



From mountain to sea

Short term let licensing

policy statement

Amended October 2024



From mountain to sea

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1. Background

On 19 January 2022, The Civic Government (Scotland) Act 1982 (Licensing of Short term Lets) Order 2022 (“the Order”) was approved by the Scottish Parliament. The Order came into force on 1 March 2022 and inserted new legislative provisions into the Civic Government (Scotland) Act 1982 (“the Act”).

Section 44 of the Act permits Scottish Ministers to designate an activity as an activity for which a licence shall be required. The effect of the Order is that from 1 October 2022 the use of accommodation for a short-term let is an activity for which a licence is required under the 1982 Act.

Prior to the introduction of the legislation, there was no requirement to license short term lets and, therefore, local authorities did not have the ability to regulate these types of premises. The aims of the licensing scheme are: -

- To ensure all short-term lets are safe.
- To facilitate licensing authorities in knowing and understanding what is happening in their areas; and
- To assist with handling complaints and address issues faced by neighbours effectively.

On 31 August 2024 the Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) (Amendment) Order 2024 (“the 2024 Order) came into force and made statutory amendments to the Act. The aim of this amended policy is to ensure Aberdeenshire Council remain compliant with legislative requirements pertaining to Short-Term Let Licensing.

The Council’s Short-Term Let Policy focuses on ensuring that an efficient, effective, and proportionate licensing scheme is in place, which is customised to the needs and circumstances of Aberdeenshire and supports applicants who wish to obtain a short-term let licence. The Policy outlines how the Council will administer applications, collect fees, and monitor short-term lets. The legislation aims to make sure that the economic and tourism benefits from short-term lets are balanced with the needs and concerns of local communities.

2. Timescales for applying

The Civic Government (Scotland) Act 1982 provides licensing authorities with 9 months, from the date the application is received, to make a determination.

It is a criminal offence to operate without a licence. Section 7 of the 1982 Act sets out four offences, as set out below. These currently attract fines on the standard scale. Depending on the activity, different punishments will apply. The default is a fine not exceeding level 4 on the standard scale.

- Operating without a licence
- Failing to comply with a licence condition
- Failing to notify a material change of circumstances
- Making a false statement

3. What is “Short-Term Let”?

3.1 Definition of Short-Term Let

A short-term let is defined as the use of residential accommodation provided by a host in the course of a business to a guest, where all the following criteria are met-

- (a) The guest does not use the accommodation as their only or principal home
- (b) The short-term let is entered into for commercial consideration

The 2024 Order amends the definition of “commercial consideration” by deletion of the wording “a provision of service”, for clarity around the exemption which excludes accommodation 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.

- (c) The guest is not
 - (i) An immediate family member of the host
 - (ii) 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 educational institution, or
 - (iii) An owner or part owner of the accommodation
- (d) 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
- (e) The accommodation is not excluded accommodation
- (f) The short-term let does not constitute an excluded tenancy

***Commercial Consideration** – includes money and benefit in kind (for example reciprocal use of accommodation) but does not include provision of service.

Guest – this means a person who occupies accommodation under a short-term let

Host – this means a person who is the owner, tenant or person otherwise in control over occupation and use of the accommodation

Immediate family member – a guest is deemed to be an immediate family member of the host if they are:

1. Your partner (spouse, civil partner, or someone you live with as if you were married to them)
2. You or your partner’s: parent or grandparent, child or grandchild or brother or sister
3. The partner of one of your: parents or grandparents, children or grandchildren, or brothers or sisters

3.2 Excluded Accommodation

Excluded accommodation means accommodation which is, or is part of:

- **an aparthotel** - an aparthotel is accommodation comprising of five or more serviced apartments in a residential building where: -
 1. The whole building is owned by the same person
 2. A minimum number of 5 serviced apartments are managed and operated as a single business
 3. The building has a shared entrance for the serviced apartments, and
 4. The serviced apartments do not share an entrance with any other flat of residential unit within the building
- **Licensed Premises**, under the Licensing (Scotland) Act 2005 (Alcohol Licensing) where the provision of accommodation is an activity listed in the operating plan, or which otherwise requires a licence for use for hire for overnight stays. For example –
 - If you operate a restaurant with rooms or an inn which is already licensed specifically to offer accommodation, then you are not providing short-term lets.
 - If you provide licensed caravans, you are not providing short-term lets. However, if you have an HMO (Houses in Multiple Occupation) Licence for your property, you will still need a short-term let licence if it is also used for short-term lets. This is the case whether or not you live at the premises covered by your HMO licence.
 - a hotel which has planning permission granted for use as a hotel
 - The majority of hotels are excluded through being licensed to provide accommodation under the Licensing (Scotland) Act 2005
 - a hostel
 - A hostel provides residential accommodation and food, or shared facilities to prepare it, other than in a house
 - residential accommodation where personal care is provided to residents such as a residential care home
 - a hospital or nursing home

The 2024 Order clarifies that the use of guest rooms provided in;

- residential accommodation where personal care is provided;
- guest rooms in hospitals;
- nursing homes; and
- sheltered accommodation

are all excluded accommodation for the purposes of the short-term let licensing regime, if the guest is visiting residents.

- Educational accommodation such as –

- **secure residential accommodation** residential schools, colleges, training centres or purpose-built student accommodation. Student halls of residence, for example are excluded but houses and flats which are

normally let to students (perhaps during a summer period when student tenants have moved back home from the 9 summer and are being used as short-term lets) are not excluded

- **a refuge**
 - A refuge includes accommodation for people escaping domestic violence for example
- **accommodation which otherwise requires a licence for use for hire for overnight stays**
- **secure residential accommodation** including a prison, young offenders' institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation, or accommodation used as military barracks
- **accommodation, which is provided by the guest**, for example –
 - Where they bring their own tent (as opposed to glamping where the tent is normally fixed and provided by the host)
 - **Mobile Accommodation** - mobile accommodation which is capable of transporting your guests at the time of their stay, for example - Where you hire out canal boats, yachts, or motor homes. However, a previously mobile unit that had been immobilised would not be excluded
 - **a bothy** - this is a building of no more than two storeys which – (a) does not have any form of – (i) Mains electricity (ii) Piped fuel supply, and (iii) Piped mains water supply (b) Is 100 metres or more from the nearest public road (within the meaning of Section 151 of the Roads (Scotland) Act 1984 and (c) Is 100 metres or more from the nearest habitable building.
- **Shift Accommodation**
 - accommodation owned by an employer and provided to an employee in terms of a contract of employment or for the better performance of the employee's duties. This includes accommodation provided by companies and other bodies to employees as part of a contract or to help them perform their duties. For example, caretakers or workers on an oil rig (in so far as the accommodation is within Scottish Territorial Waters) where shifts extend into multiple day

3.3 Excluded tenancy

An excluded tenancy means a tenancy which falls within any of the following definitions:

- protected tenancy (within the meaning of section 1 of the Rent (Scotland) Act 1984
- an assured tenancy (within the meaning of section 12 of the Housing (Scotland) 1988 Act)
- a short, assured tenancy (within the meaning of section 32 of the Housing (Scotland) Act 1988)
- a tenancy of a croft (within the meaning of section 3 the Crofters (Scotland Act 1993)
- a tenancy of a holding situated out with the crofting counties (within the meaning of section 61 of the Crofters (Scotland Act 1993) to which any provisions of the Small Landholders (Scotland) Acts 1886 to 1931(8)) applies
- a Scottish secure tenancy (within the meaning of section 11 of the Housing (Scotland) Act 2001)
- a short Scottish secure tenancy (within the meaning of section 34 of the Housing (Scotland) Act 2001)
- a 1991 Act tenancy (within the meaning of section 1(4) of the Agricultural Holdings (Scotland) Act 2003)
- a limited duration tenancy (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 2003)
- a modern limited duration tenancy (within the meaning of section 5A of Agricultural Holdings (Scotland) Act 2003)
- a short, limited duration tenancy (within the meaning of section 4 of the Agricultural Holdings (Scotland) Act 2003)
- a tenancy under a lease under which agricultural land is let for the purpose of its being used only for grazing or mowing during some specified period of the year (as described in section 3 of the Agricultural Holdings (Scotland) Act 2003)
- a private residential tenancy (within the meaning of section 1 of the Private Housing (Tenancies) (Scotland) Act 2016)
- a student residential tenancy.

Excluded Property extends to property which is part of any of the accommodation or tenancies listed above. So, for example self-catering property in the grounds of a licensed hotel would be excluded if that property is part of the licensed area. The 2024 Order clarifies that foster care arrangements do not require a short-term let licence.

Please take your own independent legal advice on whether or not your accommodation requires a short-term let licence. The Licensing Authority

cannot provide legal advice regarding whether or not a premises is excluded from requiring a short-term let licence.

4. Types of Short-Term Let Licences

There are four types of licence for short-term let accommodation. Any licence granted must be for either:

1. Secondary letting.
2. Home letting.
3. Home sharing; or
4. Home letting and home sharing

The different types of licence are defined as follows:

- Secondary letting – this means a short-term let involving the letting of property where you do not normally live, such as a second home
- Home letting - this means using all or part of your home for short-term lets whilst you are absent, for example when you are on holiday.
- Home sharing – this means using part of your own home for short-term lets whilst you are there
- Home Letting and Home Sharing - this means you use your home, or part of your home for short-term lets both whilst you are there and when you are absent.

The application form will ask you to confirm what type of short-term let licence you are applying for when submitting your application. You must select one of the above types of licence.

A separate licence is required for each of your premises. However, a single licence may be issued in respect of unconventional accommodation where there is more than one separately bookable property on the site.

The 2024 Order clarifies that licensing authorities may grant a short-term let application where there are multiple accommodation units on a single premises. The Licensing Authority may grant a short-term let licence in respect of all or some of that accommodation.

Dwellinghouse means for these purposes, an independent dwelling (with its own front door, kitchen, and bathroom) such as a house, flat, cottage etc.

You do not need a separate licence for short-term lets within the same dwellinghouse. For example, if you are letting out two rooms in your home, that would be covered by one licence.

Unconventional accommodation – this means residential accommodation that is not defined as a dwelling house and would include accommodation such as glamping pods and yurts.

Your property will not be a short-term let if it falls into the following criteria –

(a) If the guest (a person occupying property for the purposes of a short-term let) uses the accommodation as their only or principal home.

(b) The guest is –

1. An immediate family member of the host (The Order provides that a person (“A”) is an immediate family member of another person (“B”) if A is – i. In a qualifying relationship with B.

ii. A qualifying relative of B.

iii. A qualifying relative of a person who is in a qualifying relationship with B or

iv. In a qualifying relationship with a qualifying relative of B. Two people are in a qualifying relationship with one another if they are: -

- Married to each other
- In a civil partnership with each other
- Living together as though they were married A “qualifying relative” means a parent, grandparent, child, grandchild, or sibling (Two people are to be regarded as siblings if they share at least one parent in common).

A person’s stepchild or foster child is to be regarded as that person’s child.

A person (“C”) is to be regarded as the child of another person (“D”) if C is being or has been treated by D as D’s child.

2. 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 educational institution, or

3. An owner or part-owner of the accommodation.

(c) The accommodation is 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.

(d) The accommodation is excluded accommodation (see 3.2 above)

(e) The Short-term let constitutes an excluded tenancy (see 3.3. above)

5. Planning Permission – Designated Control Areas

As there are currently no Control Areas designated in Aberdeenshire, the planning service will ultimately consider whether any change of use of a house is material and requires planning permission on a case by-case basis. This will include the siting of an unconventional unit e.g. cabin, lodge, yurt etc

If premises have already been altered, extended or have changed use of one type of building to an STL, Planning Permission may be required. The Planning Service can be contacted on - www.aberdeenshire.gov.uk/planning/planning-applications/check-if-you-need-planning-permission/

All short-term let licence applications received, where the premises is within the Cairngorms National Park, will be sent for determination to their Planning Department as they have full planning authority for that area.

6. Temporary Exemptions

Local Authorities have the power to authorise temporary exemptions, from the requirement to have a short-term let licence, for a period of up to six weeks. The 2024 Order clarifies that, where the Local Authority have opted to grant temporary exemptions, there may be up to three periods of temporary exemptions in each calendar year, which must not exceed a total of six weeks.

The Council will not be granting temporary exemptions under any circumstances. This position will be reviewed in one years' time.

7. Transfer of Licences

The 2024 Order introduces a new process whereby a short-term let licence may be transferred to someone else on application by the licence holder. A short-term let licence holder can apply to the licensing authority to transfer the licence into the name of a third party, subject to there being no objections from the Chief Constable. This will support hosts/operators if they wish to sell by allowing them to market their accommodation as a short-term let (with onward bookings) or if there are other reasons why a licence needs to be transferred such as the licence holder has died, and an executor acts on their behalf. The licensing authority will consult the Chief Constable as part of the transfer application and prospective hosts/operators will not have to apply for a new full licence.

8. Provisional Licences for new build short-term lets

The 2024 Order introduces a new licensing provision so that a new host, who is building accommodation intended for use as a short-term let, can apply for a provisional licence at the construction stage. A full short-term let licence can then be confirmed once the accommodation is complete, all documentation has been submitted and the host can secure compliance with the licence conditions. The duration of a provisional licence is for a maximum of three years. The purpose of this amendment is to provide reassurance to lenders at the initial stage. Hosts cannot trade or accept bookings until their full licence has been confirmed.

9. Application Process

9.1 Making an application

All applicants must complete either an online or paper short-term let licence application form together with the appropriate documentation and fee. The application should either be submitted online, or paper applications should be emailed to STL@aberdeenshire.gov.uk or, alternatively, posted to Environmental Health, Gordon House, Blackhall Road, Inverurie AB51 3WA.

An application for a Short-Term Let Licence can be made by a person other than the owner of the premises. Where this is the case, the applicant must ensure they provide the relevant consent from the owner(s).

Part of the application form will require the applicant to provide a declaration to the Licensing Authority that they can comply with the mandatory conditions attached to a short-term let licence, including all the documentation detailed within these conditions. Applicants should be mindful that the Council and Council Officers can request any documentation referred to in the mandatory conditions at any time during the consideration of an application or the period of a licence. Applicants should note that a breach of a condition is a criminal offence under the 1982 Act.

Applicants should either pay the application fee as part of the online application process or if submitting a paper application form, by making a payment to any of Aberdeenshire Council's Service Points or by contacting 01467 539039 to make payment by card over the telephone card.

Where Objections or adverse representations are made in respect of an application, all parties will be invited to attend the Business Services' Licensing Sub-Committee. The Sub-Committee will determine whether the application is to be granted. It should be noted that if an application is refused, then the applicant cannot apply for a short term let licence within one year of the date of refusal unless there has been a material change in circumstances. An applicant who has been refused must contact the Council's Licensing Service by email at licapps@aberdeenshire.gov.uk if they wish to reapply within one year of the date of refusal. It is the Council that determines whether the change is material, not the applicant.

9.2 Documentation Required with an Application

Applicants should be aware that an application will not be accepted and processed without the following documentation (where applicable):

- Electrical Certificates – Portable appliance testing (PAT) Certificate and Electrical Installation Report (EICR) Certificate
- Gas Certificate – (if applicable) to be provided by an accredited Gas Safe Registered Engineer 17
- Public Liability Insurance or Property Owners Liability Insurance (cover to a minimum of £2M)

- Sketch and dimensions of the rooms that are available to guests i.e., living area/bedrooms
- Evidence of Operation as a STL before 1 October 2022 - 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 establish this may be made by the Licensing Authority.
- Consent from owner(s) where owner is not the applicant. Where the premises is owned by more than one person (Shared ownership), all owners will have to declare that they consent to the application if one owner is submitting the application

9.3 Notice of Application

Under the terms of the Act, all applicants who apply for a short-term let licence must display a notice for a period of 21 days beginning with the date on which the application was submitted to the licensing authority at or near the premises so that it can be conveniently read by the public.

The notice shall state that an application has been made for a licence, the main facts of the application, that objections and representations in relation to the application may be made to the licensing authority and how to make objections or representations. A template will be provided to the applicant.

Applicants are required to certify compliance that they have displayed the site notice as soon as possible after the 21 days has expired. A template will be provided to the applicant.

A copy of the application, including the supporting information, will be sent to the following consultees:

- Police Scotland
- The Scottish Fire and Rescue Service
- Aberdeenshire Council's Planning Service
- Aberdeenshire Council's Building Standards
- Aberdeenshire Council's Council Tax
- Aberdeenshire Council's Private Sector Housing
- Cairngorms National Park Authority
- Aberdeenshire Council Private Water Supply Team (For properties on private water supplies only)

All personal data will be processed in line with the following privacy notices:

<http://publications.aberdeenshire.gov.uk/dataset/environmental-health-privacy-notices>

9.4 Objections and representations

It is open to any member of the public to submit an objection or representation in relation to a short-term let licence application.

To enable Aberdeenshire Council, as licensing authority (“the Council”) to entertain an objection or representation, it must be:

- in writing (email is sufficient)
- specify the grounds of the objection or the nature of the representation
- specify the name and address of the person making it
- be signed off by them or on their behalf
- be received by the Council within 28 days from the date when the notice of application is displayed

Anonymous objections or representations will not be considered. It is important that an objection or representation is specific. It is not enough to say, “I object” or “I complain”.

The Council is entitled (but not obliged) to accept a late objection or representation if satisfied that there is sufficient reason as to why it was not made in the time required. If a person lodged a late letter, the letter should explain what the sufficient reason is. There is no guarantee that the Licensing Sub-Committee will accept a late submission. The objection or representation should be relevant to the statutory grounds that can be taken into consideration when refusing an application. (The Council refers to these as “the Legal Test”) These are set out in the Act:

- The applicant or anyone else detailed in the application form is not a fit and proper person to be the holder of a licence.
- The activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused.
- The premises is not suitable for the conduct of the activity, having regard to:
 - The location, character or condition of the premises
 - The nature and extent of the proposed activity.
 - The kind of persons likely to be in the premises.
 - The possibility of undue public nuisance, public order; or public safety
- Where there is another good reason, it should detail clearly the reasons for the objection/representation and why the applicant and/or the premises are not suitable. If the objection is based on alleged incidents, then for each alleged incident, the objector should answer questions such as
 - What happened?
 - What was the day, date, and time?

- Was there any official complaint (e.g., to Police, Council)?
- If so, what action was taken?

The Council will provide the applicant with copies of any objections or representations received, appropriately redacted. All data be processed in line with the privacy notice which is available on our website.

9.5 Determination of application

Under the 1982 Act, the Council will have 9 months to determine the short-term let licence application from the date it is received with all the required documentation.

Everybody named on the application form will be subject to the fit and proper test. Every application form will require consultation with Police Scotland who will carry out background checks.

Licensing authorities are responsible for determining whether you are a fit and proper person to be the holder of a licence for short-term lets. Consideration will be given to a wide range of information including relevant criminal convictions, other relevant information provided by Police Scotland, any previous disqualifications from being a private landlord, revocation or refusal of an HMO licence and providing false or misleading information in your application form.

If there are no objections or adverse representations to a short-term let licence application, the application will be determined under delegated powers by the Head of Legal and People or Head of Planning and Economy. If an objection or adverse representation is submitted in relation to the short-term let licence application, the application will be subject to a hearing at a meeting of the Licensing Sub Committee.

The person submitting the objection or representation will be invited to attend the meeting of the Committee and speak to their objection/representation. You will be given at least 14 days' notice of the hearing date.

The applicant or their representative will also be invited to attend the meeting and given the opportunity to state why the application should be granted.

The Sub-Committee will be able to ask questions of both parties and, thereafter, decide whether to grant or refuse the application. The grounds for refusing an application are set out at section 3.

Applications will be heard in public unless required to be taken privately on the grounds of disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.

A copy of the Council's hearing procedure can be found at **Appendix 1**.

9.6 Right of appeal

The applicant and the person(s) making an objection/representation have a right of appeal to the Sheriff Court. Any appeal must be lodged by way of a summary

application with the relevant Sheriff Clerk's office within 28 days of the date of the decision appealed against.

However, they only have this right if they have taken every opportunity to state their case to the Sub-Committee as has been made available.

The Sheriff can uphold an appeal only if the sheriff considers that the licensing authority erred in law, based their determination on any incorrect material fact, acted contrary to natural justice or exercised their discretion in an unreasonable manner. Parties should seek their own independent legal advice in relation to an appeal.

9.7 Licence duration and renewal

The duration of the licence applies from the date on which the licence comes into force. This will be specified on the licence together with the expiry date of the licence.

When an application is made to renew a licence timeously, the existing licence will continue in effect until such time as a decision is made on the renewal application.

A licence shall have effect-

- for a period of 3 years from the date when it comes into force; or
- for such shorter period as the licensing authority may decide at that time when they grant; or
- for such longer period as the licensing authority may decide at the time when they renew a short-term let licence

In the event of the death of a short-term let licence holder, the licence can be transferred to the executor if there are no objections from the Chief Constable.

The Scottish Government's guidance for licensing authorities on short-term lets has made it clear that licensing authorities are encouraged to renew licences for a period of 3 years, unless they have good reasons to do otherwise.

9.8 Variations

The Council may vary the terms of a licence on any grounds it thinks fit and can do this at any time. This can be done following an application made to the Council by the licence holder or on their own initiative. This could include adding further conditions to the licence. The Council may consult with the statutory consultees on the proposed variation and any other parties it considers appropriate. A fee will be charged to the applicant should they wish to vary their licence. The Council may also require the display of a Notice of Application.

A variation cannot be used to substitute a new holder of the licence for the existing one, effectively transfer a licence. However, a process for transfer of licence has been introduced by the 2024 Order.

9.9 Material Change in Circumstances

The Licence Holder must notify the Council in writing as soon as possible where there is a material change in circumstances affecting the licence holder of the short-term let.

9.10 Suspension or Revocation of a Licence

Immediate Suspension [Paragraph 12. Schedule 1 1982 Act]

The Council can suspend a short-term let licence immediately if it is of the opinion that the carrying on of the activity to which the licence relates is causing or is likely to cause a serious threat to public order or public safety. This action would generally be taken on receipt of a complaint.

After an immediate suspension has taken place, the Licence Holder will be given an opportunity to attend a hearing before the Licensing Sub-Committee in relation to the matter which prompted the suspension, The Sub-Committee, after hearing from the licence holder and the complainer, will determine whether to suspend the licence for a further period, revoke the licence, or take no further action. This hearing takes place within 6 weeks of the immediate suspension.

The grounds for further suspending or revoking a licence are set out in Paragraph 11 of Schedule 1 to the 1982 Act, or as the Council refers to it, the Legal test. These are:

(a) the holder of a licence or, where the holder is not a natural person, any director of it or partner in it or any other person responsible for its management is not or is no longer a fit and proper person to hold the licence

(b) The activity to which the licence relates is being managed by or carried on for the benefit of a person, other than the licence holder, who would have refused the grant or renewal of the licence under paragraph 5(3)

(c) The carrying on of the activity to which the licence relates has caused or is likely to cause undue public nuisance or a threat to public order or public safety.

A condition of the licence has been contravened.

Non-Immediate Suspension or Revocation

The Council can, whether upon a complaint made to it or not, consider whether to suspend or revoke the licence in terms of Paragraph 11 of Schedule 1 to the Act, the terms of which are outlined above.

10. Conditions

10.1 Mandatory Conditions

The Act sets out a number of mandatory licence conditions which apply to all short-term lets across Scotland. The 2024 Order inserts a requirement for two new pieces of information to be displayed at a short-term let premises as part of compliance with the mandatory conditions. The new provisions require licence holders to make the following information accessible to guests within the short-term let accommodation:

- (1) instructions as to what guests should do in the event that the carbon monoxide alarm sounds; and
- (2) if there is a mobile gas cabinet heater in the premises, safety instructions as to the operation and movement of the mobile heater

A list of these conditions can be found at **Appendix 2**.

10.2 Additional Conditions

In addition to the mandatory licence conditions which apply to all short-term lets, licensing authorities may impose additional conditions. These enable the licensing authority to respond to local challenges and concerns relative to specific types of short-term letting.

There are a number of additional conditions which will apply to all short-term let properties. There also some specific additional conditions which may only apply to certain types of short term let properties or to properties following investigation of concerns. A list of the additional licence conditions which may apply to your short-term let licence can be found at **Appendix 3**.

The Council cannot impose an additional condition to a licence which limits the number of nights a premises may be used for secondary letting.

10.3 Maximum Occupancy

One of the mandatory conditions that is attached to all STL licenses is that the licence holder must ensure that the number of guests residing on the premises does not exceed the number specified in the licence.

All application forms will ask the applicant to confirm the number of guests they would like to accommodate in the premises. The Licensing Authority do however have to provide a maximum number of guests who can stay on the premises at any one time on the STL licence when it is issued. This is known as the “maximum capacity”.

The Licensing Authority, taking into account the information provided on the application form and layout plan, will confirm the maximum capacity.

No account shall be taken of a child under the age of two.

11. Compliance and enforcement

This Policy sets out the Council's approach to monitoring, compliance and enforcement of those persons undertaking being a Host/Operator of a short-term let. It makes clear the steps that the Council will take to monitor compliance –

- Of those required to apply for a licence
- When determining an application for a licence; and
- Of licensed short-term let hosts and operators.

It also sets out the 1982 Act actions the Council may take if further action to enforce the requirements are necessary. Effective monitoring of compliance and enforcement is an important aspect of this policy and will help to achieve improved standards of practice and ensure that all hosts and operators comply with their responsibilities. This will enable hosts and operators to compete on a fair basis, improve standards within the industry and instil greater consumer confidence when using a short-term let.

Principles and Objectives

Principles

Our approach to monitoring compliance and enforcement is founded upon the Scottish Government's five principles of Better Regulation. The principles state that any regulation should be:

- Proportionate
- Transparent – be open and keep regulations (and how they are implemented) simple and user friendly
- Accountable - be able to justify decisions and be subject to public scrutiny
- Consistent – rules and standards must be joined up and implemented fairly
- Targeted – regulation should be focused on the problem and minimise the side effects.

Objectives

This policy sets out a framework for monitoring the compliance of those hosts and operators providing short-term lets. Our objectives are to:

- Encourage and support compliance amongst those providing short-term lets
 - Provide clear information to those undertaking short-term letting about how the Council will assess their fit and proper status, monitor compliance, and support the enforcement of regulation; and

- Reduce duplication and minimise unnecessary burden upon short-term let licence holders by targeting compliance activity on those assessed as being at greater risk of non-compliance.

Monitoring Compliance

In order to monitor compliance, Council officers can undertake an inspection of the premises at any reasonable time.

Scottish Government Guidance enables a person authorised by the Council to inspect premises which appear to be being used for the purpose of short-term let accommodation. This gives the authorised person the ability to visit your premises and inspect both the premises and any records associated with the conditions attached to the licence. In keeping with the principals of proper and targeted compliance, the Council may visit when considered necessary and will consider a range of factors when carrying out an inspection. This may include, for example –

- As part of considering your application
- Part of a routine inspection
- As a result of a complaint from a guest or neighbour
- Follow up on a previous visit to confirm that an issue has been resolved
- Other accreditation obtained by the host or operators
- Feedback from Police Scotland or the Scottish Fire & Rescue Service
- Peculiarities of the operation (unconventional accommodation)
- Pattern of complaints associated with the host, operator, or premises
- Reputational evidence from guest reviews and internet profile

Monitoring of the compliance of hosts and operators cannot be the responsibility of any one person or the Council. To be effective, it requires collaboration between service users, letting agencies, and platforms not only to monitor compliance but in addition identifying and eliminating unlicensed short-term lets.

You will not be charged a fee for a routine visit. However, you may be charged if a follow-up visit is necessary because you have breached one of your licence conditions.

Enforcement and Sanctions

Our primary aim is to ensure compliance through means of encouragement, education, and support, however, there are several ways to enforce the requirements in the Licensing Order. These are:

- Additional licence conditions on application

- Enforcement Notices - An enforcement notice must set out the matters constituting a breach or likely breach, the action required to rectify or prevent the breach and the date by which the action must be taken.
- Variation, Suspension or Revocation of the Licence
- Pursuance of prosecution of offences under the 1982 Act (see table of fines below).

Where compliance cannot be achieved through alternative means and there is evidence indicating that a criminal offence has been committed, cases may be referred to Police Scotland, to consider criminal proceedings.

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Level on the Scale	Maximum Fine
1	£200
2	£500
3	£1,000
4	£2,500
5	£5,000

Applicants and Licence Holders should note that the Scottish Government intends to increase the maximum fine to £50,000 through provision in a suitable Bill early in the current Session of Parliament. The Scottish Government also intends to make provision for imprisonment as a last resort for hosts who continue to operate without a licence. The Licensing Authority will review the terms of this Policy upon additional provisions being approved by the Scottish Government.

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11.1 Unlicensed short-term lets

It is a criminal offence to carry on an activity for which a licence is required without having a licence and without reasonable excuse.

A public register will be maintained of licensed short-term lets by the Council. This will allow members of the public to check the licensing status of a premises being used as a short-term let. The public register will be available on the Council's website.

11.2 Licensed short-term lets

Hosts and operators must ensure that any advert or listing placed on or after they are granted a licence includes their licence number.

Hosts and operators must ensure that they comply with all the mandatory and any additional conditions on their licence. It is a criminal offence to fail to comply with a licence condition if a licence holder has not used all due diligence to prevent the offence.

It is also a criminal offence for a licence holder, without reasonable cause, to fail to notify the licensing authority of a material change of circumstances.

The Council may undertake premises site visits as part of the application process and throughout the duration of the licence to ensure compliance with licence conditions.,

12. Complaints about licensed short-term lets

Aberdeenshire Council aims to ensure that hosts and operators provide the necessary standards for members of the public with regard to the licensing of short-term lets. All complaints and concerns received will be taken seriously as they provide an opportunity to improve and maintain the high standards, we aim to achieve by means of the licensing regime. The Council will –

- Ensure that all complaints are investigated fairly and in a timely way with those involved.
- Ensure that complaints are, wherever possible, resolved and that relationships are repaired; and
- Gather information which improves standards in relation to the licence.

In the first instance, guests should raise any concerns about their short term let with their host/operator or letting agent/platform. If the issue is sufficiently severe, then the Council may become involved.

A complaint must be relevant to the matters that the Council can take into consideration. Frivolous or vexatious complaints will not be considered.

The Council can consider matters relating to the suitability of the licence holder, threats to public safety or public order or whether a condition of the licence has been contravened.

These issues would include a host/operator exceeding the number of people staying at the premises, serious disturbance or antisocial behaviour or concerns about the maintenance and safety of the premises. These complaints can be directed to STL@aberdeenshire.gov.uk.

Please note that the Council cannot consider complaints in relation to the quality of a guest's stay or specific contractual matters between the guest and the host/operator as this is outside the scope of the licensing scheme.

Complaints will aim to be acknowledged within 5 working days. A full response advising you of the outcome may take some time if the complaint requires further investigation. The complaint may also need to be directed to other departments within the Council such as Planning or other services such as Police Scotland or Scottish Fire and Rescue Service for input. Complainants will be kept up to date with progress if there is a delay in a full response being provided.

Premises site visits may be undertaken by the Council as part of an investigation into a complaint.

Complaints about suspected unlicensed operators should be directed to Police Scotland.

Assessing Complaints

Some complaints will require enforcement action taken by the Council (as outlined earlier in this Policy), others will not require enforcement action.

The Council aims to resolve most complaints by means of engagement and discussion with the host/operator and, if necessary, adding additional conditions to a licence if deemed appropriate. Enforcement action will only be taken as a last resort.

13. Third party accreditation

The Council will consider third party evidence, accreditation, or certification from certain approved bodies to demonstrate compliance with the mandatory and any additional conditions of a licence.

The Council will also consider the provision of supporting documentation being provided through suitable third-party platforms. Applicants will be expected to provide a link to the database with the supporting documentation in lieu of uploading the documents as part of the application process.

14. Equalities

The Equality Act 2010 Act introduced a new public sector equality duty which requires public authorities, including the Committee, to try and eliminate discrimination, promote equality and good relations across a range of protected characteristics. Prior to the Committee implementing this policy an Integrated Impact Assessment was undertaken.

15. Fees

Licensing authorities are required to charge fees in respect of processing and determining, the consideration of applications, the issue of duplicate licenses and other matters. They must ensure that the fees are sufficient to cover their administrative expenses and are reviewed periodically.

Licensing fees are non-refundable. Whether or not a licensing application is granted, the Council incurs significant costs in processing the application.

The Council has considered the following criteria in the process of determining the fees:

- The size of the premises
- The number of rooms at the premises
- The number of guests who can reside at the premises
- The type of short term let
- The duration of the period for which the premises are made available for use as a short-term let (noting that licensing authorities cannot set limits on nights on licences for secondary letting); and
- The extent to which the licence holder has complied with the conditions of the licence.

The Scottish Government recommends that Licensing authorities, as a minimum, establish a fee structure that take into account the type of licence and the guest capacity.

Application and renewal – full licence

Guest capacity (people)	Home sharing/home letting		Secondary letting	
	New Application	Renewal Application	New Application	Renewal Application
1-2	£353.26	£322.09	£467.55	£420.80
3-4	£467.55	£420.80	£623.40	£561.06
5-9	£592.23	£529.89	£789.64	£716.91
10-15	£706.52	£633.79	£883.15	£800.03
16+	£883.15	£800.03	£976.66	£893.54

Other types of application	Fee
Variation of licence / change in circumstances	£103.90
Duplicate licence	£51.95
Transfer of Licence (meantime)	£103.90
Provisional Licence - standard secondary let application	As above

Enforcement costs	Fee
Inspection of a premises where concern is flagged at the application process by a consultee	No Fee
Visit to premises where the visit is necessary due to a failure to comply with licence conditions or a complaint relating to the premises which is not frivolous or vexatious	£120.00/Hr
Inspection of a premises following a complaint where it is found that there are compliance issues (whether or not the subject of a complaint)	£120.00/Hr

Where a fee is charged for such a visit, a report must be provided to the host or operator within 28 days of the inspection. Otherwise, the fee must be refunded to the licence holder

Applicants should either pay the application fee as part of the online application process or if submitting a paper application form by making a payment to any of Aberdeenshire Council's Service Points or by contacting 01467 539039 to make payment by card over the telephone.