

# Regulatory Committee

10.00am, Monday, 4 December 2023

## Short Term Let Licensing Policy – Temporary Exemptions

Executive/routine  
Wards

All

### 1. Recommendations

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- 1.1 Regulatory Committee is asked to:
  - 1.1.1 Note the content of this report; and
  - 1.1.2 Agree the minor amendments to the policy, set out at paragraph 4.6.

**Paul Lawrence**

Executive Director of Place

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## Short Term Let Licensing Policy – Temporary Exemptions

### 2. Executive Summary

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- 2.1 Following representations received for applicants and subsequent receipt of Counsel's legal advice, the purpose of this report is to further amend the Short Term Lets Licensing Policy approved by the Regulatory Committee on [29 September 2022](#). It will clarify the Council's approach to temporary exemptions from licensing requirements.

### 3. Background

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- 3.1 Under the [Civic Government \(Scotland\) Act 1982 \(Licensing of Short Term Lets Order 2022\)](#) ('the 2022 Order'), which brought short term lets ('STL') within the scope of licensable activities covered by the statutory provisions of the 1982 Act, new powers were given to local authorities to regulate STL by means of a licensing scheme.
- 3.2 On 29 September 2022, Committee agreed a [policy and conditions](#) with respect to STLs in the City of Edinburgh. [Amendments](#) to that policy were agreed on 1 May 2023 following a Judicial Review.

### 4. Main report

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- 4.1 The Council has received enquiries and concerns about an aspect of the STL policy as it relates to applications for temporary exemptions. Paragraph 4.17 of the current policy follows the Scottish Government guidance which states that only one exemption for a period of no more than six weeks in any 12-month period is permissible. The concern raised is that the legislation does not restrict the availability of exemptions to a singular period in any 12-month period, and that the Council should therefore allow more than one temporary exemption in a 12-month period, provided that cumulatively these periods do not exceed six weeks in any 12-month period, in line with STL legislation.
- 4.2 The Council sought legal advice from Counsel with respect to the legislation regarding temporary exemptions and in particular regarding whether the six week

period allowed for temporary exemptions could lawfully be split into multiple shorter periods or if the legislation allows only one exemption for a continuous period not exceeding six weeks.

- 4.3 Counsel's interpretation of the relevant provision is that a licensing authority may not restrict the grant of a temporary exemption to a singular period and that more than one period is permissible, so long as when added together the dates of such exemptions do not exceed six weeks in any period of 12-months. For instance, an application for exemption might be made for 'August' and during the winter festive period provided the total period does not exceed six weeks.
- 4.4 Therefore, Committee is asked to agree that the policy should be updated to reflect that any such application which lists days, which may fall within multiple periods, not exceeding a total of six weeks, will be accepted as a competent application.
- 4.5 Any further individual applications for a temporary exemption within the same 12-month period will be considered as a separate application and the appropriate fee will be applied to each application.
- 4.6 The recommended revised text for paragraph 4.17 is '*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.*'

## **5. Next Steps**

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- 5.1 If Committee approve this change, the policy will be updated.
- 5.2 Committee has already agreed that the STL policy will be subject to a review in summer 2024.

## **6. Financial impact**

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- 6.1 There is no direct financial impact on the Council. If requests for temporary exemptions are made in multiple applications, these will each attract a fee.

## **7. Equality and Poverty Impact**

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- 7.1 Not applicable.

## **8. Climate and Nature Emergency Implications**

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- 8.1 Not applicable.

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

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9.1 This report addresses a concern raised by the short term lets sector.

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

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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](#)

## **11. Appendices**

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10.1 None