

Regulatory Committee

2.00pm, Thursday, 29 September 2022

Short Term Lets Licensing - Update After Consultation

Executive/routine
Wards All
Council Commitments

1. Recommendations

- 1.1 Regulatory Committee is asked to:
 - 1.1.1 Note the contents of this report and the responses to two rounds of public consultation on the licensing of Short Term Lets (STL);
 - 1.1.2 Consider the separate legal advice paper provided by the Council's Legal Services;
 - 1.1.3 Agree to the proposed policy and additional STL licensing conditions set out at Appendix 5;
 - 1.1.4 Agree that the policy shall include a statement that secondary letting in tenement or shared main door accommodation is considered as unsuitable and that there will be a rebuttable presumption against the grant of a licence in such circumstances;
 - 1.1.5 Agree that, as part of the policy, the Council will adopt additional licence conditions for STL licences;
 - 1.1.6 Agree that temporary exemptions and temporary licences will be introduced for STL as part of the licensing scheme;
 - 1.1.7 Approve the proposed fee structure in relation to applications for STL licences; and
 - 1.1.8 Note that, if the proposed policy is approved, officers will advertise as necessary, noting in accordance with the legislation that a licensing scheme for Short Term Lets will open on 1 October 2022.

Paul Lawrence

Executive Director of Place

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Short Term Lets Licensing - Update After Consultation

2. Executive Summary

- 2.1 This report provides Committee with an update on the new powers given to local authorities to regulate short term lets (STL) by means of a licensing scheme. This follows the commencement of 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').
- 2.2 In March 2022, Committee instructed statutory consultation on a draft policy for STL. Two public consultations on the proposed policy and additional licensing conditions framework have now been completed, and this report provides a summary of the responses received. The report recommends that Committee approves the proposed STL licensing policy, additional licensing conditions and application fee structure.

3. Background

- 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.
- 3.2 As previously reported to the Council and this Committee, complaints received regarding STL cover a number of broad types including:
 - 3.2.1 Impact on available housing supply within the city;
 - 3.2.2 Erosion of sense of community in areas with dense concentrations of STL;
 - 3.2.3 STL is generally not suitable for tenement properties;
 - 3.2.4 Properties which are used as STL may not meet the same safety standards as other types of visitor accommodation;
 - 3.2.5 Noise and anti-social behaviour created by guests using STL; and
 - 3.2.6 STL which operate on a commercial basis may not be paying rates or other Council charges required.

4. Main report

Licensing Scheme

- 4.1 The 2022 Order brings STL within the scope of the 1982 Act and requires local authorities to implement a licensing scheme for STL, in order to improve safety and mitigate the impact on communities.
- 4.2 As directed by Committee on 31 March 2022, a two-stage consultation exercise began in April 2022. An initial consultation on the proposed changes was published on the Council's Consultation Hub between 15 April and 10 June 2022. The aim was to gather a broader understanding of community and business views in relation to what a STL licensing policy should include, and whether the Council should adopt any discretionary licensing powers. That consultation received 1,902 responses as detailed in the summary report attached at Appendix 1. The response rate far exceeds the normal response rates for a licensing consultation with the next nearest being 900 approximately responses in 2019.
- 4.3 Following consideration of the results from the initial consultation, a draft statement of policy and a framework of additional licence conditions were developed (Appendix 5). A second period of consultation took place between 25 July and 5 September 2022, asking for views on the proposed policy and conditions. The second consultation received 1,039 responses and a summary is attached at Appendix 2.
- 4.4 During the consultation period, the Council received a significant number of written responses. In order to efficiently collate these comments, a series of additional papers grouping comments by question type across both consultation periods, have been included as Appendices 3 and 4.

The background and need for use of the discretionary licensing powers

- 4.5 Members will recall from previous reports to committee and motions agreed at Full Council expressing concern about the negative impacts of the growth of STL accommodation within the city, a STL Working Group of cross-party elected members was set up to consider the impact on the city. After hearing from officers and interested parties, the working group was able to reach a number of conclusions in relation to STLs operating in tenements or shared main door accommodation.
- 4.6 A Short Term Lets Virtual Team was also established in 2018 to co-ordinate action using existing powers across several services in order to address issues with STLs. The virtual team reviewed all complaints received about STL premises and, where possible, identify and implement a response to address poor practice or take enforcement action against those premises operating on a commercial basis. The majority of the complaints which the team dealt with involved secondary letting in tenement or shared main door properties. Typically, the core of the concerns were the intensive use of these properties which offered residents no respite if there was a problem and the fact there was no staff member or owner of the property on site to deal with any concerns.

- 4.7 Data on the types of STL complaints being broken down into the types of complaints and which was submitted to the Scottish Government as part of their consultation process in 2019 was as follows:

Area	Period	Cases
Planning Enforcement	January - December 2018	117
	January - June 2019	109
Private Rented Sector Enforcement and Trading Standards	June 2017 – June 2018	21
	June 2018 – June 2019	20
Family and Household Support	April – July 2019	22
Environmental Health	July 2018 – July 2019	5
Total		294*

* note: a small number of cases required investigation by more than one service area

- 4.8 The concerns noted above, as well as the positive aspects of STLs, formed part of the Council's response to the Scottish Government consultation on a regulatory framework for STLs in 2019, which is available [here](#). It is clear from the Scottish Government report on this consultation, available [here](#), that similar concerns were expressed by a number of respondents.
- 4.9 In March 2020 and again in December 2020, the STL sector was largely closed as lockdown measures were implemented as a result of the COVID-19 pandemic. During the periods which the sector was re-opened prior to December 2021, STL operations were significantly restricted and severely impacted by restrictions of international travel. Therefore, a meaningful comparison with complaint data during this time is not possible. The Council continued to receive complaints but more commonly about breach of planning permission or breach of lockdown rules.
- 4.10 The Planning Service continue to take enforcement action against those STLs operating without the required planning permissions. As planning legislation has been the only realistic enforcement tool that the Council has, the complaints typically raise concerns about the negative impact of secondary letting and urge the Council to use planning enforcement as a tool to address this. Absent any other regulatory powers until the introduction of the licensing system it remains the most accurate barometer of public concern of the sector. Members will be aware of concerns that the level of complaints are likely to be under reported.

The number of enforcement cases in respect of STL accommodation, remain at a high level.

Financial Year	No of STL Planning Enforcement Cases in respect of Secondary Letting
2018/19	114
2019/20	228
2020/21	83
2021/22	107
2022/23 (to date)	93

- 4.11 Across both periods of consultation held on the licensing of STLs in Edinburgh, an analysis of the responses has demonstrated a significant level of concern on this issue, despite the pandemic pause. Members have been provided both a summary and the complete set of comments made in response to the consultation.
- 4.12 The Council had also previously commissioned research into any potential negative impacts of the Edinburgh short-term rental market which has been taken into account. This formed part of the Council's case to Scottish Government arguing for new licensing powers, see paragraph 4.8 above.
- 4.13 The paper also shows that some of the more serious cases of problems within secondary letting which the Council has struggled to deal with use previous powers, including the case of having to obtain two management control orders for problem premises and one case where a secondary letting operator was using a flat within a tenemental block as a house keeping unit which was disruptive for other neighbouring flats.
- 4.14 This research, and additional research carried out by others, demonstrated that the majority of STL are in tenemental properties, concentrated in areas of the city which already have high demand for housing. The Council has heard, and members will be familiar with persistent concerns that the regular use of any tenement/shared main door accommodation as a STL is unsuitable due to its character, location, and the risk of creating undue nuisance. Concerns also exist in relation to the risk that anti-social behaviour may be exacerbated within this type of accommodation, given the close proximity of other residential properties and communal areas. This is particularly acute on issues such as noise, neighbours being disturbed by door buzzers or similar and STL residents arriving or leaving at times not normally conducive to tenemental life.
- 4.15 It is also recognised that the shared or collaborative economy has many positive aspects. Any measures taken should therefore recognise the importance of visitors to the city's economy, in particular the importance with providing

additional accommodation during certain times of the year such as during the summer festivals.

Secondary letting in Tenement/Shared Main Door Accommodation

- 4.16 The initial STL consultation asked respondents whether tenements or other accommodation with a shared main door would be suitable for use as STLs. 59% of those responding to this question thought that STLs are unsuitable in this type of property, and only 39% thought that they were suitable. This is consistent with the concerns raised with the Council over many years about the negative impacts of these.
- 4.17 After consideration of the responses to the initial consultation, two options were put in the second consultation exercise;
- 4.9.1 **Option A)** Secondary letting in tenement or shared main door accommodation is considered as unsuitable and there will be a rebuttable presumption against the grant of a licence in such circumstances.
- OR
- 4.9.2 **Option B)** There will be a rebuttable presumption against the grant of a licence for secondary letting in tenement or shared main door accommodation, unless the applicant can demonstrate they have consent from the owners of all accommodation within the stair/close in which their accommodation is situated.
- 4.18 In practice and for the purposes of this policy, a rebuttable presumption means that where an application falls outside of policy or is otherwise inconsistent with it, that an applicant understands that this in effect places a practical onus on them to show why their application should still be granted notwithstanding the policy.
- 4.19 As part of the second consultation, respondents were asked which option they considered was most suitable. The responses demonstrate that there is no clear, overall preference between the two options. 41% considered Option A to be the most suitable way to deal with STL applications for tenement/shared main door accommodation, while 29% considered Option B to be the most appropriate.
- 4.20 Trade groups affected have argued strongly that the presumption against these options would amount to a de facto ban on secondary letting within tenements. Members will be aware from their training and experience that with any licensing policy, any application would be required to be considered on its individual merits and applicants would be entitled to make a case for exemption from either of the options presented above. For example, the Licensing Sub-Committee could consider an application for a secondary letting STL licence for accommodation within tenement or shared main door accommodation and would have to determine whether a case had been made by an applicant to be considered an exception to the terms of the policy.
- 4.21 After consideration of the consultation responses, it is recommended that the Committee agrees that Option A as the most suitable approach in respect of secondary letting in tenement or shared main door accommodation. Option A

sets a clear policy direction which has public support. Moreover, legal advice has been sought on the robustness of both options and it is considered that there is a lower risk of successful legal challenge if Option A was included within the policy.

- 4.22 Secondary letting is distinct from home letting or home sharing in that the accommodation would typically be operated commercially and therefore likely more intensively used than home letting or sharing. Furthermore, the licence holder does not live on the premises. Concerns around the management of such accommodation, especially in tenemental or shared main door properties has been expressed consistently throughout the consultation periods. Whereas home owners will either be present during home sharing or present for extended periods in the scenario of home letting. From experience in regulating a range of businesses it is much more likely that the home owner will have a relationship with their neighbours and much more responsive to any issues that arise.
- 4.23 In order to assist applicants and licence holders to understand what factors might be relevant in determining an exemption request, information has been added to paragraph 4.15 of the proposed licensing policy which sets out the factors which the Licensing sub-committee may consider as relevant factors when determining an application for secondary letting in tenement or shared main door accommodation. This further information will assist applicants, who may want to be considered an exception to policy, in understanding the criteria which might be considered relevant by the Licensing Sub-committee.
- 4.24 Lastly the period of licence, which was proposed to be 12 months, for secondary letting has been raised as a concern. As discussed above secondary letting is likely to be more intensive and the need to ensure that the properties are and remain of a safe standard also justifies the need for more regular inspections and scrutiny. This is particularly important in the early stages of the licensing regime where the licensing authority has had no chance to check the compliance standards. It is therefore recommended secondary letting licences will only be issued for a period of one year but that this be reviewed in 18 months' time to allow the committee to examine whether a longer period for a renewal might be appropriate. This one year licence at initial grant is consistent with the existing Council policy where new licences are not normally granted for longer than one year.

Temporary Licences

- 4.25 The 1982 Act gives the Council powers to issue temporary licences for STL accommodation. The legislation allows that a temporary licence may be granted for a duration of up to six weeks. Furthermore, if an applicant has applied for a full licence, any temporary licence granted to them will last until their full application is finally determined.
- 4.26 During the initial consultation, respondents were asked whether the Council should introduce temporary licences. 46% agreed that temporary licences should be issued, while 53% disagreed.
- 4.27 Respondents were also asked to give views on whether temporary licences should be subject to any additional conditions, and what issues those conditions

should seek to address. The responses to those questions are attached at Appendix 1 and in the additional papers which contain the comments made by respondents in respect of temporary licences.

- 4.28 After consideration of the responses, it is proposed that the Council issues temporary licences, as is set out in paragraphs 4.17-4.23 of the proposed STL licensing policy. This will give first time hosts the flexibility and opportunity to apply for a temporary licence in order to try out short-term letting their accommodation prior to making a full licence application.
- 4.29 The application process for temporary licences does not provide the opportunity for public objections. The proposed policy states that temporary licences are considered unsuitable for secondary letting accommodation. Where a temporary licence has been granted or where an applicant has lodged an application for a 'full' secondary letting STL licence, a temporary licence application may be lodged in respect of the same premises while the 'full' application is considered. Consequently, this would have the effect of the STL being able to operate for many months either as a series of temporary licences or with a pending application without the opportunity to consider any objections or for the Council to consider the suitability of the accommodation for many months. This is considered inappropriate, and it is therefore recommended that there is a rebuttable presumption against temporary licences being issued in respect of secondary letting accommodation
- 4.30 Temporary licences will also be subject to the mandatory and additional licence conditions, in order to satisfy the Council that the accommodation is regulated to an appropriate standard and to ensure that mitigations are in place with regard to any potential impact on residential amenity.

Temporary Exemptions

- 4.31 The 1982 Act gives local authorities the ability to grant temporary exemptions to the requirement to have a licence. Furthermore, the legislation states that temporary exemptions can be issued for a specified single continuous period not exceeding six weeks in any period of 12 months. The six week limit is a maximum and not a default. Licensing authorities must publish a temporary exemptions policy statement and review it every three years at a minimum.
- 4.32 As part of the consultation process, respondents were asked whether the Council should grant temporary exemptions for STLs. 63% thought that the Council should not issue temporary exemptions, whilst 36% thought that it should. In contrast, Committee's attention is drawn to the feedback from festival organisers who point out the need for such temporary accommodation for the peak festival season and this is a significant consideration.
- 4.33 Respondents to the consultation were asked for their views on what reasons would justify the Council granting temporary exemptions for STLs. The majority of those responding to this question considered the below reasons as appropriate:
- Major sporting events such as the Six Nations, Commonwealth Games, European Finals or similar;

- Major international events such as CoP26 or similar; and
 - For home sharing or home letting to give first time operators the chance to try out STL before making a full application.
- 4.34 Importantly, a number of respondents did not answer this question due to the fact that they had indicated in the previous question that they did not think the Council should issue temporary exemptions.
- 4.35 Having considered the feedback received, it is proposed that the Council exercises its discretion to issue temporary exemptions to the requirement to obtain a STL licence, where appropriate and in line with the circumstances set out in paragraphs 4.24-4.30 of the proposed STL policy.
- 4.36 Reflecting on the feedback from, in particular, trade groups it is proposed that temporary exemptions would be available to secondary letting, home sharing and/or home letting STL accommodation and be subject to the mandatory and additional conditions of licence. It is considered appropriate that the policy allows for extra accommodation to be available for times of the year where there is increased demand for STL accommodation, such as during the summer festivals, major sporting events, festive period etc. It would however prevent the risk highlighted in paragraph 4.29 above that the STL could operate for an extended period before the full consideration of its suitability is determined.

Temporary Exemptions in Secondary Lets

- 4.37 Notwithstanding the recommended presumption against the grant of a licence for secondary letting within a tenemental properties as set out on paragraphs 4.21 above. The legislation provides that a temporary exemption can be granted for a maximum single continuous period of 6 weeks in a 12 month period in these types of properties. An example could be a licensed HMO where the licence holder wants to offer a limited period of short term letting. Recognising that the policy proposes that temporary exemptions will be subject to both the mandatory and additional licence conditions, it is proposed that temporary exemptions may be issued to secondary lets to help meet increased demand during certain periods of the year. This position will be kept under review.

STL in HMO Licensed Properties

- 4.38 Respondents to the consultation were also asked whether short term letting should be permitted in properties which are also licensed as Houses of Multiple Occupation (HMO). 59% of respondents considered HMO properties to be unsuitable to be used as STLs, while 36% thought that they were suitable. Some respondents highlighted anecdotal concerns that this could lead to tenants being forced to leave their properties during certain periods of the year when there is high demand for STL accommodation.
- 4.39 Some respondents thought that HMOs would provide additional accommodation during periods of high demand for STL accommodation. It was also highlighted that a significant proportion of HMO licensed properties in Edinburgh are used by the city's student population, who typically vacate during the summer months anyway.

4.40 At this stage, it is recommended that no specific restriction is placed upon HMO licensed properties holding a STL licence. This is predicated on the assumption that a significant proportion of this type of accommodation will be available during periods of the year where demand is high, i.e., due to the term time schedules of higher education establishments. This policy position will be kept under review.

Adopting Additional Conditions

4.41 As per the 2022 Order, there are mandatory conditions of licence which will apply to all short-term lets across Scotland (Appendix 6). These conditions cover issues such as:

- Fire safety;
- Gas safety;
- Electrical safety;
- Water safety;
- Planning permission; and
- Maximum occupancy.

4.42 In addition to the mandatory conditions of licence, the Council may set additional licence conditions by virtue of the 2022 Order in order to help licensing authorities to respond to local challenges and concerns.

4.43 The Council has broad powers with respect to which premises will have additional conditions attached to them. However, the Council cannot use additional conditions to contradict, modify or dilute mandatory conditions. Different additional conditions may be determined:

- In respect of different licences, or different types of licence; or
- Otherwise for different purposes, circumstances or cases.

4.44 As part of the initial consultation, respondents were asked if the Council should adopt additional conditions. 79% agreed that the Council should adopt additional conditions, while 20% disagreed. When asked what issues additional conditions should cover, the percentage of the 1,893 who responded to this question answered as follows:

4.44.1 Noise – 75%

4.44.2 Anti-social behaviour – 75%

4.44.3 Waste Management – 71%

4.44.4 Failure to maintain the property – 69%

4.44.5 Failure to maintain/contribute to communal repairs – 72%

4.44.6 Damage or alteration to property – 67%

4.44.7 Unlawful activity – 73%

4.45 Having considered the responses to the consultation process, it is clear that there is significant support for the Council to adopt additional licence conditions.

Furthermore, the written responses to both consultations clearly indicate a number of issues which additional conditions should address.

- 4.46 As part of the review of the consultation responses, detailed legal advice has also been taken on the proposed additional conditions. As a result, draft STL1 of the proposed conditions (which referred to the maintenance of fire precautions, gas, drainage etc) has been removed from the recommended additional conditions as it was considered that this replicated the terms of the mandatory conditions set by the 1982 Act, which could result in a legal risk to the policy.
- 4.47 It was further considered that draft conditions STL3, (which referred to visitor access and egress times) and STL6 (which referred to key boxes) of the originally drafted policy may present a legal risk to the Council. Therefore, draft conditions STL3 and 6 has been removed and a revised condition STL2 has been included in the policy. The revised condition seeks to address the same issues as the draft STL3 and STL6 conditions, whilst minimising the risk of legal challenge to the Council.
- 4.48 Accordingly, the revised of additional conditions have been drafted as set out in Appendix 2 of the draft STL licensing policy and recommended for approval by the committee.

Maximum Occupancy - Children

- 4.49 The Council has the discretion to specify on a licence that guests may bring a certain number of children under a specified age limit, and these would not count towards the occupancy of the premises. Children above the stated age limit and any additional children of any age would count towards the occupancy.

During the consultation process, respondents were asked whether children under 10 years of age should count towards the total occupancy of STL accommodation. 65% of respondents thought that children under 10 should count towards the maximum occupancy of STL accommodation, while 34% thought that they should not. In the context of the Housing (Scotland) Act 1987, children under 10 are not counted towards the total maximum occupancy of a property. Whilst the majority view of the consultation is that children under 10 should count towards maximum occupancy, it is considered that there is insufficient evidence to treat STL accommodation differently to other forms of housing in this regard. Consequently, it is proposed that children under 10 will not count towards the maximum occupancy of STL accommodation at this stage. This will be kept under review.

Cap on number of nights for Home Letting

- 4.50 As part of the second consultation, respondents were asked whether the Council should adopt discretionary powers to set an additional licence condition which would limit the number of nights which accommodation may be used for 'home letting' per year.
- 4.51 For the avoidance of doubt, the 2022 Order does not give the Council the power to impose a similar condition for accommodation being used for 'secondary letting'.

4.52 76% of respondents thought that the Council should introduce such a cap for home letting, whilst 23% disagreed with this approach. Respondents were also asked how long any cap should be:

- 32% thought that a cap of four weeks in any 12 month period, should be introduced;
- 20% thought that a cap of six weeks in any 12 month period should be introduced; and
- 20% of respondents thought that there should be no limit set.

4.53 It is therefore clear that there is support for a cap on the number of nights, which accommodation may be used for home letting, being introduced. However, taking into account that it is recommended that temporary licences and temporary exemptions should be made available, it is considered too restrictive to introduce a cap of this kind. Additionally, it is considered that there is insufficient evidence on which to base a decision to set a cap and that there would be a significant risk of legal challenge if one were to be introduced. Committee are advised that further work would be required before any further recommendations could be brought forward on this matter.

Summary of Key Policy Recommendations

4.54 A number of key policy recommendations have been made, after consideration of the responses to both rounds of consultation, on the licensing of STL it is recommended that:

4.54.1 The licensing policy should include a statement that secondary letting in tenement or shared main door accommodation is considered as unsuitable, and there will be a rebuttable presumption against the grant of a licence in such circumstances. Furthermore, the policy should set out a non-exhaustive list of factors which the Committee may consider as good reason to exempt a property from this part of the policy;

4.54.2 Temporary licences for STL are introduced but not for secondary letting

4.54.3 Temporary exemptions for STL are introduced including secondary letting;

4.54.4 The Council adopts discretionary powers to introduce additional conditions for STL;

4.54.5 Children under 10 should not count towards the maximum occupancy of a STL; and

4.54.6 A cap on the number of nights for which accommodation may be used for home letting is not introduced at this stage.

Short Term Let Control Areas

4.55 On 27 July 2022, the Scottish Government approved plans that the whole of the City of Edinburgh Council area will become Scotland's first designated STL Control Area, after it approved proposals from the Council which were submitted earlier this year. This means that the change of use of an entire dwelling that is

not someone's principal home to a STL will require planning permission. It does not apply to home sharing or home letting.

- 4.56 The STL Control Area was publicised on 5 August 2022 by the Council and subsequently came into force on 5 September 2022.

Application Fees

- 4.57 Ahead of the opening of the licensing scheme for STLs, the Council as licensing authority is required to agree a fee structure for STL applications, which includes fees for both grant and renewal of licences.
- 4.58 The Council's functions as a licensing authority are funded directly by income raised from licence application fees. The fees currently charged are normally approved by the Council as part of the annual budget process. This Committee also has the power to agree a licence fee structure or amend any existing structure.
- 4.59 The fees are intended to fully recover the costs of delivering a licensing scheme. After consideration of the anticipated costs of administering and enforcing a licensing regime for STLs, officers propose application fees as outlined at Appendix 7. In order to give some context, the fee for a three person occupancy secondary letting application equates to a cost of £12.56 per week to the applicant. For the same type of application with a 21 person occupancy, the cost of the application equates to £113 per week.

5. Next Steps

- 5.1 It is recommended that Committee adopts the proposed licensing policy, additional conditions framework and application fees.
- 5.2 If Committee approves the recommendations in this report, officers will take the necessary steps to advertise the policy, conditions framework and fees.
- 5.3 A further report highlighting the Council's approach to the enforcement of STL and the associated costs will be brought forward in due course.

6. Financial impact

- 6.1 Any costs incurred by implementing policy are, at present, not included within the service budget. The draft fees (as outlined in Appendix 7) are intended to recover these costs.

7. Stakeholder/Community Impact

- 7.1 Key stakeholders which could be affected by a STL policy were written to and advised of the consultation process. This included trade bodies, business groups, community councils, HMO licence holders and agents and other interested parties, to ensure that all views were taken into account when forming a draft policy statement and licensing conditions framework. Officers have also

held meetings with the online platform Airbnb to discuss the proposed policy and the implementation of the licensing scheme.

- 7.2 A full equalities impact assessment has been completed as part of the statutory consultation process and is attached at Appendix 8.

8. Background reading/external references

- 8.1 [The Civic Government \(Scotland\) Act 1982 \(Licensing of Short Term Lets\) Order 2022](#)
- 8.1 Short Term Lets: New Licensing Powers Consultation – Regulatory Committee – [31 March 2022](#)
- 8.2 Short Term Letting in Edinburgh Update – Corporate Policy and Strategy Committee – [14 May 2019](#)

9. Appendices

- 9.1 Appendix 1 - STL Initial Consultation - Summary Report
- 9.2 Appendix 2 - STL Second Consultation - Summary Report
- 9.3 Appendix 3 – Summary of Written Responses to First Consultation
- 9.4 Appendix 4 – Summary of Written Responses to Second Consultation
- 9.5 Appendix 5 - Proposed STL Licensing Policy
- 9.6 Appendix 6 – Mandatory Conditions of Licence for STL
- 9.7 Appendix 7 – Proposed Application Fees
- 9.8 Appendix 8 - Integrated Impact Assessment
- 9.9 Appendix 9 – Written Response to Second Consultation – Association of Scotland’s Self Caterers
- 9.10 Appendix 10 – Written Response to Second Consultation – Edinburgh Council Policy Challenge Group
- 9.11 Appendix 11 – Written Response to Second Consultation – Federation of Small Businesses
- 9.12 Appendix 12 – Text of Petition delivered by Living Rent in Response to Second Consultation
- 9.13 Appendix 13 – Written Response to Second Consultation – Edinburgh Festivals
- 9.14 Appendix 14 – Consultation Comments (B Agenda)

Appendix 1 - STL Initial Consultation - Summary Report

Short Term Lets 2022

<https://consultationhub.edinburgh.gov.uk/sfc/short-term-lets-2022>

This report was created on Thursday 15 September 2022 at 11:34

The activity ran from 15/04/2022 to 10/06/2022

Responses to this survey: **1902**

1: Your details

First name

There were 1902 responses to this part of the question.

Surname

There were 1902 responses to this part of the question.

Email address

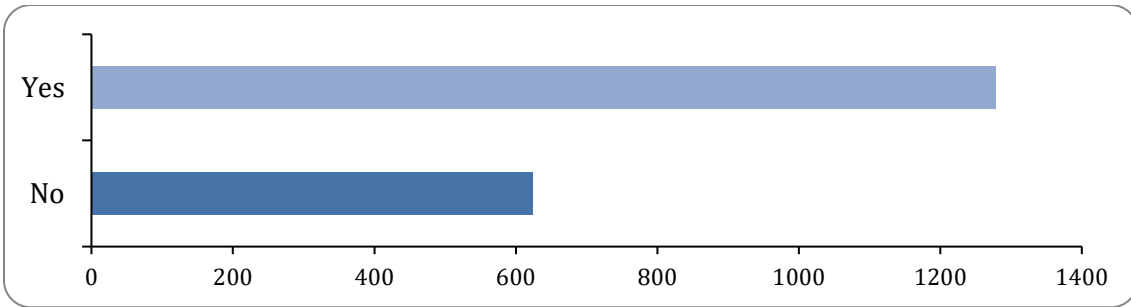
There were 1902 responses to this part of the question.

Postcode

There were 1902 responses to this part of the question.

Yes, I consent to being contacted about this consultation

There were 1278 responses to this part of the question.



Option	Total	Percent
Yes	1278	67.19%
No	624	32.81%

2: Which of the following apply to you?

Respondent category

There were 1893 responses to this part of the question.



Option	Total	Percent
Short term let operator	446	23.45%
Short term let customer	170	8.94%
Short term let neighbour	342	17.98%
Live in Edinburgh	1522	80.02%
Visitor to Edinburgh	55	2.89%
Work in Edinburgh	664	34.91%
Other (e.g. trade group - please give details below)	80	4.21%
Not Answered	9	0.47%

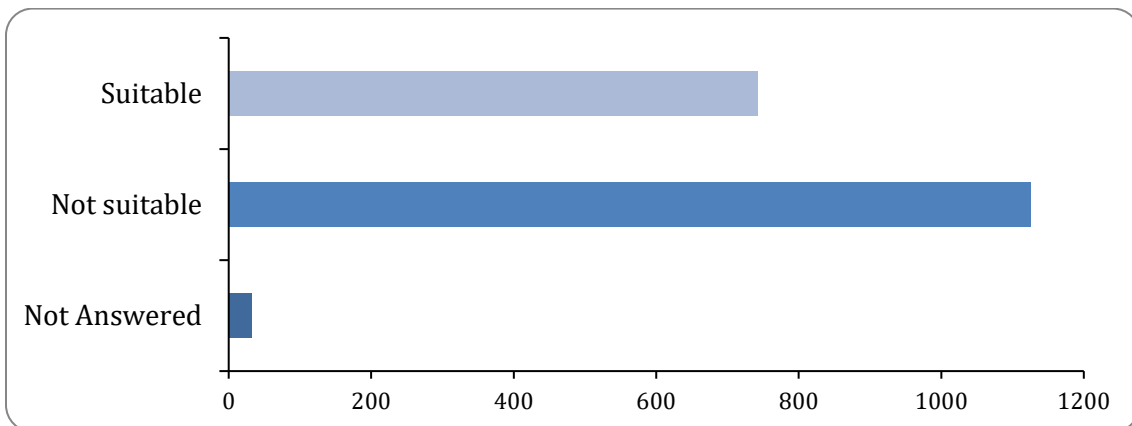
Other respondent type

There were 146 responses to this part of the question.

- 3: Please tell us whether you think that these types of properties would be suitable or not suitable as short term lets, and give us your reasons why.**

Property types - Tenements or other properties with main door

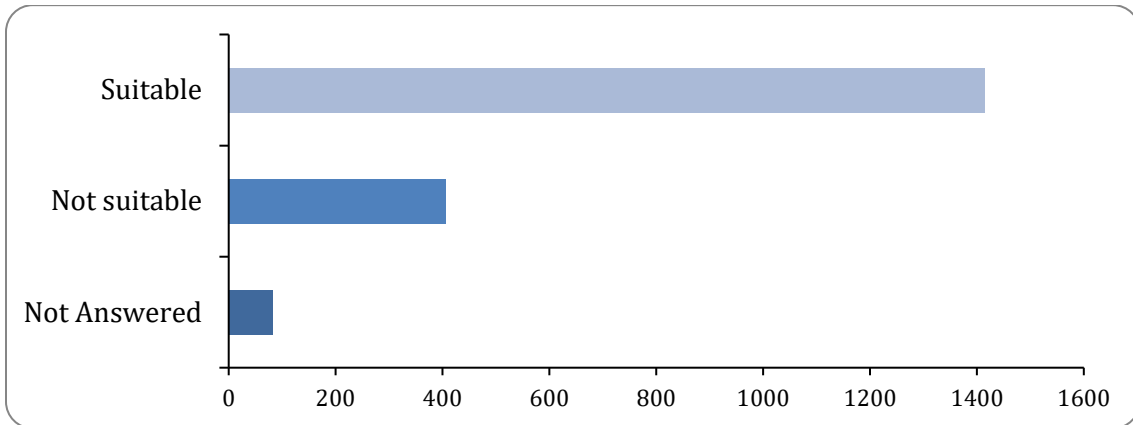
There were 1869 responses to this part of the question.



Option	Total	Percent
Suitable	743	39.06%
Not suitable	1126	59.20%
Not Answered	33	1.74%

Property types - Detached

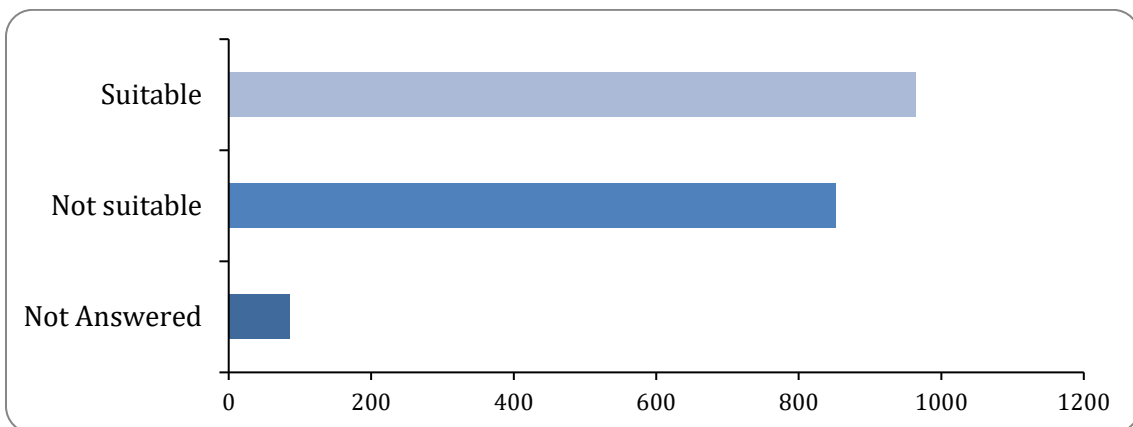
There were 1820 responses to this part of the question.



Option	Total	Percent
Suitable	1414	74.34%
Not suitable	406	21.35%
Not Answered	82	4.31%

Property types - Semi-detached

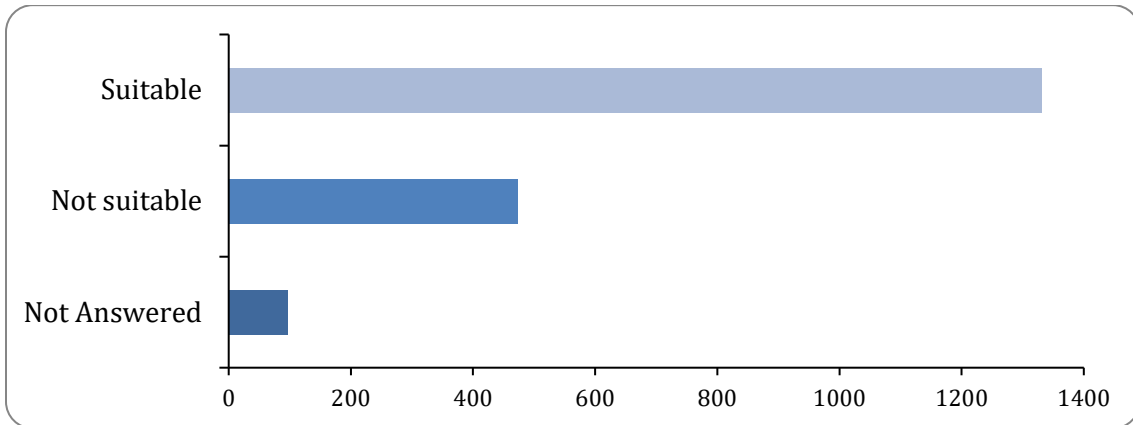
There were 1816 responses to this part of the question.



Option	Total	Percent
Suitable	964	50.68%
Not suitable	852	44.79%
Not Answered	86	4.52%

Property types - Bungalow

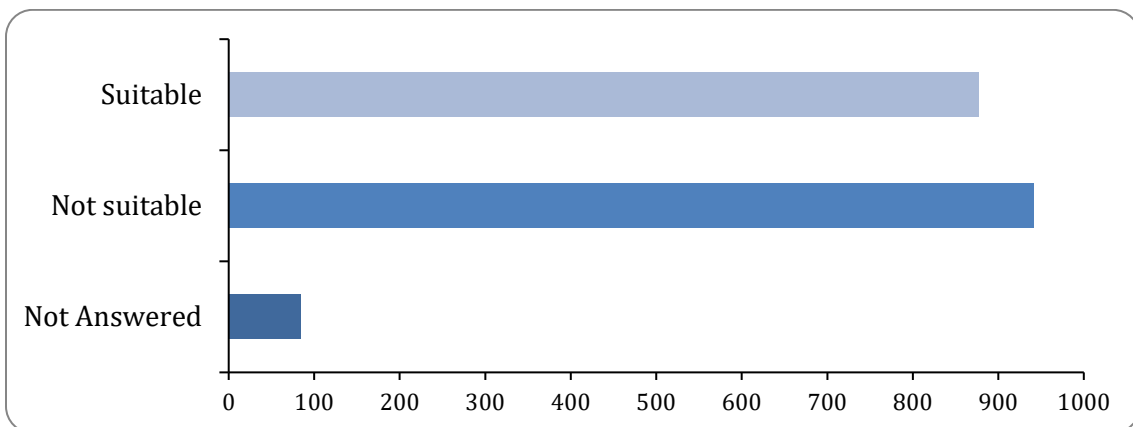
There were 1805 responses to this part of the question.



Option	Total	Percent
Suitable	1331	69.98%
Not suitable	474	24.92%
Not Answered	97	5.10%

Property types - Terraced

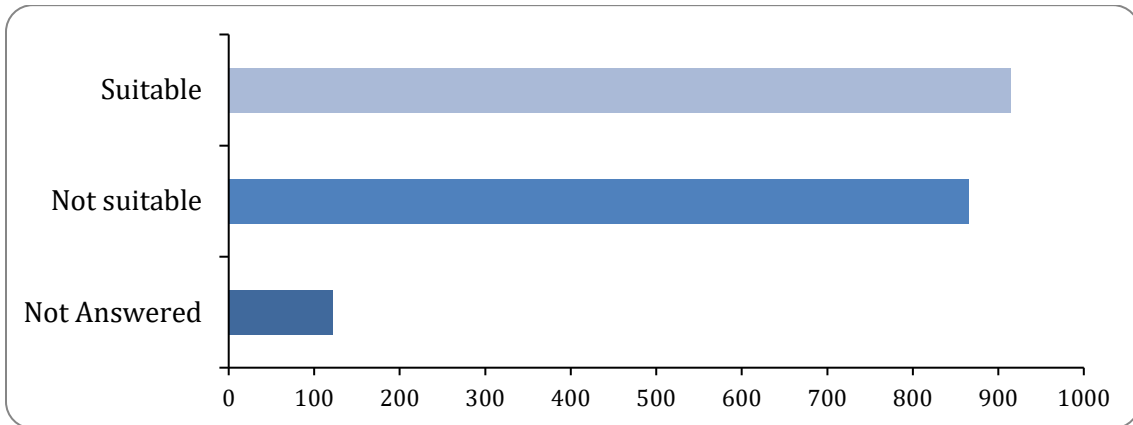
There were 1818 responses to this part of the question.



Option	Total	Percent
Suitable	877	46.11%
Not suitable	941	49.47%
Not Answered	84	4.42%

Property types - New build

There were 1780 responses to this part of the question.



Option	Total	Percent
Suitable	915	48.11%
Not suitable	865	45.48%
Not Answered	122	6.41%

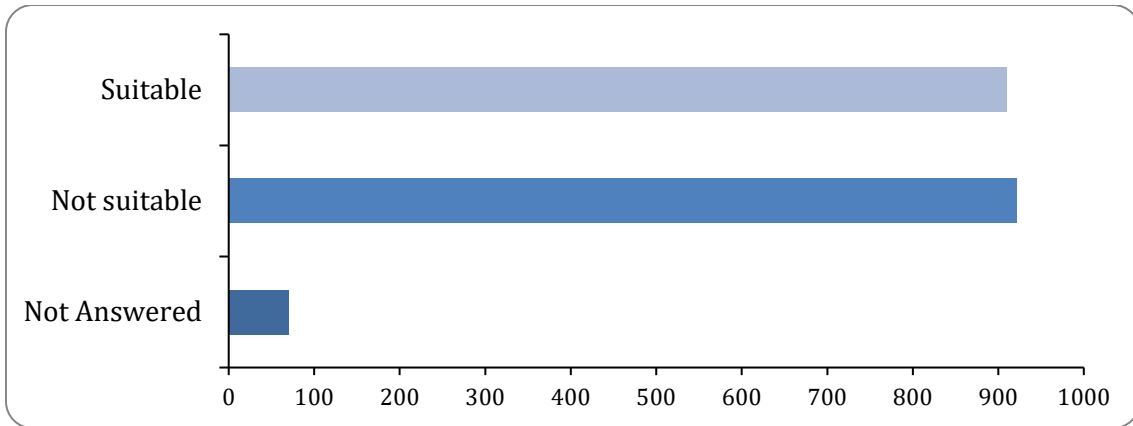
Reasons

There were 1552 responses to this part of the question.

4: Please tell us whether you think that these types of properties would be suitable or not suitable as short term lets, and give us your reasons why.

Property type - Basement

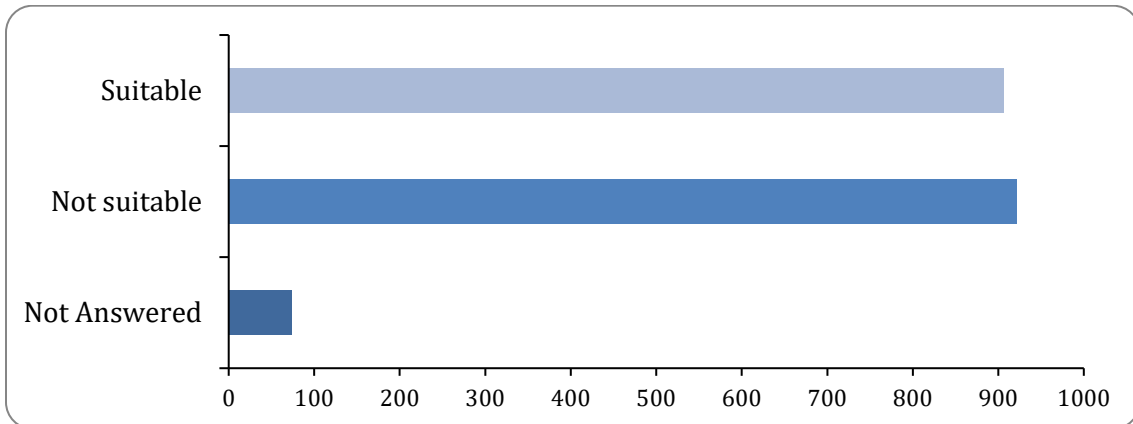
There were 1832 responses to this part of the question.



Option	Total	Percent
Suitable	910	47.84%
Not suitable	922	48.48%
Not Answered	70	3.68%

Property type - Ground floor

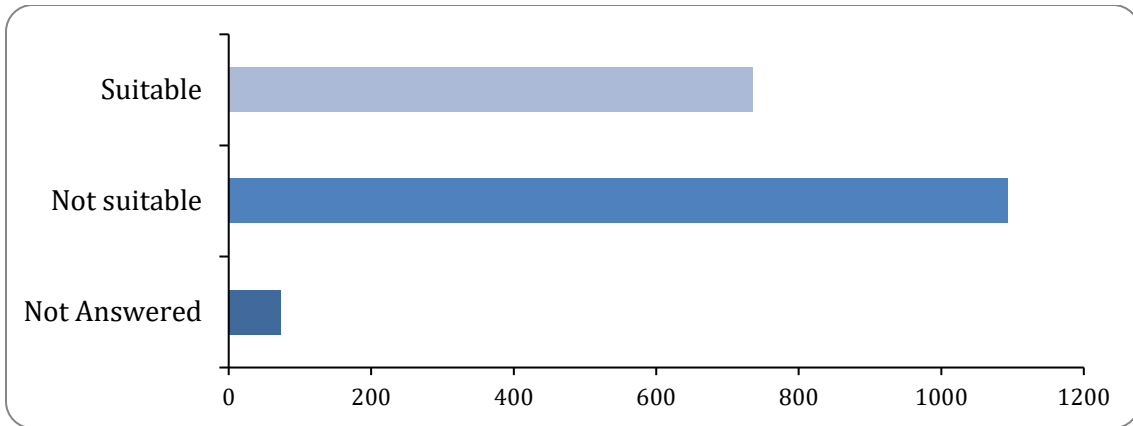
There were 1828 responses to this part of the question.



Option	Total	Percent
Suitable	906	47.63%
Not suitable	922	48.48%
Not Answered	74	3.89%

Property type - Top floor

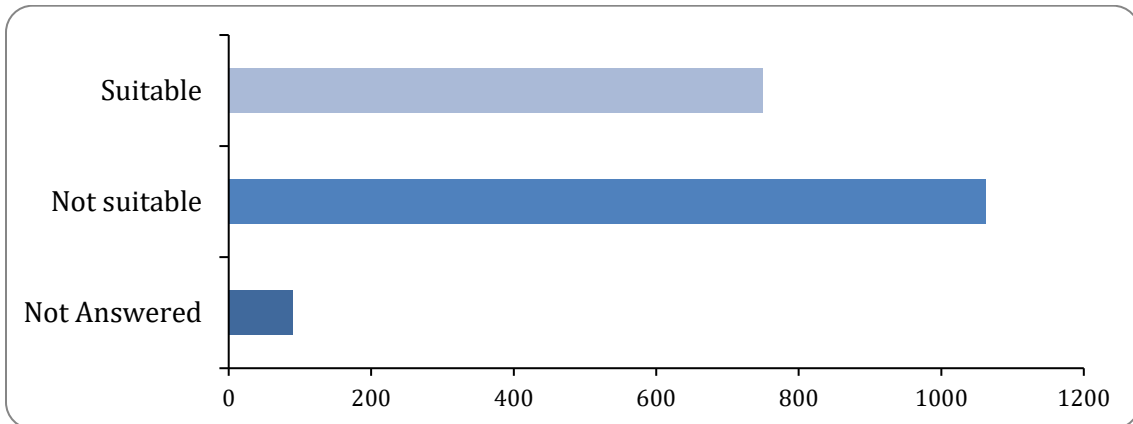
There were 1829 responses to this part of the question.



Option	Total	Percent
Suitable	735	38.64%
Not suitable	1094	57.52%
Not Answered	73	3.84%

Property type - Other floor

There were 1812 responses to this part of the question.



Option	Total	Percent
Suitable	749	39.38%
Not suitable	1063	55.89%
Not Answered	90	4.73%

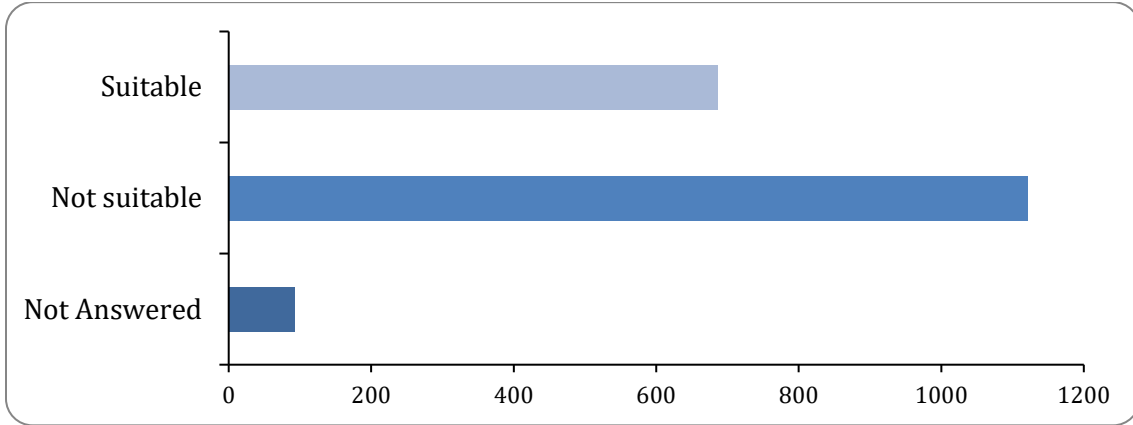
Reasons

There were 1434 responses to this part of the question.

5: Please tell us whether you think that these types of properties would be suitable or not suitable as short term lets, and give us your reasons why.

Property type - Licensed House in Multiple Occupation (HMO)

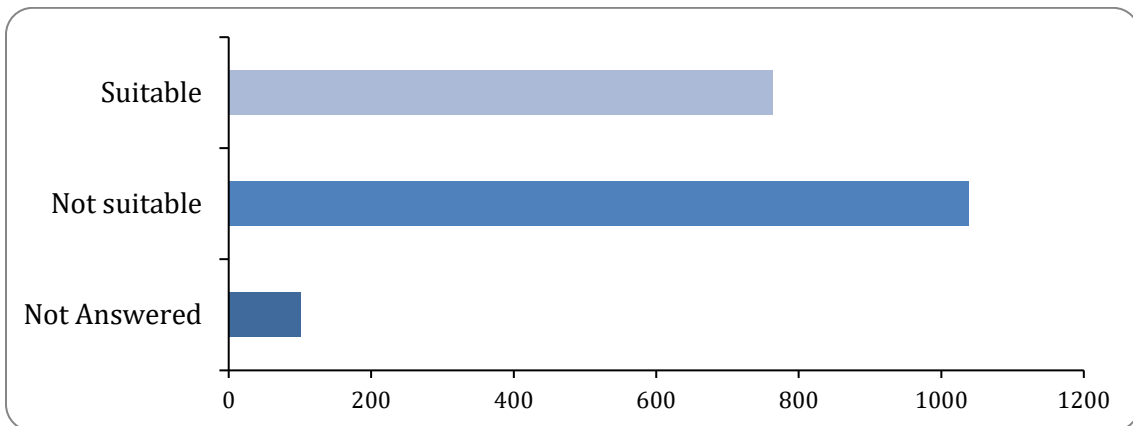
There were 1809 responses to this part of the question.



Option	Total	Percent
Suitable	687	36.12%
Not suitable	1122	58.99%
Not Answered	93	4.89%

Property type - Private rented property which is not a HMO

There were 1801 responses to this part of the question.



Option	Total	Percent
Suitable	777	43.14%
Not suitable	987	54.81%
Not Answered	107	5.95%

Suitable	763	40.12%
Not suitable	1038	54.57%
Not Answered	101	5.31%

Reasons

There were 1298 responses to this part of the question.

6: Is there any other type of property that you think would not be suitable as a short term let? Please tell us why you think this.

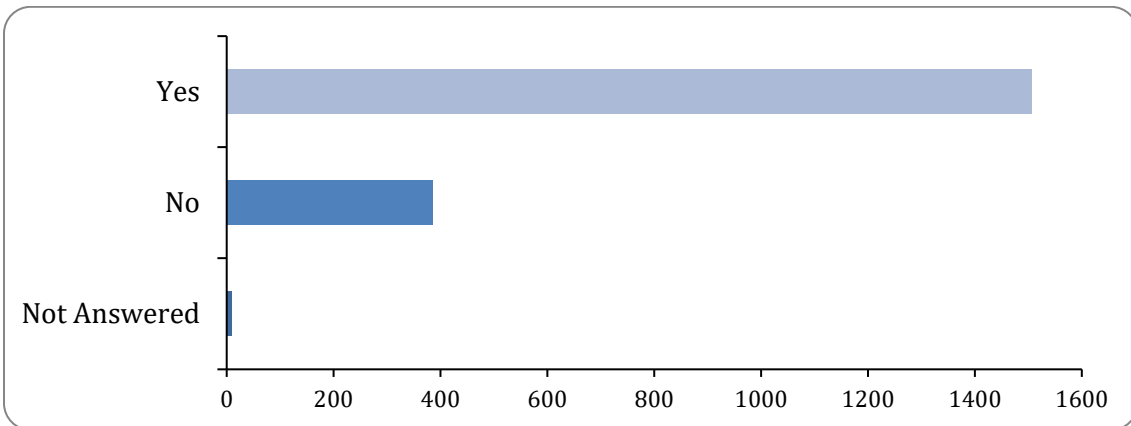
Other property type unsuitable

There were 866 responses to this part of the question.

7: Should the Council adopt additional conditions?

Conditions?

There were 1893 responses to this part of the question.

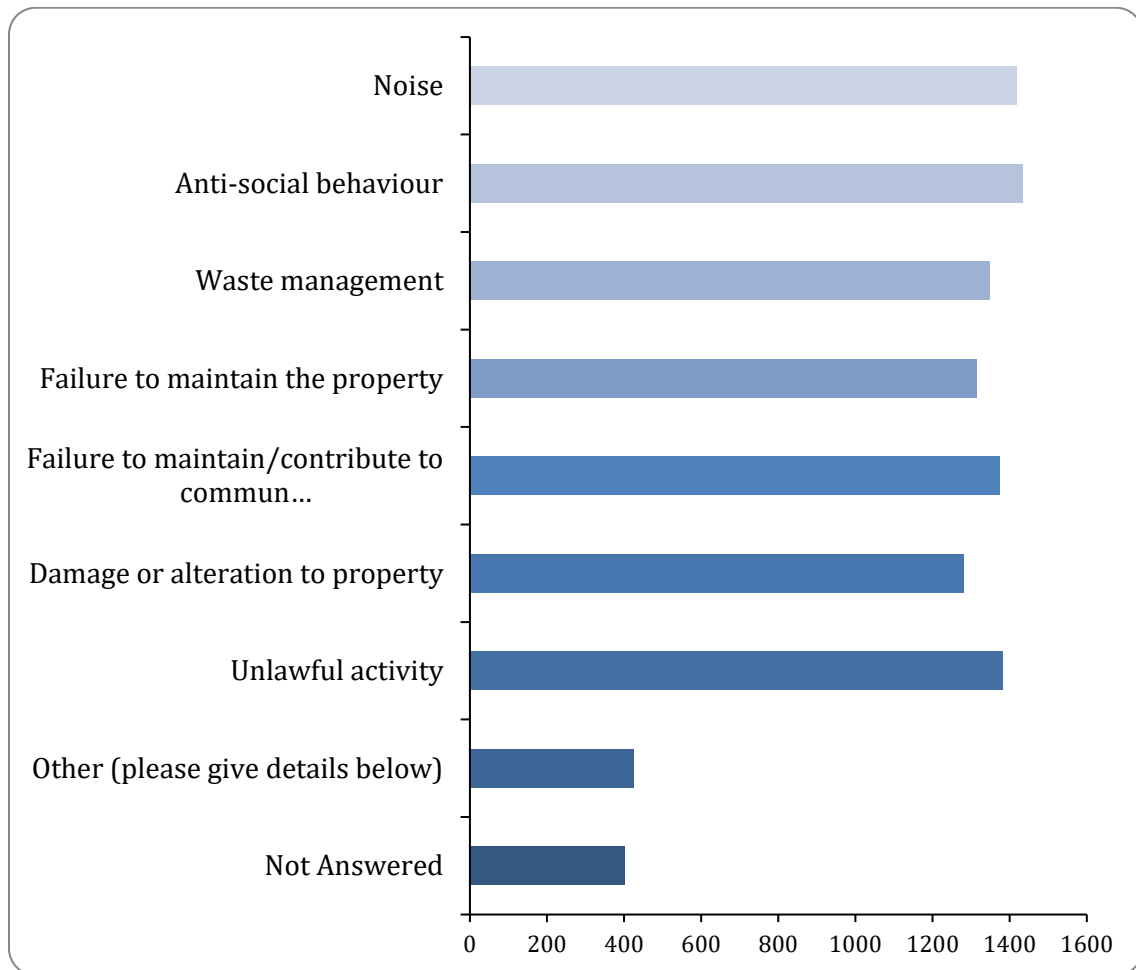


Option	Total	Percent
Yes	1507	79.23%
No	386	20.29%
Not Answered	9	0.47%

8: Which issues should the conditions cover?

conditions - which issues

There were 1500 responses to this part of the question.



Option	Total	Percent
Noise	1419	74.61%
Anti-social behaviour	1433	75.34%
Waste management	1349	70.93%
Failure to maintain the property	1313	69.03%
Failure to maintain/contribute to communal repairs	1374	72.24%

Damage or alteration to property	1281	67.35%
Unlawful activity	1381	72.61%
Other (please give details below)	425	22.34%
Not Answered	402	21.14%

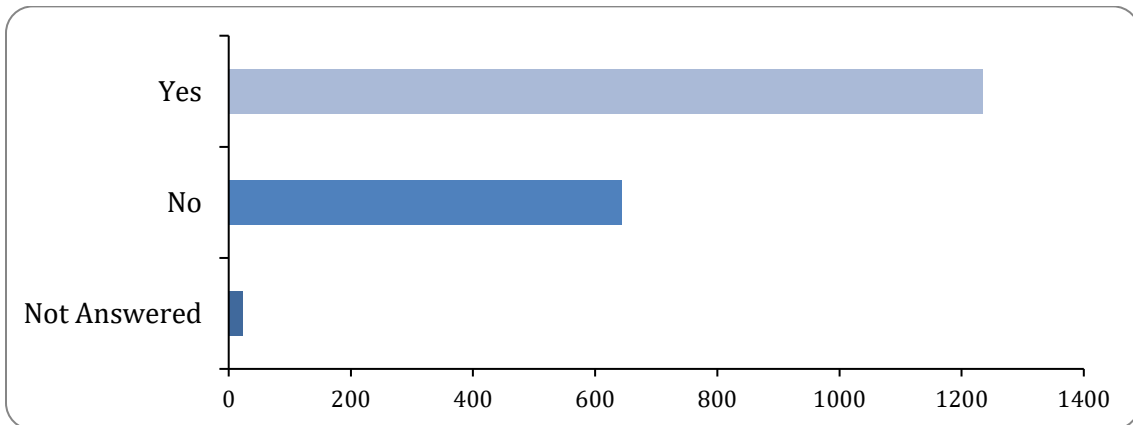
Other issue

There were 611 responses to this part of the question.

9: Should children under the age of 10 count towards the occupancy of a premises?

Under 10s?

There were 1879 responses to this part of the question.

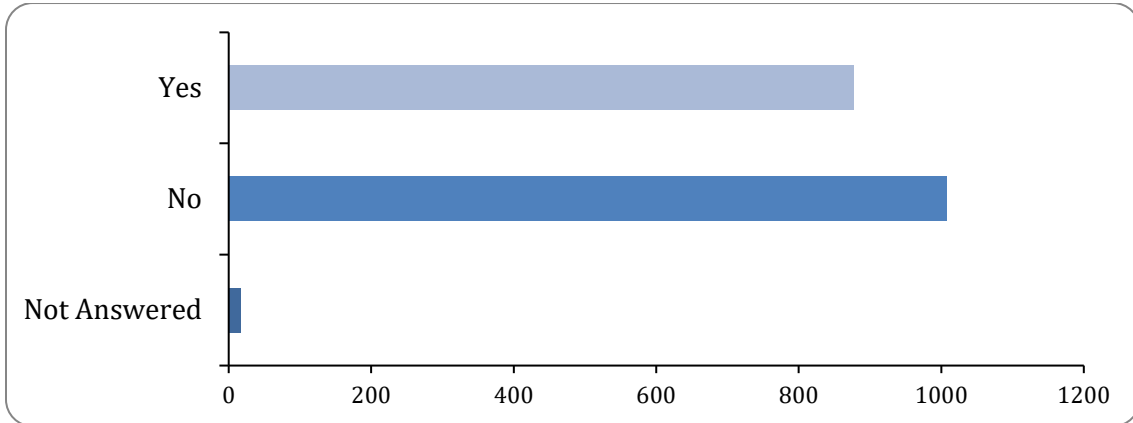


Option	Total	Percent
Yes	1235	64.93%
No	644	33.86%
Not Answered	23	1.21%

10: Should temporary licences be introduced?

Temp licences?

There were 1885 responses to this part of the question.

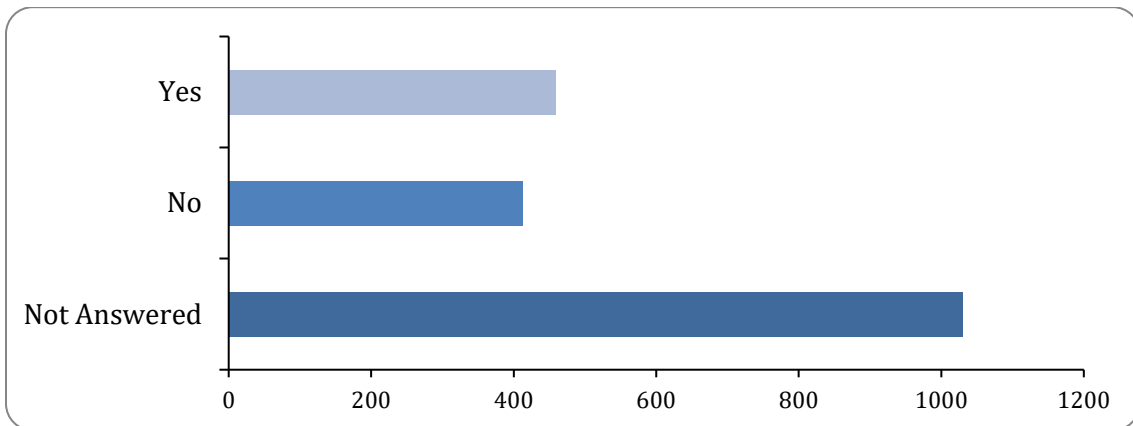


Option	Total	Percent
Yes	877	46.11%
No	1008	53.00%
Not Answered	17	0.89%

11: Should there be additional conditions for temporary licences?

additional conditions for temps?

There were 872 responses to this part of the question.



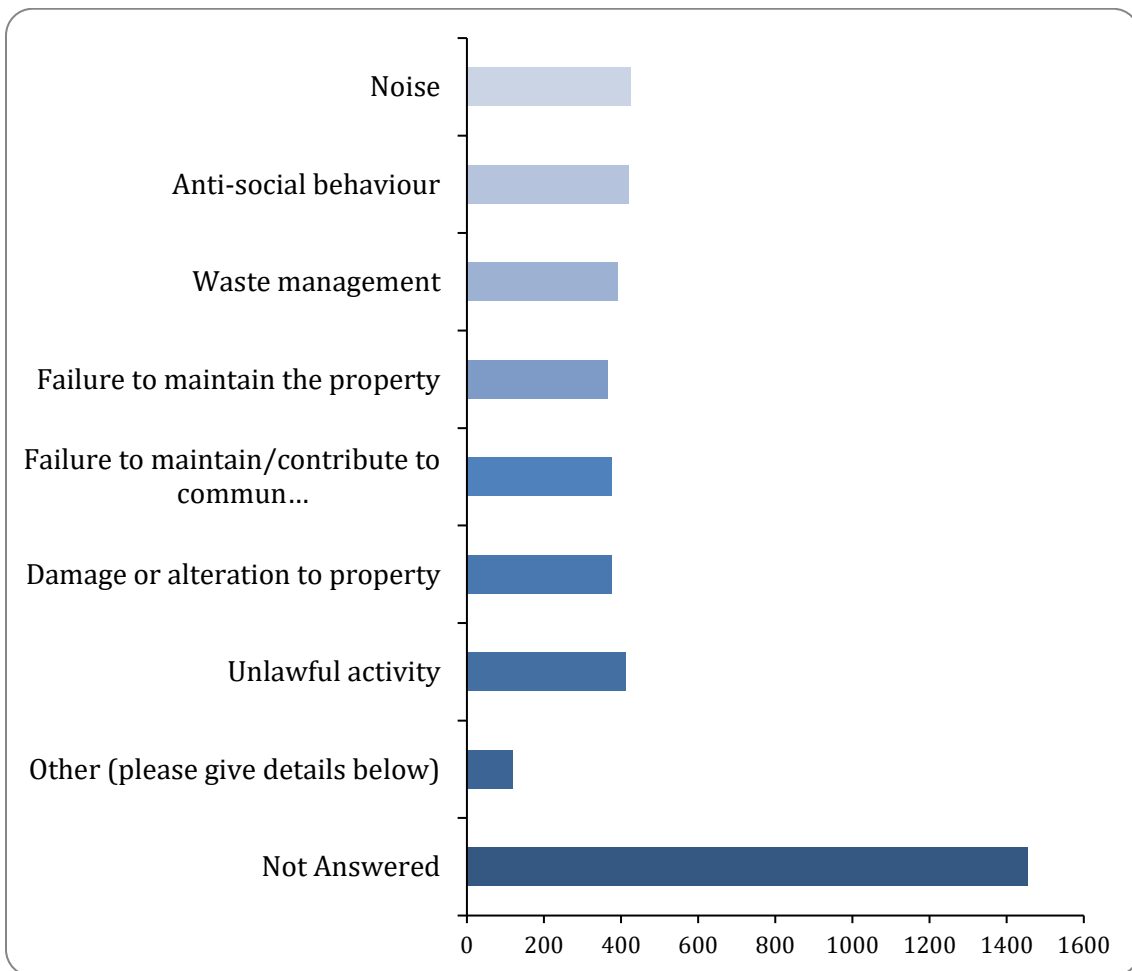
Option	Total	Percent
Yes	459	24.13%

No	413	21.71%
Not Answered	1030	54.15%

12: What additional conditions should be attached?

Temp issues

There were 449 responses to this part of the question.



Option	Total	Percent
Noise	424	22.29%
Anti-social behaviour	420	22.08%
Waste management	391	20.56%
Failure to maintain the property	364	19.14%
Failure to maintain/contribute to communal repairs	376	19.77%

Damage or alteration to property	376	19.77%
Unlawful activity	411	21.61%
Other (please give details below)	118	6.20%
Not Answered	1453	76.39%

Other issues - temporary licences

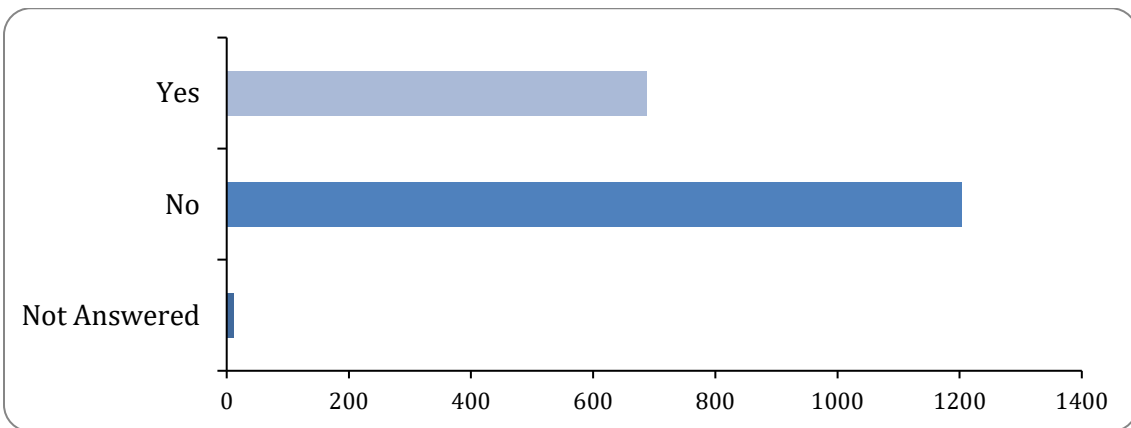
There were 162 responses to this part of the question.

13: Should temporary exemptions be introduced?

If you answer 'yes', the next question will ask you about the event types for which you think an exemption would be appropriate.

Temp exemptions?

There were 1890 responses to this part of the question.

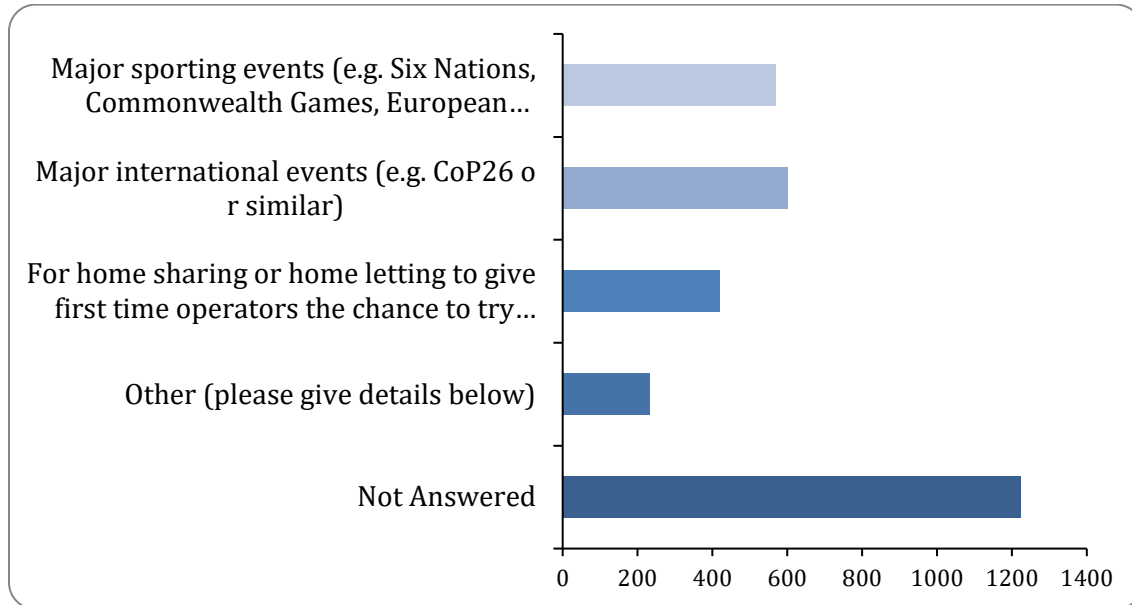


Option	Total	Percent
Yes	687	36.12%
No	1203	63.25%
Not Answered	12	0.63%

14: What reasons do you think would justify an exemption?

Exemption justification

There were 677 responses to this part of the question.



Option	Total	Percent
Major sporting events (e.g. Six Nations, Commonwealth Games, European Finals etc)	568	29.86%
Major international events (e.g. CoP26 or similar)	601	31.60%
For home sharing or home letting to give first time operators the chance to try out Short Term Letting before making a full application	419	22.03%
Other (please give details below)	232	12.20%
Not Answered	1225	64.41%

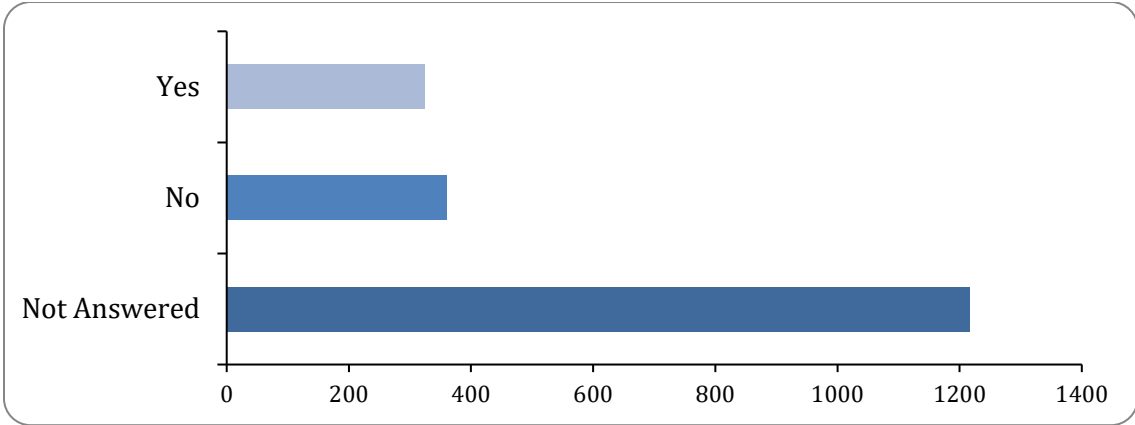
Other reason justifying temporary exemption

There were 299 responses to this part of the question.

15: Should temporary exemptions have additional conditions?

temp exemptions additional conditions?

There were 685 responses to this part of the question.

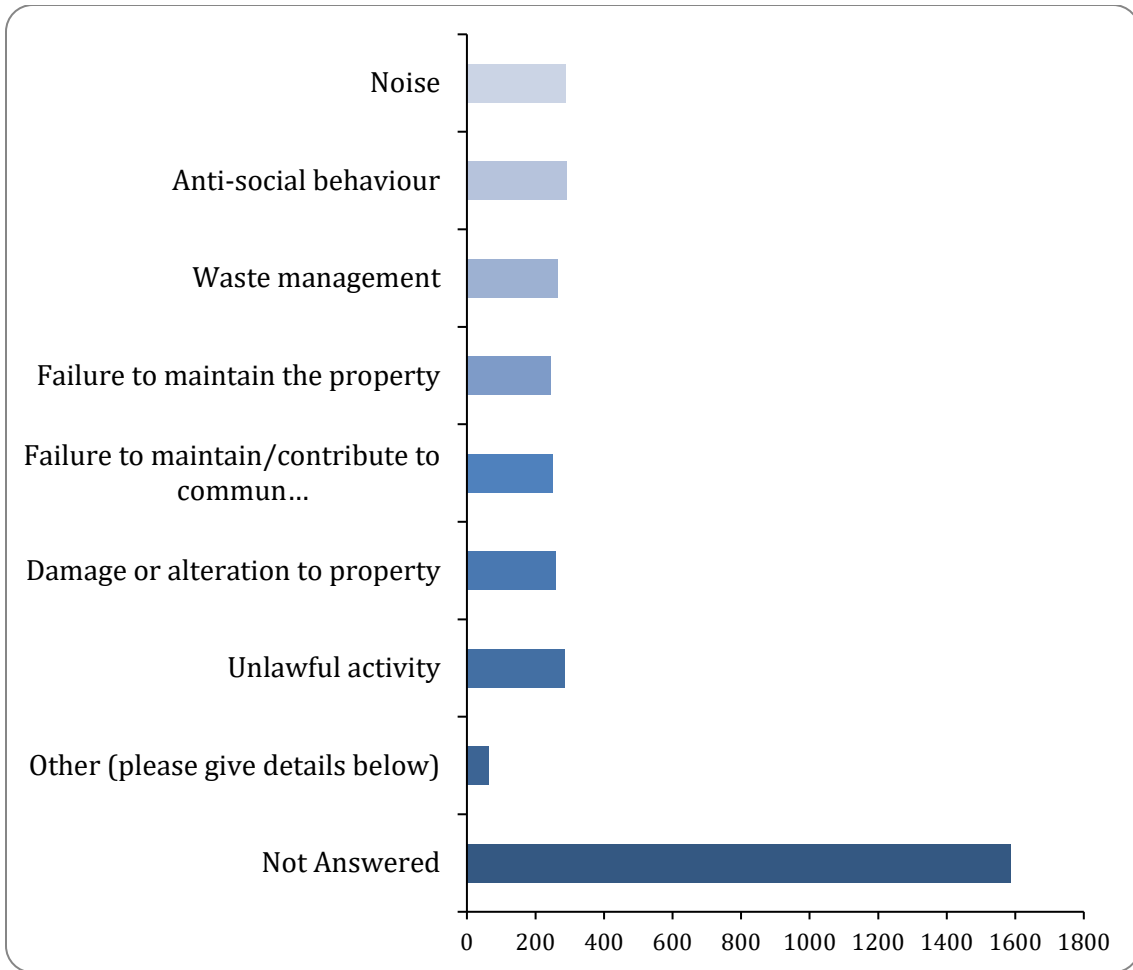


Option	Total	Percent
Yes	325	17.09%
No	360	18.93%
Not Answered	1217	63.99%

16: What additional conditions should be attached to temporary exemptions?

Conditions - temp exemption

There were 316 responses to this part of the question.



Option	Total	Percent
Noise	289	15.19%
Anti-social behaviour	292	15.35%
Waste management	265	13.93%
Failure to maintain the property	245	12.88%
Failure to maintain/contribute to communal repairs	251	13.20%
Damage or alteration to property	258	13.56%
Unlawful activity	285	14.98%
Other (please give details below)	63	3.31%
Not Answered	1586	83.39%

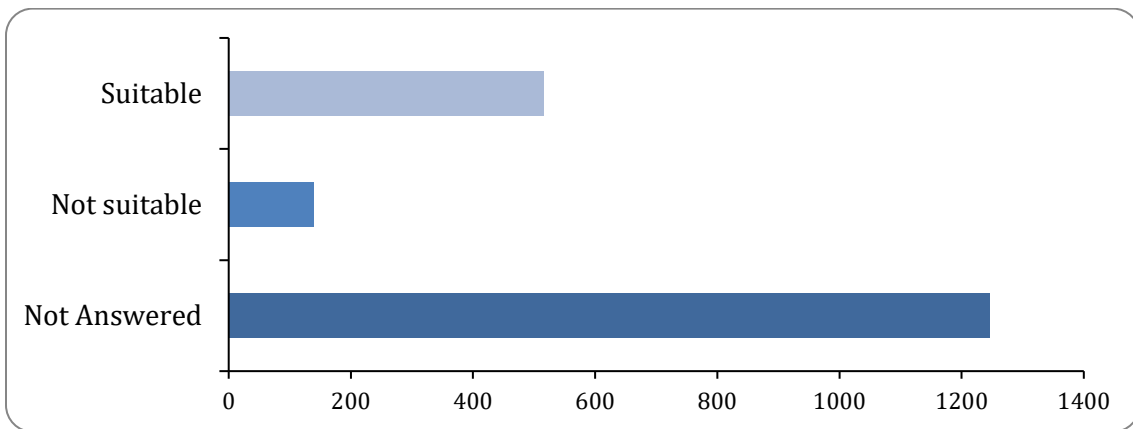
Other conditions - temporary exemptions

There were 71 responses to this part of the question.

17: Please tell us whether you think that these types of properties would be suitable or not suitable for temporary exemption, and give us your reasons why.

Property types not suitable for exemption - Tenements or other properties with main door

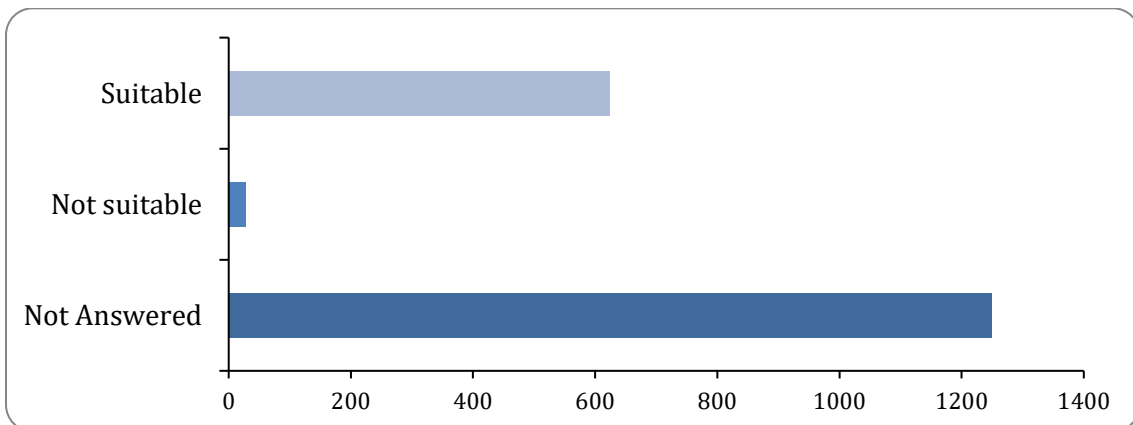
There were 656 responses to this part of the question.



Option	Total	Percent
Suitable	516	27.13%
Not suitable	140	7.36%
Not Answered	1246	65.51%

Property types not suitable for exemption - Detached

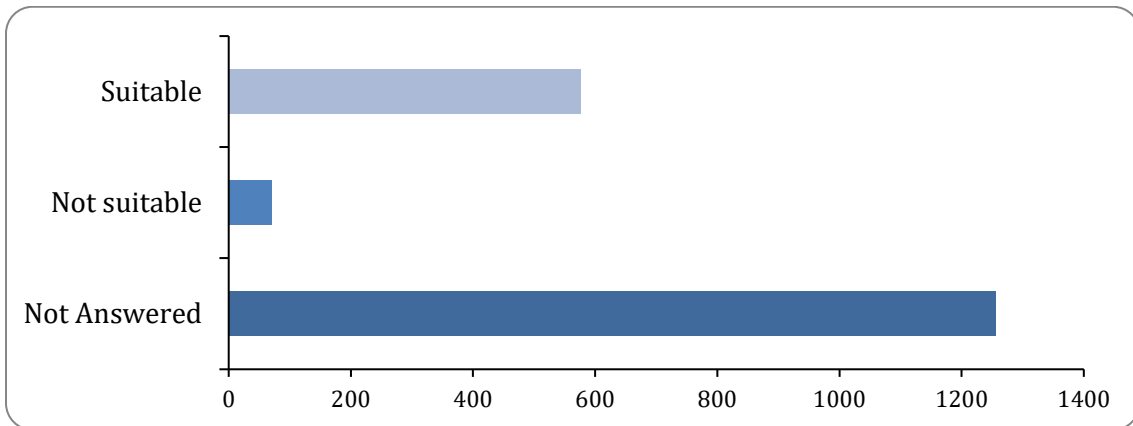
There were 652 responses to this part of the question.



Option	Total	Percent
Suitable	624	32.81%
Not suitable	28	1.47%
Not Answered	1250	65.72%

Property types not suitable for exemption - Semi-detached

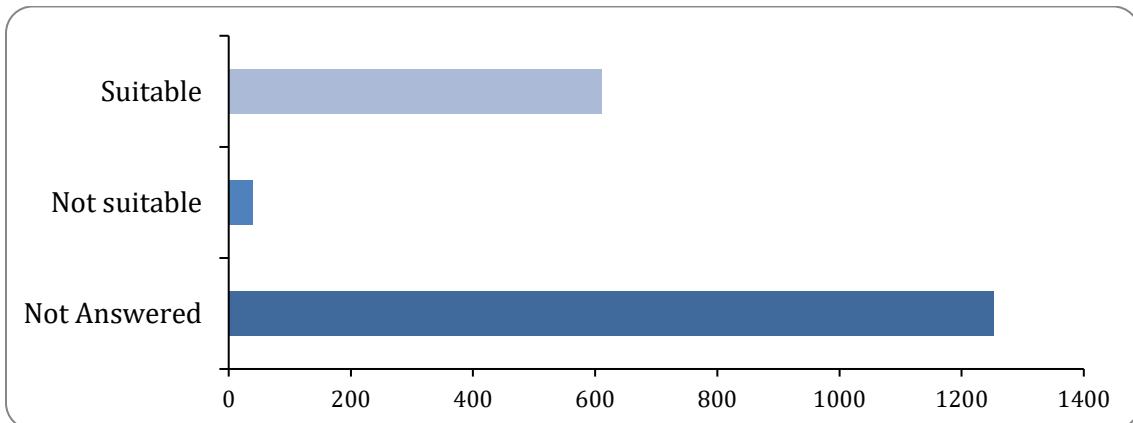
There were 646 responses to this part of the question.



Option	Total	Percent
Suitable	576	30.28%
Not suitable	70	3.68%
Not Answered	1256	66.04%

Property types not suitable for exemption - Bungalow

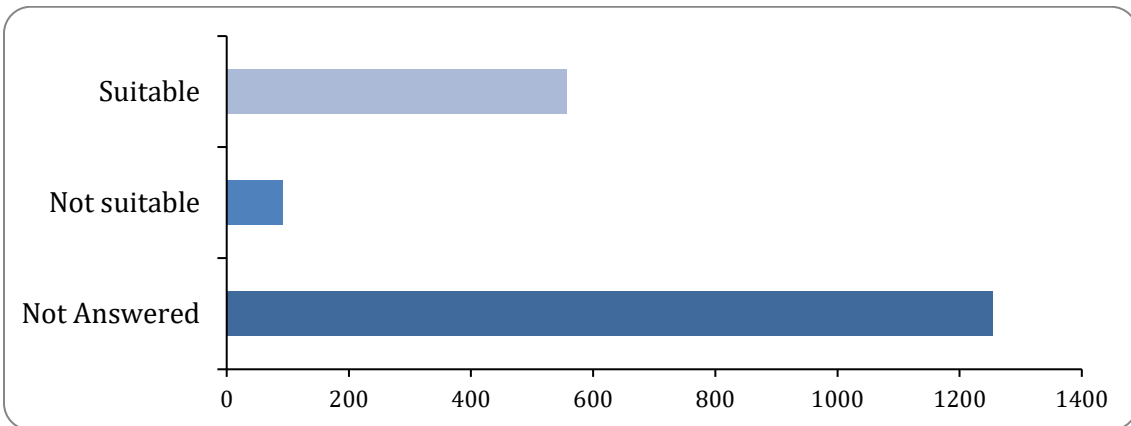
There were 650 responses to this part of the question.



Option	Total	Percent
Suitable	610	32.07%
Not suitable	40	2.10%
Not Answered	1252	65.83%

Property types not suitable for exemption - Terraced

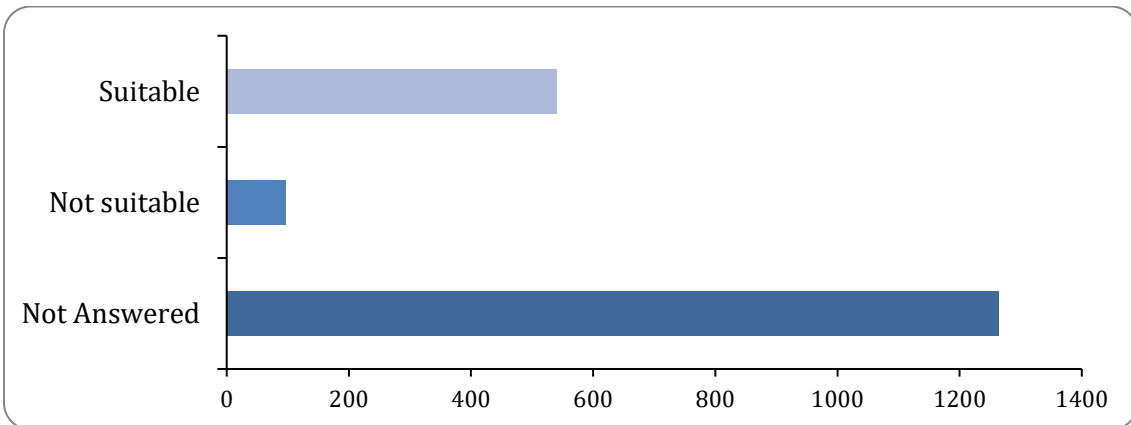
There were 648 responses to this part of the question.



Option	Total	Percent
Suitable	557	29.28%
Not suitable	91	4.78%
Not Answered	1254	65.93%

Property types not suitable for exemption - New build

There were 638 responses to this part of the question.



Option	Total	Percent
Suitable	541	28.44%
Not suitable	97	5.10%
Not Answered	1264	66.46%

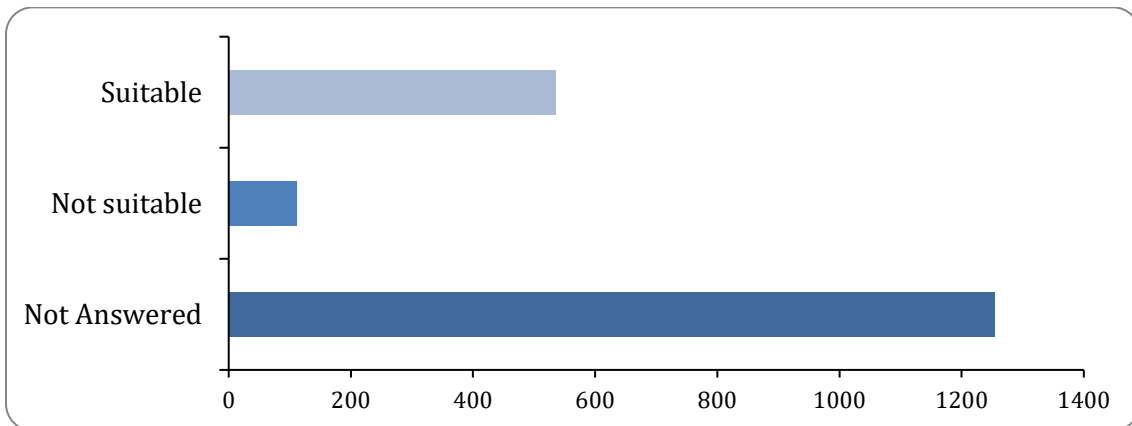
Reasons

There were 316 responses to this part of the question.

18: Please tell us whether you think that these types of properties would be suitable or not suitable for temporary exemption, and give us your reasons why.

Property types - Basement

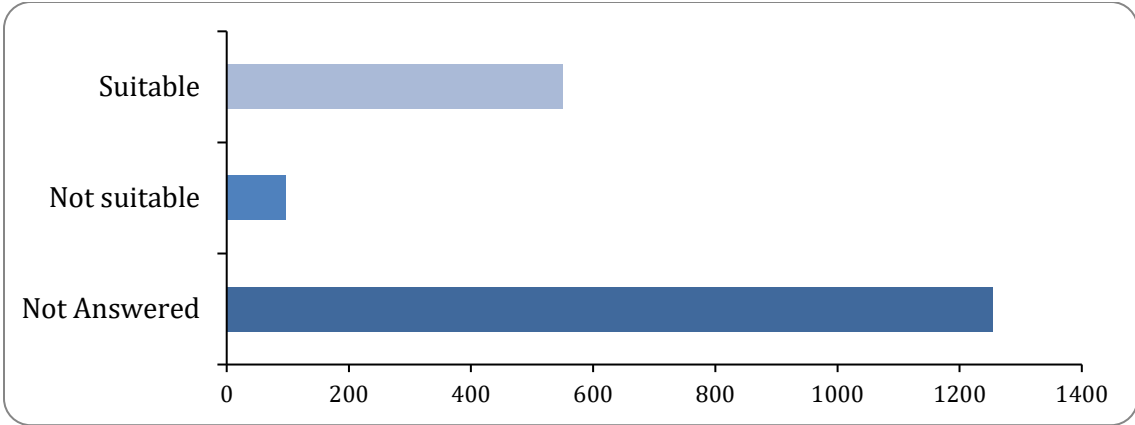
There were 647 responses to this part of the question.



Option	Total	Percent
Suitable	536	28.18%
Not suitable	111	5.84%
Not Answered	1255	65.98%

Property types - Ground floor

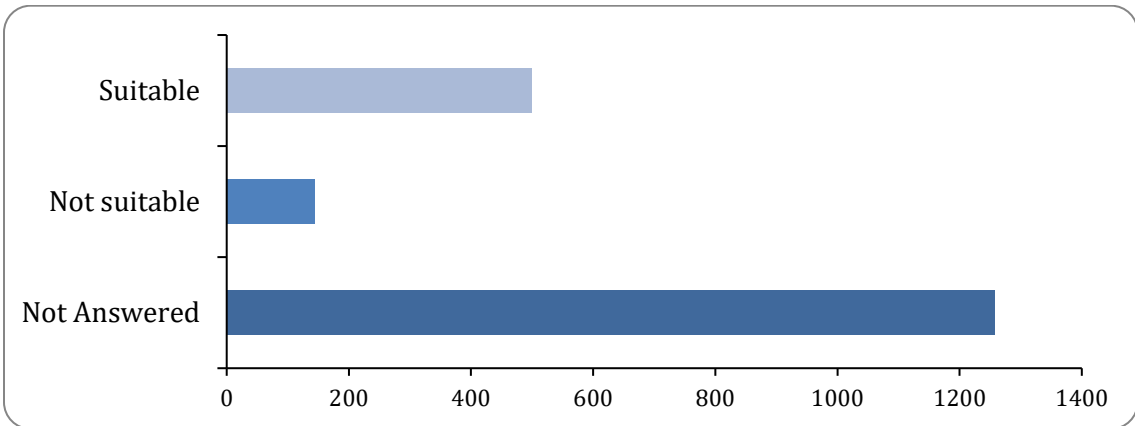
There were 648 responses to this part of the question.



Option	Total	Percent
Suitable	551	28.97%
Not suitable	97	5.10%
Not Answered	1254	65.93%

Property types - Top floor

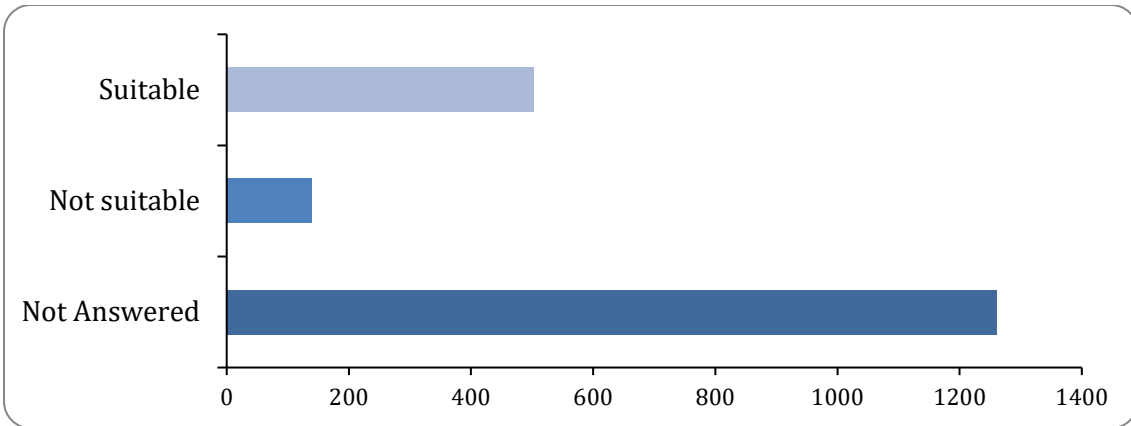
There were 645 responses to this part of the question.



Option	Total	Percent
Suitable	500	26.29%
Not suitable	145	7.62%
Not Answered	1257	66.09%

Property types - Other floor

There were 642 responses to this part of the question.



Option	Total	Percent
Suitable	502	26.39%
Not suitable	140	7.36%
Not Answered	1260	66.25%

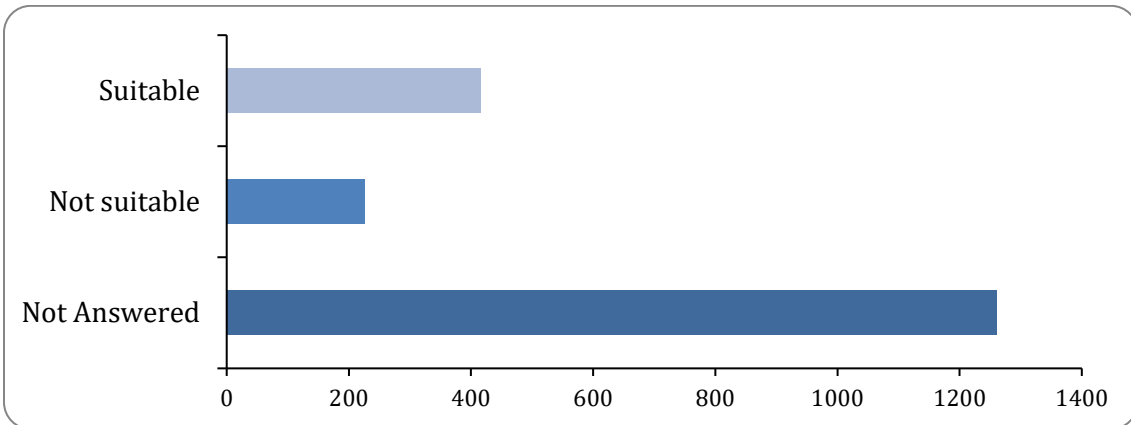
Reasons

There were 273 responses to this part of the question.

19: Please tell us whether you think that these types of properties would be suitable or not suitable for temporary exemption, and give us your reasons why.

Property types - Licensed House in Multiple Occupation (HMO)

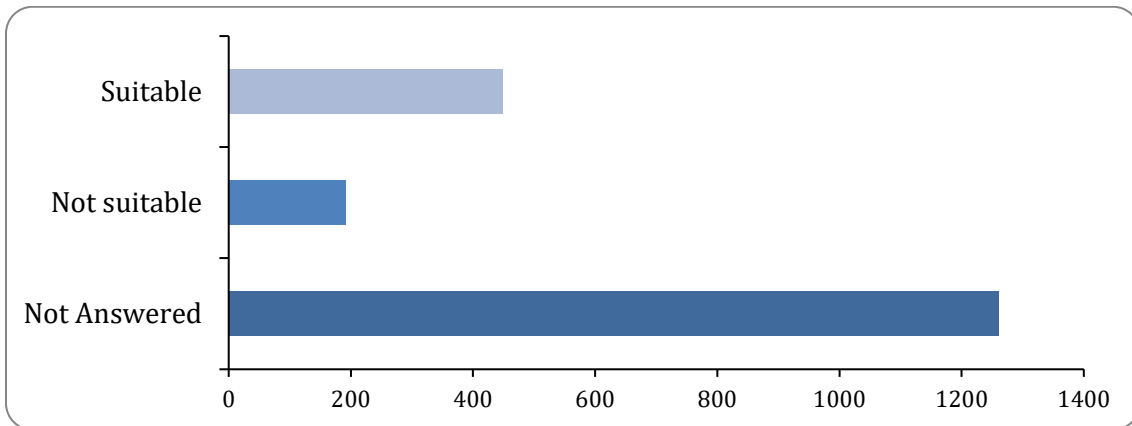
There were 642 responses to this part of the question.



Option	Total	Percent
Suitable	416	21.87%
Not suitable	226	11.88%
Not Answered	1260	66.25%

Property types - Private rented property which is not a HMO

There were 641 responses to this part of the question.



Option	Total	Percent
Suitable	449	23.61%
Not suitable	192	10.09%
Not Answered	1261	66.30%

Reasons

There were 271 responses to this part of the question.

20: Is there any other type of property that you think would be unsuitable for a temporary exemption? Please tell us why you think this.

Reasons why unsuitable for temporary exemption

There were 127 responses to this part of the question.

21: What are the positives of short term letting?

Positives of short term lets

There were 1669 responses to this part of the question.

22: What are the negatives of short term letting?

negatives short term letting

There were 1723 responses to this part of the question.

23: Are there any further comments that you would like to make on any aspect of the licensing of short term lets?

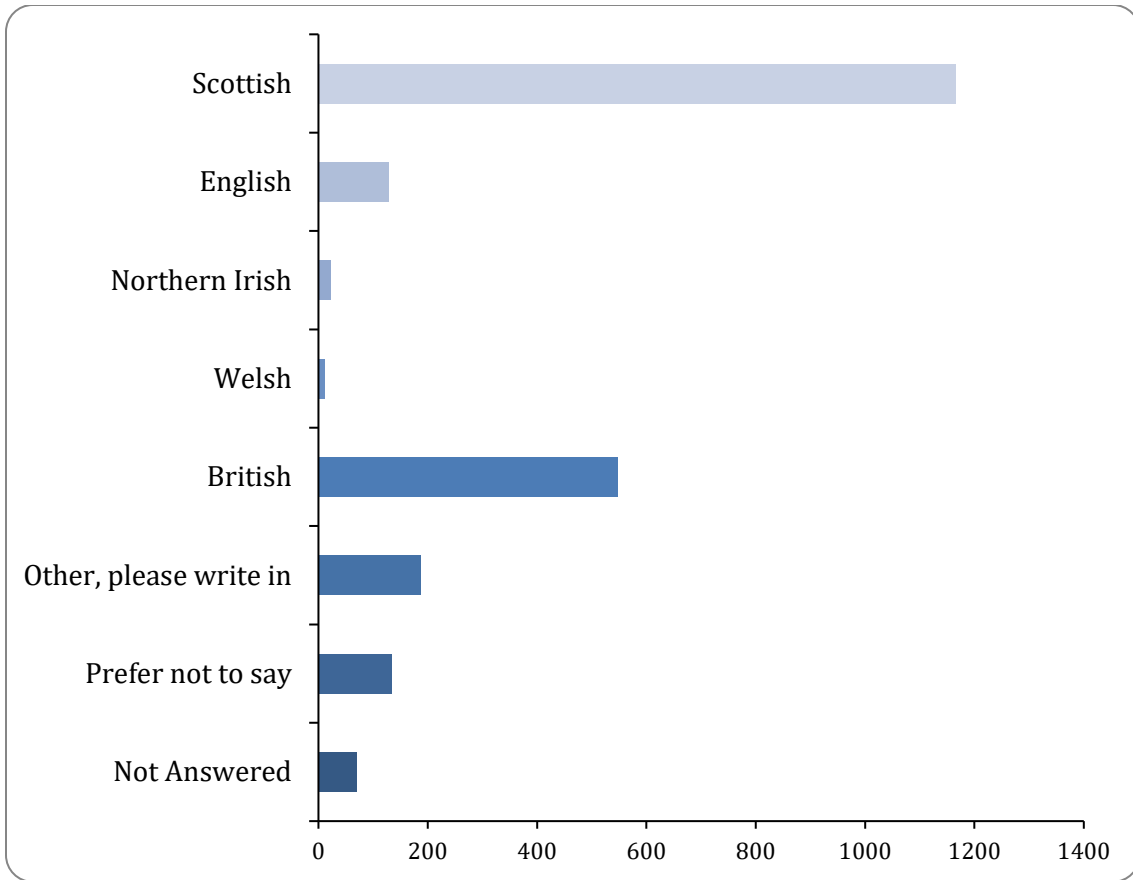
Any other comments

There were 1083 responses to this part of the question.

24: What do you feel is your national identity?

National identity

There were 1832 responses to this part of the question.



Option	Total	Percent
Scottish	1166	61.30%
English	129	6.78%
Northern Irish	23	1.21%
Welsh	12	0.63%
British	547	28.76%
Other, please write in	187	9.83%
Prefer not to say	134	7.05%
Not Answered	70	3.68%

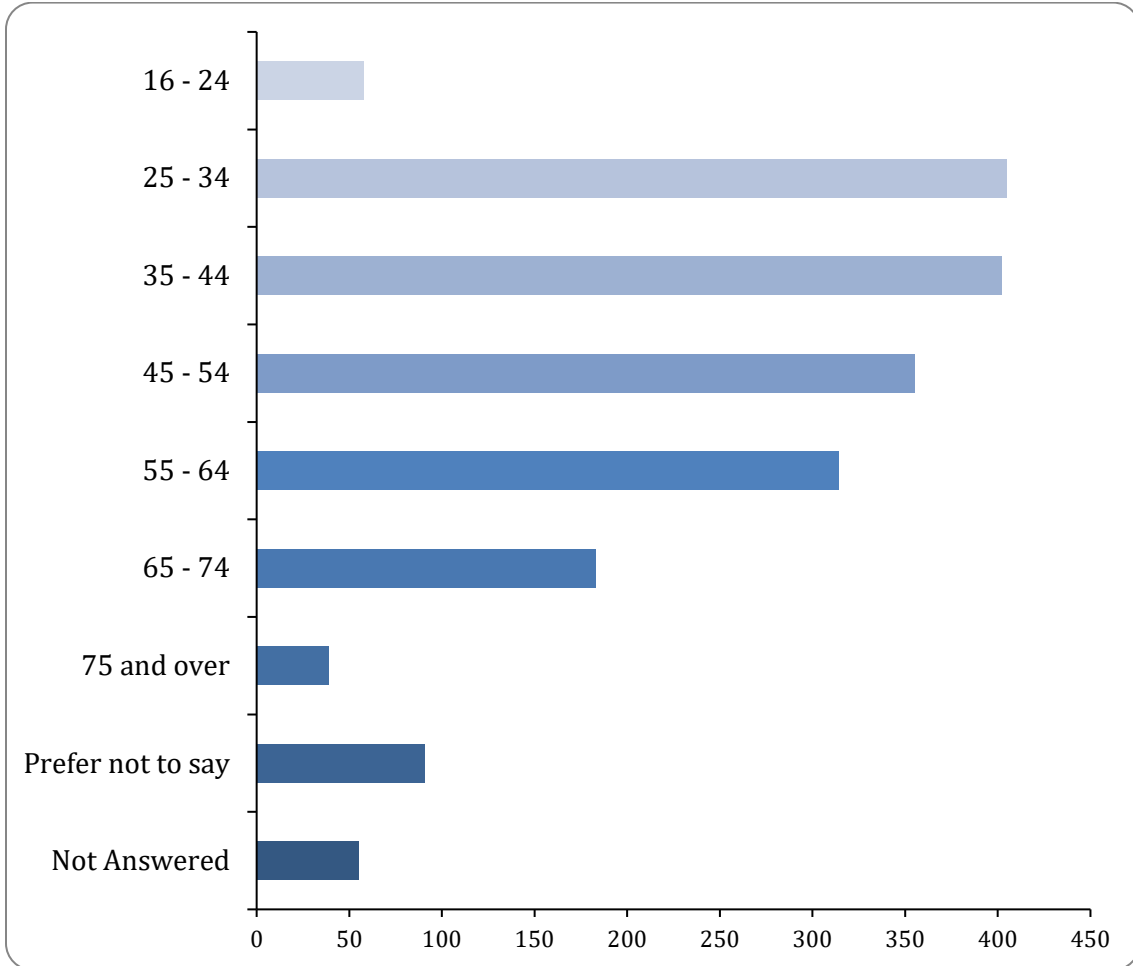
Other, please write in:

There were 207 responses to this part of the question.

25: What is your age?

Age

There were 1847 responses to this part of the question.

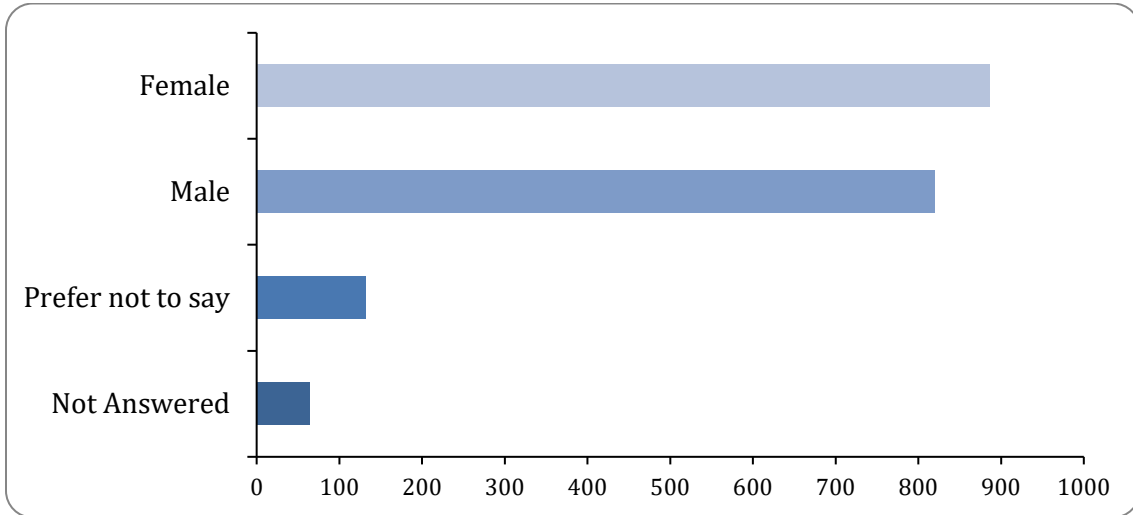


Option	Total	Percent
Under 16	0	0.00%
16 - 24	58	3.05%
25 - 34	405	21.29%
35 - 44	402	21.14%
45 - 54	355	18.66%
55 - 64	314	16.51%
65 - 74	183	9.62%
75 and over	39	2.05%
Prefer not to say	91	4.78%
Not Answered	55	2.89%

26: What is your sex?

Sex

There were 1838 responses to this part of the question.

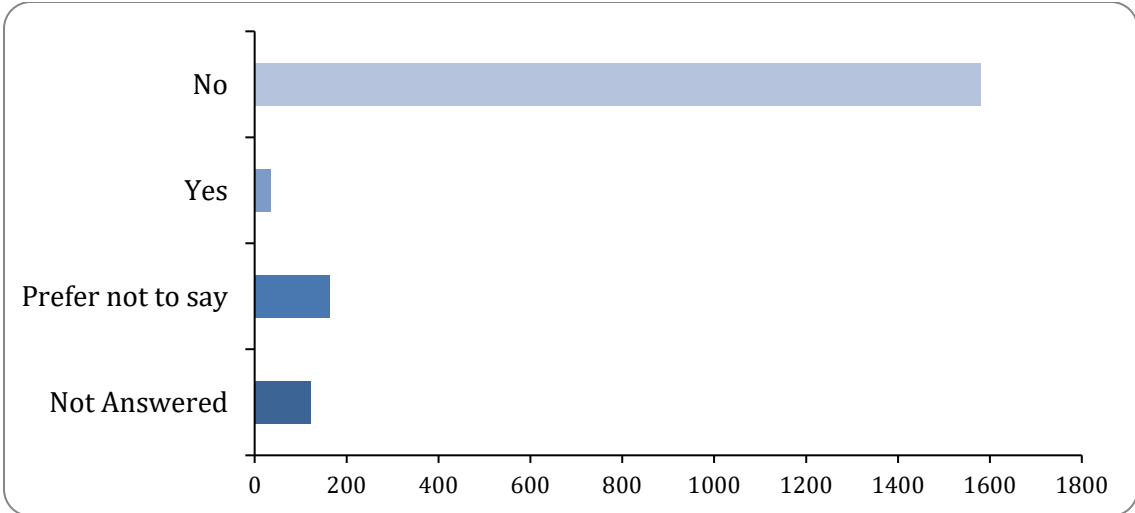


Option	Total	Percent
Female	886	46.58%
Male	820	43.11%
Prefer not to say	132	6.94%
Not Answered	64	3.36%

27: Do you consider yourself to be trans, or have a trans history?

Trans

There were 1779 responses to this part of the question.



Option	Total	Percent
No	1581	83.12%
Yes	35	1.84%
Prefer not to say	163	8.57%
Not Answered	123	6.47%

If you would like to, please describe your trans status (for example non-binary, trans man, trans woman):

There were 65 responses to this part of the question.

Appendix 2 – STL Second Consultation – Summary Report

Short Term Lets 2022 - Consultation 2

<https://consultationhub.edinburgh.gov.uk/sfc/short-term-lets-2022-consultation-2>

This report was created on Thursday 15 September 2022 at 11:35

The activity ran from 25/07/2022 to 05/09/2022

Responses to this survey: **1039**

1: Your details

First name

There were 1039 responses to this part of the question.

Surname

There were 1039 responses to this part of the question.

Email address

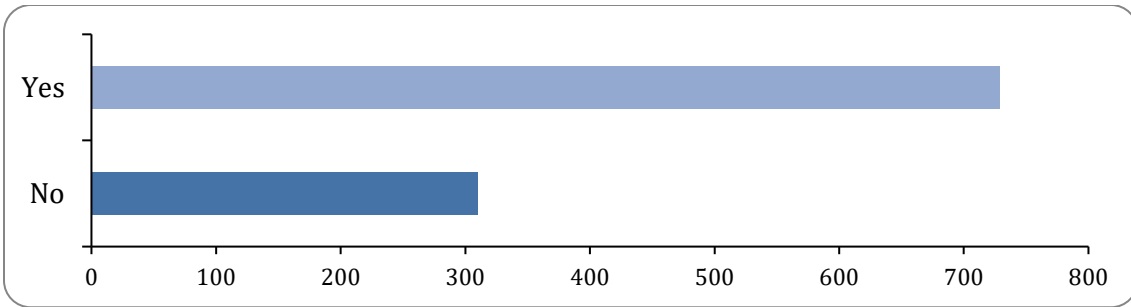
There were 1039 responses to this part of the question.

Postcode

There were 1039 responses to this part of the question.

Yes, I consent to being contacted about this consultation

There were 729 responses to this part of the question.

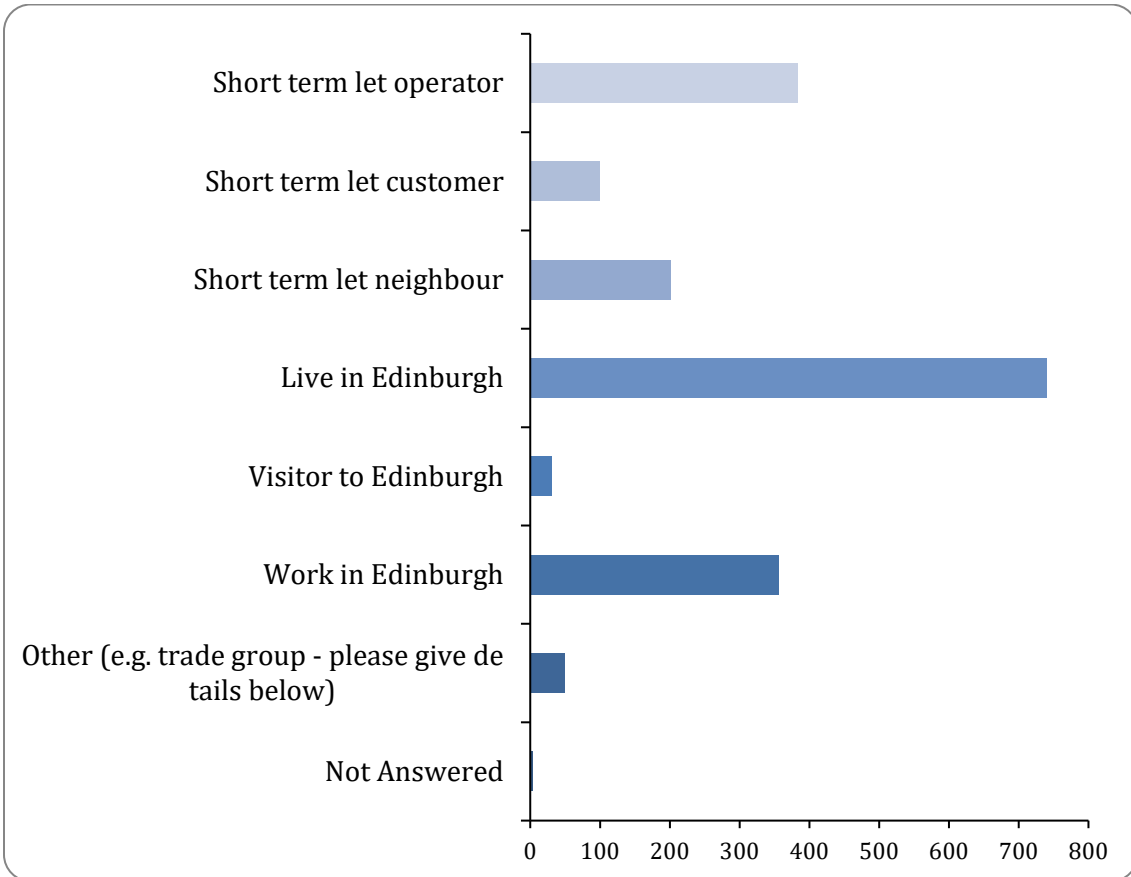


Option	Total	Percent
Yes	729	70.16%
No	310	29.84%

2: Which of the following apply to you?

Respondent category

There were 1036 responses to this part of the question.



Option	Total	Percent
Short term let operator	384	36.96%
Short term let customer	99	9.53%
Short term let neighbour	201	19.35%
Live in Edinburgh	740	71.22%
Visitor to Edinburgh	31	2.98%
Work in Edinburgh	356	34.26%
Other (e.g. trade group - please give details below)	50	4.81%
Not Answered	3	0.29%

Other respondent type

There were 100 responses to this part of the question.

3: In terms of section 4.16 of the proposed policy in relation to short-term letting in tenement properties, we have set out two options. Please indicate which option you consider to be most suitable for Edinburgh.

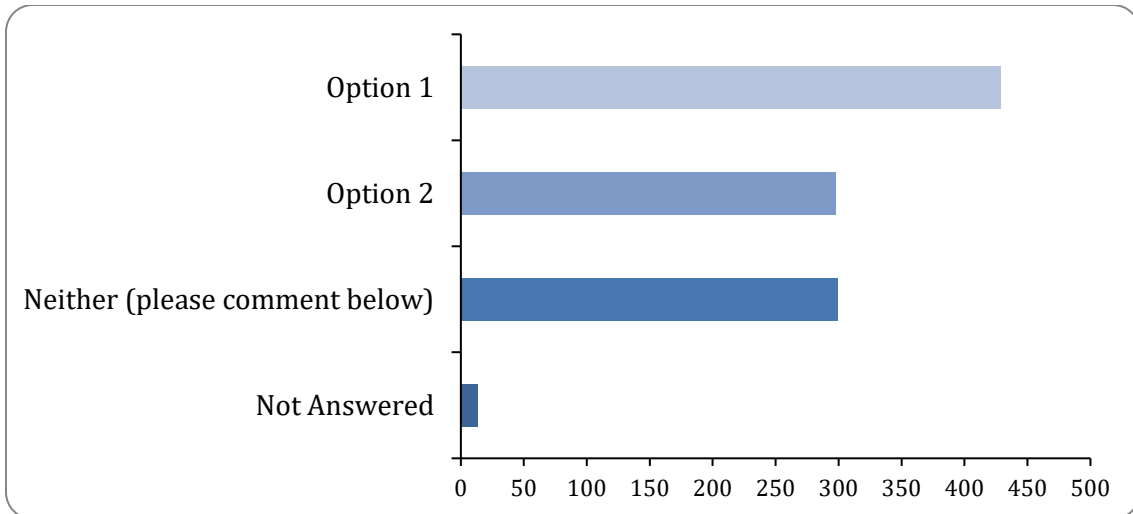
“Secondary letting” means a short-term let consisting of an agreement for the use of accommodation which is not, or not part

of, the licence holder’s only or principal home.

"Rebuttable presumption" means that the applicant has to justify why their application should be granted as an exemption to this policy.

Option 1 or 2

There were 1026 responses to this part of the question.



Option	Total	Percent
Option 1	429	41.29%
Option 2	298	28.68%
Neither (please comment below)	299	28.78%
Not Answered	13	1.25%

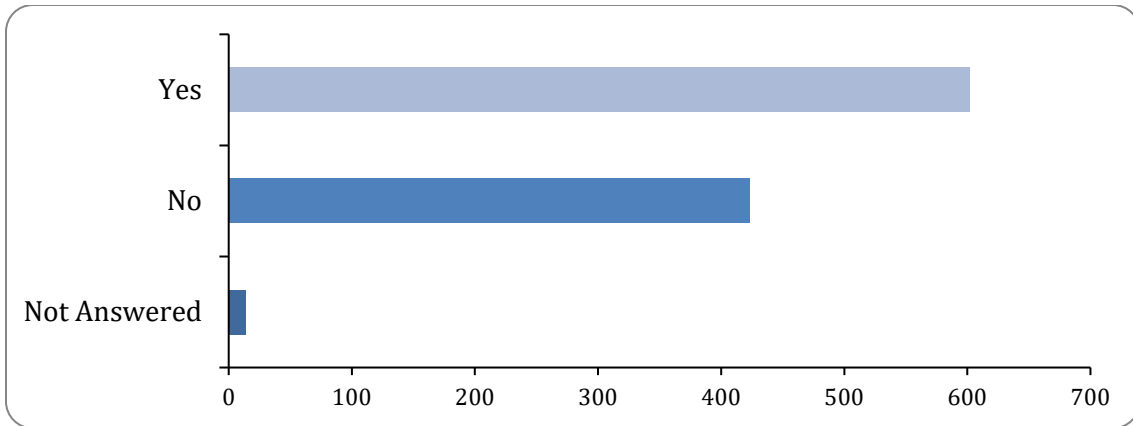
Neither option 1 or 2 reasons

There were 368 responses to this part of the question.

4: Should the Council limit the number of nights for which short term let accommodation may be used in each year?

limit number of nights

There were 1025 responses to this part of the question.

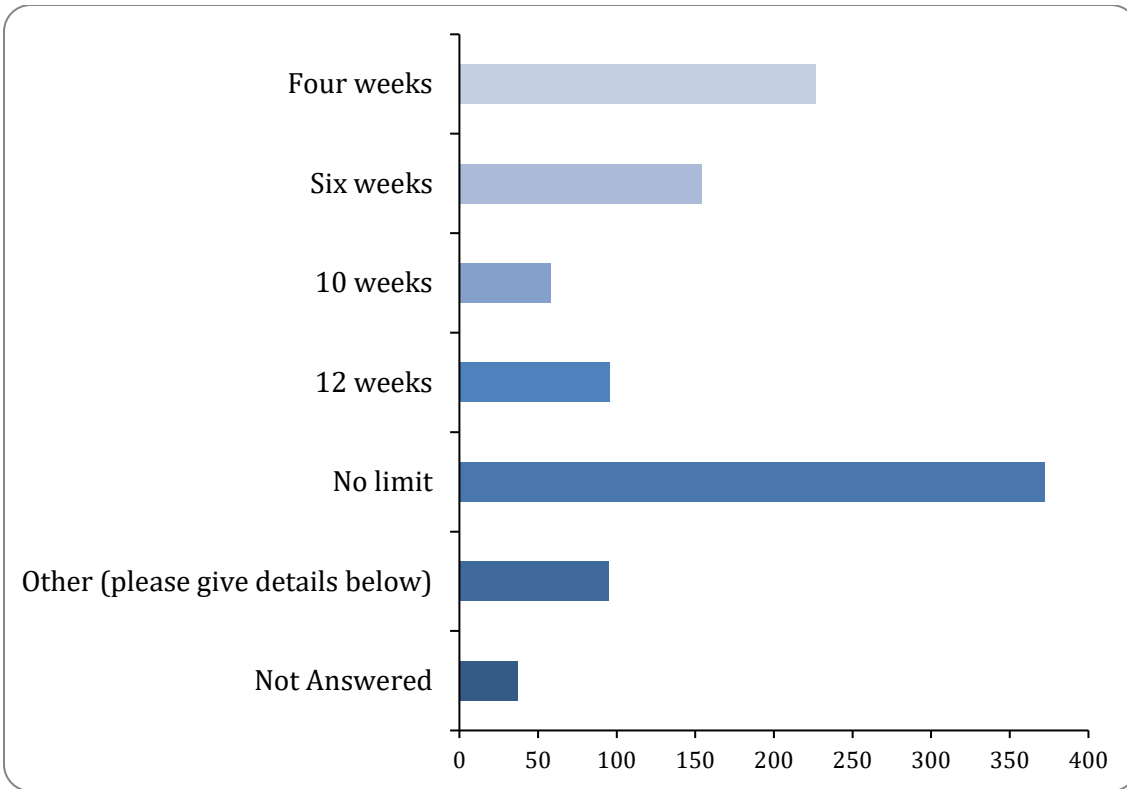


Option	Total	Percent
Yes	602	57.94%
No	423	40.71%
Not Answered	14	1.35%

5: How many weeks should the limit be set at?

How many weeks

There were 1002 responses to this part of the question.



Option	Total	Percent
Four weeks	227	21.85%
Six weeks	154	14.82%
10 weeks	58	5.58%
12 weeks	96	9.24%
No limit	372	35.80%
Other (please give details below)	95	9.14%
Not Answered	37	3.56%

Other

There were 234 responses to this part of the question.

6: If you have any comments on the proposed Short Term Lets Licensing Policy, please provide these below.

Policy comments

There were 589 responses to this part of the question.

7: Do you have any comments on the proposed policy in respect of temporary licences? See 4.10 to 4.15 in the proposed policy below.

Temporary comments

There were 497 responses to this part of the question.

8: Do you have any comments on the proposed policy in respect of temporary exemptions? 4.19 to 4.25 below.

Comments on exemptions

There were 568 responses to this part of the question.

9: If you have any comments on the proposed additional licence conditions, please provide these below.

Additional conditions comments

There were 446 responses to this part of the question.

10: Are there any further comments that you would like to make on any aspect of the licensing of short term lets?

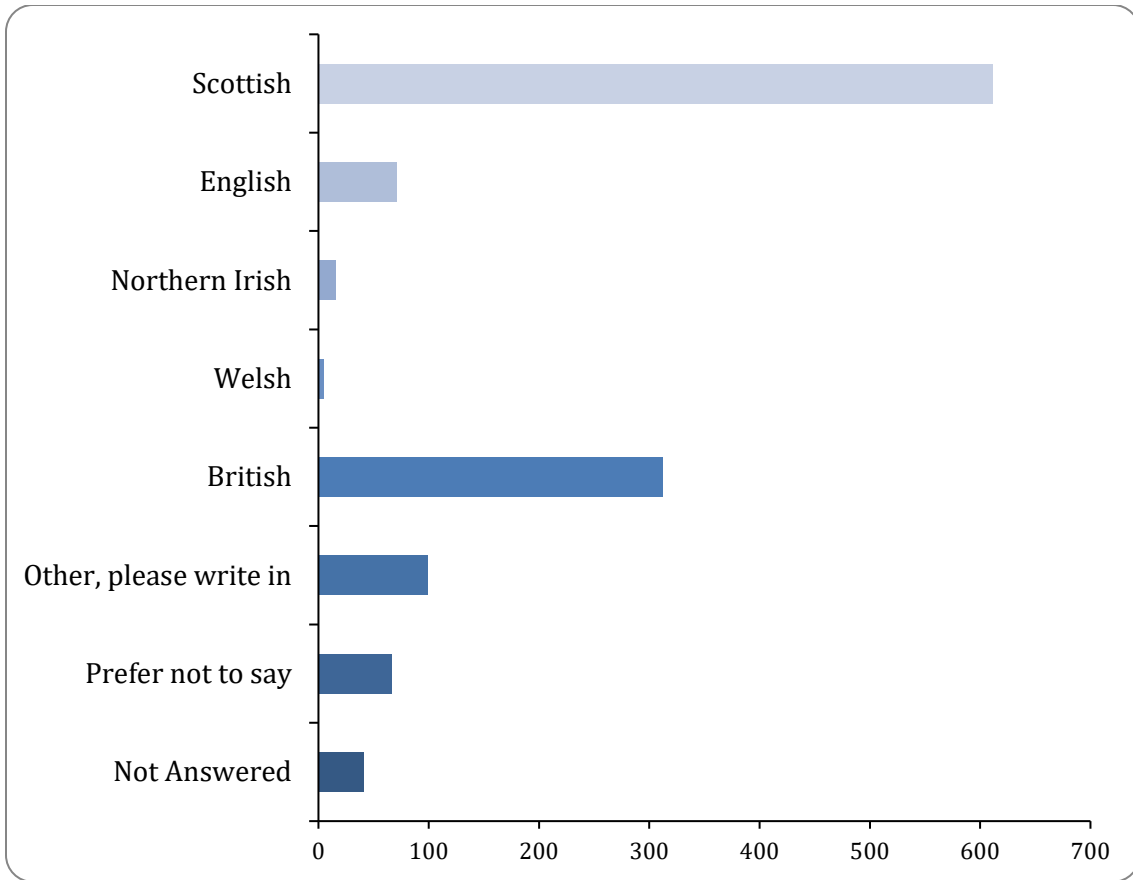
Any other comments

There were 519 responses to this part of the question.

11: What do you feel is your national identity?

National identity

There were 998 responses to this part of the question.



Option	Total	Percent
Scottish	612	58.90%
English	71	6.83%
Northern Irish	16	1.54%
Welsh	5	0.48%
British	312	30.03%
Other, please write in	99	9.53%
Prefer not to say	67	6.45%
Not Answered	41	3.95%

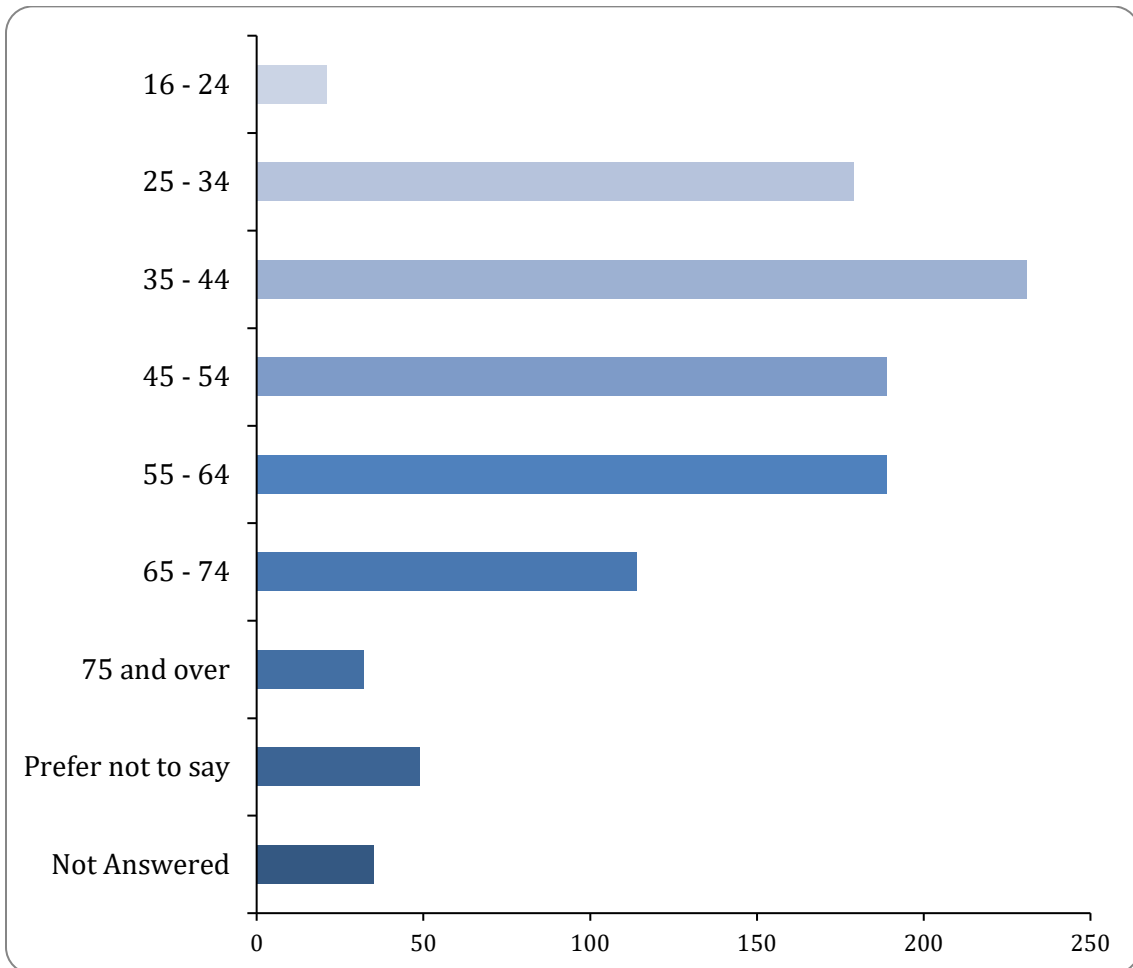
Other, please write in:

There were 102 responses to this part of the question.

12: What is your age?

Age

There were 1004 responses to this part of the question.



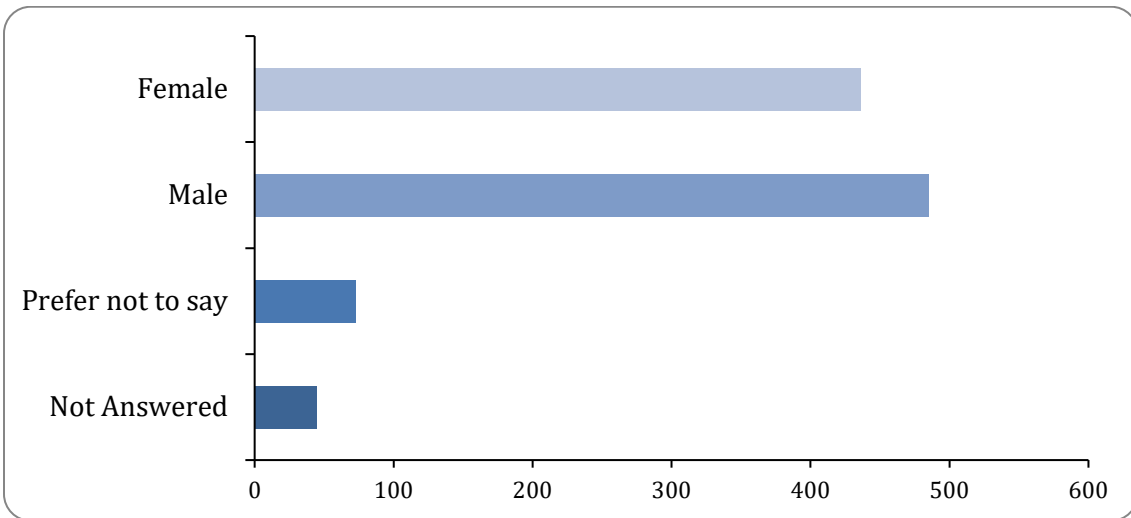
Option	Total	Percent
Under 16	0	0.00%
16 - 24	21	2.02%
25 - 34	179	17.23%
35 - 44	231	22.23%
45 - 54	189	18.19%
55 - 64	189	18.19%
65 - 74	114	10.97%
75 and over	32	3.08%

Prefer not to say	49	4.72%
Not Answered	35	3.37%

13: What is your sex?

Sex

There were 994 responses to this part of the question.

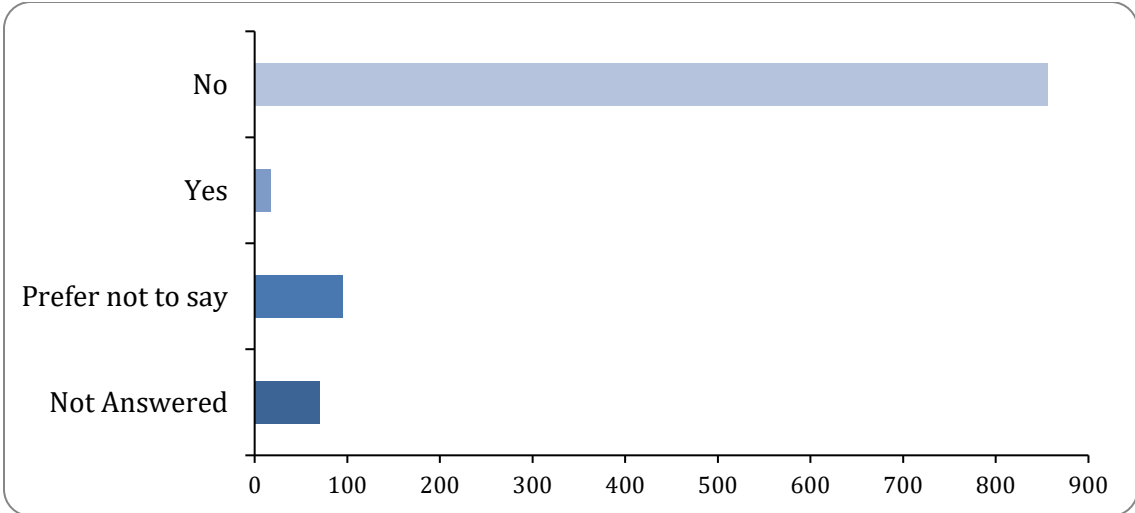


Option	Total	Percent
Female	436	41.96%
Male	485	46.68%
Prefer not to say	73	7.03%
Not Answered	45	4.33%

14: Do you consider yourself to be trans, or have a trans history?

Trans

There were 969 responses to this part of the question.



Option	Total	Percent
No	856	82.39%
Yes	18	1.73%
Prefer not to say	95	9.14%
Not Answered	70	6.74%

If you would like to, please describe your trans status (for example non-binary, trans man, trans woman):

There were 39 responses to this part of the question.

Appendix 3 – Summary of Written Responses to First Consultation

The initial STL consultation attracted a significant number of written responses to various questions. Below is a brief summary of the written responses using common words, phrases and themes which were identified.

Questions 3 – 6 asked for comments about the suitability of property types for use as STLs.

- Security
- ASB – noise
- Increased maintenance of communal areas disproportionately affects permanent residents
- Dedicated access needed to prevent problems in communal areas
- Shared main door properties inappropriate
- Any property type can be suitable if properly managed
- No community attachment thus no feeling of responsibility
- Eroding availability of affordable housing
- Assess on case-by case basis

Q8 asked for comments about which issues additional conditions should cover.

- Noise proofing
- Maximum days STL per year
- Limit no. STLs per building/area
- 24 hour local responsibility and response and loss of licence if this not met
- Enforcement of 'tourist tax'
- Limit on STL properties owned per entity
- Additional payments for communal issues
- Clear penalties for non compliance
- Hot tubs have a tendency to encourage regular late night noise, antisocial and unsafe behaviour
- Forbid attaching key boxes to shared or public property
- Restrict hours for guest check-in/check-out
- STLs should pay commercial non-domestic rates rather than Council tax
- Owner/manager must establish contactable relationship with all neighbours
- Planning consent

Q12 asked for comments about what issues additional conditions for temporary licences should cover.

- Contact number for owner

- Insurance
- Housekeeping instructions
- Restriction on period and duration
- Multiple occurrences of temporary licences not permitted
- No subletting
- No sexual services
- Safety standards
- Contribution to Council Tax
- Limit no. people in property
- Extra charge imposed
- Limit STLs being run by companies
- Eviction of tenants banned to allow STL for e.g. festivals
- No move to permanent licence if complaints received
- Individuals restricted to single temp licence
- Max occupancy
- No animals
- No subletting
- Rent control e.g. no massive price hikes during festivals
- Similar to HMO licence conditions
- Same conditions as permanent licence
- Tourist tax

Q14 asked for comments on what other reasons would justify a temporary exemption.

- Events bringing in visitors and their money
- Arts events, Hogmanay
- Anyone renting for under six weeks per year
- B&Bs where the owner is resident
- Christmas, Hogmanay, Easter
- Festivals
- Humanitarian crisis
- Emergency accommodation
- Lodgers in own home
- Single exemption per year
- Already complies with HMO standards
- Home exchanges (without payment)
- None
- All safety requirement should still be in place
- Need to allow four weeks for festivals plus two weeks at Christmas
- Party flats, stag/hen weekends
- Vacant period between tenants

- University Freshers Weeks, Graduation Weeks, End of Terms for parents collecting possessions, Christmas Markets, Hogmanay...

Q16 asked for comments on what issues additional conditions for temporary exemptions should cover.

- A fee
- Commitment to abide by licence conditions
- Searchable public register
- Frequency
- Limit numbers of exemptions issued
- Compulsory repairs for damage to communal areas
- Fire alarms
- All safety measures
- Specified end date
- Inform neighbours in advance and collect feedback afterwards
- Limit no. exemptions in a specified time period
- Neighbour notification
- No re-application within specified time period
- Occupancy limit
- Annual but not more frequent

Qs 17 – 19 asked for comments on property suitability for temporary exemptions

- All can be suitable if properly managed
- None
- Case-by-case basis
- Consider concentration of STLs in area
- One policy for all aspects
- Yes for home sharing and home letting. No for commercial short term let properties - secondary letting
- Specific events
- Case-by-case basis

Q20 asked for comments on unsuitable property types for temporary exemptions.

- Housing close to vulnerable people
- Caravans/tents
- Yurts

Q21 asked for comments on the positives of short term letting.

- Additional income
- Affordability and choice for visitors
- Income for cleaners etc

- Supports Edinburgh economy and tourism
- Flexible use of housing stock that can be returned into the residential sector
- Generated income stays legal
- Boosts Edinburgh's reputation as a welcoming, cosmopolitan city and ideal family destination
- None
- Brings visitors and their money to Edinburgh
- STLs are not just for tourists

Q22 asked for comments on the negatives of short term letting

- Disruption to neighbours
- No communal benefit
- Community fragmentation
- Reduces city housing stock
- Drives up long term accommodation prices
- Encourages foreign visitors – CO2 impact
- Waste disposal/recycling rarely completed appropriately
- Security compromised

Q23 asked for any further comments.

- Copy Amsterdam
- Exclusion zones
- Bad idea
- Proper inspection needed
- Clear guidance for home sharers required
- A model contract could be suggested by the council
- Far too blunt a tool to solve a very specific problem
- A refusal to grant a licence should be the norm
- The council needs to do more to prevent STL taking over the city. Stop giving out too many licenses and enforce them more so people can't STL without one
- The council needs to take a pragmatic and balanced approach, rather than trying to ban most STL operators from providing quality short term accommodation
- The licensing scheme needs an enforcement mechanism with real teeth - and I hope that short-term lets in tenements will be banned outright
- Whatever you do, ENFORCE IT ! Use heavy fines and custodial sentences to stamp out unregulated STL
- When licencing is introduced, then it must be supported by adequate resource to manage and enforce that licencing. The Planning Team within the Council currently lack the resources and leadership to enforce the most basic of planning conditions, even when developers are operating on Council land (e.g. Christmas Marker in PSG). There must be significant investment in staffing, and under performing senior managers must be held accountable.

Appendix 4 – Summary of Written Responses to Second Consultation

The second STL consultation again attracted a significant number of written responses to various questions. Below is a brief summary of the written responses using common words, phrases and themes which were identified.

Question 6 asked for comments about the proposed policy.

- Prioritise needs of permanent residents and locals
- STLs have destroyed community
- Need requirement for permanent notice of contact details for STL owners
- ASB
- Share applications with immediate neighbours
- No keyboxes in public areas
- No STLs without separate access
- Sufficient enforcement resources?
- Proposed conditions are heavy handed
- More than a specified number of complaints should lead to termination of licence
- Requirement for carpeting in secondary legislation is draconian
- Negative impact on small businesses
- Overkill
- Will be bad for tourism
- What if property already has planning permission?
- STLs should have same safety requirements as long term rentals
- End secondary letting, or treat the same as others
- No exceptions for Fringe etc
- Annual licence onerous and costly
- Should require commercial waste contract
- Balanced, flexible policy
- Require soundproofing assessment
- Requirement to display personal info is unacceptable
- Allow existing businesses to keep operating

Q7 asked for comments on the proposed policy in respect of temporary licences.

- Restrict to four weeks for home letting as owner is absent
- Creates loophole which favours profit over communities
- Resources to enforce?
- Impose annual limit (days/weeks)
- No renewal for specified period
- Number should be capped

- Unfair on secondary lets
- Ensure no displacement of residents during temporary licence period
- Should only be granted in very limited circumstances
- Six weeks too long for home rental
- Not for commercial operations, just home sharing
- Restrict permitted number of renewals, after which annual licence should be required
- Circulate application to neighbours
- Why not include secondary letting?
- Not appropriate for tenements/shared entry properties
- Instead of 'six weeks' say 'in July and August'
- This should not attract a fee
- Not necessary/appropriate
- Not appropriate for home letting

Q8 asked for comments on the proposed policy in respect of temporary exemptions.

- Very risky for the inexperienced
- Should only be allowed for home sharing
- May make the whole licensing framework ineffective
- Not necessary or appropriate
- Should be limited for unforeseen circumstances such as emergency accommodation
- Defeats the purpose of regulation
- Period should be shorter and only once per year
- Needs to protect long term tenants from eviction for this period
- Will undermine the purpose of the legislation
- Should be allowed for secondary letting too
- Seems completely bonkers

Q9 asked for comments on the proposed additional licensing conditions.

- Proper resourcing of effective enforcement needed
- Phone number needs to be available to neighbours as well as Council
- Start and finish must be supervised by owner/named person – no key safes
- Owner must bear share of communal repairs (perhaps enhanced share)
- Licence holder must be fit and proper
- Limit number of STLs in each property and adjoining properties
- Ensure that key safes used for non-STL purposes are not restricted (e.g. those used by carers)
- Don't allow owner proxies for handovers
- Carpets/noise reduction may not always be appropriate/should only apply to flats
- Requirement for carpets/noise reduction requirements should be considered on case by case basis
- Hot tubs may need condition
- Prohibit large gatherings/parties

- Undue burden
- These are too weak
- STLs should match HMO requirements
- If not renewing, remove key box at end of licence period
- Why can't the Council limit the number of STL night in a secondary let?
- There should be no additional conditions
- STL3 - time limits aren't practical

Q10 asked for comments on any other aspect of the licensing of short term lets.

- Far too many STLs
- Should follow other major cities which have clamped down on STLs
- Need transparency re policy making
- I'd like to see all applicants charged tax retrospectively on their earnings
- We need neighbours, not businesses!
- Enforcement will be key to whether this policy works
- This will ultimately result in a shortage of affordable visitor accommodation in the city
- It is not clear why an energy performance certificate is needed
- It's very encouraging to see many of the concerns raised by lots of residents have been addressed in the policy
- Too much reliance is placed on self-certification. There needs to be inspections by Council Officers, ideally all but realistically on a random basis.
- Owners of STLs should pay an appropriate level of tax. I am strongly in favour of a tourist tax.
- Not enough about numbers to be allowed per block/neighbourhood/city
- Far too much leeway for agencies still, and way too many exemptions.
- Would also stipulate that facilitators (sites which list properties) should also be held liable so you can bill them also
- Prevent investment companies with multiple properties short term letting more than 1 property
- Exemptions listed in sections 4.20 to 4.29 are likely to undo a lot of the good work of this proposal and should be reviewed
- Please stop licensing things. Stop governing things. Edinburgh could do with a reduction in choking bureaucracy, not an ever-upwards ratcheting of smothering regulation
- Why not a 3 or 5-year licence with the option to rescind if evidence of failure to comply arises?
- This policy will restrict the provision of non-holiday short term lets, such as for professionals or academics who are based in the city for three to six months irrespective if the property is usually let out or is someone's home.
- Home share short term lets that are owner occupied should not need licensure

- All properties should be treated in the same way. Temporary licences should be available for all properties, not just homes. And all properties should have all relevant certificates in place, such as landlord gas certificates
- Licences should be granted on a case by case basis
- Airbnb and other companies provide a traceable, tax paying and above board observable rental platform, that has standards of quality. Rogue landlords have already planned to bypass the new rules
- I would like to meet with my local councillors about this. Please have multiple surgeries/meetings widely publicised
- This whole licensing scheme is going to diminish Edinburgh's reputation for hospitality
- The city needs to allow short term lets and work on the basis of presumed consent unless there is an active objection raised
- I object to the imposition of a licensing requirement for home sharing and home letting
- This Policy is welcome and should be a stepping stone to further legislation
- Fit and proper people - those who have avoided their previous responsibility to obtain permission for change of use, failed in duties such as arranging commercial waste services for their properties, ignored complaints and failed to prevent anti-social behaviour by their clients should be considered unfit and not be given licenses.

Over provision in specific areas should be considered.

Appendix 5 - Proposed STL Licensing Policy

Draft Short Term Let 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"> • You can continue to operate your premises as a STL - must comply with existing laws and regulations; • You must apply to the Licensing Authority where your premises is situated for a STL licence before 1 April 2023; and • 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 	<ul style="list-style-type: none"> • Must not operate a STL without a licence being granted by the Licensing Authority where your premises is situated; • If you wish to operate a STL you must apply to the Licensing Authority in which your premises is situated;
1 April 2023	<ul style="list-style-type: none"> • 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 • You must stop operating as a STL if your application is refused by the Licensing Authority, subject to appeal 	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 – [link here](#), and
 - 2.1.6 The STL does not constitute an excluded tenancy – [link here](#).
- 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.
- 2.9 For the purposes of this policy, a rebuttable presumption means that where an application falls outside of policy or is otherwise inconsistent with it that an applicant understands that this in effect places a practical onus on them to show why their application should still be granted notwithstanding the policy

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 (*will be added once determined by the Regulatory Committee*)
- 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.

Tenement / Shared Main Door Accommodation

- 4.13 The Council has consistently called for the regulation of the STL sector

through the introduction of a licensing scheme, as noted [here](#). The Council believes that tenemental accommodation, or those with a shared main door, are unsuitable for secondary STL due to their character, location and risk of creating undue nuisance. The Council also has concerns in relation to the risk that anti-social behaviour may be exacerbated within tenement or shared main door accommodation given the close proximity of other residential accommodation and communal areas.

4.14 For the purposes of this policy, secondary letting in tenement or shared main door accommodation is considered as unsuitable and there will be a rebuttable presumption, as defined in paragraph 2.9 of this policy, against the grant of a licence in such circumstances.

4.15 The Council may take certain factors into account when determining whether an application for secondary letting in tenement or shared main door accommodation be granted as an exception to its policy Factors which may be considered include, but are not limited to the evidence of the following:

- Neighbours consent/support
- Length of time previously operated
- Frequency of bookings or intensity of use of accommodation
- System to prevent neighbour concerns
- Low level of complaints

4.16 For the avoidance of doubt and for the purposes of this policy, the definition of a tenement accommodation is taken from section 26 of the Tenements (Scotland) Act 2004.

Temporary Licences

4.17 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.

4.18 The Council consider that the grant of temporary licences for STL may be appropriate in the circumstances as set out below:

- For home sharing or home letting or home sharing and home letting to give first time hosts the opportunity to try out STL, prior to making a full application.

(The above circumstances are not intended to be exhaustive and should

only be treated as indicative.)

- 4.19 Temporary licences would normally be suitable for the following types of let:
- a. Home letting;
 - b. Home sharing; or
 - c. Home letting & Home sharing
- 4.20 It is considered unsuitable for temporary licences to be issued to accommodation used for secondary letting. There will be a rebuttable presumption, as defined in paragraph 2.9 of this policy, against the grant of temporary exemptions in such circumstances.
- 4.21 Any temporary licence which is issued will be subject to the mandatory conditions of licence, as set out in the 1982 Act.
- 4.22 Temporary licences will also be subject to the additional conditions set out in the Council's STL Conditions Framework.
- 4.23 The fee for temporary licence applications can be found here (*will be added once determined by the Regulatory Committee*)

Temporary Exemptions

- 4.24 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.
- 4.25 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
- 4.26 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
- 4.27 The licensing service will aim to process and determine a temporary exemption application within 3 months of the application being received.
- 4.28 Any temporary exemption which is issued will be subject to the mandatory conditions of licence, as set out in the 1982 Act.
- 4.29 Temporary exemptions will also be subject to the additional licence conditions set out in the Council's STL Conditions Framework at appendix two.
- 4.30 The fee for a temporary exemption application can be found here (*link to be provided in due course*)

Accommodation Inspections

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

Making an Objection or Representation

- 4.32 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) 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.
- 4.33 The 1982 Act does not provide for objections or representations in respect of temporary licence applications or temporary exemption applications.
- 4.34 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

- 4.35 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

- 4.36 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.
- 4.37 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.

Material Change in Circumstances

- 4.38 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

- 4.39 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.
- 4.40 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.
- 4.41 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.
- 4.42 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.

- 4.43 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.
- 4.44 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.
- 4.45 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 *(to be inserted after Committee approval)*.
- 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) a certified copy of the licence and the licence conditions,
- (b) fire, gas and electrical safety information,
- (c) details of how to summon the assistance of emergency services,
- (d) a copy of the gas safety report,
- (e) a copy of the Electrical Installation Condition Report, and
- (f) a copy of the Portable Appliance Testing Report.

Planning Permission

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

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

Listings

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

(a) the licence number, and

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

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

Insurance

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

(a) valid buildings insurance for the duration of the licence, and

(b) valid public liability insurance for the duration of each short-term let agreement.

Payment of Fees

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

False or Misleading Information

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

Interpretation 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,

(e) any defect identified,

(f) any action taken to remedy a defect,

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

"gas safety report" means a report containing the following information—

(a) the date on which the appliance or flue was checked,

(b) the address of the premises at which the appliance or flue is installed,

(c) a description of and the location of each appliance or flue checked,

(d) any safety defect identified,

(e) any remedial action taken,

(f) confirmation that the check undertaken complies with the requirements of an examination of—

- (i) the effectiveness of any flue,
- (ii) the supply of combustion air,
- (iii) subject to head
- (iv), its operating pressure or heat input or, where necessary, both,
- (iv) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,
- (v) its operation so as to ensure its safe functioning,
- (g) the name and signature of the individual carrying out the check, and
- (h) the registration number with which that individual, or that individual's employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998,

"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

STL 1	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.
STL 2	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.
STL 3	The licence holder must make the licence, including any conditions, available to guests within the accommodation where it can be conveniently read.
STL 4	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.
STL 5	<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">• Any particular rules applying to shared areas and entrances are communicated to guests;• Guests understand that shared doors should be quietly and securely closed after use.•
STL 6	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.

STL 7	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.
STL 8	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.
STL 9	<i>For secondary lets only</i> , the licence holder must ensure that the bedrooms living room and hallway in the premises are covered by a suitable floor covering such as a carpet or similar floor covering.

Appendix 6 – Mandatory Conditions of STL Licences

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) a certified copy of the licence and the licence conditions,

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

Planning Permission

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

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

Listings

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

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

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

Insurance

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

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

Payment of Fees

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

False or Misleading Information

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

Interpretation 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,
- (e) any defect identified,
- (f) any action taken to remedy a defect,

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

"gas safety report" means a report containing the following information—

- (a) the date on which the appliance or flue was checked,
- (b) the address of the premises at which the appliance or flue is installed,
- (c) a description of and the location of each appliance or flue checked,
- (d) any safety defect identified,
- (e) any remedial action taken,
- (f) confirmation that the check undertaken complies with the requirements of an examination of—
 - (i) the effectiveness of any flue,
 - (ii) the supply of combustion air,

(iii) subject to head

(iv), its operating pressure or heat input or, where necessary, both,

(iv) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,

(v) its operation so as to ensure its safe functioning,

(g) the name and signature of the individual carrying out the check, and

(h) the registration number with which that individual, or that individual's employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998,

"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 7 – Proposed Application Fees

Type of Licence	New (1 Year)	Renewal (3 Years)
Home Sharing	£120 per occupant	£360 per occupant
Home Letting	£120 per occupant	£360 per occupant
Home Sharing & Home Letting	£120 per occupant	£360 per occupant

Secondary Letting (Maximum Occupancy)	New/Renewal (1 Year)
1-3	£653
4-5	£1,089
6-10	£2,481
11-15	£3,872
16-20	£5,264
21 and over	£5,869

Temporary Licence (Maximum Occupancy)	Fee
1-5	£250
6-10	£350
11 and over	£600

Temporary Exemption (Maximum Occupancy)	Fee
1-5	£250
6-10	£350
11 and over	£600

Property with HMO licence in place	£120
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Appendix 8 – Integrated Impact Assessment

Integrated Impact Assessment

Summary Report Template

Each of the numbered sections below must be completed

Interim report		Final report	X	(Tick as appropriate)
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1. Title of proposal

City of Edinburgh Council Short Term Lets Licensing Policy

2. What will change as a result of this proposal?

On March 2022, the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022 (the 2022 Order) was enacted to introduce new powers for local authorities to regulate short term lets through the introduction of a licensing scheme under the provisions of the Civic Government (Scotland) Act 1982 (the 1982 Act).

As a result of the introduction of this mandatory legislation, all short term lets will require to be licensed. The licensing scheme includes a new mandatory safety requirement that will cover every type of short term let to ensure a safe, quality experience for visitors. It will also include a 'fit and proper' person test to assess whether the applicant is suitable to hold such a licence, as with all other types of licensable activities under the 1982 Act. The Council also has the discretion to apply further appropriate conditions to address any local concerns. Some operators will also be required to demonstrate that they have planning permission in order to be considered for a licence.

3. Briefly describe public involvement in this proposal to date and planned

The Council has engaged in public consultation throughout the process of developing a licensing policy for short term lets. On 31 March 2022, the Regulatory Committee instructed officers to carry out a two-stage consultation exercise on this issue.

An initial consultation was carried out from 15 April to 10 June 2022, in order to gain a broader understanding of community and business views in relation to what a short term let licensing policy should include and whether the Council should adopt any discretionary powers. 1902 responses were received.

Following consideration of those responses, a draft statement of licensing policy was developed. Subsequently, a second round of public consultation was carried out between 25 July and 5 September 2022 to seek views on the draft policy. This round of consultation received 1039 responses.

Both rounds of consultation were advertised on the Council's website and Twitter accounts. Furthermore, key stakeholders including trade bodies, online accommodation platforms, community council's and House of Multiple Occupancy licence holders and agents were contacted directly or through the Scottish Government's Short Term Lets Working Group, to inform them of the proposed policy and related consultations.

4. Is the proposal considered strategic under the Fairer Scotland Duty?

No.

5. Date of IIA

20 September 2022

6. Who was present at the IIA? Identify facilitator, lead officer, report writer and any employee representative present and main stakeholder (e.g. Council, NHS)

Name	Job Title	Date of IIA training
Christopher McKee Co-facilitator Lead officer Report Writer	Regulatory Team Leader Facilitator Lead officer Report Writer	
Catherine Scanlin	Licensing Manager	
Jackie McInnes Co-facilitator	Senior Planning Officer	25 April 2018 3 May 2018 20 June 2018 5 September 2018 8 November 2018 9 March 2022

Gordon Hunter	Regulatory Officer	2015
Morag Leck	Principal Solicitor - Licensing	15 November 2018

7. Evidence available at the time of the IIA

Evidence	Available – detail source	Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal
Data on populations in need	Yes <ul style="list-style-type: none"> • Consultation Responses 	The consultation responses gave data on respondents ethnic group or background, sexual orientation, age, national identity, gender, religion, religious denomination or body
Data on service uptake/access	Yes <ul style="list-style-type: none"> • Consultation Responses 	Information on the service uptake/access to STL accommodation, through online platforms, could be considered commercially sensitive and therefore the Council has not been able to access this information. However, the consultation process has resulted in information being received from the following groups: Customers STL Operators STL Online Booking Platforms Tourism Trade Bodies Neighbours / Residents Community Councils
Data on socio-economic disadvantage e.g. low income, low wealth, material deprivation, area deprivation.	Yes <ul style="list-style-type: none"> • Consultation Responses 	Information received during the consultation process from STL operators, STL online platforms, and Tourism bodies stated that by introducing a licensing policy which restricts STL accommodation from operating would result in a loss of income for a number of people, including operators, business which serve STLs such as cleaners, and the wider tourism economy in Edinburgh as a whole. This would create a socio-economic

Evidence	Available – detail source	Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal
		disadvantage for those groups and any dependents.
Data on equality outcomes	<p>Yes</p> <ul style="list-style-type: none"> • Equal Opportunities: Impact of Short-Term Regulations on Women – ASSC • Frontline (2017) Self-catering in Scotland: the economic impact of Short-term letting on the Scottish Economy. Association of Scotland's Self Caterers 	<p>Women may be more likely to be involved in short-term letting than men.</p> <p>Those employed in the tourism and related services may be adversely affected economically by a licensing scheme being introduced</p> <p>A number of small, local businesses serve the STL industry. Families and those with specific needs are key users of STLs.</p>
Research/literature evidence	<p>Yes</p> <ul style="list-style-type: none"> • Rettie & Co – Analysis of the Impact of the Edinburgh Short Term Rental Market – 16 July 2018 • The City of Edinburgh Council's Response to 	<p>The Business and Regulatory Impact Assessment, prepared by the Scottish Government in relation to the introduction of a STL licensing scheme, identifies a range of benefits and costs to a wide range of groups.</p> <p>Reports prepared by the Scottish Government highlights issues with STLs. This includes impacts on:</p> <ul style="list-style-type: none"> • Affordability and availability of housing;

Evidence	Available – detail source	Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal
	<p>the Scottish Government's Consultation on Short Term Lets – 2019.</p> <ul style="list-style-type: none"> • Short term lets: licensing scheme and planning control area legislation Business and Regulatory Impact Assessment (BRIA), Scottish Government, November 2021. • Consultation Responses • Short Term Lets Impacts on Communities, Scottish Government, October 2019. • Report to Corporate Policy and Strategy Committee, 7 August 2018, Short Term 	<ul style="list-style-type: none"> • Residential amenity as a result of anti-social behaviour, noise and other nuisance; <p>An equalities impact assessment was carried out as part of the Scottish Government's consultation report in 2020 which stated there are no potentially negative impacts to equality groups as a result of the introduction of a STL licensing scheme.</p> <p>Some consultation responses have referred the Committee to existing research and literature on a range of issues including, but not limited to, the following:</p> <ul style="list-style-type: none"> • Impact of STL licensing scheme on local businesses and wider tourist economy. • Impact of self-catering sector to the Scottish economy. • Impact of STL sector on communities <p>The titles and links to the above research and literature are included in the responses to the consultation.</p>

Evidence	Available – detail source	Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal
	<p>Letting in Edinburgh</p> <ul style="list-style-type: none"> • Consultation Report on Proposals for a Licensing Scheme and Planning Control Areas for short-term lets in Scotland – Scottish Government – December 2020. • Report to Planning Committee, 23 February 2022 – Short-Term Let Area of Control Designation. 	
Public/patient/client experience information	Yes	
Evidence of inclusive engagement of people who use the service and involvement findings	Yes	<p>During the public consultation exercises, information has been provided from those who work in the STL trade, including operators and trade organisations, and those who have identified themselves as customers/users of STL accommodation.</p> <p>To encourage participation, the public consultations were open to all interested parties to contribute.</p>

Evidence	Available – detail source	Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal
		Two separate rounds of public consultation were held, totalling 14 weeks, in order to provide a detailed and robust evidence base from which to inform any decision making.
Evidence of unmet need	No	<p>The consultation process did not produce evidence of significant unmet demand for STL accommodation.</p> <p>However, some responses highlighted that during certain periods of the year, there is significant demand for STL properties.</p>
Good practice guidelines	Yes	<p>In forming a STL licensing policy, the Council has referred closely to the Scottish Government's guidance for 'Short Term Lets in Scotland Licensing Scheme'.</p> <p>Some respondents to the consultation process also highlighted existing good practice guides which are used by some within the STL sector already.</p>
Carbon emissions generated/reduced data	No	
Environmental data	No	
Risk from cumulative impacts	No	
Other (please specify)		The approach and decisions of other Scottish local authorities in relation to implementing a STL

Evidence	Available – detail source	Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal
		licensing policy, were considered as part of this process.
Additional evidence required	No	No

8. In summary, what impacts were identified and which groups will they affect?

Equality, Health and Wellbeing and Human Rights	Affected populations
<p>Positive</p> <p>The introduction of a licensing scheme and licensing policy specific to Edinburgh, will bring all accommodation used for short-term letting into the licensing system. This will allow all groups to participate in the licensing process.</p> <p>The introduction of a licensing scheme and associated policy for STLs will help to improve the safety of STL accommodation through mandatory and additional licence conditions framework.</p> <p>The STL licensing scheme and licensing policy will provide a transparent decision-making process and improve the feeling of control over what happens in local communities.</p> <p>The STL licensing scheme and licensing policy may lead to an overall reduction in the number of STL accommodation. This may have a positive impact by increasing housing availability and may make housing more affordable.</p> <p>May improve feelings of community and personal safety (e.g., unknown and frequently changing occupants, noise and anti-social behaviour) through knowledge that</p>	<p>All groups</p>

appropriate scrutiny of STL accommodation has taken place through licence application process.

Would allow the approved licensing policy to be applied in order to determine the appropriateness of STL accommodation

Some groups may experience a more pleasant residential environment through regulation of STL accommodation

The introduction of a STL licensing scheme may improve access to the housing market for some people or groups if the total number of STL properties is reduced.

Negative

Requirement to engage in the licensing process may be seen as a barrier to some people or groups.

The introduction of a STL licensing scheme and policy could lead to a financial impact on operators, hosts and those persons/groups or businesses which service the STL sector.

The introduction of a STL licensing scheme and policy could have a negative impact on people's ability to use their property in a particular manner.

The introduction of a STL licensing scheme and licensing policy could lead to a reduction in the number of STL accommodation in Edinburgh. This could negatively impact the requirement for certain services, such as cleaning and laundry services, thus affecting local employment and well-being.

Environment and Sustainability including climate change emissions and impacts

Positive

If the introduction of a STL licensing scheme and associated licensing policy leads to an overall reduction in the number of STL accommodation, this may result in

Affected populations

All groups

less travel to Edinburgh by air, road or other means of transport, thus reducing carbon emissions.

The introduction of a STL licensing scheme and associated policy may have a positive impact on noise pollution and other disturbances as a result of the STL licence conditions framework.

The introduction of a STL licensing scheme and policy may have a positive impact on residential amenity as it would require STL premises to have adequate facilities for the storage and disposal of refuse.

Negative

The licensing scheme and associated policy may push STL accommodation out with the Council area, thus increasing the amount of travel to and from the city. This could lead to an increase in carbon emissions.

The licensing scheme and associated policy may impact on the quality of housing and appearance of areas if operators or hosts are no longer generating income from STL use, thus creating a lack of incentive for them to maintain the accommodation.

The licensing scheme and associated policy may result in properties becoming vacant due to operators not being successful in obtaining a STL licence.

Economic

Positive

If the introduction of a STL licensing scheme and associated licensing policy leads to an overall reduction in the number of STL accommodation in Edinburgh, this could lead to operators being able to charge more for their STL accommodation due to higher demand.

A reduction in visitor numbers to the city may lead to some services and resources being more focused on meeting the needs of residents in the city.

Affected populations

All groups

The requirement to obtain a licence could lead to an increase in demand for licensing consultancy services.

The introduction of a STL licensing scheme and policy may give visitors confidence that STL accommodation is regulated to an appropriate standard and lead to increased visitors to the city.

Negative

If the introduction of a STL licensing scheme and associated licensing policy leads to an overall reduction in the number of STL accommodation in Edinburgh, this could lead to higher costs for visitors. This could lead to a decrease in the number of tourists and visitors to Edinburgh.

A reduction in the number of STL accommodation, as a result of the STL licensing policy, could have an impact on businesses which serve the STL sector. E.g., cleaning and laundry services.

A reduction in the number of STL accommodation, as a result of the STL licensing policy, has the potential to negatively impact the tourism economy (including restaurants, theatres, licensed premises, gig economy venues etc) in Edinburgh. A reduction in numbers of visitors to Edinburgh may affect employment opportunities for residents and create a socio-economic disadvantage, which would not only impact on the worker and any other staff but also any family members who are dependent upon their income. The continuing increases to the cost of living (e.g. fuel, food & energy costs), at the time of writing, was also noted and that any loss of income would exacerbate any cost increases for those affected.

As a result of the licensing scheme and associated policy, existing operators of STL accommodation may have to make significant changes to their property and operation, resulting in high financial costs.

As a result of the licensing scheme and associated policy, STL businesses may be forced to close. This would lead to a loss of income for operators, employees and those who service the industry.

<p>If a STL licensing scheme and associated licensing policy places restrictions on operators ability to trade, it may affect their ability to earn income through use of their property as a STL. This would create a socio-economic disadvantage.</p> <p>If a STL licensing system and associated policy results in an overall reduction of STL properties, this could result in a fall in demand for licensing consultancy services.</p> <p>If a STL operator is unable to obtain a STL licence, this could have a negative effect on the terms of the mortgage arrangements for their property.</p>	
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9. Is any part of this policy/ service to be carried out wholly or partly by contractors and if so how will equality, human rights including children's rights, environmental and sustainability issues be addressed?

No

10. Consider how you will communicate information about this policy/ service change to children and young people and those affected by sensory impairment, speech impairment, low level literacy or numeracy, learning difficulties or English as a second language? Please provide a summary of the communications plan.

The Licensing Service currently deals with customers from a range of backgrounds. This includes those affected by sensory impairment, speech impairment, low level literacy or numeracy, learning difficulties or English as a second language.

As set out in the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, the Council must introduce a licensing scheme for STLs from 1 October 2022. When the Regulatory Committee agree the STL policy, the licensing service will communicate this in a number of ways. All respondents to the consultation who indicated that they would be happy to be contacted again in relation to STLs, will be written to in order to inform them of the decision along with information on the agreed STL licensing policy, conditions framework and any other appropriate information. Furthermore, the Committee's decision will be communicated using the Council's and Licensing Service's social media accounts in addition to updates being placed on the Council's website. The Licensing Service will also include information

of the Committee’s decision to those who have signed up for regular email updates in relation to STL licensing. The decision will also be communicated to Community Councils and other stakeholders such trade or tourism organisations, community groups and online booking platforms.

Where customers require further support to access information in respect of STL licensing, the licensing service will make the necessary reasonable adjustments to cater for this. For example, translators can be provided for those customers whose primary language is not English and who have difficulty understanding this information.

11. Is the plan, programme, strategy or policy likely to result in significant environmental effects, either positive or negative? If yes, it is likely that a [Strategic Environmental Assessment](#) (SEA) will be required and the impacts identified in the IIA should be included in this. See section 2.10 in the Guidance for further information.

No.

12. Additional Information and Evidence Required

If further evidence is required, please note how it will be gathered. If appropriate, mark this report as interim and submit updated final report once further evidence has been gathered.

At this stage, it has not been established that any additional information of evidence is required. Should the Regulatory Committee request further information, this will be provided.

13. Specific to this IIA only, what recommended actions have been, or will be, undertaken and by when? (these should be drawn from 7 – 11 above)

Please complete:

Specific actions (as a result of the IIA which may include financial implications, mitigating actions and risks of cumulative impacts)	Who will take them forward (name and job title)	Deadline for progressing	Review date
Include a copy of this IIA in the Regulatory Committee Report due to be considered on	Chris McKee, Regulatory Team Leader		29 September 2022

Specific actions (as a result of the IIA which may include financial implications, mitigating actions and risks of cumulative impacts)	Who will take them forward (name and job title)	Deadline for progressing	Review date

14. Are there any negative impacts in section 8 for which there are no identified mitigating actions?

No

15. How will you monitor how this proposal affects different groups, including people with protected characteristics?

It is proposed that the STL licensing policy is reviewed annually, or more frequently, should circumstances require it. A review of the IIA and how the policy is affecting different groups, including those with protected characteristics, will form part of that work

16. Sign off by Head of Service

Name

Date

17. Publication

Completed and signed IIAs should be sent to:

integratedimpactassessments@edinburgh.gov.uk to be published on the Council website www.edinburgh.gov.uk/impactassessments

Edinburgh Integration Joint Board/Health and Social Care

sarah.bryson@edinburgh.gov.uk to be published at www.edinburghhsc.scot/the-ijb/integrated-impact-assessments/



ASSC Submission to City of Edinburgh Council Short Term Lets 2022 – Consultation 2

Founded in 1978, the Association of Scotland's Self-Caterers (ASSC) are the leading source of knowledge on short-term letting and holiday homes in Scotland and are the only trade body representing the interests of the traditional self-catering sector. We represent over 1,400 members, operating tens of thousands of self-catering properties throughout Scotland, from city centre apartments to rural cottages, to lodges and chalets, to castles. The ASSC commits its members to maintaining the principles of "quality, integrity, cleanliness, comfort, courtesy and efficiency" and to offering visitors to Scotland consistently high standards within their self-catering properties.

Introduction

The Association of Scotland's Self-Caterers (ASSC) welcomes the opportunity to respond to City of Edinburgh Council's second consultation on their short-term let licensing scheme. As the main trade association for the self-catering sector in Scotland, the ASSC hopes that our expertise and insight can help inform the approach taken by the Council. We have always strived to work collaboratively and proactively with both local and national government stakeholders to ensure a balanced and proportionate outcome for all. We wish to make clear that the ASSC is not averse to regulation; but we do challenge policies that are pursued while lacking a firm evidence base which will damage the livelihoods of our members, as is the case with this draft policy and consultation exercise.

If agreed, this proposed licensing policy will devastate the self-catering sector within the capital – a vital source of alternative accommodation for visitors to the city – and will have the effect of jeopardising Edinburgh's position as a Festival city and one which can host large events due to the likely reduction in properties. It also puts at risk the substantial economic contribution made by the self-catering industry, estimated at approximately £90m per annum by Frontline Consultants.¹ Given the importance of ensuring a sustainable recovery for Scotland's tourism industry, and the significance of this measure for the livelihoods of our members, we would respectfully encourage City of Edinburgh Council to rethink its approach and work as closely as possible with the sector and to minimise the regulatory burden on small business.

Summary

We have incorporated our answers to the questions listed on the Council's online portal into this submission which also outlines our significant concerns with the proposed approach in the *Draft Short-Term Let Licensing Policy*.

Overall, the ASSC maintains that:

- Edinburgh Council's proposals amount to a de-facto ban on short-term lets despite assurances to the contrary.

¹ Frontline Consultants, *Economic Impact of Self-Catering Sector to the Scottish Economy* (2021). See: <https://www.assc.co.uk/wp-content/uploads/2021/09/Economic-Impact-Study%E2%80%9393Scotland.pdf>

- The proposals will devastate the self-catering sector, a vital component of Scotland’s tourist economy, and threatens the livelihoods of legitimate small business owners who have benefited local economies for decades.
- If enacted in its present form, as aspects of the policy are *ultra vires*, this opens up the real possibility of legal challenges to the Council.
- There is a presumption of bad practice in the short-term let industry in the draft document that is unevidenced and there are multiple instances where the Council discriminates against secondary letting compared to other types of short-term let.
- Many of the proposed additional conditions duplicate the mandatory conditions or existing regulations and are unenforceable, burdening the licencing authority and individual operators for no discernible benefit.
- The recovery of the tourism sector will be damaged by these plans, putting at risk the £90m per annum boost that self-catering provides to the city.
- Edinburgh’s position as a Festival city will be jeopardised, as will its ability to host similarly large events in the future.

ASSC Comments on City of Edinburgh Council Draft Short-Term Let Licensing Policy

STL Application Process

4.1

City of Edinburgh Council need to justify why they are only intending to grant one-year licenses to secondary lets, when most other local authorities are proposing at least three-years for this type of short-term let, with Glasgow City Council proposing five-years and North Ayrshire Council ten-years respectively. Moreover, the reasoning behind the disparity in the length of a license between secondary letting and other forms of short-term let – homesharing, homeletting, and homeletting and homesharing (all three-years licenses) – ought to be explained by the Council.

4.2

A layout plan will necessitate an expensive piece of work by a contractor which will be another cost on legitimate small businesses operating without issue for decades. This will be on top of the cost of a licence fee, compliance with existing regulations, the mandatory and additional conditions, not to mention other factors such as rising energy costs. Unless pertaining to maximum occupancy, there is absolutely no need for a floor plan.

4.3 f.

On the need for an Annual Emergency Lighting Certificate, City of Edinburgh Council provide no explanation of why this is only required for secondary letting as opposed to other types of short-term let. This is another inconsistency between different types of short-term let.

Notice of Application

4.7

The draft policy document does not set out the application fee for short-term let operators, nor does it go into any level of detail in terms of the criteria in the processing of determining the fees. Other local authorities, as part of their consultation process, have included estimated fees for stakeholders

to comment on and the ASSC would argue that such figures, as well as an explanation behind the criteria used, are absolutely integral to this exercise. Our industry cannot be expected to have any confidence in the new system in their absence – how can we be expected to properly engage with this consultation if we do not know the expected costs imposed on business? Moreover, it has been impossible to set rates for future guests with an absence of knowing what licence fees should be.

Overall, the fees attached to short-term let licencing are meant to be based on the principle of cost recovery – therefore, the ASSC believes that fees should not be set at a level greater than the amount necessary to recover establishment and running costs. If a fee structure with costly, disproportionately high fees is introduced at this critical time, this will reduce accommodation capacity and will damage the industry at a time when we need to work towards a sustainable recovery. Moreover, any fees proposed should be applicable to all types of short-term let – be it secondary letting or homesharing – since licencing authorities will be assessing for the same conditions.

We refer City of Edinburgh Council to Scottish Government guidance which highlights ways to keep costs down, including: (a) economies of scale; (b) integrating service delivery with other housing and licencing functions; (c) using online and digital verification where possible, for example through photo and video evidence instead of a visit; and (d) taking a proportionate, risk-based approach to checks and verification, for example in considering whether, when and how often visits to premises are needed, especially in more remote and rural areas where the costs of such visits could be higher.

It is imperative that any fees are kept as low as possible given the environment many small businesses find themselves in. In this regard, we wish to highlight our proposal which we believe could assist with an efficient and cost-effective way of securing compliance with the Licencing Order. The ASSC have worked in partnership with Quality in Tourism to promote a self-declaration model with risk-based inspections by the licencing authority. Overall, this approach has four main advantages:

- It minimises the work required by the licencing authority to set the system up and renew licences;
- Allows the licencing authority to focus its inspection resources on a risk-based basis;
- Requires responsible behaviour and compliance by the operators; and
- Minimises the additional costs to operators (which will have to be absorbed as an additional business cost and/or passed on to the very visitors we want to visit your area to boost our economic recovery).

We understand that local authorities across the country are facing severe pressure on their resources and we believe this system can go some way to help with the administrative challenges associated with the licencing regulations. We would be delighted to meet with officials to discuss this in further detail to see whether it would be appropriate for City of Edinburgh Council.

Evidence of Operation as a STL before 1 October 2022

4.9

City of Edinburgh Council should outline what they mean by applicants being required to “certify” that they have been operating a short-term let prior to 1st October 2022.

Temporary Licenses

4.11 & 4.12

There is no explanation provided as to why temporary licenses are deemed acceptable for home letting, homesharing, and home letting and homesharing, compared to secondary letting. To uphold the main principle of licensing – to ensure health and safety – there needs to be consistency between all types of short-term let, otherwise this is severely undermined. This is another example of the different treatment of secondary letting compared to other types of short-term let which lacks reasoning.

Tenement / Shared Main Door Accommodation

4.16 & 4.17

The draft policy states that “*tenemental accommodation, or those with a shared main door, are suitable for secondary STL due to its character, location and risk of creating undue nuisance.*” This is yet another instance of the Council holding secondary letting to a different standard compared to other types of short-term let. There is no real elaboration on why other types of short-term let may be appropriate compared to secondary letting.

The ASSC strongly contend that this section is *ultra vires*, thereby opening up the possibility of legal challenge. It is also beyond the scope of the licencing legislation and the policy intentions of the Scottish Government. Licensing relates to the safety of an activity, whereas this is a planning consideration. Furthermore, we firmly believe that both Options A and B would technically amount to a de-facto ban on short-term letting within Edinburgh, contrary to assurances made by the Council that this is not the case. We therefore strongly refute and reject Options A and B presented by the Council in the draft policy and consultation.

In general, there is an important and crucial distinction between planning and licensing considerations. Edinburgh Council’s draft policy states that “*the key aims of licensing are the preservation of public safety and order and the prevention of crime*”, yet the policy drifts into planning considerations, especially issues of use.

Overprovision / Cap on Numbers

On a related point, we note the recent comments made by the Leader of City of Edinburgh Council Cllr Cammy Day regarding the possibility of a cap on numbers: “*We will now progress implementing the changes and the next step should be looking at whether we can apply a cap on numbers, too.*”² Additionally, Questions 4 and 5 in the Council’s licensing consultation relate to limitations on the number of nights for which short-term lets could be used in each year.

² Cllr Cammy Day quoted in Scottish Government, ‘Controlling short-term lets’, 01/08/22. See: <https://www.gov.scot/news/controlling-short-term-lets/>

First, as this relates to planning, capping numbers should not form part of the current consultation relating to short-term let licensing. Second, the Council does not have the power to introduce such measures on secondary letting so this should not be included in this consultation exercise on licensing. Finally, it should be remembered that overprovision powers were withdrawn from the Scottish Government’s licensing legislation in November 2021. This recognises that the government’s objective with the regulations was about ensuring health and safety across all short-term lets, not addressing housing issues. The Council should not be seeking means to reintroduce this and instead focus on applying and enforcing the powers it already has at its disposal.

Temporary Exemptions

4.21

There is no explanation provided as to why temporary exemptions are deemed acceptable for home letting, homesharing, and home letting and homesharing, compared to secondary letting. To uphold the main principle of licensing – to ensure health and safety – there needs to be consistency between all types of short-term let, otherwise this is severely undermined.

Accommodation Inspections

4.29

The Council should outline what they mean by a “*risk-based approach*” as well as the criteria for inspection.

Compliance and Enforcement

4.38

What is a “*general enforcement fee*” and why is it needed? If this will be levied in addition to the general license fee, this could quickly see costs mounting up for small business owners. While the Council “*notes Scottish Government guidance on frivolous or vexatious complaints*”, this tilts the balance towards community control of the entire process, with established businesses being at the mercy of neighbourhood complaints.

Appendix 2 – Additional Conditions

We are extremely saddened that throughout the draft policy statement, there is a presumption of bad practice against the short-term let industry, from issues such as anti-social behaviour to littering, which we find incredibly disheartening and disappointing given the immense economic opportunities the sector provides to the city, as well as the fact that many businesses in the area have been a welcome part of the community for decades. Additionally, many of the additional conditions are unenforceable and will merely burden the licencing authority when the Council’s resources are already incredibly stretched. If City of Edinburgh Council cannot enforce these, it is incompetent and leaves the Council open to judicial review. Many of the additional conditions are part of the basic management of a property and could instead be delivered by a clear and robust Code of Conduct, such as that devised by the ASSC.³

³ ASSC, *Code of Conduct*. See: <https://www.assc.co.uk/policy/code-of-conduct/>

We disagree with the following proposed additional conditions:

STL 1

This would appear to replicate the mandatory conditions.

STL 2

This does not fit with the activity of self-catering.

STL 3

This proposed condition is both unrealistic and unreasonable. With the arrival and departure times, it is unfair to place the onus on operators on factors that are completely outwith their control, such as delayed transportation. At the present time, due to difficulties faced by airport operators, as well as industrial action on the railway network, many guests will arrive at their destination late due to no fault of their own. Expecting licence holders to meet guests upon their arrival at the accommodation shows a lack of understanding of how self-catering works. Self-catering is non-serviced accommodation. A fuller definition of the activity is provided in our response to STL 5.

STL 4

This has been drafted in a manner which would resemble a condition for a HMO, not short-term let accommodation, and these are two completely different forms of activity and should be treated accordingly.

STL 5

This is unreasonable for two reasons. First, given the very nature of self-catering, operators cannot be present at all times at their accommodation. At a basic level, self-catering provides non-serviced accommodation which distinguishes it from other forms of tourist accommodation. A self-catering property generally meets the following criteria: (1) a property that is available to rent by visitors on a short-term basis for the purposes of a holiday or a short break; and (2) a self-contained unit with its own cooking facilities, which may form part of a larger property, or be grouped with other units on the same site. Second, owners cannot “prevent” the actions of individuals residing in their premises. There is existing anti-social behaviour legislation which should be enforced should problems arise in terms of short-term let accommodation.

Operators want harmonious relationships with neighbours and the local community – it is not in their interest to allow any anti-social behaviour in their business. This is part of the basic management of their property and there already is existing anti-social behaviour legislation that can be utilised by councils to respond when complaints arise. For instance, the Antisocial Behaviour Notices (Houses Used for Holiday Purposes) (Scotland) Order 2011 granted local authorities the power to deal specifically with the problem of antisocial behaviour in properties let for holiday use. However, this needs to be enforced, as the Cabinet Secretary for Housing Shona Robison MSP stated: *“We expect all relevant authorities to use the powers available to them to deal with antisocial*

behaviour".⁴ In addition to enforcing current regulations, this condition could easily be replaced by a Code of Conduct for all short-term let operators in the city.

As an aside, this condition appears to recognise that anti-social behaviour is not limited to secondary STLs but the Council ignores this for the purposes of the tenement restriction at 4.16 to 4.18 for secondary letting only, which shows the inconsistent nature of this policy.

STL 6

Prohibiting the use of keyboxes or other related devices is arbitrary. First, it should be recognised that keyboxes are used for a variety of different purposes, not just to facilitate entry to a short-term let – for example, they are readily utilised by carers. We would presume that City of Edinburgh Council have no issue with keyboxes for this purpose but why should it be any different for short-term lets? It is the same device affixed to a door used to enable entry.

Securing the agreement of all owners within a property will be near impossible to achieve. Unanimity of agreement for any change to a property (e.g., repairs) is difficult to secure in other contexts but would be especially so for keyboxes used by short-term let operators. We therefore ask the following: will this become a general policy for all keyboxes within the local authority area, or do the Council intend to solely discriminate against their use by short-term let operators?

Furthermore, City of Edinburgh Council need to take cognisance of how the pandemic has changed the way operators interact with guests. There has been shift in consumer behaviour away from traditional meet and greets between operator/guest towards information being shared electronically and via apps. Indeed, due to specific Covid-19 legislation, it wasn't always possible for the two parties from different households to meet in-person – this is why many therefore chose to use keyboxes to ensure guests could gain access to properties. Generally, the ASSC would encourage its members to affix any keybox in a manner that is aesthetically appropriate as possible.

STL 7

The language in this section states that the licence holder "*must ensure*". While operators can and will inform guests about rules applying to shared entrances/areas/doors, they cannot compel them to comply.

On any additional conditions applying to noise and anti-social behaviour, which would cover both STL 5 and STL 7, there has to be a causal link to issues from those premises. Licencing authorities cannot be allowed to set restrictions on premises where there is a perception there may be an issue. Restrictions should not be put in place where there is potential or existing issues in the vicinity of the premises unless it can be shown the issues occurring in the vicinity originated specifically from the short term let premises.

⁴ Shona Robison MSP, in answer to Parliamentary Question S6W-03022, 01/10/21. See: <https://archive2021.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S6W-03022&ResultsPerPage=10>

STL 8

This could be delivered by a Code of Conduct for short-term let operators rather than being an additional condition.

STL 9

The ASSC would appreciate further details as to why this condition is necessary.

STL 10

The Council state the licence holder shall “ensure” – while operators can advise guests of refuse collection day, they cannot compel them to comply. On a more practical point, we are dealing with individuals in the city for a holiday and who will not wish to spend a large amount of time familiarising themselves with waste management and recycling issues. Similarly, operators should of course provide the necessary materials and advice in regard to waste disposal but expecting every holidaymaker to follow this to the letter, especially when many may reside in areas with different policies for recycling etc, is unreasonable.

There is no business incentive for self-caterers to rent out properties strewn with rubbish. Self-caterers have provided well-maintained and clean environments for guests for decades and we would like to see what evidence the Council holds to show that littering and waste disposal is a specific problem of the self-catering industry compared to any other type of property. Finally, this additional condition also raises the question of enforceability: how will the Council monitor compliance?

STL 11

Applying a condition that the licence holder must ensure that bedrooms, living room and hallway are carpeted is disproportionate and is yet another cost levied on businesses. Again, there is an inconsistency in the Council’s approach: why is this being asked of secondary letting only and not other forms of short-term let? This would not be asked of a private landlord renting out a property where noise complaints had been levelled by neighbours, so short-term lets operators should not be discriminated against in this manner. Furthermore, from both a commercial and equalities perspective, operators need to make their premises as accessible and inclusive for all of their guests. For instance, carpeting can trigger conditions such as asthma and other adverse effects.

Fiona Campbell, CEO of the Association of Scotland’s Self-Caterers

E: fiona@assc.co.uk

OPINION OF COUNSEL

for

Edinburgh Council Policy Challenge Group

re

Draft Short Term Let Licensing Policy of City of Edinburgh Council

Gilson Gray

(Ref: JM)

August 2022

Introduction & Background

1. My instructing Agents represent Edinburgh Council Policy Challenge Group (“the clients”). The clients are persons involved in the business of short-term lets within the City of Edinburgh.
2. In January 2022 the Scottish Parliament approved the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (“the Order”). The Order came into force on 1st March 2022 and introduces provisions in relation to the licensing of short-term lets in Scotland. In general terms residential accommodation that is used in the course of a business will require a license under the Civic Government (Scotland) Act 1982 (“the 1982 Act”).
3. In addition to the new licensing regime the Scottish Parliament has amended the principal Scottish Planning Act, the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”) and also introduced the Town and Country Planning (Short-term Let Control Areas) Regulations 2021 (“the 2021 Regulations”).
4. The Scottish Government has published guidance to planning authorities on establishing a short-term let control area, which is found in Planning Circular 01/2021 (“the Circular”). The 1997 Act allows planning authorities to designate all or areas of a planning authority as control areas¹. In so doing a planning authority should apply planning considerations, such as lack of affordable housing for local residents². The Scottish Government’s planning guidance to hosts and operators of short-term lets is found in “Short Terms Lets in Scotland – Planning Guidance for Hosts and Operators” June 2021 (“the Planning Guidance”).
5. This Opinion does not consider the new planning framework that has been introduced but it is important to note that there are two separate regimes in respect of planning and licensing. Accordingly the Circular is clear that, in planning terms, the purpose of control areas is:

To help manage high concentrations of secondary letting (where it affects the availability of residential housing or the character of a neighbourhood); to restrict or prevent short-term lets in places or types of buildings where it is not appropriate; and to help local authorities ensure that homes are used to best effect in their areas.
6. Similarly the Planning Guidance is clear that “use” is the critical issue that planning authorities require to have regard to. The Planning Guidance states that:

¹ Section 26B of the 1997 Act

² Paragraph 2.9 of the Circular

This guidance is primarily concerned with change of use of a dwellinghouse to use for short-term lets and whether the change is a material change of use³

7. These are relevant planning considerations relating to the use of premises, and require to be distinguished from relevant licensing considerations and objectives.
8. The planning authority is separate from the licensing authority albeit each authority cannot work blindly in isolation of the other. For example the 2022 Order provides⁴ that a licensing authority may refuse to consider an application if it considers that the use of the premises would be a breach of planning control.
9. The Policy Note to the 2022 Order states that the policy objectives of the 2022 Order are:

...to ensure that short-term lets are safe and address issues faced by neighbours; and to facilitate local authorities in knowing and understanding what is happening in their area as well as to assist with handling complaints effectively.
10. The Scottish Government has also published guidance titled “Short Term Lets in Scotland Licensing Scheme (March 2022)” for hosts and operators (“the Licensing Guidance”). The Licensing Guidance mirrors the Policy Note in that both identify that the aim of the licensing scheme is to ensure that all short-term lets are safe.
11. Licensing authorities require to have their licensing schemes ready to receive applications by 1st October 2022. The City of Edinburgh Council (“the Council”) has published a Draft Short Term Let Licensing Policy (“the Policy”). The clients seek my Opinion on the terms of the policy and in particular whether any terms may be *ultra vires*. I understand that it is the client’s intention to submit my Opinion when representations are lodged in respect of the policy.

Relevant Legal Principles

12. Public bodies such as the Council have a discretion in the conduct of the Council’s affairs and decision making. However the Court of Session (“the Court”) retains a supervisory jurisdiction in respect of exercise of the Council’s jurisdiction conferred by statute⁵ such as

³ Paragraph 2.3 of the planning guidance

⁴ Paragraph 6 of Schedule 2

⁵ *West v Secretary of State for Scotland* 1992 SC 385

the approval or adoption of the Policy. The Court's jurisdiction includes ensuring that the Council does not exceed or abuse its powers⁶.

13. The Court will only interfere where the Council's has acted unlawfully (*ultra vires*). A decision is unlawful where it is so unreasonable that no reasonable authority would have reached the decision, often referred to as *Wednesbury* unreasonableness⁷. Unlawful decisions may arise where relevant considerations have been omitted, or where a decision is irrational or perverse.
14. A decision maker exercising public functions can be found to have acted unlawfully where it fetters its discretion. In general terms a decision maker is at risk of acting unlawfully where a decision is reached by adhering rigidly to a policy without consideration of whether any exception should apply.
15. Where a public body, such as the Council, is required by statute to establish a policy there are general principles that should be applied to avoid the risk of being found to have acted unlawfully.
16. First that a policy should not be so rigid as to prevent the exercise of discretion during decision making⁸.
17. Secondly that a policy should be consistent with the legislative provisions that have given rise to the policy⁹.
18. Thirdly that a policy should not be applied in a way to eliminate any discretion by the decision maker¹⁰.
19. Fourthly that in the application of the policies a blanket prohibition should not be applied¹¹.

⁶ *West* at pages 412-413

⁷ *Associated Provincial Picture Houses Ltd v Wednesbury Corp* [1948] 1 KB 223

⁸ *Holt v Watson* 1983 SLT 588 at 591; In *R v Secretary of State for the Environment Ex Parte Halton DC* (1983) 82 LGR 662 the Secretary of State for the Environment was held to have fettered his discretion in adopting a policy of disallowing local objections to the allocation of land for a gypsy site.

⁹ In *Elder v Ross and Cromarty District Licensing Board* 1990 SLT 300 a licensing board applied a new policy which was not objectionable as it did not conflict with the Licensing (Scotland) Act 1976, and that the Board's practice had been to consider each application on its own merits regardless of the policy

¹⁰ *Cindarella's Rockafella's v Glasgow District Licensing Board* 1994 SCLR 591 at page 599

20. When exercising its discretion a decision maker, such as the Council, must take into account relevant considerations and not take into account irrelevant considerations¹². To fail to do so renders a decision susceptible to legal challenge.
21. Where a decision maker has taken into account an irrelevant consideration it is not necessary for an aggrieved person to show that the irrelevant issue was determinative in the decision making process. It is enough to demonstrate that there was a real possibility of a different decision¹³.
22. A public body in exercising its jurisdiction should not make decisions which are perverse or irrational. A public body must not act perversely by reaching a decision that no reasonable person in the position of the decision maker, properly considering the relevant material, could have reached¹⁴. Irrationality has been described as where the conduct demonstrates an error of reasoning which robs the decision of logic¹⁵.

Discussion

23. The Council has prepared the Policy in response to its requirement to introduce a licensing scheme. In my opinion it is important to recognise that the short-term letting regime to be introduced is an entirely new, and arguably ground-breaking, legislative framework.
24. There have been other measures in the UK generally to prevent loss of affordable housing such as local residency restrictions, cessation of the sale of local authority housing, and use of planning conditions and developer contributions. However the new short-term lets regime is entirely new and separate from the other initiatives. The present circumstances differ from policies which have evolved through years of practice and the determination of significant numbers of applications. For these reasons I am of the view that the first/initial Policy requires to be sufficiently flexible to enable proper discretion to be applied by the licensing authority.

¹¹ See for example *Bury v Kilmarnock and Loudon District Licensing Board* 1989 SLT 110, where a blanket policy requiring a licensing applicant to be present when an application was determined, without consideration of whether this was necessary, was held to be unlawful (see page 112).

¹² *Wordie Prop Co Ltd v Secretary of State for Scotland* 1984 SLT 345 at page 348

¹³ *Bova v Highland Council* 2013 SC 510 at para 57

¹⁴ *Seddon Properties Ltd v Secretary of State for the Environment* (1981) 42 P & CR 26 at page 26

¹⁵ *R (on the application of Norwich and Peterborough Building Society) v Financial Ombudsman Service* [2002] EWHC 2379 (Admin) at paragraph 59

25. A balance need to be struck between (i) a policy which is so vague in its terms as to offer no real guidance or direction and (ii) a rigidly defined policy where there decision maker has no discretion. There are a number of issues in the Policy which that are capable of being challenged as being unlawful as follows:
26. General-As noted above there is an important distinction between relevant planning considerations and relevant licensing considerations. The Policy identifies that:
- The key aims of licensing are the preservation of public safety and order and the prevention of crime.
27. However the policy strays into planning considerations, and in particular issues of use. In my opinion planning considerations are not relevant matters that should be included in the Policy.
28. The Policy states that the Council will have regard to the terms of the Policy when determining (licence) applications, and that the policy will be reviewed and revised when necessary. As discussed above if the Council were to rigidly apply the policy without considering the particular circumstances of an individual application then there is a real risk a decision could be subject to a successful legal challenge.
29. Duration of Licence¹⁶-It is not clear why there is such a significant difference in the duration of a licence in respect of secondary STLs as opposed to home sharing and/or home letting STLs. In the absence of reasons justifying such a significant difference this provision appears unreasonable and illogical.
30. As far as I am aware there can be no data to support that it is appropriate or logical to impose shorter durations of licences in respect of secondary letting. There is a blanket provision that licences for secondary STLs should be subject to an annual application process with the time and expense associated with such an application.
31. The issue is not simply the different durations but also the significant difference between 1 year and 3 years. It is not clear what measures will be employed to ensure annual compliance of safety testing where a 3 year licence is issued.
32. Temporary Licences¹⁷-The Policy states that temporary licences of up to 6 weeks may be appropriate to "...give first time hosts the opportunity to try out STL".

¹⁶ Paragraph 4.1 of the Policy

¹⁷ Paragraphs 4.10 to 4.15 of the Policy

33. It is not clear if this 'try before you buy' temporary licence will be available only once per premises or once per host. There is also a presumption that temporary licences will be suitable for home letting and/or home sharing but not secondary letting. This is the second example of the different treatment of secondary letting from the other types of short-term lets, without any reasoning or logic. Unlike private residential tenancies a short-term let provides more control to a landlord in terms of termination and also financial/tax benefits. The Council appear to have determined that secondary letting STLs would and/or should not be entitled to be treated on the same basis as other STLs in respect of temporary licenses.
34. For example an individual may own a second home that is located in Edinburgh which is not the only or principal residence of the individual. That individual may wish a temporary licence for a number of reasons such as letting out during the Edinburgh Festival or Hogmanay. However the policy fails to treat such properties on the same footing as the remaining STLs.
35. Tenement/Shared Main Door Accommodation¹⁸ Under this chapter of the Policy the Council once again approaches the treatment of applications for secondary STLs with a different standard than that of other STLs.
36. In my opinion there are a number of statements which could be challenged as being both unreasonable (in the *Wednesbury* sense) and illogical.
37. First that tenement properties (including properties with a shared main door) are 'believed to be' unsuitable for secondary letting STL's due issues of "character, location, and creation of undue nuisance". The Council do not seek to apply this requirement to any of the other types of STL. It is entirely unclear why a tenement comprising (for example) 12 flatted dwellings¹⁹ with 1 (for example) secondary STL would create undue nuisance whereas 6 (again purely for example) home sharing or home letting STLs would not create any nuisance. In the example of 6 home sharing STLs there would be up to an additional 6 persons or families using the same shared entrance and close, whereas with the secondary STL there would be no increase.
38. Secondly (using the same example) the character and location of the tenement does not alter whether the STL is a secondary STL or any of the other types. It is illogical to conclude that 6 additional families in a tenement property in Stockbridge (for example) will, in all

¹⁸ Paragraphs 4.16 to 4.18 of the Policy

¹⁹ 4 storey/floors with 3 flatted dwellings per floor

circumstances, have no impact on the prescribed criteria of character, location, nuisance yet the Council appears to assume that a secondary STL will have that effect. Such reasoning is perverse and illogical. Whether the same family is occupying a tenement property as a home share or secondary let for the month of July (for example) has no bearing on whether nuisance such as noise is more likely to arise. It is equally perverse to assume that neighbouring proprietors will not be more tolerant of nuisance simply due to the type of STL. Indeed Additional Condition ST 7 does not distinguish between nuisance whether the STL is secondary or another type of STL.

39. Thirdly, and related to the second issue, is that the Council have entirely omitted all other STLs from this requirement for tenements. It does so on the basis that it “believes” that tenements are unsuitable for secondary STL due to character, location and nuisance. There is no data to support the Councils ‘belief’. The Council have therefore reached a conclusion without evidence to support its position, and to do so is *ultra vires*.
40. Fourthly that the Council has “concerns” (again cited without evidence to support the purported concern) that anti-social behaviour will be “exacerbated” given the close proximity of other accommodation. Two issues arise from this. First that it is perverse to assume (using the example above) that one person/family in a secondary STL will be anti-social, whereas six persons/families are incapable of being anti-social, as the Council is considering the type of let and not that it is people not the type of let that causes anti-social behaviour. I have noted that ‘Additional Condition STL 5’ in respect of anti-social behaviour is not limited to secondary STLs and accordingly the Council appear to recognise the issue of anti-social behaviour is not limited to secondary STLs but ignore this for the purposes of the tenement restriction in relation to secondary STLs. This is both inconsistent and illogical. Secondly the Council use “exacerbate” to suggest a pre-existing issue. However there may not be any antisocial behaviour. Indeed a tenement could comprise an isolated detached villa split into two unoccupied flatted dwellings.
41. In addition to the matters discussed above I am of the opinion that option B is unreasonable. Simply obtaining consent from other owners does not address the Council’s concerns. Anti-social behaviour and nuisance are unacceptable as a matter of public policy and cannot be overcome by owners ‘opting-in’ to nuisance or anti-social behaviour. There is the additional issue of what would happen if one of the tenement properties was sold during the term of a licence, and also what rights tenants/occupiers could assert.

42. Temporary Exemptions²⁰-The Council proposes that temporary exceptions can be granted for up to 6 weeks for all STLs except Secondary STLs. This is a further example of the Council acting without evidence and reaching a perverse conclusion. Using the example of a second home it is entirely unclear why the letting of a second home for one month per year offends the licensing objectives whereas letting the exact same dwelling under a different type of STL during that same month to the same person would be acceptable. That appears simply to be a penalty imposed on persons fortunate enough to own a second/holiday home, and may demonstrate bias on the part of the Council.
43. Determining an Application²¹-The Policy states that each STL application will be considered on its own merits against inter alia the Policy. As noted above the application regime depends on whether the STL is a secondary STL or not. In those respects the Policy is rigid. By adopting the Policy in its current terms runs the real risk of a successful legal challenge in an application for judicial review.
44. Additional Condition STL3²²-There is an absolute requirement for a guest to be met at a property if the guest is arriving between the hours of 9pm to 7am. The consequences of breaching a condition could be significant and therefore STL3 should be subject to 'best endeavours' or 'reasonable practicability' or a similar qualification, to avoid a risk of legal challenge.
45. Additional Condition STL 11²³ -The Council requires that secondary STLs are carpeted in certain rooms²⁴. I have assumed that this condition is to reduce noise. In my opinion this is another example of the unreasonableness of the Policy. First it is entirely unclear why noise is acceptable where the let is not a secondary STL. It is perverse to assume that neighbouring proprietors or occupiers will care what licence is held, but rather those persons will be concerned about any nuisances, such as noise. Secondly that this requirement applies to all secondary STLs. Accordingly a detached villa let on a secondary STL would require to be carpeted with no obvious reason, and with the disadvantage that comes with hard floor surfaces such as durability, and cleaning ability.

²⁰ Paragraph 4.20 of the Policy

²¹ Paragraph 4.33 of the Policy

²² Appendix 2 of the Policy

²³ Appendix 2 of the Policy

²⁴ Bedrooms, living room and hallway.

Conclusion

46. It is my opinion that many aspects of the draft Policy are *ultra vires*. If the policy is approved or adopted as currently drafted there will be good grounds for legally challenging the Policy.
47. In my opinion the Council will find itself in an unenviable position if the Policy is approved or adopted in its current terms. I mention this as it is likely that there would be grounds for individual challenges by property owners if the Policy is applied as rigidly as it is drafted, but equally there would be scope for legal challenge by aggrieved neighbouring proprietors if the Policy terms are not applied as drafted.

The Opinion of:



Graham Dunlop
Advocate
Terra Firma Chambers
Parliament House
Edinburgh

31st August 2022



Short Term Lets 2022 – Consultation 2

A response from FSB Scotland

Federation of Small Businesses Scotland
September 2022

Overview

Short Term Lets (STLs) play a crucial role in cementing Edinburgh's place as an accessible, welcoming and vibrant global tourism destination. Modern travellers have diverse needs and it is important that any destination city offers a wide range of accommodation types, enabling leisure travellers, business travellers, families and groups to gain an authentic experience of Edinburgh and soak up the history, character, vibrancy and diversity that makes the city so unique.

At the same time, there are challenges in any tourism destination in meeting the respective, and sometimes competing, needs of both visitors and residents. Visitors to Edinburgh typically spend in the region of £1.4 billion each year and support almost 35,000 jobs in the city, so it is economically vital that the city provides accommodation to meet the needs of modern travellers. However, it is also important that visitors are accommodated in a way that ensures a harmonious mix with the city's residents. Indeed it is often this very mix and the hospitality of local residents that contributes to the city's cosmopolitan nature and keeps visitors coming back to the city time and time again.

The City of Edinburgh Council is therefore right to consider the ways in which it can manage any disruption caused by visitors to the city and, indeed, to consider the impact on the city's wider housing needs. Any strategy must be fully integrated into the city's long term tourism and housing strategies.

The Federation of Small Businesses (FSB) welcomes the opportunity to respond to the council's consultation on its proposed Short Terms Lets licensing policy.

Implementation Timescales

The proposed lead-in time for STL licences for existing properties is very short and could cause problems with advance bookings for 2023. We would propose that instead of businesses whose licence applications are rejected having to close from 1 April 2023, the date should instead be extended to 1 October 2023. This would enable businesses to fulfil bookings for next year's busy summer period and throughout the Festivals. With recent reports suggesting that high accommodation prices in Edinburgh may have had a negative impact on some Festival attendances this year¹, it would make sense to provide additional certainty for 2023.

Licence Renewals

Similar problems will be encountered when a landlord comes to apply for a renewal of an STL licence. The requirement to renew the licence every year for secondary lets

¹ <https://www.bbc.co.uk/news/uk-scotland-edinburgh-east-fife-62708977>

could cause problems with bookings and we would propose that this licence should be granted for three years, in common with the proposal for other accommodation types.

Presumption Against a Licence

Any proposed presumption against an STL licence for tenemented properties is unwarranted. Each application should be judged on its individual merits. The alternative of consent from all owners of all accommodation within a close is also unworkable, for example, what if a new owner comes into a tenement in 10 years time and refuses consent after a decade of peaceable occupancy? That would be manifestly unfair on the landlord.

Mitigating Measures Employed by Landlords

Account should be taken of measures that property owners have taken to reduce any potential negative impact on neighbours of the STL property. For example, a landlord may have installed noise meters in the property in an effort to reduce any noise impact on neighbouring properties. Such actions taken by the property owner should have a material, and positive, impact on their licence application.

Evidence of Responsibility

Similarly, account should be taken of evidence of other responsible activity taken by the property owner. This could include positive guest reviews, TripAdvisor ratings, evidence of positive neighbour engagement, or membership of a relevant trade or representative body.

Conclusion

Whilst the council's proposed licensing policy is a good start, the Federation of Small Businesses believes that it could be improved and made fairer by adopting the proposed fine tuning measures. FSB is happy to discuss our submission further if required.

Further Information

For further information please contact Garry Clark, Development Manager – East of Scotland, Federation of Small Businesses: garry.clark@fsb.org.uk

fsb³

Experts in Business

Appendix 12 - Text of Petition delivered by Living Rent in Response to Second Consultation

The below petition attracted 1719 signatures, which were sent electronically.

One third of Scotland's short-term lets can be found in Edinburgh: each one of these properties could and should be a long-term affordable home. The city of Edinburgh will soon become a 'short-term lets control zone', but we need to make sure that this scheme actually makes the changes we desperately need.

We ask that the new licensing scheme and control zone

1.
 1. **Bring *down* the number of short-term lets in Edinburgh, not just capping them.**
 2. **Ensure robust enforcement of unlicensed short-term lets**
 3. **Introduce meaningful penalties for holiday let landlords who fail to comply with standards**
 4. **Provide no 'exemption period' loopholes to dodge regulations**

Provide no exemption for purpose built student accommodation

EDINBURGH FESTIVALS:

RECOMMENDATIONS ON REGULATION OF SHORT-TERM LETTING

1. SUMMARY

Edinburgh's major festivals support regulation of short-term letting due to problems for our city caused by the rapid growth in such lets, especially those run commercially as businesses all year round.

- We believe that the regulation of temporary accommodation needs to be set in the context of the Council's overall housing strategy to support affordability, in light of the serious year-round shortages of accommodation and price escalations experienced by local tenants.
- We would not be in favour of any measure that disrupts the Private Residential Tenancies legislation introduced in December 2017 which was an important step forward in security of tenure for local tenants.
- We know that regulation can play a valuable role in addressing the anti-social behaviour problems associated with some short-term lets to improve the quality of life for local residents.
- We want to see the City of Edinburgh Council develop a temporary accommodation strategy, including short-term lets regulation and encouraging more temporary peak season use of purpose built student accommodation.
- We welcome the fact that changing the use of an entire residential home in the city to short-term letting will automatically require planning permission.
- We believe that the main focus of any regulation of short-term lets should be on year-round commercial letting - noting that brief periods of local people letting out all or part of their main homes does not adversely affect long-term housing stock and such additional sources of income may be increasingly important as the cost-of-living crisis escalates.
- We estimate that residents may have benefited from letting nearly 20,000 bed spaces in their own homes each night in August 2022 to festivals audiences and performers/participants - noting that this is equal to around 75% of the city's hotel stock and generates £3,360 per double room per household.
- We believe that the process, timelines and conditions for temporary exemptions should be as light-touch and rapid as possible - in the absence of any legal requirement to apply mandatory or additional licence conditions to hosts who have been granted exemptions, it seems overly onerous to ask them to deal with the same conditions as year-round commercial lets.
- We think that any policy presumption against secondary letting in tenemental or shared main door accommodation, should be informed by evidence from the initial operation of six-week temporary licences to establish impact assessments.

The following sections set out our detailed recommendations for action to the City of Edinburgh Council [consultation on their draft short-term letting policy](#) which is due to be implemented from 1 October 2022.

2. DETAILED RECOMMENDATIONS

2.1 Edinburgh's accommodation needs

ACTIONS:

- We want to see the City of Edinburgh Council leading the development of a temporary accommodation strategy including short term lets regulation that effectively targets problem areas, while continuing to acknowledge its importance as part of the mix to deal with peak demand in the August festivals season.
- Such a strategy should also include 1) brokering discussions with owners of purpose built student accommodation about setting aside a percentage of their rooms for capped rate lets to festival participants; and 2) exploring the scope for students and their private landlords to benefit from mutually agreed temporary summer sub-letting, without affecting their security of tenure.

Measures for temporary accommodation obviously need to be set in the context of the Council's overall housing strategy to support affordability, in light of the serious year-round shortages of accommodation and price escalations experienced by local tenants.

The introduction of Private Residential Tenancies in December 2017 was an important step forward in security of tenure and we would not be in favour of any measure that would disrupt this.

While still retaining that security of tenure, it may however be possible to restore more temporary supply during peak summer months – for example, by ensuring that new regulations promote responsible home letting and home sharing, and by encouraging private student tenants and their landlords to agree mutually beneficial temporary summer sub-letting arrangements that allow them to share the additional income.

The shared 2030 Vision for a sustainable Festival City, published in July 2022, was agreed by City of Edinburgh Council representatives as well as national government and agencies and all the major festivals. It recognises that supporting the Festival City to develop successfully will require integrated multi-year planning.

City policy on temporary accommodation is a key area where we could come together to support joined up policy thinking to support Edinburgh residents facing into a recession and cost of living crisis. This would help to protect an estimated city economic impact of at least £200m and 4,200 additional jobs while also fundamentally supporting the existing 44,000 jobs in the city's creative and leisure industries.

2.2 Regulation of commercial short-term lets

ACTIONS:

- We call on decision makers to gather the evidence and enable an impact assessment of both positive and negative impacts for different regulatory options, before implementing any policy with wide-ranging consequences.
- In the first instance, secondary lets with no previous complaints against them could be licensed for a six-week trial period under the Council's temporary licensing provisions - to enable CEC to develop the evidence base on the overall numbers and patterns of secondary lets, and how many are leading to anti-social behaviour - before a decision is taken on citywide policy for longer-term licensing.

Edinburgh's major festivals support regulation of short-term letting due to problems for our city caused by rapid growth in short-term lets, especially those run commercially as businesses all year round.

We recognise the Council needs to tackle the two key problems highlighted by the Council leader of too many homes in the city being lost to the holiday market; and issues of safety, anti-social behaviour and noise for residents.

We welcome the leader's commitment to better balance housing supply for local people all year round, without stopping people from renting out rooms to performers during the festivals.

The main problem is secondary lets that are not an owner's principal home and are being rented out around the year. Growth in this type of short-term accommodation is not driven primarily by the few weeks of peak festivals season, but by what landlords can earn from Edinburgh's high visitor rates for most months of the year.

This year-round commercial letting is where the main focus of regulation should be, since brief periods of local people letting out all or part of their main homes during peak seasons offer income generating opportunities without the city losing residential housing. Indeed, this additional source of income may be increasingly important to local people as fuel bills and cost of living rise and the country falls into recession.

We are pleased to see that incoming regulation will enable the previous planning legislation to be properly enforced, so that any existing secondary lets which are not main residences must have or apply for planning permission for a change of use. We also welcome the fact that from now on, changing the use of an entire residential home in the city to short-term letting will automatically require planning permission.

For CEC to consider a presumption against secondary letting in tenemental or shared main door accommodation, this public policy decision should be informed by evidence from initial operation of the licensing process that enables an impact assessment to be produced of both positive and negative impacts.

This could be done by gathering data through temporary six-week licensing provisions for an initial period. Councillors would then have the evidence to enable them to demonstrate that a presumption against secondary letting in tenemental or shared main door accommodation is required to deal with substantiated problems while avoiding inadvertently cutting off economic benefits for local residents.

2.3 Informing evidence and impact assessment

ACTION:

- **We ask officials to work with all the organisations who can help to draw better figures together.**

We are not aware of a publicly available assessment bringing together the existing range of data and estimates for visitor demand and supply, and data on the problems caused for neighbours by short-term lets such as the number of complaints made to the Council about anti-social behaviour.

To contribute to developing an evidence base, Edinburgh's Festivals have drawn together a very broad picture of our understanding of demand during the peak August season of 25 nights, compared with an estimate of visitor accommodation supply, informed by the following public information:

[VisitScotland 2019 Edinburgh & Lothians factsheet](#)

[Edinburgh 2019 visitor accommodation study for CEC](#)

[Edinburgh Student Accommodation Report September 2020](#)

[CEC Planning Committee paper on Short-Term Lets Control Area Feb 2022](#)

We are aware that these will be very imperfect estimates, and could be much improved by City of Edinburgh Council and industry experts working to develop the best possible intelligence, but we offer these figures based on our estimated numbers of festival-goers and participants in 2022 as an illustration of the potential order of magnitude of the situation.

- In terms of demand, our exercise has estimated that in 2022 there was a need for **54,000 bed spaces each night** of peak festivals season, of which over 9,000 bed spaces were for festival participants.
- On the supply side, our broad estimate is **68,300 available bed spaces** to cover all visitor demand in Edinburgh during the month of August, across serviced visitor accommodation and entire properties listed on Airbnb.
- From pre-pandemic figures, August visitor numbers were split about equally between festivals and wider city attractions. If half of the supply of year-round visitor accommodation is being used to meet other demands, residents offering temporary home letting or home sharing may be benefiting from letting nearly **20,000 bed spaces each night** in August to festivals audiences and participants (equal to 75% of the city's total hotel stock).

If local residents are benefiting from providing more than a third of the temporary accommodation required in peak festivals season through home letting and home sharing, decisions that increase the complexity of providing this temporary flexible accommodation would have substantial impacts on them.

To inform the Council's decisions on licensing, there should first be an assessment of the positive and negative impacts through investigating the number and pattern of temporary lets of different types, the proportion of short-term lets creating problems for neighbours, and the potential effects of new measures.

2.4 Encouraging temporary home letting and home sharing

ACTIONS:

- **We call for temporary licence conditions to be more light-touch, to incentivise short term letting which retain properties as main residences and benefit the incomes of local homeowners.**
- **Any limit to the number of nights permitted for home letting should avoid disadvantaging workers delivering the festivals, when it is likely that most of the anti-social behaviour problems that are the intended target of licensing will be caused by short-term leisure visitors.**

It is in the interests of the city to maximise the amount of responsible home sharing and home letting, to bring economic benefits to residents of the city from its attractiveness as a visitor destination without affecting residential housing stocks.

We therefore support the introduction of temporary licenses to enable trials of home letting and shared letting. Temporary licenses should offer the benefits of a streamlined process, quicker timelines and fewer conditions – otherwise there is little incentive for homeowners to use this option. Conditions need to be proportionate to the length of time that licences are being issued for – it is overly onerous to expect all the same measures to be taken for 6 weeks as for 52 weeks.

We also recognise the case for a limit when home letting on the number of nights per year. This allows neighbours to be assured that the accommodation remains a main residence, while balancing the benefits to homeowners' income and city jobs of maximising flexible temporary accommodation capacity.

Any such limit should recognise the importance to the city of the peak season around the Edinburgh Fringe and Edinburgh International Festival, where a seasonal increase of workers is needed before and after August in order to prepare for and take down festival programmes and infrastructure. Accommodation for production staff and technicians can be needed for up to 12 weeks.

2.5 Simplifying temporary exemptions

ACTIONS:

- **To support and encourage short-term home letting and home sharing during major events, we call on policymakers to review and minimise the conditions to be applied to those local homeowners granted temporary exemptions.**
- **It is also vital for the exemptions process to be as rapid as possible, and much quicker than the draft policy statement that the licensing service would determine temporary exemption applications within three months. This would result in long delays before temporary home letting or home sharing options could be advertised – acting as a serious disincentive for festival participants to commit to investing in bringing work to Edinburgh if they have no visibility of accommodation options until the last minute.**

We welcome the Council's intention to make temporary exemptions available during the peak festival seasons of August and Hogmanay. Residents benefiting from offering temporary lets has always been an essential ingredient in the city becoming a national and global cultural centre every August, and according to the figures we have estimated this may account for over a third of the temporary accommodation required for the 25 nights of peak season.

This form of short-term letting keeps financial benefits in the city and does not affect long-term housing stock, so the policy should do everything possible to encourage responsible short-term home letting and home sharing - especially given the cost of living crisis and impending recession. Every double room rented for six weeks at £40 per person per night, for example, is worth £3,360 in income to a local household.

The process, timelines and conditions for temporary exemptions should therefore be as light-touch and streamlined as possible, rather than applying the same process and conditions as for year-round commercial letting.

As we understand it, there is no legal requirement to apply any mandatory and additional licence conditions to those hosts granted exemptions, and it is overly onerous to expect all the same measures to be taken for 6 weeks as for 52 weeks.

This will make it an unattractive option for local people who have formerly benefited from additional income and new opportunities from sharing their homes or vacating them for short periods. Any disincentive to responsible residents making properties available for the seasonal workforce will be a very serious threat to the recovery of Edinburgh's peak festival season.