

Regulatory Committee

10.00am, Friday 21 June 2024

Short Term Let Licensing Policy – Review and Consultation

Executive/routine
Wards

Executive
All

1. Recommendations

- 1.1 The Regulatory Committee is asked to:
 - 1.1.1 Note the contents of this report; and
 - 1.1.2 Instruct officers to carry out a public consultation to review the existing short-term lets licensing policy and conditions framework.

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Short Term Let Licensing Policy – Review and Consultation

2. Executive Summary

- 2.1 This report provides Committee with an update on the licensing scheme introduced on 1 October 2022 to regulate short-term lets ('STL') in Edinburgh. 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'). The report provides information on how the licensing scheme and policy has operated and an update on application numbers and enforcement action taken to date.
- 2.2 Committee has previously agreed that the STL licensing policy would be subject to a review in summer 2024. The report sets out a proposed public consultation to review the existing policy and to gather views from stakeholders and the wider community.
- 2.3 A further report will be provided in the autumn to allow committee to consider the consultation responses and to determine whether any changes to the STL Licensing policy should be implemented.

3. Background

- 3.1 The Council previously called for additional regulation of the STL sector through changes to planning classifications and the introduction of a licensing system. The 2022 Order brings short-term letting within the scope of licensable activities covered by the statutory provisions of the 1982 Act. On 29 September 2022, the Council adopted a licensing policy and additional conditions for STL.
- 3.2 The 2022 Order brought STL within the scope of the 1982 Act and required local authorities to implement a licensing scheme for STL, in order to improve safety and mitigate the impact on communities.

4. Main report

Application numbers

- 4.1 The STL licensing scheme opened for applications on 1 October 2022 as per the requirements of the 1982 Act. Initially operators who were already operating a short-term let at that date had until 1 April 2023 to apply for a licence, but the Scottish Government extended this date by means of legislation until 1 October 2023.
- 4.2 As predicted, the vast majority of STL licence applications were received in the days immediately prior to the 1 October 2023 deadline. Since that date a steady flow of applications has been received. A full breakdown of the applications received and determined at the time of writing is below:

Type of STL application	Number of applications
Home Sharing	592
Home Letting	675
Home Sharing and Home Letting	648
Secondary Letting	2,085
Total	4,327
Of which total so far granted	1,576
Total withdrawn	109
Total refused	4

Judicial Review of Licensing Policy

- 4.3 Following adoption of the STL Licensing Policy, a number of businesses operating in that sector ('the petitioners') raised a legal challenge in the form of a judicial review ('JR'). The Council was successful in defending large parts of the STL policy, however the petitioners were successful in challenging certain aspects of the policy.
- 4.4 The Court did not criticise any aspect of the Council's consultation or the evidence base which it used to reach its decision. The Court ruled that the presumption against secondary letting in tenemental and shared main door properties went too far, particularly as these properties would, in any event, require planning permission. The Committee considered a report on the outcome of the JR and its implications on [7 August 2023](#).
- 4.5 As a result of the Court's decision, the Council's STL policy was updated in three areas:
- 4.5.1 The presumption against the grant of STL secondary letting licences in tenemental and shared main door properties was removed.
- 4.5.2 The presumption against issuing temporary STL licences for all secondary letting was removed.
- 4.5.3 The condition requiring carpets in secondary letting was deleted.
- 4.6 On 5 September 2022, the entire City of Edinburgh Council area was designated as a STL Control Area ('STLCA'), after proposals from the Council were approved by

the Scottish Government. This meant that change of use of an entire dwelling that is not someone's principal home to a STL would require planning permission.

4.6.1 The Council's approach to the implementation of the STLCA was the subject of a second Judicial Review to assess whether Section 26B (2) of the Town and Country Planning (Scotland) Act 1997 ('the 1997 Act') had any retrospective effect. Section 26B (2) states: "In a short-term let control area, the use of a dwellinghouse for the purpose of providing short-term lets is deemed to involve a material change of use of the dwelling house."

4.7 The Court's opinion clarified that Section 26B (2) of the 1997 Act only applies to a proposed future change of use occurring on or after 5 September 2022. This implies that where the use began before that date, an assessment is required regarding whether a material change of use has occurred.

4.8 Condition 13 of the mandatory licensing condition states:

"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(1) ('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".

4.9 In practical terms, where a licence application for secondary letting is received, it is expected that the host or operator should, when they apply for a licence, provide evidence that: a) they have made an application for planning permission; b) they already have planning permission or; c) planning permission is not required (evidence of this being, for example, a certificate of lawfulness or other satisfactory explanation of why planning permission is not required). Minor changes to the policy at paragraphs 4.10-4.11 were made reflecting some of the comments made in the second judicial review judgement.

4.10 Officers in the Licensing Service continue to regularly liaise with colleagues in the Planning Team to ensure that licensing and planning applications are dealt with in an appropriate and efficient manner. A timeline setting out the key dates since the licensing scheme took effect is attached at Appendix 4.

4.11 Committee has previously agreed that the STL licensing policy would be subject to a review in summer 2024. The remainder of this report sets out a proposed public consultation to review the existing policy and to gather views from stakeholders and the wider community.

Areas of focus in the consultation

- 4.12 The consultation will allow stakeholders and businesses affected by the operation of the licensing scheme to offer comments or feedback on the Council's STL Licensing Policy and the local operation of the scheme. To assist this process, it is intended to highlight the following issues and invite specific comments on these, in addition to any more general comments.
- 4.13 The proposed areas of focus for this review are set out at Appendix 5.

Secondary Letting

- 4.14 Secondary Letting is distinct from Home Letting or Home Sharing in that the accommodation would typically be operated commercially, and therefore would be likely to be used more intensively than in Home Letting or Home Sharing. Furthermore, the licence holder does not live on the premises, whereas homeowners will either be present during Home Sharing or present for extended periods in Home Letting.
- 4.15 Concerns with respect to the management of such accommodation, especially in tenemental or shared main door properties, were expressed consistently throughout the consultations. More recently, concerns have commonly been expressed through objections to the grant of licences. The Council's experience in regulating a range of businesses suggests that it is much more likely that a homeowner will have a relationship with their neighbours and will be much more responsive to any issues that arise.
- 4.16 When the licensing policy was first agreed, the licence term agreed by the Committee for any Secondary Letting licence was to be a maximum of 12 months. A 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. Furthermore, an additional reason for a one-year licence was to ensure that secondary lets remain of a safe standard, with more regular inspections and scrutiny tied into the licence duration. This was seen as particularly important in the early stages of the licensing regime, where the licensing authority has had no chance to check the compliance standards.
- 4.17 At that time, Committee agreed to review this position as part of any review, to allow for consideration of whether a longer period for a renewal might be appropriate. This would be in line with other licence types which initially receive a one year grant and thereafter a three year licence at renewal. Therefore, specific questions around this issue will be included.

Temporary Exemptions

- 4.18 The Council adopted a STL licence policy and, as permitted by discretionary powers under the 2022 Order, decided to include the facility for temporary exemptions from the requirement to obtain a STL licence. The effect of a temporary exemption is similar in legal effect to the granting of a licence, and any exemption granted is

subject to any conditions that the Council decides to attach. The principal benefit to any person granted an exemption is that the full process that normally accompanies a licence application is not required. There is no public consultation - the only consultation is discretionary consultation with the Chief Constable and Chief Fire Officer, and there is no right to object to an exemption.

- 4.19 Committee will recall that, when it consulted on whether to include provision for temporary exemptions within its policy, significant numbers of respondents opposed this, with 63% in the second consultation not supporting the use of temporary exemptions. Other respondents argued that, for the festivals or other events taking place in the city, the ability to obtain temporary exemptions was important to meet the demand for accommodation during these peak periods.
- 4.20 On 13 May 2024, Committee considered a report which proposed a temporary trial measure which would reduce the cost, administrative burden and, where appropriate, the conditions attached when a temporary exemption is obtained. Committee agreed to trial a shorter, simpler application form in advance of seeking views on the existing policy and fee structure on temporary exemptions as part of this consultation exercise. Committee did not approve a relaxation of the fee and conditions ahead of this consultation. Therefore, it is intended to canvass views on the outstanding issues from that report, and more widely whether the temporary exemption system meets the needs of the City.

Additional conditions

- 4.21 As per the 2022 Order, mandatory conditions of licence apply to all short-term lets across Scotland. These conditions cover issues such as:
- Fire safety;
 - Gas safety;
 - Electrical safety.
 - Water safety;
 - Planning permission; and
 - Maximum occupancy.
- 4.22 In addition to the mandatory conditions of licence, the Council may set additional licence conditions using discretionary powers within the 2022 Order which could respond to local challenges and concerns. The Council cannot use additional conditions to contradict, modify or dilute mandatory conditions.
- 4.23 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 1,893 respondents to this question answered as follows:
- Noise – 75%

- Anti-social behaviour – 75%
- Waste Management – 71%
- Failure to maintain the property – 69%
- Failure to maintain/contribute to communal repairs – 72%
- Damage or alteration to property – 67%
- Unlawful activity – 73%.

4.24 Having considered the responses to the original consultation process, Committee agreed to adopt additional licence conditions as set out at Appendix 2 of the STL policy. The proposed consultation will ask for views on the effectiveness of the current conditions, whether any further conditions are appropriate and whether any amendment to the current additional conditions is required.

4.25 The consultation will also offer the opportunity for respondents to comment on any other part of the STL licensing policy and conditions framework which they wish to raise. It is acknowledged that some comments received may ask for changes which are not within the Council's powers to agree, but it is important that the respondents are able to freely provide feedback.

STL application process

4.26 Early operation of the system has highlighted a tension between the need to ensure that the application form is as simple as possible and the needs of any consultees. Members are decision makers and are required to have all the correct information to ensure an efficient determination of the application.

4.27 As part of the review, officers will consider how the application process can be simplified for all types of STL licence to ensure that it is not unduly onerous, whilst still providing the Council with the required information. This will include an assessment of the existing application form and supporting certification required at the point of submission.

STL application register

4.28 The 2022 Order sets out what is required of the Council as a licensing authority when licensing short-term letting as an activity, which includes maintaining a public register of applications. The Council must include the name of the applicant on the register where the application is made by or on behalf of a person other than a natural person, but it is otherwise optional to publish the name of the applicant. Currently, the names of individual applicants letting a property for the purposes of STL do not appear on the public register.

4.29 Concerns have previously been expressed that, due to the level of public interest in STLs, residents may not be able to find out who is operating a STL in their neighbourhood. On the other hand, the Service has dealt with numerous enquiries from STL applicants concerned about having their personal information published on the register.

- 4.30 On [14 December 2023](#), the Council agreed a motion by Councillor Susan Rae which asked for a report to the Regulatory Committee to consider the implications of publishing the names of all applicants for STL licences. It is proposed that this issue will form part of the overall review of the scheme and officers have begun work to engage with Legal Services and Information Compliance colleagues to assess the risk of legal challenge and any other implications that this may have. The consultation will seek views on where the balance should lie in terms of those aspects of the public register where the Council has discretion.

5. Next Steps

- 5.1 If Committee approves the recommendations in this report, officers will take the necessary steps to advertise the consultation and notify relevant stakeholders. It is intended to organise evidence sessions to assist Committee in its review of the STL Policy.
- 5.2 A further report highlighting the results of the consultation along with further recommendations will be brought forward later this year.
- 5.3 Committee is asked to note that the Scottish Parliament has before it amending legislation which would, if agreed, make further changes to the licensing order. This would have to be reflected in any revised STL Policy.

6. Financial impact

- 6.1 Any revised fee structure has potential to affect the Council's financial position. It is planned that financial information for 2023/24 will be included in the Licensing Income report later this year. The report on this consultation will address any financial issues raised by the consultation and any amendment to the policy recommended.
- 6.2 Officers will also report back to the Committee later in the year on the financial sustainability of reduced application fees for temporary exemptions for Home Letting and Home Sharing. Work is being undertaken to assess whether technology can assist in offsetting this potential loss of income in the longer term.

7. Equality and Poverty Impact

- 7.1 Short-term letting has potential to generate income for households which might be affected by poverty and/or the cost of living crisis.

8. Climate and Nature Emergency Implications

- 8.1 Not applicable.

9. Risk, policy, compliance, governance and community impact

- 9.1 Stakeholders who could be affected by the existing STL policy will be written to and advised of the consultation process. This includes STL licence holders, trade bodies, business groups, community councils, HMO licence holders and agents and other interested parties, to ensure that all have the opportunity to give their views.

10. Background reading/external references

- 10.1 Report to Regulatory Committee (29 September 2022) – [Short Term Lets Policy – Update After Consultation](#)
- 10.2 Report to Regulatory Committee (1 May 2023) – [Short Term Lets Policy – Minor Updates](#)
- 10.3 Report to Regulatory Committee (7 August 2023) – [Short-Term Lets Licensing Scheme - Update](#)
- 10.4 Report to Regulatory Committee (13 May 2024) – [Short-Term Lets – Temporary Exemptions](#)

11. Appendices

Appendix 1 - Short-Term Lets Licensing Policy

Appendix 2 - Mandatory licence conditions

Appendix 3 - Additional licence conditions

Appendix 4 - STL timeline

Appendix 5 - Proposed areas of focus for STL Review

Appendix 1 – Short-Term Lets Licensing Policy

City of Edinburgh Council Short Term Lets Licensing Policy

Introduction

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

Key Dates

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

Date	Hosts operating a STL before 1 October 2022	Never operated a STL before 1 October 2022
1 October 2022	<ul style="list-style-type: none"> • 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 October 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 October 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 January 2025	All hosts must have a STL licence.	Same as above

Definition of a Short Term Let as set out in the 2022 Order

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

Types of Short Term Let Licence

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

STL Application Process

- 4.1 Where appropriate, the Council will grant a STL licence for the following time periods:
- a. Secondary Letting – 1 year
 - b. Home Letting – 3 years
 - c. Home Sharing – 3 Years

- d. Home Letting and Home Sharing – 3 Years
- 4.2 An application for the grant, variation or renewal of a full licence must be made to the Council together with the appropriate fee and layout plan, as well as providing copies of the following certification – *please only provide copies of documents as originals will not be returned*:
- a. Annual Gas Certificate (for accommodation with a gas supply)
 - b. Current Electrical Installation Condition Report
 - c. Annual Portable Appliance Test Certificate
 - d. For secondary letting only, Planning permission under the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) for the use of the premises as a STL; or proof that an application for planning permission has been made under the 1997 Act, which has not yet been determined; or can demonstrate that planning permission is not required (for example, a certificate of lawfulness).
- 4.3 As part of the application process, applicants will be required to confirm, by self-declaration, that the following documentation is held for the accommodation:
- a. Current Fire Safety Risk Assessment – (required for new and any subsequent renewal applications or where there has been a change to the number of occupants)
 - b. Current Energy Performance Certificate
 - c. Current Building Insurance Certificate
 - d. Current Public Liability Insurance Certificate
 - e. Current legionella risk assessment
 - f. Annual Emergency Lighting Certificate (Secondary letting only, for accommodation with 5 occupants and above)
- 4.4 An application, whether for a new licence or the renewal of an existing licence, will only be considered as complete if it comprises of the completed application form accompanied by all copies of required certificates and layout plan. Any applications deemed to be incomplete will be returned and not processed.

Notice of Application (excluding temporary licences and temporary exemptions)

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

- d. Address of the STL premises;
- e. The number of bedrooms in the premises;
- f. The maximum number of occupants for the premises;
- g. Details of any other SLT licences that have been granted to the applicant (included on the application form);
- h. The name and address of the owner(s) where the applicant is not the owner of the premises or on the land on which the premises is located (included on the application form);
- i. Confirmation that the owners consent to the application for the property to be used as a STL (included on the application form);
- j. Where objections and representations in relation to the application can be made to, the 28 day timescale for submitting an objection or representation and the statutory requirements of an objection or representation (in writing, providing name and address etc).

4.7 The application fee table for licence applications can be found [here](#)

4.8 Applicants should note that the application fee is non-refundable in the event of the licence application being refused or being withdrawn prior to determination. To view the Council's policy on refunds, click [here](#).

Evidence of Operation as a STL before 1 October 2022

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

Links With Planning

4.10 On 5 September 2022, the City of Edinburgh Council area became a designated STL control area. Therefore, due to the STL control area, across the entire the City of Edinburgh Council area mandatory condition 13 applies:
 '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 shortterm 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.'

4.11 For secondary letting, it is expected that the host or operator must, when they apply for a licence, provide evidence that:

- a. they have made an application for planning permission or;
- b. they already have planning permission, or, alternatively;
- c. planning permission is not required (for example, a certificate of lawfulness or other satisfactory explanation of why planning permission is not required).

Temporary Licences

- 4.12 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.
- 4.13 Any temporary licence which is issued will be subject to the mandatory conditions of licence, as set out in the 1982 Act.
- 4.14 Temporary licences will also be subject to the additional conditions set out in the Council's STL Conditions Framework.
- 4.15 The fee for temporary licence applications can be found [here](#)

Temporary Exemptions

- 4.16 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 period or periods not exceeding 6 weeks in any period of 12 months. The 6 weeks limit on a licence is a maximum, and not a default. Where more than one period is sought during the 12-month period, the fee set out at paragraph 4.23 below will be submitted with each application made.
- 4.17 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
- 4.18 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
- 4.19 The licensing service will aim to process and determine a temporary exemption application within 3 months of the application being received.
- 4.20 Any temporary exemption which is issued will be subject to the

mandatory conditions of licence, as set out in the 1982 Act.

4.21 Temporary exemptions will also be subject to the additional licence conditions set out in the Council's STL Conditions Framework at appendix two.

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

Accommodation Inspections

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

Making an Objection or Representation

4.24 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.

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

4.26 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

4.27 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

- 4.28 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.
- 4.29 For those applications which were received prior to 1 October 2023 where the STL operated prior to 1 October 2022, the Council will have 12 months to determine the application.

Renewal Applications

- 4.30 Following the outcome of a Judicial Review of the Council's policy, the Council undertook to include information on how STL renewal applications would be dealt with in its revised policy. The following sections therefore set out that position.
- 4.31 Under the 1982 Act, if an application for a STL licence renewal application has been made to the Council before the expiry date of the current licence, the licence will continue in effect until a final decision has been made by the Council on the renewal application. Where an appeal has been lodged with the sheriff clerk within 28 days of the decision, the existing licence will remain in effect until such time as the appeal has been determined by the Sheriff Court.
- 4.32 The process for applying for a renewal of a STL licence is the same as when applying for a new STL licence, as set out above. As with new applications, the Council requires to consider applications for renewal of licences taking into consideration the statutory grounds for refusal of a licence set out in the 1982 Act.
- 4.33 However, an existing STL licence is likely to be renewed unless there has been a change of circumstances since the last determination of the licence. Such circumstances could include any changes to STL regulation or the Council's STL licencing policy; enforcement action by the Council in respect of the existing licence; and any objections or representations received regarding the renewal application under the 1982 Act. Where any of these circumstances apply then the renewal application may be referred to a meeting of the Licensing Sub- Committee for determination.

Material Change in Circumstances

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

Compliance & Enforcement

- 4.35 The Council will seek to work with hosts, residents and other interested

parties to ensure compliance with legislative requirements and to be satisfied the accommodation is safe for use.

- 4.36 General enforcement costs will be included in the fees for new and renewal STL licence applications. The Council will charge a separate fee to a licence holder for a visit to their accommodation, where the visit results from their failure to comply with licence conditions or a complaint relating to the accommodation. The Council notes the Scottish Government guidance on frivolous or vexatious complaints in this regard.
- 4.37 Where complaints are received in relation to the operation of a licensed STL accommodation, the Council will seek to resolve it through engagement with the host or operator in the first instance.
- 4.38 Information on how to make a complaint in against a STL licence holder or in respect of the operation of the licenced STL can be found on the Licensing Service website.
- 4.39 Where appropriate other enforcement options will be considered, which include:
 - a. Additional licence conditions applied on determination of an application or through variation of an existing licence;
 - b. Compliance notices;
 - c. Variation, suspension or revocation of licence; or
 - d. Report to the Procurator Fiscal of any alleged offences under the 1982 Act.
- 4.40 A fee will be charged for an inspection following a complaint, where it is found that there are also compliance issues, whether or not those are the issues that were the subject of the complaint.
- 4.41 Where a fee is charged for inspections, the Council will produce a report of its findings to the host or operator within 28 days of the inspection.

Conditions

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

Review

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

Appendix 2 - 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, any defect identified,
- (e) any action taken to remedy a defect.

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

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

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

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

"home letting" means a short-term let consisting of the entering into of an agreement

for the use, while the host is absent, of accommodation which is, or is part of, the host's only or principal home,

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

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

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

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

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

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

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

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

Appendix 3 - 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	<p>An emergency contact telephone number for the licence holder and/or management shall be available and notified to</p> <p>the Council for 24-hour contact purposes for emergencies or antisocial behaviour from the accommodation.</p>

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.

Appendix 4 – STL Timeline

5 September 2022 – STL Control Area Takes Effect

1 October 2022 – STL Licensing Scheme Opens

22 June 2023 – STL Licensing Judicial Review Decision

1 October 2023 – Deadline passes for all existing STL hosts to have applied for a licence

1 January 2025 – Transitional Provisions end – All STL hosts must have a licence in place to operate

Appendix 5 – Proposed Areas of Focus in STL Review

Area	Issues
Secondary Letting	Length of licence type, 1 year or 3 years?
Temporary Exemptions	Are the current conditions applied to exemptions appropriate? Should any of the mandatory or additional licence conditions be removed? Assessment of fee structure.
Additional Licence Conditions	Are current conditions appropriate, effective? Should any be added /removed?
Operational Issues	Assessment of current application process and fee structure. Consideration of application process to identify where it can be more efficient and user-friendly.
STL Application Register	Should the register include the names of individual STL applicants and other information?