



STATEMENT OF LICENSING POLICY FOR SHORT-TERM LETS

Index

1. Introduction
2. Licence Types
3. Temporary Exemptions
4. Temporary Licences
5. Fees
6. Mandatory Licence Conditions
7. Maximum Occupancy
8. Planning Permission
9. Fit and Proper Person Test
10. Additional Licence Conditions
11. Consultation
12. Objections/Representations
13. Determination of Licence Application
14. Refusal of a Licence
15. Right of Appeal
16. Licence Duration and Renewal
17. Compliance and Enforcement
18. Variation, Suspension and Revocation of a Licence
19. Complaints
20. Equalities
21. Data Protection

Appendix A – Definitions

Appendix B – Schedule of fees applicable to short-term let licence scheme

Appendix C – Mandatory Licence Conditions

1. Introduction

- 1.1 The Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022 (“the Order”) introduced new provisions within the Civic Government (Scotland) Act 1982 (“the Act”) requiring all short-term let properties in Scotland to be licenced by the licensing authority in whose area the premises are situated.

- 1.2 The aim of the licensing scheme in Moray is to ensure all short-term lets in the Moray area are safe, to facilitate Moray Council in knowing and understanding what is happening in the Moray area and to assist with handling complaints and effectively address issues faced by neighbours. A list of definitions to be read alongside this policy is provided in Appendix A.
- 1.3 Moray Council Licensing Committee agreed a light touch approach to the licensing of short-term lets in Moray. This means, in Moray, applicants are responsible for self-certification. Premises will only be inspected where it is considered necessary to do so by applying a proportionate risk-based approach when considering applications for short-term lets.

2. Licence Types

- 2.1 A separate licence is required for each short-term let premises situated in Moray. A single licence may be issued in respect of unconventional accommodation (i.e. not a dwellinghouse) where there is more than one separately bookable property on the site for example, 15 yurts within a single field.
- 2.2 There are four types of short-term let licence;
 1. Home Sharing
 2. Home Letting
 3. Secondary Letting
 4. Home Sharing and Home Letting

3. Temporary Exemptions

- 3.1 Moray Council will not be granting temporary exemptions under any circumstances. This position will be reviewed on or before 1 October 2025. In preparing and reviewing a policy statement regarding temporary exemptions, Moray Council will consult with such persons as it considers appropriate.

4. Temporary Licences

- 4.1 Moray Council may grant a temporary licence for a duration of up to six weeks. A temporary licence cannot be renewed. If a host or operator applies for a full licence during the period of a temporary licence, the temporary licence may be extended until their full licence is finally determined (this includes an appeal if one has been lodged within 28 days of the decision).
- 4.2 An application for a temporary licence is subject to the legislative mandatory conditions which apply to all licences and consultation as set out below. In accordance with the legislation, applicants do not need to complete and display the Public Notice in Appendix 1 of the application form when applying for a temporary licence. Applicants do not need to complete and return the

Confirmation of Display Notice in Appendix 1 of the application form when applying for a temporary licence.

- 4.3 The issue of a temporary licence to a host or operator who is also making a licence application does not extend the time for the Council to determine the licence application.
- 4.4 A temporary licence number will be issued to accompany a temporary licence.

5. Fees

- 5.1 Moray Council has determined the short-term let application fee based on recovery of the cost of establishing and running the short-term let licensing scheme. Moray Council has minimised costs by adopting a proportionate, risk-based approach in application checks and verification.
- 5.2 Processing requirements are similar for all application types therefore a sliding scale is not considered justifiable. The short-term let licence fee will be kept under review. A schedule setting out all Council fees relevant to the short-term let licence scheme is provided in Appendix B.
- 5.3 If required, the Council's Environmental Health Service will undertake any on-site compliance checks required for applications, taking a proportionate and risk-based approach. The need for inspection may be minimised if the supporting documents as part of the application form are sufficient to:
- Verify compliance with the mandatory licence conditions; and
 - To determine the maximum occupancy number.
- 5.4 A physical inspection of the premises may be necessary in circumstances where concerns are raised during the consultation part of the application process for example, by Police Scotland, the Scottish Fire and Rescue Service or by any of the Council Service consultees. During inspections, applicants may be asked to exhibit documentation to evidence compliance with the mandatory licence conditions. The fee for a necessary inspection must be met by the applicant.
- 5.5 Generally fees are not refundable. Whether or not an application is granted, Moray Council will incur significant costs in processing the application.
- 5.6 If Moray Council refuses to consider an application because the applicant needs to obtain planning permission, the Council will not refund the application fee paid. If an application is resubmitted within 28 days of planning permission subsequently being granted, Moray Council will not charge a further application fee.
- 5.7 There will be no exemptions or reductions to the fee for a short-term let licence given the fee is based on recovery of the cost of establishing and running the short-term let licensing scheme.

- 5.8 A fee may be charged for an inspection following a complaint, where it is found that there are compliance issues, whether or not those are the issues that were the subject of the complaint.
- 5.9 Where a fee is charged for such a visit, the Council's Environmental Health Service will produce a report of its findings to the host or operator within 28 days of the inspection. Where a report is not provided within 28 days of the inspection, the Council will refund the inspection fee charged to the licence holder.

6. Mandatory Licence Conditions

- 6.1 The licensing scheme includes mandatory safety requirements which apply to every type of short-term let in Moray. These are set out in the Order and are provided at Appendix C.

7. Maximum Occupancy

- 7.1 When determining the maximum occupancy permitted for a short-term licence Moray Council will consider the following factors in addition to existing legislative requirements;
- a) the number requested on the application form
 - b) the maximum number that can be accommodated safely (broken down to the number of adults and the number of children) at the premises
 - c) the maximum number that can be accommodated within tolerable noise and nuisance standards for neighbours
 - d) comments from any consultee
- 7.2 Moray Council will not count children under 10 years of age in the maximum occupancy permitted for a short-term let licence. The age limit of under 10 years is in line with the reference to children in the context of housing within the Housing (Scotland) Act 1987. Children aged 10 and above will count towards the maximum occupancy.

8. Planning Permission

- 8.1 Applicants are required to check whether they require planning permission (under planning legislation) for the premises being used for short-term let before submitting an application for a short-term let licence. If planning permission is required, applicants should obtain this before submitting an application for a short-term let licence. The Council's Licensing Service will be notified by the Council's Planning Service if planning permission has been refused in respect of premises being used for short-term let. Any application for a short-term let licence contingent on planning permission will then be refused, varied or revoked as appropriate.

- 8.2 If an applicant requires planning permission and does not have it, Moray Council will refuse to consider an application for a short-term let licence. Moray Council has the period of twenty-one days beginning from receipt of a valid application to decide to refuse to consider the application on this ground.

9. Fit and Proper Person Test

- 9.1 Moray Council will determine whether an applicant is a fit and proper person to be the holder of a licence for short-term lets in Moray. Every person named on a short-term let licence application form will be subject to the fit and proper person test. In deciding this, Moray Council will take account of the following factors:-

- any relevant convictions and other relevant information obtained from Police Scotland.
- disqualification from being a private landlord or having had a letting agent or property factor registration revoked now or in the past.
- having had a licence for short-term lets or Houses in Multiple Occupation (HMO) revoked by any licensing authority.
- Having had an application for short-term lets licence refused by any licensing authority; and
- Providing false or misleading information in an application for a short-term lets licence, HMO licence or application to be a private landlord.

10. Additional Licence Conditions

- 10.1 As part of the light touch approach to the licensing of short-term lets in Moray, the Council will not be imposing any additional conditions to short-term let licences. This position will be kept under review on a regular basis therefore may be subject to change. Should the Council choose to impose additional conditions to short-term let licences, the conditions will be published on the Council's website. Before choosing to impose additional conditions, the Council must be satisfied that;

- the matter is not already covered by the Act, the Order or mandatory conditions,
- the matter is not already unlawful and enforceable,
- the matter is sufficiently serious to merit additional conditions, rather than a verbal warning, letter or memo and,
- the matter is not a breach of an existing condition.

11. Consultations

- 11.1 Every licence application will require consultation with Police Scotland and the Scottish Fire and Rescue Service. In addition, consultation will be carried out with the Council's Environmental Health, Planning and Building Standards Services.

12. Objections/Representations

12.1 It is open to any member of the public to submit an objection or representation in relation to a short-term let licence application. Moray Council will consider any objection or representation that is:-

- in writing (email is sufficient),
- specifies the grounds of the objection or the nature of the representation,
- specifies the name and address of the person making it,
- signed by the person making the objection or representation, and
- received by Moray Council within 28 days from when the notice of application is displayed.

12.2 Moray Council will not consider any anonymous objections or representations. Late objections or representations may be considered if Moray Council is satisfied that there is sufficient reason as to why it was not made in the time required. Any objection or representation should clearly set out the reasons for the objection/representation and why the applicant and/or the premises are not suitable.

12.3 The objection should be relevant to the statutory grounds that can be taken into consideration when refusing an application. These are set out in the Act as follows:-

- 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 other good reason.

12.4 Competent grounds for objection to an application may include:

- concerns that the application is inaccurate or misleading,
- concerns about the safety of guests, neighbours or others,
- concerns about noise or nuisance; and
- concerns that the application runs contrary to other legal or contractual requirements.

- 12.5 Invalid grounds for objection could include not liking the applicant or not liking short-term lets in general.
- 12.6 A copy of any relevant objection or representation received will be provided to the application and will include the name and address of the person making the objection or representation.

13. Determination of an Application

- 13.1 Moray Council will determine applications from existing hosts who make an application before 1 April 2023 within 12 months. The twelve month period begins on the date a valid application was made. In all other cases, Moray Council will determine applications within nine months beginning on the date a valid application was made.
- 13.2 If Moray Council fails to determine an application within the above timescales, a short-term let licence will be deemed to have been granted and will be valid for the period of one year unless the Council has been granted an extension by the Court.
- 13.3 If there are no competent objections or adverse representations to a short-term let licence application, the application will be determined under delegated powers by the Head of Governance, Strategy and Performance Service.
- 13.4 If a competent objection or adverse representation is submitted in relation to a short-term let licence application, the application will be subject to a hearing at a meeting of Moray Council Licensing Committee.
- 13.5 The person submitting the objection or representation will be invited to attend the meeting of Moray Council's Licensing Committee and speak to their objection/representation. At least 14 days notice of any scheduled hearing date will be given. Applications are 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.
- 13.6 The applicant and/or a representative on their behalf will also be invited to attend the meeting and given the opportunity to respond to any objection or representation and state why their application should be granted. The Licensing Committee will be able to ask questions of all parties and will decide whether to grant or refuse the application.

14. Refusal of a Licence

- 14.1 Moray Council must grant an application unless there are grounds to refuse it. The grounds for refusing a short-term let licence application are as follows:-

- anybody named on the application is disqualified from having a short-term lets licence;
- anybody named on the application is not a fit and proper person;
- some other person is benefiting from the activity who would be refused a licence if they made the application themselves;
- the premises are not suitable or convenient 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; or
 - public order or public safety; or

- there is other good reason for refusing the application (this cannot be applied in a blanket fashion without considering the merits of a particular application).
- the applicant cannot demonstrate, or secure, compliance of the mandatory licence conditions.
- the applicant cannot secure compliance with any other conditions Moray Council seek to apply in respect of an application.

14.2 If an application for a short-term let licence is refused, an applicant cannot reapply for a licence within one year of that decision, unless there has been a material change. Applicants who wish to reapply following a material change should provide a covering letter setting out the material changes that have occurred together with a new application and supporting documents.

15. Right of Appeal

- 15.1 An applicant and any person(s) making an objection or representation can appeal Moray Council's decision by lodging a summary application with the relevant Sheriff Court. Any appeal must be lodged within 28 days of the date of Moray Council's decision.
- 15.2 The Sheriff Court will consider whether Moray Council, in arriving at their decision;
- erred in law
 - based their decision on any incorrect material fact
 - acted contrary to natural justice; or
 - exercised their discretion in an unreasonable manner
- 15.3 If an appeal of the Council's decision is upheld, the Sheriff may ask Moray Council to reconsider its decision or change Moray Council's decision.

16. Licence Duration and Renewal

- 16.1 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. Moray Council will grant or renew all short-term let licence types for a period of three years.
- 16.2 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.
- 16.3 A licence shall have effect for a period of three years from the date when it comes into force. Moray Council will consider each application on its own merits with regard to duration and renewal and may grant a licence for such shorter period as determined appropriate in the particular circumstances.

17. Compliance and Enforcement

- 17.1 Licence holders 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. It is also a criminal offence for a licence holder to fail to notify Moray Council of a material change in circumstances.
- 17.2 Moray Council will take a risk based approach to ensuring compliance, including allowing self-certification where appropriate and only using inspections where there are legal grounds to do so. Moray Council will determine the appropriate balance of:-
- Self-declaration from hosts and operators
 - Checking relevant documentation
 - Allowing for third party accreditation; and
 - Visits to premises by licensing authority and other local authority officials.
- 17.3 Factors that Moray Council may consider when determining whether to carry out an inspection of a particular premises may include:-
- Third party accreditation awarded to the premises e.g. Visit Scotland or Quality in Tourism;
 - Feedback from Police Scotland and the Scottish Fire and Rescue Service as well as other Services within Moray Council who may have their own views, suggestions or requirements around risk assessment and prioritisation;
 - Peculiarities of the operation (e.g. unconventional accommodation);
 - Pattern of complaints associated with the host, operator or premises;
 - Intelligence from other inspections (which may indicate a higher incidence of issue or non-compliance with hosts or operators or premises of that type or in that area); and
 - Reputational evidence (where available) from guest reviews and internet profile.

- 17.4 There is no specific liability on Moray Council in terms of a “failure to inspect”; Moray Council’s duty to consider an application and grant a licence, and thereafter to ensure adherence with a licence’s conditions, remain in line with the Act provisions and the current licensing framework.
- 17.5 If a letting agency or platform has concerns about breaches of licence conditions (e.g. bookings being taken for numbers of guests that exceed the maximum occupancy) in respect of premises situated in Moray, they are expected to report these to the Council.
- 17.6 Moray Council can take the following enforcement action in terms of the Order and the Act;
- Additional licence conditions.
 - Enforcement notices.
 - Variation, suspension or revocation of the licence.
 - Prepare a report for Police Scotland in respect of offences under the Act.

18. Variation, Suspension and Revocation of a Licence

- 18.1 Moray Council may, at any time, whether or not upon an application made to it by the holder of a licence, vary, suspend or revoke a licence in accordance with the Act. Moray Council may do this without serving an enforcement notice if the seriousness of the breach justifies urgent action.
- 18.2 Moray Council may vary the terms of a licence on any grounds it thinks fit at any time.
- 18.3 Moray Council may order the suspension or revocation of a licence if in its opinion –
- Licence holder is no longer a fit and proper person to hold the licence.
 - The licence holder is managing the property on behalf of someone who would have been refused the grant or renewal of the licence.
 - The short-term let is causing or is likely to cause undue public nuisance or a threat to public order or public safety; or
 - A condition of the licence has been contravened.
- 18.4 Where Moray Council revokes a licence, its holder shall be disqualified from holding or obtaining a licence in the area of the licensing authority which revoked the licence for a period of one year from the date of revocation, unless the revocation has been reversed on appeal.

19. Complaints

- 19.1 Complaints from guests should be raised with their host or operator, letting agency or platform in the first instance. If they remain unsatisfied or the issue is sufficiently grave they may contact Moray Council.

- 19.2 Complaints about hosts and operators will be considered under powers in the Act (e.g from neighbours). Moray Council will try to resolve a complaint through engagement with the host or operator in the first instance. If this is not successful, then Moray Council will use the procedures under the Act.
- 19.3 Moray 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. Complaints can be directed to licensing@moray.gov.uk. Complaints will be acknowledged within five working days.
- 19.4 If a letting agency or platform has concerns about a breach of licence conditions for premises located in Moray (e.g. bookings being taken for numbers of guests that exceed the maximum occupancy), they are expected to report these to Moray Council.
- 19.5 Complaints about suspected unlicensed hosts/operators should be directed to Police Scotland.
- 19.6 Moray Council will not 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.

20. Equalities

- 20.1 Under the Equality Act 2010, there is a public sector equality duty on Moray Council to try and eliminate discrimination and promote equality and good relations across a range of protected characteristics.
- 20.2 The Scottish Government consultation of 2020 included an Equalities Impact Assessment. A copy of the Equalities Impact Assessment can be viewed [here](#). The Equalities Impact Assessment concluded that the introduction of a short-term let licensing scheme does not give rise to any equality issues therefore the Council has concluded Moray's short-term let licensing scheme does not give rise to any equality issues.

21. Data Protection

- 21.1 All personal data in connection with the short-term let licence scheme will be processed in line with the following privacy notice available on the Council's website:

http://www.moray.gov.uk/moray_standard/page_90533.html

Appendix A – Definitions

Short-term let - is defined by the legislation as the use of residential accommodation provided by a host in the course of 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 – the means a person who occupies accommodation under a short-term let.

Host – this means a person who is the owner, tenant or person who otherwise exercises 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. Is you or your partner's: parent or grandparent, child or grandchild or brother or sister
3. Is the partner of one of your: parents or grandparents, children or grandchildren, or brothers or sisters

Premises – means the accommodation which is the subject of an application for a short-term let licence or the subject of a short-term let licence

Excluded premises - Certain premises are excluded (excluded accommodation) and will not need a licence. The Order specifically sets out that excluded accommodation means accommodation which is, or is part of the following:-

- (a) an aparthotel
- (b) premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect and where the provision of accommodation is an activity listed in the operating plan as defined in section 20(4) of that Act,

- (c) a hotel which has planning permission granted for use as a hotel,
- (d) a hostel,
- (e) residential accommodation where personal care is provided to residents,
- (f) a hospital or nursing home,
- (g) a residential school, college or training centre,
- (h) 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),
- (i) a refuge,
- (j) student accommodation,
- (k) accommodation which otherwise requires a licence for use for hire for overnight stays,
- (l) accommodation which is provided by the guest,
- (m) accommodation which is capable, without modification, of transporting guests to another location,
- (n) a bothy, or
- (o) 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.

Excluded Tenancies - You will not require a licence where certain tenancies are granted in respect of the premises e.g. private residential and social housing tenancies. The Order specifically sets out that an excluded tenancy means a tenancy which falls within any of the following definitions -

- (a) a protected tenancy (within the meaning of section 1 of the Rent (Scotland) Act 1984),
- (b) an assured tenancy (within the meaning of section 12 of the 1988 Act),
- (c) a short assured tenancy (within the meaning of section 32 of the 1988 Act),
- (d) a tenancy of a croft (within the meaning of section 3 the 1993 Act),
- (e) a tenancy of a holding situated outwith the crofting counties (within the meaning of section 61 of the 1993 Act) to which any provisions of the Small Landholders (Scotland) Acts, 1886 to 1931) applies,
- (f) a Scottish secure tenancy (within the meaning of section 11 of the 2001 Act),

(g) a short Scottish secure tenancy (within the meaning of section 34 of the 2001 Act),

(h) a 1991 Act tenancy (within the meaning of section 1(4) of the 2003 Act),

(i) a limited duration tenancy (within the meaning of section 93 of the 2003 Act),

(j) a modern limited duration tenancy (within the meaning of section 5A of the 2003 Act),

(k) a short limited duration tenancy (within the meaning of section 4 of the 2003 Act),

(l) 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 2003 Act),

(m) a private residential tenancy (within the meaning of section 1 of the 2016 Act), or

(n) a student residential tenancy.

Home Sharing – means using all or part of your own home for short-term lets whilst you are there.

Home Letting – means using all or part of your own home for short-term lets whilst you are absent, e.g. whilst you are on holiday.

Home Sharing and Home Letting – means you operate short-term lets from your own home while you are living there and also for periods when you are absent.

Secondary letting – means the letting of property where you do not normally live for example, a second home.

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

Unconventional accommodation – means residential accommodation that is not defined as a dwellinghouse e.g. glamping pods, yurts etc.

Applicant – means the person making the application for the licence, normally the host or operator.

Licence holder – means any one of the persons named on the licence application including, but not limited to, the host or operator.

Appendix B – Fee Schedule

Type of Application	Proposed Fee*
Short-term Let Licence (new or existing operator)	£495
Temporary Short-term Let Licence	£495
Copy of a Short-term Let licence	£22
Variation (making a change) to a Short-term Let licence	£28
Inspection of Short-term Let premises	£200

Appendix C – Mandatory Licence Conditions

The mandatory licence conditions are set out in Schedule 3 of The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022. Every applicant for a short-term let licence must meet and adhere to the statutory mandatory conditions which are:-

1. Agents

Only those named as a holder of the licence can carry out the day to day management of the short-term let of the premises.

2. Type of Licence

The holder of the licence may only offer the type of short-term let for which the licence has been granted.

3. Fire Safety

The holder of the licence must ensure the premises has satisfactory equipment installed for detecting, and for giving warning of –

- (a) fire or suspected fire, and
- (b) the presence of carbon monoxide in a concentration that is hazardous to health.

4. The holder of the licence must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988.

5. Gas Safety

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.

6. Electrical Safety

Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the holder of the licence must—

- (a) ensure that any electrical fittings and items are in—
 - (i) a reasonable state of repair, and
 - (ii) proper and safe working order,
- (b) arrange for an electrical safety inspection to be carried out by a competent person at least every five years or more frequently if directed by the competent person,

(c) ensure that, following an electrical safety inspection, the competent person produces an Electrical Installation Condition Report on any fixed installations,
(d) arrange for a competent person to—

- (i) produce a Portable Appliance Testing Report on moveable appliances to which a guest has access, and
- (ii) date label and sign all moveable appliances which have been inspected.

7. In determining who is competent, the holder of the licence must have regard to guidance issued by the Scottish Ministers under section 19B(4) of the Housing (Scotland) Act 2006.

8. Water safety: private water supplies

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.

9. Water safety: legionella

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.

10. Safety & repair standards

- (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.

11. Maximum Occupancy

The licence holder must ensure that the number of guests residing on the premises does not exceed the number specified in the licence.

12. Information to be displayed

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.

13. Planning Permission

Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997 (“the 1997

Act”), the holder of the licence must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either –

- (a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or
- (b) planning permission under the 1997 Act is in force.

14. Listings

- (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.

15. Insurance

The holder of the licence must ensure that there is in place for the premises –

- (a) valid buildings insurance for the duration of the licence, and
- (b) valid public liability insurance for the duration of each short-term let agreement.

16. Payment of fees

The holder of the licence must pay any fees due to the licensing authority in respect of the licence on demand.

17. False or misleading information

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

18. 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 Use) Regulations 1998,

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

“home letting” means a short-term let consisting of the entering into of an agreement for the use, while the host is absent, of accommodation which is, or is part of, the host’s only or principal home,

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

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

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

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

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

“short-term let licence” means a licence for a short-term let, and

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

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

Proposed Scheme of Delegation

LICENSING

All matters delegated to the Head of Governance, Strategy and Performance

(17) General powers

(i) In connection with the Council's licensing functions:

Under the following legislation and/or any legislation that repeals, replaces or subsumes the same:

- Cinemas Act 1985
- Civic Government (Scotland) Act 1982 **as amended**
- Deer (Scotland) Act 1996
- Fireworks (Scotland) Regulations 2004
- The Housing (Scotland) Act 2006 Part 5 – Licensing of Houses in Multiple Occupation
- Local Government Miscellaneous Provisions Act 1982
- ~~Theatres Act 1968~~
- **The Animal Welfare (Licensing of Activities Involving Animals)(Scotland) Regulations 2021**
- Riding Establishments Act 1964
- Dangerous Wild Animals Act 1976
- Animal Boarding Establishments Act 1963
- Performing Animals (Regulation) Act 1925
- Zoo Licensing Act 1981

and in particular in respect of the following licence types:

- Cinema
- Houses of Multiple Occupation
- **Short term lets**
- Itinerant metal dealers
- Knife dealers
- Late hours catering
- Market operators
- Metal dealers
- Metal dealers exemption warrant
- Private hire drivers
- Private hire operators
- Public charitable collections
- Public entertainment
- Public processions
- Second hand dealers
- **Sex Shops**
- **Sexual Entertainment Venues**
- Street Traders
- Taxi booking offices
- Taxi drivers
- Taxi operators
- Venison dealers

- Window cleaners
- Animal welfare establishments
- Animal rehoming establishments
- Animal breeding establishments (dogs/cats/rabbits)
- Establishments for the sale of pet animals
- Riding establishments
- Animal boarding establishments
- Dangerous wild animals establishments
- Zoos
- Performing animal registrations

(ii) To grant for three years or such shorter period as determined to be necessary and, where appropriate, to renew, vary, transfer, or accept surrender of the licence/temporary licence/provisional licence/permission/dispensation subject to there being no objections or adverse representations received from any consultees and where no Member of the Council has requested that the application be decided by a Committee and where the application is one which the Officer concerned considers should be granted;

(iii) To add, vary or remove conditions that are straightforward in nature, particularly where such changes are recommended by consultees;

(iv) To grant or refuse applications for substitutions, consents to alter or permission to effect a material change in circumstances subject to there being no objections or adverse representations received from any consultees;

(v) To refuse to accept any application which does not provide the required supporting documentation, including the relevant fee;

(vi) To refuse to grant a licence where the applicant has failed to satisfy any administrative requirement necessary to the granting and issue of a licence including, but not limited to, failing to pass a driver test for a taxi driver or a vehicle test for a taxi operator (including suitability as to the vehicle) or failing to supply a photograph;

(vii) To relieve the applicant of any failure to satisfy an administrative requirement including to decide whether or not to accept applications for renewal made up to 28 days after the expiry of a licence;

(viii) To temporarily suspend licences in the interests of public order or safety, following consultation with the Chair of the Licensing Committee, whom failing the Deputy Chair, whom failing any other member of the Committee as well as the relevant statutory consultees whomsoever.

(18) In relation to taxi or private hire driver licences in addition to the general delegations above:

(a) to grant or renew those licences as appear to be uncomplicated where medical issues have arisen but where medical opinion has been received which indicates that the applicant is not unfit by reason of his or her medical condition to be a taxi or private hire driver, and to request that any such licence holder submit regular medical updates; and

(b) in the case of drivers aged over 70 years to grant or renew licences for up to three years on condition of production by the licence holder of a valid DVLA licence annually,

to receive and review DVLA licences in addition to exercising general powers in relation to licences as detailed above.

(19) In relation to animal licences:

(a) To treat a new application for an annual licence as a renewal where the applicant already holds an existing licence for the same activity.

(20) In relation to fireworks:

(a) To grant an application for dispensation in terms of the Fireworks (Scotland) Regulations 2004 providing there are no objections to the application from relevant consultees.

(21) In relation to theatres in particular and in addition to general powers detailed above:

(a) To grant Theatre Licences for a standard duration of one year, Theatre Licence renewals for a standard duration of one year and temporary Theatre Licences where there are no objections or observations to such applications;

(b) To authorise an application for a Theatre Licence as exempt from payment of licensing fees within the terms of the Theatres Act 1968 and to refer any refusal from exemption from such payment to Committee.

(Note: For the purpose of all licensing delegations the Officer may disregard objections or adverse representations where they are based on convictions (current or spent) that have previously been considered by the Committee and the relevant licence/permission/dispensation was granted notwithstanding this information)

(21) In relation to short term lets in particular and in addition to general powers detailed above:

(a) To refuse to consider any application for a licence where it appears that planning permission is required for the operator to be able to operate but the relevant permission has not been applied for or is not in place.

(b) To refuse an application for a licence where it appears that planning permission is required for the operator to be able to operate but the relevant permission has not been granted.

(c) To determine maximum occupancy for the purpose of the licence based on criteria set out in the statement of policy including feedback from consultees.

(d) The power to determine that an inspection is required whether as part of an application process or after the grant of a licence having regard to comments from consultees and/or complaints/feedback from other persons as appropriate and to demand the payment of a relevant inspection fee in accordance with the agreed fee schedule.

(22) In relation to staffing:

To appoint Licensing Standards Officer under the Licensing (Scotland) Act 2005 and Civic Government (Scotland) Act 1982, including any Orders, Regulations, Statutory Instruments or other subordinate legislation made under the Acts.

(23) In relation to LSO powers:

To exercise the functions and powers conferred by Section 7 of the Smoking, Health and Social Care (Scotland) Act 2005 and Regulations, including any Orders, Regulations, Statutory Instruments or other subordinate legislation made under this Act, to enable the performance of functions under the Gambling Act 2005.