

EAST RENFREWSHIRE COUNCILCABINET13 October 2022Report by Director of EnvironmentLICENSING OF SHORT TERM LETS**PURPOSE OF REPORT**

1. The purpose of this report is to advise Cabinet of the introduction of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 and seek homologation of the decisions to approve the Short Term Licensing Policy and associated fees (Appendix 1).

RECOMMENDATIONS

2. It is recommended that Cabinet:-
- a) homologate the decision to:-
 - i. Approve the Short Term Licensing Policy
 - ii. Approve the licence fees required to fund the service; and
 - b) agree that delegated powers be granted to the Director of Environment and Head of Environment (Strategic Services) to determine applications for short term licences.

BACKGROUND

3. The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 ("the Order") was approved by Parliament in January 2022 and came into force on 1st March 2022.

4. The definition of a short term let (STL) is contained within appendix 1 of the attached full policy, which defines this as a business agreement to use residential accommodation by a guest but excludes: hotels; hostels and other licensable activities e.g. mobile homes. These are typically (but not solely) advertised on platforms such as AirBnB or Booking.com. There are 4 categories that are covered in the definition:

- Secondary Letting: Host does not normally live there (for example a second home) and makes use of separate premise for that purpose
- Home Letting: Concerns the use of the hosts only or principal home
- Home Sharing: Concerns the use of the room(s) in the hosts only or principal home
- Home Letting & Sharing: A mix of both during the licensing period

5. The objective of the licensing scheme is to regulate a previously unregulated business activity and aims to improve: guest health and safety; property condition; reduce anti-social behaviour within communities and allow local authorities to determine what impact this business activity has in relation to local planning and housing provision.

6. As at 1st October 2022, it is a statutory requirement for all local authorities in Scotland to have established and be ready to accept applications for a short term let licence.

7. All new short-term lets must apply for a licence on or after 1 October 2022. Existing short-term lets will have 6 months (until 1 April 2023) to apply for a licence. The Council must make a determination on the licence application within twelve months. The final deadline for all short term let licences to be approved is 1st July 2024.

8. This licensing scheme closely relates to our statutory obligations to license and set fees for Houses in Multiple Occupation and not the prescribed fees and registration scheme associated with private landlords.

REPORT

9. In preparation Housing Services has been monitoring online platforms for over a year to establish the estimated number of short term let's operating in the East Renfrewshire area. It is estimated that just under 100 properties are in use, the large majority being based in the Eastwood area with an anticipated 70% under the secondary letting category.

10. The Council has a legal duty to provide statements on the following policy areas:

- licence duration and renewal periods;
- use of temporary exemptions; and temporary licences; and
- enforcement and monitoring.

11. These are contained within the proposed policy and offered no substantive challenge during consultation. The full policy can be found in appendix 2 of the attached full policy.

12. The Council has a legal duty to publicise information on our short term lets by way of a public register, provision of information and advice on the Council's website and quarterly reporting to the Scottish Government. This will be made available on our website and allow us to determine service and resource provision following review in 2023/24.

13. We have provided standard checklists for hosts and for neighbours (who wish to object) and these will also feature on our website in an accessible format and for reference.

14. In terms of the procedure for dealing with applications these will be dealt with by the Licencing Committee. However for those licences where there are no matters of concern, these could be dealt with by officers, subject to it being agreed that delegated authority be granted.

15. Due to the timescales for the introduction of the licensing regime it has been necessary for the scheme and associated fees to be approved prior to the consideration of the proposals by Cabinet. In approving the scheme and fees Councillors O'Donnell and Devlin were consulted and homologation of the decision is now sought.

FINANCE AND EFFICIENCY

16. In the implementation of this legislation, no additional funding is being provided by Scottish Government. All costs must be covered through licence and renewal fees.

17. The Scottish **Government's suggested top level fee of £437 would not** cover the costs required to fund this service. For East Renfrewshire Council to cover the full cost of providing this service would require a licence fee of approximately £1316 (current HMO fees are: £877 to £1112).

18. Charging this full fee to short term let landlords would be a risk to the local economy and damage tourism in East Renfrewshire. In benchmarking with other local authorities of similar size and level of estimated short term lets, the fees below have been proposed:

Application Licence

Licence Type	Guest Capacity	Fee	Guest Capacity	Fee
Secondary Letting	Up to 2 bedrooms	£595.00	Per additional bedroom	£50.00
Home Letting	Up to 2 bedrooms	£405.00	Per additional bedroom	£50.00
Home Sharing	Per bedroom	£230.00	Per additional bedroom	£50.00
Home Letting and Sharing	Up to 2 bedrooms	£405.00	Per additional bedroom	£50.00

Renewal Licence

Licence Type	Guest Capacity	Fee	Guest Capacity	Fee
Secondary Letting	Up to 2 bedrooms	£565	Per additional bedroom	£30.00
Home Letting	Up to 2 bedrooms	£385	Per additional bedroom	£30.00
Home Sharing	Per bedroom	£219	Per additional bedroom	£15.00
Home Letting & Home Sharing	Up to 2 bedrooms	£385	Per additional bedroom	£30.00

19. The cost to deliver this service will be absorbed in existing budgets. However this is based on estimated licence numbers and true income and expenditure costs will not be known until 2023/24.

20. The fees above reflect the staff time not only to process applications but to ensure all the mandatory evidence is submitted, checking evidence for compliance, carrying out risk based inspections; dealing with any objections and preparation for referrals to Licensing Committee. It further includes the associated establishment costs including our one off ICT development costs and service delivery costs such as supplies and support services.

CONSULTATION

21. A consultation was published via social media and previous consultee respondents, with 4 responses. Without a current confirmed list of short let's operating in the area, it is challenging to target those impacted by this change. However there are some areas of this legislation which hosts are unclear about.

22. A further consultation is planned Summer 2023 with all licenced short term let hosts to review the current policy but also support hosts to meet these new requirements.

PARTNERSHIP WORKING

23. In preparation of this policy Housing Services have worked closely with colleagues on Planning, Building Control, Economic Development, and Legal Services. This joint working is required to administer the policy

IMPLICATIONS OF THE PROPOSALS

24. There are no implications with these proposals in terms of staffing, legal, property or sustainability.

25. An Equalities Impact Assessment has been undertaken for this policy and no issues identified.

CONCLUSIONS

26. As of 1st October 2022, it is a statutory requirement for all local authorities in Scotland to have established and be ready to accept applications for a short term let licence.

27. With no additional funding; the council requires to charge a fee that covers all the staffing and technological costs of delivering this service.

RECOMMENDATIONS

28. It is recommended that Cabinet:-

- a) homologate the decision to:-
 - i. Approve the Short Term Licensing Policy
 - ii. Approve the licence fees required to fund the service; and
- b) agree that delegated powers be granted to the Director of Environment and Head of Environment (Strategic Services) to determine applications for short term licences.

Director of Environment

Further details can be obtained from Phil Daws Head of Environment (Strategic Services) on 0141 577 3186.

Convener contact details

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September 2022

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EAST RENFREWSHIRE COUNCIL

SHORT TERM LET LICENSING POLICY

August 2022



Housing Services



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Section 1 Introduction

1.1. Council Vision

Our vision is to be ‘a modern, ambitious Council, creating a fairer future with all’. We have high aspirations and expectations of ourselves, and our partners, as we continually strive to be better at what we do. This drive comes from our desire to create a more equal and fairer society for our communities, hand in hand with our partners and the people who live here.

1.2. Policy Links to Council’s Single Outcome Agreements

This Short Term Let (STL) Licensing Policy will take effect from the 1st October 2022 and links to 3 priority areas identified in the Council’s Single Outcome Agreement:

1. **Learning, life and work:** East Renfrewshire residents are fit and active and have the skills for learning, life and work.
2. **Economy and environment:** East Renfrewshire is a thriving, attractive and sustainable place for businesses and residents.
3. **Safe, supported communities:** East Renfrewshire residents are safe and supported in their communities and homes.

1.3. Procedures

A detailed set of procedures will guide officers through the processes involved and identify delegated authority.

Section 2 Purpose; Aims and Objectives

2.1. Purpose of Policy

This policy describes how East Renfrewshire Council will manage their licensing scheme, including: types of licence and duration; licence conditions; application process; enforcement and compliance; and setting of fees.

2.2. Aims of Policy

The overall aim of this Policy is to implement a licensing scheme which is:

1. In line with the Scottish Government’s overall policy objectives for the licensing of short-term lets;
2. Customised to the Council’s local policies and the needs and circumstances of East Renfrewshire; and
3. Efficient, effective and proportionate to the issues faced by residents and local communities in East Renfrewshire.

2.3. Objectives of Policy

The aims of this policy will be achieved through the following objectives:

- i. Regulate Short Term Let business activity
- ii. Ensure properties meet the basic safety and property condition standards set out by the licence conditions;
- iii. Reduce anti-social behaviour within local communities
- iv. Maximise economies of scale;
- v. Integrate service delivery with other similar housing and licensing functions;
- vi. Use of online and digital verification, for example, through photo and video evidence instead of a visit;
- vii. Take a proportionate, risk-based approach to checks and verification, for example, when and how often visits to premises are needed;
- viii. Gain understanding of the prevalence of Short Term Let activity in East Renfrewshire;
- ix. Determine what impact this business activity has in relation to local planning and housing provision and align with other council policy and strategies, namely: Local Development Plan and Local Housing Strategy.

Section 3 Definitions and Legal Framework

3.1 The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022

The Scottish Government have introduced statutory powers under the Civic Government (Scotland) Act 1982 to licence Short Term Let accommodation.

The purpose of Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2021 is to ensure that local authorities have appropriate regulatory powers to balance the needs and concerns of their communities with wider economic and tourism interests.

The Licensing Order establishes a licensing scheme to ensure short-term lets are safe; address issues faced by neighbours; to facilitate local authorities in knowing and understanding what is happening in their area as well as to assist with handling complaints effectively.

3.2. What is a Short Term Let?

The definition of a Short Term Let (STL) is prescribed by law (see Appendix 1) but broadly defines this as a business agreement to use residential accommodation by a guest but excludes: hotels; boarding houses and other licensable activities e.g. mobile homes.

3.3. What Accommodation is Excluded?

The 2022 Order provides for certain accommodation to be regarded as “*excluded accommodation*” and therefore there is no need for the owners or operators of these types of accommodation to require a Short Term Let licence. A full list is contained in Appendix 2 of this policy and includes: hotels; nursing homes; hostels; student accommodation, etc.

East Renfrewshire Council recommends that people take their own independent legal advice on whether or not their accommodation would require a STL licence as we cannot provide legal advice on whether or not a premises is excluded from requiring a Short Term Let licence.

3.4. What Tenancies are Excluded?

The 2022 Order also makes provision to exclude certain tenancies. A list of excluded tenancies can be found in Appendix 2 of this policy and include: assured and short assured tenancies; Scottish Secure tenancy, etc.

East Renfrewshire Council recommends that people take their own independent legal advice around whether their agreements with guests constitute an excluded tenancy as we cannot provide legal advice and can only determine exclusion through proof of one the above tenancy agreements.

Section 4 Consultation and Evidence

4.1. Consultation on Short Term Let Policy

East Renfrewshire Council have consulted widely on this policy prior to its implementation on the 1st October 2022. The consultations were carried out by an online survey between July and September 2021; an engagement event with interested hosts in March 2022 and a further online survey in July 2022 on this draft policy

4.2. Short Term Let Activity in Scotland

Nationally it is estimated that there are 31,884 Short Term Lets operating with the biggest impacts being felt in larger city and tourism areas e.g. Edinburgh; Highlands; etc.

4.3. Short Term Let Activity in East Renfrewshire

East Renfrewshire have been monitoring online platforms since June 2021. In May 2022 we recorded 97 STLs being advertised with the majority of activity based in the Eastwood side of the authority (particularly Newton Mearns). Whilst it's difficult to differentiate home letting from secondary lets - we estimate that 70% fall under secondary letting.

Section 5 Planning

5.1. The Town & Country Planning (Short-term Let Control Areas) (Scotland) Amendment Regulations 2022

These were introduced in January 2022 and enables a planning authority to designate all or part of its area as a short-term let control area.

5.2. Control Area Regulations in East Renfrewshire

The Licensing Order is complemented by the Control Area Regulations which makes provision for local authorities to designate control areas. The purpose of control areas is to help manage high concentrations of secondary letting where: it affects the:

- availability of residential housing or the character of a neighbourhood; to restrict or
- prevent short-term lets in places or types of building where it is not appropriate; and
- to help local authorities ensure that homes are used to best effect in their areas.

East Renfrewshire Council does not intend on implementing Control Area Regulations mainly due to the, estimated, low prevalence of Short Term Let activity operating in this local authority area.

This will be kept under review as the application process opens and we can establish overall prevalence.

5.3. Planning Permission

Under provisions within the Licencing Order, a preliminary ground for refusing to consider an application for a Short Term Let is that the use of the proposed premises would constitute a breach of planning controls set out under the Town and Country Planning (Scotland) Act 1997 by virtue of section 123 (1) (a) or (b) of that Act.

Hosts and operators are, therefore, encouraged to engage with the Council's planning department prior to submitting a licence application to confirm whether they require planning permission or a certificate of lawful use of development: www.eastrenfrewshire.gov.uk/planning-permission

Section 6 Licence Types and Policies

6.1. Types of Short Term Let Licence

There are four types of licence for Short Term Let accommodation:

- secondary letting;
- home letting;
- home sharing; or
- home letting and home sharing

Home sharing and home letting concern the use of the Host or Operator's only or principal home, whereas secondary letting makes use of a separate premise.

6.2. Licence Duration

The Council may grant a licence for a period of up to three years, after which it requires to be renewed. Each licence will have a reference number and will confirm the expiry date. The duration applies from the date on which the licence comes into force.

6.3. Licence Renewal

There will be no automatic renewal process and it will be up to hosts/operators to manage and complete their renewal applications prior to their license expiring.

Where an application is made to renew a licence, the licence will continue to have effect until such a time as a decision is made on the renewal. The Council intend to grant a renewal of a licence for a period of up to three years unless there are circumstances which justify a different time period.

6.4. Temporary Exemption Licence

Under the 2022 Order and related Guidance, Councils may grant temporary exemptions to the requirement to have a short-term let licence.

East Renfrewshire Council does not intend to have a policy on temporary exemptions (subject to Scottish Minister orders), whilst we gain a better understanding of the prevalence of business activity and any associated issues, with this new licensing scheme.

This would mean that where a person is using their premises as a STL, at any time throughout the year, a STL licence would be required.

This position will be reviewed in 3 years' time, in line with statutory requirements.

6.5. Temporary Licence

Under the 2022 Order and related Guidance, Councils may decide to grant temporary licences.

It is not East Renfrewshire Council's intention to consider any applications for a temporary licence.

Section 7 Licence Conditions

7.1. Mandatory Licence Conditions

The 2022 Order requires all short-term let licences across Scotland to apply the mandatory licence conditions. A list of the mandatory licence conditions is contained in Appendix 3.

7.2. Maximum Occupancy

It is a mandatory condition that hosts and operators ensure that they do not exceed the maximum number of guests for their premises. This includes making the maximum occupancy clear on adverts, listings, as well as in booking terms and conditions.

Applicants will state in their application how many guests they would like to accommodate. The Council will consider the following criteria when determining maximum occupancy:

- the number requested on the application form

- the maximum number that can be accommodated safely (broken down to the number of adults and the number of children)
- the maximum number that can be accommodated within tolerable noise and nuisance standards for neighbours

The Council may ask applicants to submit a floor plan for their premises as part of their application. This should indicate room sizes, fire escape routes and accommodation intended for guests with mobility impairment; the location of any steps, stairs, elevators or lifts in the premises, as well as the extent and boundary of the building where deemed relevant.

The Council will not include children under the age of 10 years old, when calculating the maximum occupancy.

7.3. Additional Licence 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 in East Renfrewshire and are contained within Appendix 4

The Council cannot set conditions which limit the number of nights a premises may be used for secondary letting. The Council has no plans to set limits on home letting or home sharing premises.

The Council will review its list of additional licence conditions on a regular basis and publish these on the website.

Section 8 Application Process

8.1. Important Dates for STL Licence Applicants

The table below summaries the key dates for potential applicants to consider from 1st October 2022:

Date	Hosts Operating a STL <u>before</u> 1 October 2022	<u>Never</u> operated a STL before 1 October 2022
1 st October 2022	<p>You can continue to operate your premises as a STL - must comply with existing laws and regulations;</p> <p>You must apply to the Licensing Authority where your premises is situated for a STL licence; and</p> <p>If your STL Licence application is refused by the Licensing Authority you must stop</p>	<p>If you wish to operate a STL you must apply to the Licensing Authority in which your premises is situated; and</p> <p>Must not operate a STL without a licence being granted by the Licensing Authority where your premises is situated</p>

	using your premises as a STL within 28 days of the decision.	
1st April 2023	Can only operate without a licence if a STL licence application has been submitted to the Licensing Authority where your premises is situated, and it has not been refused; and You must stop operating as a STL if your application is refused by the Licensing Authority, subject to appeal.	Same as above
1st July 2024	All hosts must have a STL Licence	Same as above

8.2. Application Form and Checklist

All applicants, irrespective of the type of STL licence being applied for, must complete the application form available online at [Short Term Lets - East Renfrewshire Council](#) together with the appropriate documentation, evidence, and fee (online payment).

The applicant checklist is contained within Appendix 5 and will be available at the start of East Renfrewshire's application process.

If you would like request an application in an alternative format e.g. paper, braille, different language, please contact the Private Sector Housing Team at: privatesectorhousing@eastrenfrewshire.gov.uk or 0141 577 8362. All evidence will require to be submitted with paper applications and the accompanying fee should be enclosed and made by cheque or postal order (unless making cash payment, in person, at our council offices).

Please refer to the Scottish Government guidance for hosts and operators which can be found here: <https://www.gov.scot/publications/short-term-lets/>

8.2. Notifying Residents and Neighbours

Applicants are responsible for notifying residents and neighbours of their application for a new Short-Term Lets Licence, or their renewal of an existing Short-Term Lets licence.

Applicants are required to display a site Notice clearly at, or near the premises, so that it can be conveniently read by the public, for a period of 21 days, beginning with the date on which the application was submitted to the Council – information can be found in the Scottish Government's Guidance: www.gov.scot/publications/shorttermlets

A Notice must 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 can be made to the Council, and
- how to make objections or representations.

Applicants are required by law to provide a Certificate of Compliance to the Council as soon as possible after the 21 days has expired, confirming that they have displayed the site Notice and photographic evidence will require to be submitted as part of the application process.

A template site Notice and Certificate of Compliance can be found on the council's website: <https://www.eastrenfrewshire.gov.uk/article/5176/Short-Term-Lets> or by calling 0141 577 8362.

8.3. Application Checks

The Council must refuse an application for a short-term let licence if not satisfied that the applicant is a fit and proper person. The Council will carry out necessary checks to establish whether the applicant is a fit and proper person.

The statutory consultees for this licensing scheme are:

- **Police Scotland** for any information they consider relevant to the authority's consideration of the application, for example, if the applicant has any relevant convictions.
- **Scottish Fire and Rescue Service** as they have independent responsibility for enforcing fire safety legislation in STLs through the Fire (Scotland) Act 2005.

Information relating to the application will also be sent to East Renfrewshire Council's Planning Department and Legal Services (where relevant).

The Council and Scottish Fire and Rescue Service may undertake an assessment of the maximum number of guests that can be accommodated safely.

8.4. Preliminary Refusal of a Licence

Where planning permission is required and not obtained (or refused) prior to application for a Short Term Let, then the Council has the power to reject the application, within 7 days, known as 'preliminary refusal' and no refund of fees will be applicable.

Where a further Short Term Let licence application is submitted within 28 days of the original application and with appropriate planning permission, no further licence fee will be applicable.

Section 9 Objections

9.1. How Can I Make an Objection?

Any member of the public can submit an objection or representation in relation to a Short Term Let licence application – template form contained within Appendix 6 and available on the Council's website.

To enable East Renfrewshire Council, as licensing authority to consider an objection or representation, it must be:

- i. in writing (email is sufficient)
- ii. specify the name and address of the person making it
- iii. specify the STL property address or licence number
- iv. specify the grounds of the objection or the nature of the representation
- v. be signed off by them or on their behalf
- vi. be received by the Council within 28 days of the neighbour notification being displayed or application received by East Renfrewshire Council.

Anonymous, frivolous, or vexatious objections or representations will not be considered.

Late objections or representations may be considered if the Council is satisfied that there is sufficient reason as to why it was not made in the time required.

A copy of the objection or representation will be provided to the applicant and will include your name and address. All personal data will be processed in line with the relevant Privacy Statement – please refer to section 13 of this policy or Council’s website: <https://www.eastrenfrewshire.gov.uk/article/5176/Short-Term-Lets>

9.2. What Grounds Can I Object On?

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:

- i. The applicant or anyone else detailed in the application form is not a fit and proper person to be the holder of a licence;
- ii. 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;
- iii. The premises is not suitable for the conduct of the activity, having regard to:
 - a. The location, character or condition of the premises
 - b. The nature and extent of the proposed activity;
 - c. The kind of persons likely to be in the premises;
 - d. Possibility of undue public nuisance, public order; or public safety
- iv. Where there is other good reason

Section 10 Determination of Applications

10.1 Suitability of Applicant and Licensee

When an application for a new STL licence is received, a title deed check will be requested from legal services to verify the owner of the property.

An essential part of considering a licence application is establishing whether the applicant, as well as any other person named on the application is a ‘fit and proper’ person. An application must be refused if the local authority considers that the applicant or anyone named on the application is not a fit and proper person to be authorised to operate Short Term Let activity.

The factors which the local authority must have regard to in determining fit and proper are set out in section 85 of the Antisocial Behaviour etc. (Scotland) Act 2004, as

amended. Where an applicant is not an individual, these tests apply to any director, partner or other person involved in the management of the business activity:

1. Any material that shows that the individual has:
 - committed any offence involving fraud, dishonesty, violence, drugs, firearms or sexual offences
 - practised unlawful discrimination in any business activity
 - contravened any provision of the law relating to housing or landlord and tenant relations
2. Any material relating to any action, or failure to act, in relation to anti-social behaviour affecting a house which the person lets or manages.
3. Any material relating to an arrangement for an operator to act for the landlord in relation to the lease or occupancy arrangement.
4. Any other information relevant to the question of whether the person is fit and proper.

Where, after an initial review, there may be sufficient grounds or evidence for refusing the application the following steps will be taken;

- The applicant will be asked to consent to a check by Disclosure Scotland being carried out, with the appropriate fee being met by the Council.
- The applicant will be interviewed and given an opportunity to explain their view of the situation.

The applicant(s) will be given the opportunity to be accompanied at the interview. In appropriate cases, advice and assistance will be offered to the applicant to help them achieve “fit and proper” status and an action plan will subsequently be agreed in writing by both the applicant and the local authority.

The decision on whether someone is fit and proper is a judgement and is not necessarily a clear cut yes or no. An assessment should be made on the risk that the applicant may fail to act properly in relation to future letting activity, and a judgement must be made of to what extent problems from the past are likely to recur.

Ultimately, it is for the local authority, in its capacity as licensing authority, to decide whether the applicant is a fit and proper person to operate a Short Term Let on all the information available.

Equally important is the need to make sure the evidence collated is as sound as possible, since a decision to refuse an application is open to appeal.

10.2 Suitability of the Living Accommodation

One of the key aims of STL licensing is to ensure that the accommodation provided is safe, of good quality, and has sufficient facilities for the number of occupants. The various factors that will be considered by East Renfrewshire Council when coming to a decision on the suitability of the accommodation are summarised below:

- The location, character and type of accommodation
- The condition of the accommodation
- Any amenities the accommodation contains
- The type and number of persons likely to occupy the accommodation

- Whether any rooms have been subdivided
- Whether any rooms have been adapted, resulting in an alteration to the situation of the water and drainage pipes within the accommodation
- The safety and security of persons likely to occupy the accommodation
- The possibility of undue public nuisance; public order or public safety.
- Whether there is a risk of affecting the privacy and security of neighbours.

The Council and Scottish Fire and Rescue Scotland (SFRS) will be taking a risk based approach to inspection of properties. The Council will be seeking online verification and evidence to be submitted as part of the application process, where the risks will be determined and advice will be taken.

No additional fee will be charged for inspections relating to the application and approval process.

Where possible inspections will be carried out jointly with the Fire and Rescue Service To minimise disruption to guests.

Assessment of the suitability of the duty holder's fire risk assessment and the fire safety measures present in the property will be carried out the by the Fire Service in terms of the Fire (Scotland) Act 2005 and subject to the applicant completing the relevant checklist issued by the SFRS.

Appendix 7 summarises the space standards we will measure – please check this before making an application to determine occupancy level requests.

Upon completion of any inspection the Private Rented Housing Officer will compile a report detailing the results. If there are works that require to be undertaken timescales will be outlined in the report. It will be made clear to the applicants(s) that the onus will be on them to complete any necessary requirements within a specified time period.

If the inspection discloses deficiencies in fire safety matters, and the deficiencies are regarded by the Fire Service as constituting a serious threat to safety this will be immediately highlighted to the applicant with a recommendation that any guests be removed from the property immediately until the property is made safe. If the deficiencies are not regarded as constituting a serious threat to safety by the Fire Service the situation will be monitored and enforcement action taken as appropriate. Fire safety measures are the province of the fire authority and there are limitations on the extent of fire safety issues with which the licensing authority can engage.

Scottish Government guidance recommends that standards be applied flexibly, bearing in mind the possibility of achieving the same level of accommodation or safety through different packages of measures. The priority will always be the need to achieve a suitable level of accommodation which is safe and secure without placing a disproportionate burden on the applicants of STL premises.

In some instances it may be beneficial to grant the licence, but consider imposing additional licence conditions or an Enforcement Notice which would enable the accommodation to be upgraded during the period of the licence. This will not be

agreed without prior consultation with legal services, protective services and the fire service (where appropriate).

10.3 Approval

Where all consultees are happy with the application, no objections to the 21 day notice have been received, and there are no outstanding concerns with the suitability of the property or any persons / companies named in the application the matter of granting an STL Licence will be considered by the Housing Services Manager under delegated authority.

10.4 Refusal

Where there are outstanding issues that the applicant is unable, or willing to take reasonable steps to resolve - the Housing Services Manager will submit a report to the Council's Licensing Committee recommending that the application for an STL licence be refused. In drafting this report the Housing Services Manager will liaise with Legal Services, Committee Services and other services as required. The applicant will be advised in writing that this action is being taken and notified of the date of the committee meeting. The applicant will be entitled to attend the meeting and also to be represented if they so wish.

Where the committee rejects the recommendation for refusal of the application then the recommendations of the committee will be actioned. Where the recommendation for refusal is accepted by the committee, the applicant will be notified of this in writing.

10.5 Notification of Decision

Where an application is refused all persons listed on the application form and other relevant services such as: Chief Constable; Scottish Fire and Rescue Scotland; each person who made a valid objection or representation will be notified and the public register updated to reflect the decision. This notice must be served within 7 days.

10.6. Timescales

Under the 1982 Act, the Licensing Authority will have 9 months to determine the STL licence application from the date it is received with all the required documentation.

It should however be noted that for applications received prior to 1 April 2023 where the STL was in existence before 1 October 2022, the Licensing Authority will have 12 months to determine the application

East Renfrewshire Council will aim to approve licence applications within 28 days from all information being provided or completion of any objection, representation or investigations being undertaken up to the statutory timescales outlined above.

10.7 Appeals

Applicants should note that where their STL licence application has been refused by the Licensing Authority they do have a right of appeal under the 1982 Act.

An appeal should be made to the Sheriff Court within 28 days from the date of the refusal. Where an appeal has been lodged the STL licence will continue in effect until such time as the appeal has been determined.

Applicants should note that the Licensing Authority is unable to give any legal advice in relation to appealing a decision and as such it is recommended that they seek independent legal advice on the matter.

Section 11 Enforcement and Monitoring

11.1 Complaints about a Short Term Let

Where it comes to the attention of the local authority that an unlicensed STL is operating in the area, or that a current licence holder is in breach of any licence conditions there are a variety of enforcement actions that may be used. Enforcement decisions will be consistent, balanced, and fair, with due regard to the seriousness of the offence, the consequence of not taking action, the likely effectiveness of the action, and be proportionate to risks to health, safety and welfare.

Where it is felt that it may be appropriate to instigate formal proceedings against a host or owner a case conference may be convened to discuss and agree the most appropriate course of action to be followed in the circumstances. Representatives from housing services, legal services, Environmental Health, Community Safety, Police or Fire Services may be invited to this meeting where appropriate.

Anyone may make a complaint to the Council about the way a host or operator is operating their short-term let. Complaints regarding a short-term let should be sent to: privatesectorhousing@eastrenfrewshire.gov.uk for investigation.

Alternatively complaints can be sent by post to:

Private Rented Housing Officer
East Renfrewshire Council
211 Main Street
Barrhead
East Renfrewshire, G78 1SY

The Council will seek to try to resolve a complaint through engagement with the host or operator in the first instance.

The Council will aim to respond to 1st stage complaints within 5 working days and 2nd stage complaints within 20 working days. The Council will keep a record of all complaints made under this Policy.

Some complaints may require enforcement action from the Council, please refer to rest of section 10 of this policy, below.

A complaint against a short-term let licenced property may result in the Council undertaking an inspection visit to assess compliance. The Council reserves the right to charge the host, or operator, for any costs relating to an inspection visit.

The Council may need to direct some complaints to planning authorities, letting agencies, platforms, VisitScotland, Police Scotland or other bodies for further investigation.

11.2 Identifying Unlicensed Short Term Lets

Unlicensed STLs come to the attention of the local authority in a variety of ways, including through complaints from neighbours or guests, referrals from other departments within the local authority, or by direct dealings with the host / agent. All reports of suspected STLs will be taken seriously and appropriately investigated.

An Officer will visit the property and attempt to determine if it is operating as an STL, taking statements from guests and providing appropriate information and advice. They will also visit neighbours, or anyone else who has raised concerns, and take a detailed statement, reassuring them that he will not disclose any information without prior permission. The Officer will not discuss hearsay or give their opinion of the situation and will only pass on accurate information.

Ownership of the property will be verified with Legal Services, and the identified owner(s) will be sent a letter inviting them to attend an interview within 7 working days. At this interview, STL legislation will be explained and it will be made clear that the owners of the property are committing a criminal offence by operating an unlicensed STL and must take immediate steps to rectify the situation by either:

- a. Immediately applying for the grant of a licence, or
- b. Confirming they will cease business activity

Within 7 working days of the interview an action plan will be drawn up detailing the steps that the hosts / owners must take and including timescales for compliance. This action plan must be signed by the host / owner.

If the host / owner of the property is not co-operative, appropriate enforcement action will be taken. Failure to provide information is an offence and liable on summary conviction to a fine. See section 14 of this policy

11.3. Enforcement Notice

The Council has the power to serve Enforcement Notices. Where complaints, visits to premises, or other information confirm that any licence condition has been breached, the Council will require the licence holder to take action to resolve the situation within a reasonable period.

If informal measures do not result in resolution, the Council will serve an Enforcement Notice ("non-compliance" or "improvement" notice). The notices will set out the matters constituting a breach or a likely breach, the action required to rectify or prevent the breach and the date by which the action must be taken.

Enforcement Notices will also be served if a future breach of a licence condition is anticipated, for example, a host or operator is advertising property with a maximum capacity of ten guests, in breach of a licence condition specifying no more than eight. This would be evidenced in a listing or advertisement.

11.4. Variation of a Licence / Material Change of Use

The local authority can vary the terms of the licence at any time, either at their discretion or if the licence holder asks them to do so.

No fee will be charged for a variation, however, there will be cases in which the variation under consideration is so substantial amount (Material Change of Use), in effect, to the issue of a new licence. In such cases, the local authority will request the licence holder submits an application for a new licence accompanied by the appropriate fee. This may apply where any of the following changes are proposed:

- Change of owner / agent;
- Increase in maximum number of residents;
- Significant structural changes to property.

Licence holders are requested to submit a written outline of any proposed changes to either the licenced property or to any person / organisation named on the licence application to the local authority in advance of their implementation. Failure to do so may affect the status of the current licence and will be taken into account when future licence applications are being determined.

Where an owner sells a licenced STL, the existing licence will transfer to the new owner and last for one month from the date of purchase if the new owner submits a licence application before the end of that month, and the licence will continue in force until that application is determined. If the new owner has not made an application the licence will expire on the date that ownership transfers.

Where a sole licence holder dies, the licence will transfer to that person's executor. The licence will expire three months after the date of death, unless, on an application by the executor, the local authority is satisfied that it is reasonable to extend it in order to wind up the licence holders' estate.

11.4. Refusal and Revocation of a Licence

An STL licence can be revoked at any time, if the host / owner or agent are no longer 'fit and proper', the living accommodation is no longer suitable and cannot be made so by varying the licence conditions, or any condition of licence has been breached.

In appropriate cases, advice and assistance will be offered to the licence holder to help them retain their licence and an action plan will subsequently be agreed in writing by both the host / owner and the local authority.

Where a host / owner refuses, or is unable, to take reasonable steps as considered appropriate to retain the licence the Housing Services Manager will submit a report to the local authority's Licensing Committee recommending that the licence be revoked.

In drafting this report the Housing Services Manager will liaise with Legal Services, Committee Services and other services as required.

Notice of a proposed revocation will be served on the licence holder, any person who has made a relevant written representation, the chief officer of the fire and rescue authority, and the chief constable, inviting each of them to make oral representations about the proposal.

This notice must set out the ground on which revocation is proposed, be accompanied by a copy of any relevant written representations, and be given not less than 21 days before the proposed hearing.

11.5 Surrendering a Licence

You can surrender your licence to East Renfrewshire Council at any time, when you no longer want to use your property to provide Short Term Lets.

Refund of any fees will be based on the proportionate elements associated with the enforcement and compliance of the licence.

11.6. Offences

Section 7 of the 1982 Act sets out four offences that currently attract fines on the standard scale

These are summarised in Appendix 8 of this policy or you can refer to the Scottish Governments guidance for Licensing Authorities here for any updates: <https://www.gov.scot/publications/short-term-lets/>

Section 12 Fees

12.1. Legislation

Licensing authorities must determine their own fees and fee structures to recover establishment and running costs specific to their area. This means that the fees charged by licensing authority will vary across Scotland, as is the case for HMO licensing and various other civic government licensing functions undertaken by licensing authorities.

Application, renewal and other chargeable fees will reviewed and increased annually in line with inflation rates, and updates will be published on the council's website: <https://www.eastrenfrewshire.gov.uk/article/5176/Short-Term-Lets>

12.2. Application Fees

Licence Type	Maximum Occupancy	Application Fee	Maximum Occupancy	Application Fee
Secondary Letting	Up to 2 bedrooms	£595	Per additional bedroom	£50 each

Home Letting	Up to 2 bedrooms	£405	Per additional bedroom	£50 each
Home Sharing	One bedroom	£230	Per additional bedroom	£25 each
Home Letting & Home Sharing	Up to 2 bedrooms	£405	Per additional bedroom	£50 each

12.3. Renewal Fees

Licence Type	Maximum Occupancy	Renewal Fee	Maximum Occupancy	Application Fee
Secondary Letting	Up to 2 bedrooms	£565	Per additional bedroom	£30 each
Home Letting	Up to 2 bedrooms	£385	Per additional bedroom	£30 each
Home Sharing	One bedroom	£219	Per additional bedroom	£15 each
Home Letting & Home Sharing	Up to 2 bedrooms	£385	Per additional bedroom	£30 each

12.4. Other Chargeable Fees

Item	Charge
Duplicate Licence	£15.85
Certified Licence	£142.25
Material Change of Circumstance	Refer to application fees
Inspection Visit (non-vexatious)	£147.40

The inspection visit charge will only apply to complaints which suggest a breach or possible breach of licence conditions and will be accompanied by a report within 28 days of the visit. This will not apply to vexatious complaints.

Section 13 Licence numbers

13.1 Provisional Licence Numbers

A unique licence number will be given to existing hosts and operators who apply for a licence before 1 April 2023. This is known as a provisional licence number and will allow existing hosts to continue operating until their application has been determined. Anyone applying after 1 April 2023 cannot operate whilst their application is being determined.

13.2 Licence Numbers

Licence numbers will be issued in a consistent format to assist letting agencies and platforms in being able to use the licence number provided by the host or operator in their listings.

The format of the licence number, alongside information contained in the public register, will allow anybody to identify:

- the Council that issued the licence (and therefore the area to which the licence relates);
- the type of short-term let to which the licence relates (public register); and
- the type of licence issued

13.3 Licence number specification

The licence number will comprise of 8 characters, three of which are alphabetical (capital letters) and 5 of which are numerical digits (D):

For example: **A1A2-DDDDD-A3**

The leading two characters (A1A2) will identify the Council; East Renfrewshire Council will use **ER**. The 5 digits will be issued by each Council.

The final character (A3) will denote the type of "licence" to be issued:

- **T** Temporary licence
- **P** Provisional licence number issued on receipt of a licence application
- **F** First (full) licence
- **R** Renewed licence

For example: **ER -00001 - P**

This number relates to a provisional licence (P). The type of short-term let (e.g. home sharing) will be displayed on the public register.

Only new hosts from the 1st October 2022 will require to have an approved licence before operating their business.

Section 14 Licensing Data

14.1. Introduction

Licensing authorities are required to maintain a public register of short-term let licences, and share the content of the register with Scottish Government on an ongoing regular basis in a format that enables analysis of the information.

By 1 July 2024, Scotland will have accurate up-to-date data on the number of short-term lets operating (based on licence applications), and their exact location (as well as other relevant data).

As data controllers, East Renfrewshire Council are responsible for ensuring compliance with UK General Data Protection Regulations, this includes storage, handling and disposal of all data related to licence applications they receive. The Data Protection Impact Assessment (DPIA) sets out further detail, as data controllers, on:

- data controllers and safeguards;
- data security;
- anonymity and pseudonymity;
- data handling procedures;
- storage and disposal of data; and
- identification methods.

East Renfrewshire Council must not keep personal data for longer than needed. The Council are responsible for storing data and disposing of it when it is no longer needed. Personal information must only be held for as long as it is necessary for the effective administration of the licensing scheme, this will be set at 7 years in line with current HMO obligations carried out by the Council

East Renfrewshire Council may share personal data, for specific purposes, as follows:

- i. Within and between local authorities, Scottish Fire and Rescue Service and Police Scotland as part of the notification process in order to carry out background checks.
- ii. With other licensing authorities, to share the reasons for suspending, varying or revoking a licence with each other. This might be relevant for example if a host/operator is deemed no longer fit and proper to hold a licence in one area and is also licenced by more than one licensing authority.
- iii. Impact assessments contained within: Short-term lets – licensing scheme and planning control areas: consultation analysis - www.gov.scot
- iv. Publication in the public register of licences
- v. Quarterly submissions to Scottish Government, so that data on licences from each local authority can be amalgamated at a national level, and to review against policy objectives. No personal data will be published in Scottish Government reports on short-term letting activity.
- vi. With letting agencies and platforms, or any person involved in advertising or listing of a property of the fact that:
 - unlawful unlicensed premises are being advertised or listed; or
 - a licence has been suspended or revoked (or varied where the
 - variation affects the maximum occupancy of the property). This will
 - allow letting agencies and platforms to remove adverts or listings or
 - require amendment if they are inaccurate.

Further details on data processing can be found in the Scottish Government's DPIA in the 2020 consultation report here: <https://www.gov.scot/publications/short-term-lets/>

14.2. Managing the data

The lawful basis and objectives for collecting, processing and sharing the data (set out in the DPIA) require licensing authorities to:

- a) collect sufficient data for monitoring and enforcement purposes, including setting out requirements for the sharing of relevant information between licensing authorities for hosts and operators with premises in more than one area (**operational data**).
- b) share data, including the number, type and location of short-term lets, with Scottish Government in a consistent format on an ongoing regular basis

(analytical data). The Scottish Government will combine data into a national database for subsequent analysis but will not include personal data in its report. Operational and analytical data is expected to be shared using the same format and data field specifications as in the public register, with any additional fields appended.

- c) publish and maintain a register of short-term let licences and their status (granted, refused, being determined, revoked, lapsed etc.), which can be accessed and searched by members of the public (**public register**). East Renfrewshire Council must publish the register on a quarterly basis.

(c) The Public Register

East Renfrewshire Council must:

- a) make the register available to the public electronically, in a searchable format;
- b) publish or update their register on **at least** a quarterly basis. By 1 October 2023, the Scottish Government expects licensing authorities to provide more frequent or live updates where it is possible to do so.

East Renfrewshire Council can remove data from the register of data in respect of:

- licences that have been revoked for more than 12 months; or
- licences that have been surrendered.

Note that, reasons for revoking a licence may be appropriate to retain for longer than 12 months if it is likely to be relevant in determining any new application for a licence by the host.

(d) Data Sharing with Scottish Government

The data to be shared regularly will include the contents of the public register, in a format that enables analysis of the information. In addition to the data fields that must be included in the public register, the Scottish Government also wishes to collect the following data and expects the Council to ensure these fields are included in their data collections and provided, as part of quarterly returns.

This will ensure consistent data across Scotland and facilitate robust analysis:

- a) Date application determined;
- b) Licence expiry date;
- c) UPRN;
- d) Application outcome (selecting one of the following reasons):
 - i. Applicant(s) not fit and proper;
 - ii. Premises not suitable;
 - iii. Planning permission required and not held;

This information will allow for monitoring of application processing times, average length of time a licence is granted for, and common reasons for applications being refused in order to monitor and evaluate the policy.

The Scottish Government intends to work with licensing authorities over the coming months to finalise the data specification for the data to be shared with Scottish

Government on a regular basis. This is likely to involve use of ProcXed to design and manage data collection from licensing authorities.

East Renfrewshire Council may choose to, but need not, include some or all of the additional fields set out within their public registers.

Section 15 Complaints and Right of Appeal

Complaints regarding the Council's operation of its Short-Term Lets Licensing Policy or Procedures will be investigated in accordance with the Council's formal Complaints Procedure.

Complaints should be sent to the Senior Officer at: privatesectorhousing@eastrenfrewshire.gov.uk for investigation.

Alternatively complaints can be sent by post to:
Senior Officer (Private Sector Housing Team)
East Renfrewshire Council
211 Main Street
Barrhead
East Renfrewshire, G78 1SY

The Council will aim to respond to 1st stage complaints within 5 working days and 2nd stage complaints within 20 working days. The Council will keep a record of all complaints made under this Policy.

Section 16 Monitoring and Review

16.1. Monitoring

The Senior Officer for the Private Sector Housing team will monitor the Short-Term Lets licensing scheme on a quarterly and annual basis.

16.2 Charter Indicators

The Scottish Housing Regulator monitors the quality and value of the Council's housing services. In line with the Scottish Social Housing Charter, the Council will monitor the success of the Short-Term Lets licensing scheme via Charter Indicators:

Indicator 3 – Percentage of all complaints responded to in full at Stage 1 and the percentage of all complaints responded in full at Stage 2 of the Council's Corporate Complaints Procedure.

We shall also review the number of any objections and refusals when reviewing our policy in 2023/24.

16.3 Review timescale

The Short-Term Lets Policy will be reviewed after the first 12 months of the licensing scheme's implementation. The Council will review the Policy every 3 years thereafter

Section 17 Equality

The Equality Act 2010 Act introduced a new public sector equality duty which requires public authorities, to try and eliminate discrimination, promote equality and good relations across a range of protected characteristics.

Prior to the Council implementing this policy an equality, fairness and rights impact assessment was undertaken. This can be viewed on the councils website: [Short Term Lets - East Renfrewshire Council](#)

Section 18 Appendices

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APPENDIX 1 DEFINITIONS

Definitions can be found in the Scottish Government guidance at:
<https://www.gov.scot/publications/short-term-lets/>

For the purposes of this policy -

1982 Act means the Civic Government (Scotland) Act 1982;

Accommodation includes whole or any part of a premises;

East Renfrewshire Council, “**the Council**” means East Renfrewshire Council, a Local Authority in terms of the Local Government (Scotland) Act 1994 having its headquarters at the Eastwood Park, Rouken Glen Road, Giffnock. G46 6UG;

Guest means a person who occupies accommodation under a Short Term Let;

Home letting means a Short Term Let 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 for the use, while the host is present, of accommodation which is, or is part of, the host’s only or principal home;

Host means a person who is the owner, tenant, or person who otherwise exercises control over occupation and use, of the accommodation which is the subject of a Short Term Let;

Licensing Authority means the licensing authority responsible for the processing of STL licences under the 1982 Act;

Licensing Committee means the East Renfrewshire Council’s licensing and regulatory committee;

Scottish Fire and Rescue Services is a body corporate established under the Police and Fire Reform (Scotland) Act 2012 and having its registered headquarters at Westburn Drive, Cambuslang, G72 7NA;

Short Term Let or STL The Order defines “short-term let” as: “the grant of an agreement in the course of business for the use of residential accommodation (or a part of the accommodation) by a guest, where all of the following criteria are met:

- a) The guest does not occupy the accommodation as the guest’s only or principal home,
- b) The agreement is entered into for commercial consideration,
- c) The guest is not:-
 - (i) an immediate family member of a person granting the agreement,
 - (ii) sharing the accommodation with a person granting the agreement for the principal purpose of facilitating the provision of work or services by the guest to that person or other members of the household, or
 - (iii) sharing the accommodation with a person granting the agreement 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,
- d) The accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the person who is granting the agreement or to another member of that person’s household, and
- e) The accommodation is not excluded accommodation (as defined in Schedule 1 to the Order and which includes hotels, boarding houses and guest houses)”.

Short-term Let Control Area has the meaning provided in section 26B of the Town and Country Planning (Scotland) Act 1997;

Short Term Let licence or “STL licence” means a licence for a Short Term Let;

Policy means this Short Term Lets policy;

Police Scotland means the police service of Scotland having its headquarters at Tulliallan Castle, Kincardine;

Secondary letting means a Short Term Let for the use of accommodation which is not, or is not part of, a host’s (double check) only or principal home; and

Type of Short Term Let means one of the following purposes: Secondary letting; Home letting; Home sharing; or Home letting and Home sharing.

APPENDIX 2 EXCLUDED ACCOMMODATION AND TENANCIES

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

- 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 (not including an HMO licence granted under section 129 of the Housing (Scotland) Act 2006),
- 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.

An **“excluded tenancy”** is 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 Housing (Scotland) Act 1988);
- c) a short assured tenancy (within the meaning of section 32 of the Housing (Scotland) Act 1988);
- d) a tenancy of a croft (within the meaning of section 3 the Crofters (Scotland) Act 1993);
- e) 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) applies;
- f) a Scottish secure tenancy (within the meaning of section 11 of the Housing (Scotland) Act 2001);
- g) a short Scottish secure tenancy (within the meaning of section 34 of the Housing (Scotland) Act 2001);
- h) a 1991 Act tenancy (within the meaning of section 1(4) of the Agricultural Holdings (Scotland) Act 2003);
- i) a limited duration tenancy (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 2003);
- j) a modern limited duration tenancy (within the meaning of section 5A of the Agricultural Holdings (Scotland) Act 2003);
- k) a short limited duration tenancy (within the meaning of section 4 of the Agricultural Holdings (Scotland) Act 2003);
- 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 Agricultural Holdings (Scotland) Act 2003);
- m) a private residential tenancy (within the meaning of section 1 of the Private (Tenancies) (Scotland) Act 2016); or
- n) a student residential tenancy.

APPENDIX 3 MANDATORY LICENSING CONDITIONS

Agents

1. 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.

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 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

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 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(2).

Water safety: private water supplies

8. 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

9. 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

10.

- a) The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.

- b) 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

11. 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

12. 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.

Planning Permission

13. 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.

Listings

14.

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

15. 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.

Payment of fees

16. 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

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

Interpretation

18. 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,
 - vi. the name and signature of the individual carrying out the check, and
 - vii. 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

APPENDIX 4 ADDITIONAL LICENCE CONDITIONS

East Renfrewshire Council are considering adding these specific conditions to all STL licences:

Provision of Hot Tubs or Spa Pools

1. The licence holder must declare if they provide the use of a hot tub/spa pool (or similar) for guests and assess the provision for legionella.
2. The licence holder must take reasonable steps to:
 - *provide a separate legionella risk assessment is carried out for this facility and provide evidence to East Renfrewshire Council as part of their application.*
 - *follow the guidance laid out in HSG 282 - The control of legionella and other infectious agents in spa-pool systems: <https://www.hse.gov.uk/pubns/priced/hsg282.pdf>*
 - *carry out relevant and routine testing and monitoring as set out by HSE guidance*
 - *ensure that provision is included within EICR reports*
 - *the provision of information on safe use / risks are provided to guests*

Wood Burning Stoves (Indoor and Outdoor)

1. The licence holder must declare the provision of any wood burning stoves (or similar) for both indoor and outdoor use for guest use for fire, smoke and carbon monoxide safety and nuisance measures.
2. The licence holder must take reasonable steps to:
 - *check what local regulations are in place for the type of stove (or similar) and the type of fuel to be burned.*
 - *check the stove and fuel comply with the regulations.*
 - *check that there is no smoke nuisance caused by the activities*
 - *ensure fuels are stored safely*
 - *provide information on safe use / risks to guests.*
 - *Ensure that for smoke control areas reference should be made to DEFRA exempt appliances and authorised fuels in Scotland.*

Information on exempt appliances and authorised fuels in your area can be found here <https://smokecontrol.defra.gov.uk/search.php>

East Renfrewshire Council may also consider the following conditions:

1. Material Changes

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

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

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.

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

The licence holder must manage the premises in such a way as to respect and protect the privacy and security of neighbours.

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

The licence holder must ensure that the bedrooms, living room and hallway in the premises have a suitable floor covering in order to minimise impact and airborne noise affecting any properties below. (i.e. carpet or vinyl floor covering with quality underlay)

(Condition may be applied following investigation of concerns regarding noise and would be applied to properties located at 1st floor and/or above where a residential property is located below.)

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 1st 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.)

The licence holder must take reasonable steps to ensure that guests do not use the hot tub after 2200hrs

(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.)

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

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.

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.

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. Preventing damage to property

The licence holder must not affix a key box, or other device to facilitate guest entry to the property, to any public or jointly owned private infrastructure without prior written permission of the relevant authority or owner(s). The licence holder must be able to produce the permission to the licensing authority on request

8. Prohibition of LPG room-heaters and storage of inflammable liquids etc.

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 liquefied 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

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

The licence holder shall require to produce 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.

APPENDIX 5 APPLICANT CHECKLIST**Application checklist**

This list helps you check you have the relevant information to submit an application for a licence. Getting your application right first time will help you to get a decision more quickly.

Your licensing authority will set out the detail and format of any documentation that must accompany your application.

Preliminary	
I am providing or intend to provide short-term lets	
I know the date by which I need to apply for a licence	
I know whether I can continue operating whilst my application is processed	
I know which type of licence I want to apply for: <ul style="list-style-type: none"> • home letting • home sharing • home sharing and home letting; or • secondary letting. 	
I have identified my licensing authority based on the address of my premises. You can find out which local authority your property is located in by entering the postcode at the following webpage: Find your local council - GOV.UK (www.gov.uk)	
I have checked whether my licensing authority considers applications for temporary exemptions and, if so, whether I should apply for one.	
I have checked whether my licensing authority considers applications for temporary licences and, if so, whether I should apply for one.	

Applicants (see chapter 2)

I have identified the owners and those involved with the day-to-day management of my premises.	
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I have the permission of the owners of the premises (or their representative) in writing to use it for this purpose.	
To the best of my knowledge, I and the other people I will name on my application are fit and proper persons.	
I have contact details for the people and organisations I will name on my application form.	

Mandatory conditions (see chapter 2)		
Responsibility for the property	Agents – I have identified those involved with the day-to-day management of my premises and know that I cannot change them without the licensing authority’s approval.	
General safety and standards	General safety – I have taken all reasonable steps to ensure the property is safe for residential use.	
	Occupancy - I know how many guests I want to accommodate and I consider that I can do this safely. I have checked what the licensing authority will need to see regarding floor plans.	
	Repairing standard – I have worked out whether my premises is a dwelling-house and whether the repairing standard applies to me. [If relevant] My premises meets the repairing standard.	
	[If relevant] EPC – my premises has a valid EPC certificate issued within the last 10 years.	
Fire safety	Fire safety: premises – I have installed satisfactory equipment to detect and warn against fire or suspected fire, and carbon monoxide.	
	Fire safety: furniture and furnishings - my furniture and furnishings / furniture and furnishing guests have access to comply with fire safety regulations and I have records that demonstrate compliance.	
Gas safety	Gas safety – I have an up to date Gas Safety Certificate (dated within the last 12 months).	
Mandatory conditions (continued)		

Electrical safety	Electrical safety – I have made sure my electrical fittings and items are in good working order;	
	arranged for an electrical safety inspection to be carried out by a competent person;	
	obtained an Electrical Installation Condition Report on any fixed installations; and	
	obtained a Portable Appliance Testing Report on moveable appliances to which my guests have access and labelled inspected items.	
Water safety	Water supply – I have established that my premises are supplied with water by Scottish Water or I have established that my premises has a private water supply and I comply with the relevant regulations.	
	I have completed a legionella risk assessment for the premises	
	I have completed a separate legionella risk assessment for a hot tub / spa pool	
Other	Information for guests – I have prepared information for guests and know where I will put it for them on the premises.	
	Planning permission – I have established whether I need to submit evidence that I have planning permission (or a certificate of lawful use of development) or have made an application.	
	Listings: licence number – I have made plans to display my licence number on adverts and listings.	
	<i>[If relevant]</i> Listings: EPC rating – I have made plans to display my EPC rating on adverts and listings.	
	Buildings insurance – I have checked that there is valid buildings insurance in place for the premises.	
	Public liability insurance - I have checked that there is valid public liability insurance in place whilst my premises is let as a short-term let.	

Additional conditions

I have checked whether my licensing authority has any **additional licence conditions** and I can comply with the ones that are likely to apply to me.

Other matters to consider	
Food safety - I understand the food hygiene and safety rules that apply to me.	
Alcohol Licensing – [if relevant] I understand the requirements if I wish to sell alcohol on my premises and have a valid licence with East Renfrewshire Council. Further information is available here: https://www.eastrenfrewshire.gov.uk/premises-licence	
I comply with legal requirements that relate to fire safety set out in the Fire (Scotland) Act 2005.	
I have checked the title deeds of my premises.	
I will declare my income from my short-term let activity for tax purposes.	
I have checked with my lender that I am allowed to use my premises for this purpose.	
I am complying with other legal requirements that affect me, my business or my premises.	
I have considered engaging with my neighbours	
Fees	
I know the fee that I will be charged and I am ready to pay it with my application.	

APPENDIX 6 SHORT TERM LET LICENSING OBJECTION FORM

East Renfrewshire Council – Short Term Let Licensing	
Objection / Representation Form	
<p>This form should be received by the Council within 28 days from when the notice of application was displayed and submitted to:</p> <p>Email: privatesectorhousing@eastrenfrewshirecouncil.gov.uk Address: Private Sector Housing Team, 211 Main Street, Barrhead, East Renfrewshire, G78 1SY</p>	
Name of Person Making an Objection / Representation	
Address of Person Making an Objection / Representation	
Address or Licence Number of Short Term Let Property	
<u>Please Specify the Grounds for Objection:</u>	
<u>Please Specify the Nature of the Representation:</u>	
Signature:	
Print Name:	
Date:	

APPENDIX 7 SHORT TERM LET LICENSING SPACE STANDARDS

The space standard and occupancy of each room within the house will be based on the use made of the room.

Floor space will only be counted where there is a ceiling height of at least 1.5m.

The minimum width of a bedroom should be 2.25m.

1. Standards for bedrooms where there is a common living room and kitchen available and the common living room and kitchen comply fully with the STL Standards:

- Single room (1 adult) 6.5 square metres
- Double room (2 adults) 10.5 square metres
- Triple room (3 adults) 16.5 square metres
- Over 3 adults 16.5 square metres + 4.5 per person over 3
- Family room 10.5 square metres + 4.5 per child (2 adults + children under 10)

2. Standards for bedrooms where there is no communal living area available but a common kitchen which fully complies with the STL standards is available:

- 1 adult 10 square metres
- 2 adults 15 square metres
- 3 adults 19.5 square metres
- Over 3 adults 19.5 square metres + 6 per person
- Family room 15 square metres + 7 per child (2 adults + children under 10)

3. Standard for bedroom with cooker

- 1 adult 13 square metres
- 2 adults 19 square metres
- In normal circumstances children would not be accommodated in bedrooms with cookers. If, exceptionally, they are, appropriate measures must be taken to ensure their safety.

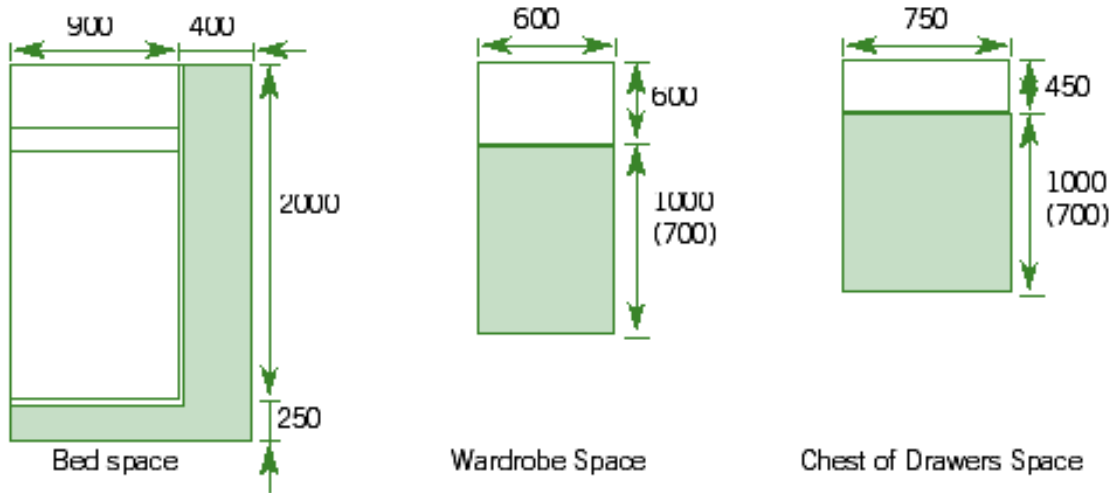
4. Standards for communal living room, excluding any area used as a kitchen

- 3-5 persons 8 square metres + 1.5 per person thereafter

5. Standards for communal living room

- 3-6 persons 11 square metres
- 7-10 persons 16.5 square metres
- 11-15 persons 19.5 square metres

Activity Spaces for bedrooms



() Reduced dimension when measured to a bed

Notes:

1. An activity space is measured at floor level.
2. The shaded area of an activity space may overlap only the shaded area of another activity space.

APPENDIX 8 SUMMARY OF OFFENCES UNDER 1982 ACT

Level on the scale maximum fine	Fine
1	£200
2	£500
3	£1,000
4	£2,500
5	£5,000

Operating without a licence

It is an offence, without reasonable excuse, to carry on an activity for which a licence is required without having such a licence. Depending on the activity, different punishments apply. The default is a fine not exceeding level 4 on the standard scale.

The Scottish Government intends to increase the maximum fine to £50,000 through provision in a suitable Bill early in this session (2021-26) of the Scottish Parliament.

Failing to comply with a licence condition

It is an offence to fail to comply with a licence condition, though it is a defence to have used all due diligence to prevent the offence. The default is a fine not exceeding level 3 on the standard scale.

The Scottish Government intends to increase the maximum fine to £10,000 through provision in a suitable Bill early in this session (2021-26) of the Scottish Parliament.

The maximum occupancy condition limits the number of guests in the premises. Breaching this condition might lead to significantly more revenue. The fine for failing to comply with the licence condition must outweigh the profit made from such a breach.

Note that some mandatory conditions are also enforceable through other legislation. Hosts and operators must include an EPC rating in their listing where they are required to have a valid EPC certificate for the premises under building standards legislation. A host or operator who fails to hold a valid EPC certificate, where required to have one under building standards legislation, can be fined as follows as a minimum:

£500 for failing to hold a valid EPC certificate; and
£500 for failing to display a rating on any property listing.

Failing to notify a change etc.

It is an offence for a licence holder, without reasonable excuse, to:

- a) fail to notify the licensing authority of a material change of circumstances (level 3 on the standard scale),
- b) make or cause or permit to be made any material change in the premises (level 3 on the standard scale),
- c) fail to deliver the licence to the licensing authority (level 1 on the standard scale).

Making a false statement

It is an offence to make a false statement in an application (level 4 on the standard scale).

The Scottish Government intends to increase the maximum fine to £10,000 through provision in a suitable Bill early in this session (2021-26) of the Scottish Parliament.

Licensing authorities should be aware that some hosts or operators may make a false declaration about where they live, in order to apply for a home sharing or home letting licence, rather than a secondary letting licence. The host or operator may be attempting to obtain a licence with a lower fee and to avoid planning controls.