

# Regulatory Committee

2.00pm, Thursday, 31 March 2022

## Short Term Lets: New Licensing Powers Consultation

Executive/routine

Wards

Council Commitments

Citywide

### 1. Recommendations

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- 1.1 The Regulatory Committee is asked to:
  - 1.1.1 Note the commencement of the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022 on 1 March 2022;
  - 1.1.2 Note that as a result of the provisions of the legislation, local authorities must open a licensing scheme for short term lets by 1 October 2022; and
  - 1.1.3 Instruct officers to carry out a statutory consultation on the draft policy and conditions framework for short term lets.

**Paul Lawrence**

Executive Director of Place

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# Regulatory Committee

## Short Term Lets: New Licensing Powers Consultation

### 2. Executive Summary

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- 2.1 This report provides Committee with an update on the new powers which have been given to local authorities to regulate short term lets in the form of a licensing scheme. This follows the commencement of the Civic Government (Scotland) Act 1982 (Licensing of Sort Term Lets) Order 2022, which brings short term lets within the scope of licensable activities covered by the statutory provisions of the Civic Government (Scotland) Act 1982 ('the Act'). This report details what powers are available to the Council in relation to mandatory and discretionary controls under the Act. It sets out the timeline for the implementation of those powers following a period of public consultation and final Committee decision.
- 2.2 The report also sets out the preparatory work underway and the issues the Council will have to consider as a result of the legislation coming into force and gives further information on how officers intend to consult on a draft short term lets policy statement and conditions framework, ahead of bringing proposals back to Committee for consideration.

### 3. Background

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- 3.1 The Council has previously called for additional regulation of the short term lets (STLs) sector, either through changes to planning classifications or the introduction of a licensing system. To achieve the objective of additional regulation, legislation would have to be introduced.
- 3.2 As previously reported to members, complaints received regarding short term lets cover a number of broad types and include:
  - 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 short term lets;
  - 3.2.3 Short term letting is generally not suitable for tenement properties;
  - 3.2.4 Properties which are used as short term lets may not reach the same safety standards as other types of visitor accommodation;

- 3.2.5 Noise and anti-social behaviour created by guests using short term lets; and
  - 3.2.6 Short term lets which operate on a commercial basis may not be paying rates or other council charges required.
- 3.3 On 23 February 2022, the Planning Committee approved a proposal to designate the entire City of Edinburgh Council area as a Short Term Let Control Area (STLCA). The proposal, if approved by Scottish Government, would mean that residential property owners wholly letting a property as a STL, which is not their principal home, would need to apply for planning permission for a 'change of use'.

## 4. Main report

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- 4.1 On 1 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 Act.

### **Licensing Scheme**

- 4.2 The 2022 Order brings Short Term Lets within the scope of the Civic Government (Scotland) Act 1982 ('the 1982 Act') and enables local authorities to implement a licensing scheme for short term lets in order to improve safety and mitigate the impact on communities.
- 4.3 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' 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.
- 4.4 The Order sets out a timetable for the implementation of the licensing scheme, which will take place incrementally to give hosts and operators time to comply. The legislation contains transitional provisions which allow existing operators to continue hosting guests whilst their application is considered and determined. Accordingly, the timeline for local authorities to open a licensing scheme for short term lets to applications is as follows:
- 4.4.1 1 October 2022 – Licensing system opens to applications;
  - 4.4.2 By 1 April 2023 – Existing hosts or operators must have made an application to the Council and can continue to operate whilst their application is processed and determined. New entrants to the market will be required to have a licence application granted before being able to operate; and
  - 4.4.3 1 July 2024 – All short term lets to be licensed.

## **Proposed Consultation Process**

- 4.5 The implementation of any discretionary powers or conditions will require the Council to carry out a statutory consultation on whether not to adopt further powers and their scope. If agreed, any discretionary powers would again be likely to require a transition period to allow for compliance.
- 4.6 Subject to Committee approval, a two-stage consultation exercise will begin in April 2022 as set out in Appendix 1, with each stage lasting for a period of eight weeks. An initial consultation will aim 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 powers.
- 4.7 Following consideration of the results from the initial consultation, a draft statement of licensing policy and licence conditions framework will be developed. A second consultation, again taking place over eight weeks, will ask for views on the draft policy and conditions. The two consultation stages, lasting approximately 16 weeks in total, should provide the Committee with a significant evidence base on which to base future decisions.
- 4.8 Given the timescales involved, officers will continually monitor the responses received in response to the consultation, in order to inform the work carried out on the draft policy and conditions.

## **Preparation**

- 4.9 The introduction of a mandatory licensing scheme and adoption of further discretionary powers, as well as new planning regulations, will present a significant number of issues for the Council which will require to be resolved.
- 4.10 Introducing a licencing regime on the scale of the short term let sector in Edinburgh will be a significant undertaking for the Council to effectively deliver. The most recently available figures suggest that there are approximately 10-14,000 properties registered for short term let in the city. This will result in a substantial increase in workload for both the Licensing & Planning Services, and will place additional pressure on the current ICT infrastructure for processing applications. Officers are currently assessing the effect that this will have on existing resources, and what measures can be introduced to mitigate the impact, including on current ICT systems.
- 4.11 There is also the potential for business of the Licensing Sub-Committee and Development Management Sub-Committee to become pressured by the volume of applications requiring Committee oversight. For example, the Licensing Sub-Committee typically deals with existing applications under the 1982 Act which attract public objections or requests for exemption to Council policy. A new licensing scheme could result in a large number of objections or exemption requests being received by the Council, which would then require Committee scrutiny.

- 4.12 Consideration will need to be given to the capacity of Committee meetings and whether changes will need to be made to processes, including amending delegated powers and/or other business to allow for this volume.

## **5. Next Steps**

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- 5.1 A two-stage statutory public consultation exercise will begin in early April and officers will seek to engage with relevant stakeholders to ensure that a wide range of views are received.
- 5.2 Officers will monitor and review the comments made during the consultation process. A further report will subsequently be brought forward detailing the responses to the consultation and providing recommendations in relation to agreeing a statement of licensing policy and conditions framework.

## **6. Financial impact**

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- 6.1 Any costs incurred by implementing the policy are, at present, funded by £150K allocated to the Directorate as part of the 2022/23 budget.
- 6.2 Officers will carry out work to devise a new, cost neutral fee structure for short term lets and will bring this back to Committee for approval.

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

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- 7.1 There will be a requirement to carry out a statutory consultation as part of the process of adopting further discretionary powers and conditions and forming a short term let policy. In developing a policy, it will be necessary to consult with a wide range of stakeholders which should include organisations such as community councils, local residents, local business communities, existing businesses, trade/tourist organisations and Police Scotland.
- 7.2 A full equalities impact assessment will be completed as part of the consultation.

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

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- 8.1 [The Civic Government \(Scotland\) Act 1982 \(Licensing of Short Term Lets\) Order 2022](#)
- 8.2 [Short Term Letting in Edinburgh Update](#) report to Corporate Policy and Strategy Committee on 14 May 2019

## 9. Appendices

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### 9.1 Appendix 1 – Short Term Lets Consultation Timeline

#### Appendix 1

#### Short Term Lets Consultation Timeline



