



From mountain to sea

# **Short-Term Let Licensing**

## **Policy Statement**

If you need information from this document in an alternative language or in a Large Print, Easy Read, Braille or BSL, please telephone 01467 539039.

1. Jeigu pageidaujate šio dokumento kita kalba arba atspausdinto stambiu šriftu, supaprastinta kalba, parašyta Brailio raštu arba britų gestų kalba, prašome skambinti 01467 539039
2. Dacă aveți nevoie de informații din acest document într-o altă limbă sau într-un format cu scrisul mare, ușor de citit, tipar pentru nevăzători sau în limbajul semnelor, vă rugăm să telefonați la 01467 539039
3. Jeśli potrzebowali będą Państwo informacji z niniejszego dokumentu w innym języku, pisanych dużą czcionką, w wersji łatwej do czytania, w alfabecie Braille'a lub w brytyjskim języku migowym, proszę o telefoniczny kontakt na numer 01467 539039
4. Ja jums nepieciešama šai dokumentā sniegtā informācija kādā citā valodā vai lielā drukā, viegli lasāmā tekstā, Braila rakstā vai BSL (britu zīmju valodā), lūdzu, zvaniet uz 01467 539039

<b>TABLE OF CONTENTS</b>		
	Equalities - Translation Information	2
1	Background	5
2	Timescales for Applying	6
3	What is a “Short-Term Let”?	7
	3.1 Definition of Short-Term Let	7
	3.2 Excluded Accommodation	8
	3.3 Excluded Tenancy	10
4	Types of Short-Term Let Licences	11
5	Planning Permission	13
	Designated Control Areas	13
6	Temporary Exemptions	14
7	Temporary Licences	15
8	Application Process	16
	8.1 Making an application	16
	8.2 Documentation Required with an Application	16
	8.3 Notice of Application	17
	8.4 Objections and Representations	18
	8.5 Determination of Application	19
	8.6 Right of Appeal	20
	8.7 Licence duration and renewal	20
	Variations	21
	Material Change in Circumstance	21
	Suspension or Revocation of a Licence	22
9	Conditions	23
	9.1 Mandatory Conditions	23

	9.2 Additional Conditions	23
	9.3 Maximum Occupancy	23
10	Compliance and Enforcement	24
	Principles and Objectives	24
	Monitoring Compliance	25
	Enforcement and Sanctions	25
	10.1 Unlicensed Short-Term Lets	26
	10.2 Licensed Short-Term Lets	27
11	Complaints about Licensed Short-Term Lets	28
12.	Third Party Accreditation	30
13	Equalities	31
14	Fees	32
	Appendix 1 Hearing Procedure	34
	Appendix 2 Mandatory Licence Conditions	41
	Appendix 3 Additional Licence Conditions	45

# 1. Background

On 19 January 2022, The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (“the Order”) <sup>1</sup>was approved by the Scottish Parliament. The Order came into force on 1 March 2022 and inserts 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<sup>st</sup> 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.

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.



---

<sup>1</sup> <http://www.legislation.gov.uk/ukpga/1982/45/contents>

## 2. Timescales for applying

After 1 October 2022, new hosts and operators will need to have a licence. This means that, if you were not using your premises to provide short-term lets before 1 October 2022, you can advertise but not take bookings or receive guests until you have obtained a licence.

Existing hosts or operators (those using accommodation to provide short-term lets before 1 October 2022) have until 1<sup>st</sup> October 2023 to apply for a licence. During this period, they can operate without a licence (by continuing to take bookings and receive guests) unless their licence application has been determined or refused.

After 1<sup>st</sup> October 2023, existing hosts can only continue to operate if they have submitted an application for a licence on or before 1 April 2023 that has not yet been determined or been granted a short-term let licence.

By 1<sup>st</sup> January 2025, all short-term lets will require to be licensed in order to continue operating.

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 1982 Act 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 change
- 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
- (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** - this includes money and a benefit in kind (such as a provision of a service or reciprocal use of accommodation).

**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**
  
- **Educational accommodation such as –**
  - 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



summer and are being used as short-term lets) are not excluded.

- **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
- **a refuge**
  - A refuge includes accommodation for women escaping domestic violence for example
- **accommodation which otherwise requires a licence for use for hire for overnight stays**
- **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 days.

### 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.

**Please take your own independent legal advice on whether or not your accommodation would require a short-term let licence. The Licensing Authority cannot provide legal advice to you as to whether or not a premises is excluded from requiring a 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.

**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 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

Aberdeenshire Council are not currently proposing to introduce planning control zones/areas. Therefore, planning permission / change-of-use / certificate of lawful use will not be required for existing short-term lets in Aberdeenshire.

**Please note that 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**

The Council will not be granting temporary exemptions under any circumstances. This position will be reviewed in 3 years' time.

## **7. Temporary Consent**

Temporary consent will be provided to new Hosts seeking to purchase an existing licensed short-term let or where a variance is required due to change in circumstances. Temporary consent will last for a 6-week period and will proceed the submission of the full application. This will allow the new host to continue to operate as the licence is specific to the owner and not to the short-term let property. If the new host fails to submit a full licence application within this period, the temporary consent will be withdrawn and the host cannot trade until such time as an application has been submitted and the licence has been issued.

## 8. Application Process

### 8.1 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](mailto: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](mailto: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.

### 8.2 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



- 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.

### **8.3 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>

## 8.4 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 following privacy notice:

## **8.5 Determination of application**

Under the 1982 Act, the Council will have 12 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**.

Both the applicant and the person(s) making an objection/representation can request a statement of reasons for the decision within 21 days of the date of the decision. The statement of reasons will be produced by Head of Legal and People, Business Services within 10 days of that request.

If your application for a licence is refused, you cannot reapply for a licence within 1 year of that decision, unless there has been a material change in your circumstances since then.

## **8.6 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.

## **8.7 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 will be deemed to have been granted to the executor and will remain in force for a period of 3 months from the date of expiry of the licence holder's death, unless previously suspended or revoked. Where the Council is satisfied that it is necessary for the purpose of winding up the estate,

on request, in writing, by the Executor, the Council may extend the period further.

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.

### **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. A new licence application requires to be made to transfer the licence to a new licence holder.

### **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.

### **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.
- (d) 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.

## 9. Conditions

### 9.1 Mandatory Conditions

The Act sets out a number of mandatory licence conditions which apply to all short-term let across Scotland. A list of these conditions can be found at **Appendix 2**.

### 9.2 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**.

**It should be noted that the Council cannot impose an additional condition to a licence which limits the number of nights a premises may be used for secondary letting.**

### 9.3 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.

# 10. Compliance and enforcement

## General

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:

- **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.

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.

### 10.1 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.

The Scottish Government has set out the following timescales for hosts and operators. Please note the rules are different depending on whether you are a new host/operator or an existing host/operator:

#### New hosts/operators

- From 1 October 2022 hosts **cannot** accept bookings until a short term let licence has been obtained
- From 1 October 2022, hosts **cannot** operate while a short term let application is being determined

### Existing hosts/operators

- Existing hosts/operators must apply for a short term let licence by 1 October 2023, at the latest.
- If the accommodation provider has been trading on or before 30 September 2022, they may continue to accept bookings after 1 October 2022 but only if they have made a licence application by 1 October 2023.
- Hosts can continue to operate for the time it takes for the licence application to be finally determined.
- A provisional licence number will be provided to the applicant on receipt of a licence application
- By 1 July 2024 accommodation providers should not be trading unless they have been granted a full licence

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

### **10.2 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.

## 11. 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](mailto: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.

## **12. 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.

## **13. 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.

## 14. 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	£340.00	£310.00	£450.00	£405.00
3-4	£450.00	£405.00	£600.00	£540.00
5-9	£570.00	£510.00	£760.00	£690.00
10-15	£680.00	£610.00	£850.00	£770.00
16+	£850.00	£770.00	£940.00	£860.00

Other types of application	Fee
Variation of licence / change in circumstances	£100.00
Duplicate licence	£50.00
Temporary Consent	No fee

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

<b>**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**</b>	
---	--

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.

# Appendix 1 – Hearing procedure

## **Guidance for Members of the Public – Participating in Remote Licensing Hearings (Licensing Sub-Committee/Area Committees)**

*In September 2021, Full Council agreed to trial a choice based blended model for virtual committee meetings. This allows meeting participants to attend in person from a meeting venue via a meeting room device called a surface hub or fully virtually using an appropriate device connected to the meeting. All meetings will take place via Microsoft Teams.*

*As a result of the ongoing Covid-19 situation, all public participants attending meetings must do so by dialing in to the meeting by telephone.*

*All meetings shall be streamed live, and the recording will be published thereafter on the Council's website for public viewing. **If you are not willing to consent to the recording of your participation in the meeting, you will not be able to participate in the meeting.***

*This guidance is aimed at assisting members of the public/outside bodies who require to participate in Licensing Hearings at meetings of the Area Committees or the Licensing Sub-Committee during this period.*

### **Remotely attending the Committee Meeting**

The Coronavirus (Scotland) Act 2020 provides that a Licensing authority must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by whichever of the following means the person prefers –

**(a) telephone, or**

**(b) written representations, including by means of an electronic communication [e-mail]**

No later than 14 days in advance of the meeting, the Governance Team will contact you and ask which of the above methods you wish to use. (You can use both).

If you opt to participate by way of **written representation**, you must ensure that these are lodged with the Governance Team, no later than 7 days in advance of the date of the hearing, in order that copies can be included with the agenda for the meeting.

Any representation lodged will also be copied to all other relevant parties in advance of the meeting.

Please contact the Governance Team as soon as possible if you are not able to meet the 7-day deadline.

If you opt to participate by way of **telephone**, you will be asked to provide a telephone number which you should use to join the meeting as this will be used as a form of

identification. Please be aware the contact telephone number provided will potentially be visible in the meeting recording.

To join the meeting, you will be given a telephone number and conference ID to dial in. This information should not be shared with anyone else. When your call comes in, you will be held in the meeting lobby until the Committee Officer brings you in to the meeting at the appropriate time. To ensure you join the meeting at the correct time, you should view the meeting via the link to the live stream (which you find at item 0 on the published agenda for the meeting on the website) and phone in to the number provided before the Committee reaches your item on the agenda. If you do not have the resources to view the licence stream, please contact the Governance Team.

Once you have made the call to join the meeting, you will be asked to input the conference ID followed by the # key. Once you have done that you will be advised that access to the meeting is restricted, and you have to wait until the Committee Officer admits you to the meeting. You should not type anything further into the phone and should not respond to any of the prompts for information. Simply remain on the line until you are admitted to the meeting.

Please note, if you do not phone into the meeting and make yourself available in time to participate as requested, the Committee may consider the item in your absence.

Any officer presentation materials to be used in relation to the item you are invited to participate in can be found published with the agenda papers for the meeting concerned on the Council's website.

### **During the Meeting**

Your microphone should be muted until you are invited to speak. If you forget, the meeting organiser will mute your microphone for you. To unmute your microphone when requested to speak use \*6 on your phone.

The Convenor will confirm the order of participants. Please wait to be invited to speak, in order that the discussion may be managed fairly.

You will be invited to Speak to your application/objection/representation. This will not be time limited, but you should address yourself to the issues raised by the matter at hand and be as concise as possible. The Committee Members will also have an opportunity to question any of the parties present during the proceedings.

You will be entitled to remain in the meeting for the duration of the item under consideration involving yourself. After the Committee has taken its decision, you should remove yourself from the meeting by hanging up the call. Alternatively, the Committee Officer may remove you from the meeting. You will be able to watch the rest of the Committee meeting via the link to the live stream.

The Governance Team will contact you and confirm the Committee's decision at an appropriate time after the meeting.

If you cannot maintain your connection or, if you experience technical difficulties, please note that the meeting may proceed in your absence.

## 1. Procedure for remote Licensing Hearings (APPLICATIONS)

- (a) Identify whether the applicant and his/her advisors are present.
- (b) Identify whether the Objector(s) and his/her advisors are present. [in turn]
- (c) If there are no spent convictions, go to (h) below.

### SPENT CONVICTIONS

- (d) Where the applicant has spent convictions, the Chair should: -
  - (i) Invite the representative of the Chief Constable to satisfy the Committee that justice cannot be done unless the spent convictions are taken into account. (In the undernoted case, it is indicated that it would be improper to invite the applicant to make comment on the spent convictions)
  - (ii) The Chair should invite members of the Committee to ask questions.

NOTE: In the case of O'Docherty v Renfrewshire Council 1998 SLT 327, it is suggested that "at the least some sort of inquiry as to the age and general nature of the convictions would be essential to any proper decision.

- (e) The Committee then has to determine whether or not it is satisfied that there is no other way of doing justice than to look at the spent convictions in considering the application. The Committee **MAY** go into private session to consider the submissions made. It is recommended, however, that the Committee not reach any decision during the retiral.

### NOTE TO PARTIES

If the Committee opts to adjourn the meeting to deliberate in private, the parties will be asked to leave the meeting, failing which, the Committee Officer will remove the parties from the meeting. Where the hearing is in public, the recording of the meeting will be paused. On resuming the bench, the Committee Officer will contact all parties to re-invite them back into the meeting. On confirming all parties are again present, the recording of the meeting will be restarted

- (f) Thereafter, the Chair should:
  - (i) Call for a motion regarding the spent convictions
  - (ii) Call for a seconder to the motion
  - (iii) Call for any amendment to the motion
  - (iv) Call for a seconder to any amendment proposed.
  - (v) If there is no amendment, the Chair should confirm with the Committee that the decision is unanimous. **[This will be done by roll call vote for transparency purposes]**
  - (vi) If there is an amendment, then there **MUST** be a vote. The Chair has the casting vote.
- (g) If the Committee has determined to consider the spent convictions, they will then be circulated to Members separately by email for the Committee's perusal.

### **NOTE FOR PARTIES**

**Where the hearing is in public, the recording of the meeting will be paused until the Chair is satisfied that all members have read and understood the document circulated, at which point the recording will be restarted**

THEREAFTER:

- (h) Invite the applicant to speak to his application (outline to the Committee why the application has been made and make any comments in relation to any observation/objection made in respect of the application)
- (i) Ask the Objector(s) to speak to the Objection(s) or Observation(s) [in turn]
- (j) Give the applicant an opportunity to address any issues raised by the Objector(s).

### **NOTE TO PARTIES**

- **Presentation of a case may be through the use of documents (which must be provided to all parties prior to the start of the Hearing), oral submissions made at the hearing, written submissions lodged no later than 7 days in advance of the hearing, or a combination thereof.**
  - **Cross Examination by the parties is not generally permitted**
  - **Hearsay evidence is admissible.**
- (k) Members MAY then question all parties present.
  - (l) Chair should invite concluding remarks (objector(s) then applicant), but no new evidence, before considering the application.

### **NOTE TO PARTIES**

**Once you have been asked to make concluding remarks you are not entitled to speak again, unless to answer a question from a Committee Member.**

- (m) Members may then deliberate the application and/or ask for legal advice if required. Members can choose to deliberate the application in private, however, no decisions will be made during any adjournment to deliberate in this way.

### **NOTE TO PARTIES**

**If the Committee opts to adjourn the meeting to deliberate in private, the parties will be asked to leave the meeting, failing which, the Committee Officer will remove the parties from the meeting. Where the hearing is in public, the recording of the meeting will be paused. On resuming the bench, the Committee Officer will contact all parties to re-invite them back into the meeting. On confirming all parties are again present, the recording of the meeting will be restarted**

- (n) Thereafter, the Chair should confirm with Members that they have sufficient evidence upon which to make a decision.

- If the Committee determines that there is not sufficient evidence upon which to make a decision, the application will be **deferred** to a future meeting of the Committee for further evidence to be obtained.
  - If the Committee determines that there is sufficient evidence upon which to make a decision, the Chair will then:
    - (i) Call for a motion
    - (ii) Call for a seconder to the motion
    - (iii) Call for any amendment to the motion
    - (iv) Call for a seconder to any amendment proposed.
    - (v) If there is no amendment, the Chair should confirm with the Committee that the decision is unanimous. **[This will be done by roll call vote for transparency purposes]**
    - (vi) If there is an amendment, then there **MUST** be a vote. The Chair has the casting vote.
- (o) The Legal Officer will confirm the decision taken by the Committee

**NOTE TO PARTIES**

**The parties will then be asked to leave the meeting, failing which the Committee Officer will remove the parties from the meeting.**

## **2. Procedure for remote Licensing Hearings – (variation, suspension or revocation hearings, consideration of complaints)**

- (a) Identify whether the Complainer and his/her advisors are present.
- (b) Identify whether Licence Holder and his/her advisors are present.
- (c) Identify whether any person with an objection or representation(s) and his/her advisors are present. [in turn]
- (d) Invite the Complainer to speak to his complaint (outline to the Committee why the complaint has been made)
- (e) Ask the Objector(s) to speak to their Objection(s) or Representation(s) [in turn]
- (f) Ask the Licence Holder to respond to the Complaint and any objections or representations made
- (g) Give the Complainer an opportunity to address any issues raised by the Licence Holder.

### **NOTE TO PARTIES**

- **Presentation of a case may be through the use of documents (which must be provided to all parties prior to the start of the Hearing), oral submissions made at the hearing, written submissions lodged no later than 7 days in advance of the hearing, or a combination thereof.**
  - **Cross Examination by the parties is not generally permitted**
  - **Hearsay evidence is admissible.**
- (h) Members MAY then question all parties present.
  - (i) Chair should invite concluding remarks (Licence Holder then Complainer), but no new evidence, before considering the application.

### **NOTE TO PARTIES**

**Once you have been asked to make concluding remarks you are not entitled to speak again, unless to answer a question from a Committee Member.**

- (j) Members may then deliberate the application and/or ask for legal advice if required. Members can choose to deliberate the application in private, however, no decisions will be made during any adjournment to deliberate in this way.

### **NOTE TO PARTIES**

**If the Committee opts to adjourn the meeting to deliberate in private, the parties will be asked to leave the meeting, failing which, the Committee Officer will remove the parties and all attendees from the meeting. [The recording of the meeting will be paused, where relevant]. On resuming the bench, the Committee Officer will contact all parties to re-invite them back into the meeting. On confirming all parties are again present, the meeting will continue [and the recording of the meeting will be restarted, where relevant]**

- (k) Thereafter, the Chair should confirm with Members that they have sufficient evidence upon which to make a decision.
- If the Committee determines that there is not sufficient evidence upon which to make a decision, the matter will be **deferred** to a future meeting of the Committee for further evidence to be obtained.
  - If the Committee determines that there is sufficient evidence upon which to make a decision, the Convenor will then:
    - (i) Call for a motion
    - (ii) Call for a seconder to the motion
    - (iii) Call for any amendment to the motion
    - (iv) Call for a seconder to any amendment proposed.
    - (v) If there is no amendment, the Convenor should confirm with the Committee that the decision is unanimous. **[This will be done by roll call vote for transparency purposes]**
    - (vi) If there is an amendment, then there **MUST** be a vote. The Convenor has the casting vote.
- (l) The Legal Officer will confirm the decision taken by the Committee

**NOTE TO PARTIES**

**The parties will then be asked to leave the meeting, failing which the Committee Officer will remove the parties from the meeting.**



## Appendix 2 – Mandatory licence conditions

### Agents

1. Only those named as the holder of the licence, or the designated manager 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 have 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 (EICR) 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.

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(2).

**Water safety: private water supplies**

7. 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**

8. 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 & repair standards**

9. (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**

10. 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**

11. 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.

12.(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**

13. 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 or property owner's certificate providing cover to a minimum of £2m for the duration of each short-term let agreement.

## **Payment of fees**

14. 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**

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

## **Interpretation**

In this schedule—

**“Electrical Installation Condition Report”** means a report containing the following information—

- (a) the date on which the inspection was carried out,
- (b) the address of the premises inspected,
- (c) the name, address and relevant qualifications of the person who carried out the inspection,
- (d) a description, and the location, of each installation, fixture, fitting and appliance inspected,
- (e) any defect identified,
- (f) any action taken to remedy a defect,

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

**“Gas safety report”** means a report containing the following information—

- (a) the date on which the appliance or flue was checked,
- (b) the address of the premises at which the appliance or flue is installed,
- (c) a description of and the location of each appliance or flue checked,

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

# Appendix 3 – Additional licence conditions

## Introduction

Aberdeenshire Council consider that additional conditions should be applied to short-term let licences in its area. These derive from (a) the Part 2 Guidance for licensing authorities and (b) issues relating to guest safety which the Council has identified in its area and for which it considers additional licence conditions are necessary and appropriate.

The “Part 2” additional conditions are based closely upon the examples provided by the Scottish Government. These conditions would be generally applicable to all licences, although some, for instance those relating to impact noise are not necessary for detached premises with no party structures.

The guest safety conditions are intended for specific premises where certain facilities and amenities are provided for the use of guests (this would require a declaration on the application form). Alternatively, the conditions could be generally applied with a conditional clause; the draft guest safety conditions are in the latter form.

## Conditions Applying to All Licences

### 1. Material Changes

- i. The licence holder shall notify the Council immediately of any material change of circumstances affecting the licensed premises or the licence holder (or any agent appointed by them to manage part or all of the licensed activity), including details of any criminal convictions incurred by such persons since the granting or renewal of the licence

### 2. Reporting of Certain Incidents

- i. The licence holder shall notify the Council, as soon as is reasonably practicable, of the details of any incident affecting, or within, the licensed premises which (a) has resulted in structural damage to, or structural collapse within, the premises, or (b) which has involved a gas leak, fire, or explosion necessitating the call-out of the Emergency Services.

### 3. Anti-Social Behaviour

- i. The licence holder must take reasonable steps to manage the premises in such a way as to seek to prevent and deal effectively with any antisocial behaviour by guests to anyone else in the short-term let and in the locality of the short-term let.
- ii. The licence holder must take reasonable steps to:
  - i. ensure that no disturbance or nuisance arises within or from the premises, for example by explaining the house rules to the guests.

- ii. deal effectively with any disturbance or nuisance arising within or from the premises, as soon as reasonably practicable after the licence holder is made aware of it; and
- iii. ensure any vehicles belonging to guests are parked lawfully, for example explaining where any designated parking spaces are to be found and highlighting any local rules.
- iv. The licence holder shall notify the Council, as soon as is reasonably practicable, of the details of any incident of anti-social behaviour affecting or emanating from the premises which has necessitated police involvement.

#### **4. Privacy and Security**

- i. The licence holder must manage the premises in such a way as to respect and protect the privacy and security of neighbours.
- ii. The licence holder must ensure:
  - i. guests know and understand any particular rules applying to shared areas and entrances.
  - ii. guests understand that shared doors should be properly and securely closed after use; and
  - iii. the provision of access codes or keys to guests cannot be used by guests to gain access to shared areas after they have finally departed.

#### **5. Noise WILL ONLY BE ATTACHED IN THE CIRCUMSTANCES SET OUT – WILL NOT BE ATTACHED AS A MATTER OF COURSE**

- i. The licence holder must take reasonable steps to ensure that guests do not first arrive or finally depart from the property between the hours of 11 pm to 7 am. The licence holder must advise guests of this as part of their booking terms and conditions. (Note: “reasonable steps” allows for exceptions, such as significantly delayed transport.)  
***(Condition would only be applied to those properties located at 1<sup>st</sup> floor and/or above where a residential property is located below, in close proximity to a neighbouring property or whether there is a shared entrance/communal areas.)***
- ii. The licence holder must take reasonable steps to ensure that guests do not use the hot tub after 2300hrs  
***(Condition may be applied following investigation of concerns regarding noise associated with hot tubs and where a hot tub is positioned in close proximity or overlooked by neighbouring property.)***

- iii. The licence holder must take reasonable step to ensure that guests do not play amplified music within the garden or external areas after [23:00 hours] where it would impact neighbouring residents.  
***(Condition may be applied following investigation of concerns regarding noise associated with playing music in outdoor areas.)***

## **6. Littering & Waste Disposal**

- i. The licence holder shall ensure that adequate facilities, to the satisfaction of the Council, are provided for the storage, recycling and disposal of all waste and shall ensure that all common areas of the premises and all common external areas within the curtilage of the premises are kept in a clean, tidy, and well-maintained condition to the satisfaction of the Council.
- ii. The licence holder shall be responsible for advising residents of the refuse collection day and for making arrangements for the presentation of wheeled bins for collection at the appropriate time and day.
- iii. The licence holder should:
  - i. clearly label bins as belonging to the premises
  - ii. ensure guests are made aware of how to correctly use the bins provided for the premises
  - iii. provide bins/sacks
  - iv. ensure that guests manage their waste properly, including when they depart
  - v. ensure guests are made aware as to what items should not be disposed of by flushing down the toilet

## **7. Prohibition of LPG room-heaters and storage of inflammable liquids etc.**

- i. The licence holder shall not permit the use or storage on the premises of LPG room-heaters or, unless in an external store designed and approved for such storage, the storage of any liquified petroleum gas (LPG) or any highly inflammable liquid, gas, or substance. This condition shall not apply to small amounts of liquids or gas sold in small non-refillable retail packs (e.g., lighter fuel or cosmetic appliance cartridges) kept by guests for their own use. Nor shall it apply to the external storage of LPG in cylinders or tanks which are provided by the licence holder for the provision of gas for cooking or for water or space heating or other domestic use, provided the storage complies fully with LPGA Codes of Practice and Building Regulation Technical Standards and that any installation connected to such cylinders or tanks complies with The Gas Safety (Installation and Use) Regulations 1998 or any amendment thereto

## **8. Maintenance of property**

Where there is a solid fuel appliance within the premises (i.e., wood burning stove), the holder of the licence shall ensure: -

- i. the chimney/flue associated with the appliance is inspected and cleaned annually by a suitably competent person.
- ii. a record of the annual inspection and cleaning of the flue is able to be produced, on request by the Council

## **9. Requirement to produce on demand any policy, certificate etc.**

- i. The licence holder shall require producing on demand to any authorised person any policy, certificate, document, record, certificate of inspection or safety, licence or plan required by or issued in terms pursuant to any condition of this licence.