necessary due to elevated levels of doorstep crime and cold calling.
- 5.2 Recognising the challenges in carrying out a full feedback exercise with all of the NCCZs, during summer a smaller exercise is scheduled for a representative sample of established NCCZs.

## 6. Financial impact

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- 6.1 The cost of manufacture and mounting of NCCZ signs has significantly increased since 2019. Mitigations or alternatives are being sought where possible to offset this cost.
- 6.2 Officer costs have to be contained within existing budgets and vary depending on the size of the proposed NCCZ. This can be a limiting factor when considering increasing the number of NCCZs as, due to the amount of time and effort required to successfully establish a NCCZ, the required resources can be significant.

## 7. Stakeholder/Community Impact

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- 7.1 The implementation of NCCZs forms part of the Trading Standards team's strategy to reduce financial harms. Victim profiling [indicates](#) that those most vulnerable to doorstep crime are often elderly and live alone. Furthermore, Age UK [confirm](#) that victims are 2.5 times more likely to require residential care or to have died within a year of an incident.
- 7.2 Residents in a proposed NCCZ are consulted by questionnaire as to whether they would like to progress, generally administered by a local 'Zone Champion' supported by Trading Standards and Police Scotland.
- 7.3 Residents within NCCZ indicate a positive impact. The Trading Standards team will continue to support local communities to set up further NCCZ where residents think that this would be beneficial.
- 7.4 The preventative benefit of one NCCZ is estimated using an assumption that each zone will prevent one Doorstep Crime incident per year (at an estimated



cost of £2,952). This is the most conservative estimate of scams detriment calculated by the National Trading Standards Scams Team.

- 7.5 The preventative value of NCCZ per year in the city is therefore estimated at £398,520.

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

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- 8.1 [No Cold Calling Zone Edinburgh webpage](#) including maps, street names etc.

## **9. Appendices**

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- 9.1 None.

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