

REPORT TO: Licensing Sub-Committee

MEETING DATE: 12 October 2023

BY: Head of Corporate Support

SUBJECT: Civic Government (Scotland) Act 1982 and Planning (Scotland) Act 2019 Regulation of Short-Term Lets: Amendment of Existing Additional Conditions and Update of Policy Statement

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1 PURPOSE

- 1.1 To amend existing Additional Conditions of licence and to update the Short-Term Let Policy Statement, both of which were agreed at the Licensing Sub-Committee of 9 June 2022.

2 RECOMMENDATIONS

- 2.1 The Licensing Sub-Committee is asked to consider expanding the current Additional Condition (6) from the current wording, which is- "*Liquefied Petroleum Gas (LPG) shall not be used or stored on the premises*" to:

"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."

- 2.2 The Licensing Sub-Committee is asked to consider updating the Short-Term Lets Guidance and Policy in relation to floor plans (which are to be lodged along with an application).

- 2.3 The Guidance currently states that floor plans are required to specify the location of:

- Sanitary ware
- Cooking facilities
- Power outlets

- Lighting points and switches

and to be to a scale of 1:50 or 1:100.

2.4 The Short-Term Lets Policy Statement (Section 7.2) advises that floor plans should include details of:

- Room sizes
- Fire escape routes
- Accommodation intended for guests with mobility impairment
- Location of any steps, stairs, elevator or lifts
- Extent and boundary of the building (where deemed appropriate)

2.5 It is recommended that:

- (i) Guidance wording is amended to:

A legible, accurate and measurable plan of the premises (preferably to a scale of 1:100) is required, indicating the following:

- Room sizes
- Sanitary ware
- Cooking facilities
- Power outlets
- Lighting points and switches
- Accommodation intended for guests with mobility impairment
- Number of guests occupying each bedroom

- (ii) The Short-Term Let Policy Statement wording is amended to the same as the above.

2.6 The Licensing Sub-Committee is asked to approve the updating of the Short-Term Let Policy on license refusals (Section 9.2). There are currently transitional measures in place (which end 1 October 2023) which allow local authorities to 'refuse to consider' a licence application on the basis it breaches planning control, and the applicant is then given three months to apply for planning permission.

2.7 It is recommended that East Lothian Council change this provision so that the Licensing Authority may not require a further application in relation to applications received after 1 October 2023 which are considered to breach planning control and are refused to be considered by the licensing authority, provided application to the planning authority is made within three months of the date the applicant is notified of the Licensing Authority refusing to consider such application. The authority may require a new application is submitted should applications to the planning authority be made out with the abovementioned three-month period.

3 BACKGROUND

3.1 The Short-Term Let licensing regime opened on 1 October 2022 and the diversity of applications received is now becoming apparent, which is resulting in practical conditions being reviewed.

3.2 A number of local authorities are being challenged on the lawfulness of their policies, including a judicial review of City of Edinburgh Council’s policy. As a result, some sections of East Lothian’s local policy have been reviewed. A full review of the policy is required to be undertaken (and published) on or before 1 October every three years after 1 October 2022.

4 POLICY IMPLICATIONS

4.1 None.

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

6.1 Financial – none.

6.2 Other – not yet calculated.

7 BACKGROUND PAPERS

7.1 None.

Appendix 1 – Application Guidance

Appendix 2 – STL Policy Statement

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DATE	28 September 2023

SHORT-TERM LETS LICENSING

APPLICATION FORM GUIDANCE NOTES

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

These guidance notes have been provided to help you completing the application form before lodging an application for a licence for a Short Term Let (STL) please ensure that you have read the following Guidance.

Part 1: Application and licence type

Q1: Application type:

Applications will be made for either a new licence, or to renew a licence. Applications to renew a licence must be submitted prior to the expiry of your current licence. Renewal applications should be submitted three (3) months prior to the expiry date.

If you are an existing operator, operating the premises which is the subject of this application, as a short-term let prior to 1 October 2022, please select 'New application (existing operator)'. You will be able to continue operating whilst your application is being determined.

Q2: Short-term let licence type:

There are four types of short-term let licence which you can apply for:

1. *Home sharing*: means using all or part of your own home for short-term lets whilst you are there.
2. *Home letting*: means using all or part of your own home for short-term lets whilst you are absent, for example whilst you are on holiday.
3. *Home sharing and home letting*: means you operate short-term lets from your own home while you are living there and also for periods when you are absent.
4. *Secondary letting*: means a short-term let involving the letting of property where you do not normally live, for example a second home;

Q3: Permission from owners

Where you do not own the property you intend to operate as a short-term let, you must demonstrate that you have secured the consent of the property owners. Examples of situations where this may be relevant and required include where somebody with a private residential tenancy wishes to let out a spare room.

Part 2: Premises Details

Premises address

Please provide the full address, including postcode of the premises for which you are seeking a licence. If you have multiple premises, you will be required to submit an application for each premises (except in limited circumstances, for example 10 pods within a single field could be considered a single premises with multiple accommodation units).

Maximum number of occupants per unit / total maximum occupancy

Please state the maximum number of occupants allowed to reside on the premises. Where there are multiple accommodation units on the same premises, please include the total maximum occupancy and maximum occupancy per unit. Some illustrative examples are included below:

Premises type	Maximum occupancy per unit	Total Maximum occupancy
Self-catering detached house (secondary let – entire property)	10	10
Home sharing with 2 lettable bedrooms	2 bedrooms, with maximum occupancy of 2 per bedroom.	4
Field with 10 separately lettable pods	5 pods with maximum occupancy of 2; 5 pods with maximum occupancy of 3.	25

Number of bedrooms

Please state the number of bedrooms on your premises. For those offering home sharing, please state the number of bedrooms available for let.

Name(s) of joint property owner(s) *(if applicable)*

Please ensure you provide details of all owners of the property which is the subject of this application.

EPC rating

If you are applying for a licence for secondary letting, home letting or home sharing & home letting of a dwellinghouse, you must confirm the EPC rating of the premises and ensure that it is displayed on any listings for the premises. Please provide a copy of your EPC certificate to allow East Lothian Council to verify compliance.

Note – listings need not include the EPC certificate, but only the rating (e.g. EPC – D).

Q4: Type of premises

Unconventional accommodation is a broad term, used to capture all accommodation that is not a dwellinghouse – such as pods, yurts, static caravans etc.

Q5: Description of short-term let

This question will help understand the makeup of the short-term let sector in more detail – and relates to short-term let type. B&Bs and guest houses are often forms of home sharing.

Part 3: About You

Q6: Individual or corporate entity

Part 3 is split into two sections based on whether you are applying as an individual or corporate entity. Corporate entities include: companies, partnerships, trusts or charities.

Q7 & 8: Agents and joint ownership

Common to both sections is the requirement to provide details of all those who are behind the application. For individuals this will include any joint owners, day-to-day managers or agents. For corporate entities, this must include names of all directors, partners or other persons responsible for the management of your short-term let.

Part 4: Convictions

Details of any unspent convictions must be provided for everybody that has been named on your application in order for East Lothian Council as licensing authority to consult with Police Scotland (and any other body as appropriate) to determine whether all those name on the application are considered fit and proper persons.

Part 5: Checklist

Application checklist

The application checklist is designed to assist you with preparation of an application for a licence that is complete first time. If your application is incomplete East Lothian Council will return your application to you and ask you to resubmit a complete application.

The checklist is split into 3 sections to ensure:

- You have enclosed all necessary documentation to support your application;
- You understand your obligations; and,
- Your premises is suitable (and ready for inspection, if required).

Floorplans are required to be measurable to an accurate scale of 1:50 or 1:100 for first time applications only, unless there have been internal property changes since a previous application or we have incomplete / illegible plans from a previous application. Plans shall be provided on either A4 or A3 paper, indicating the following:

- To be to a metric scale and have a scale bar on each drawing
- Floor plans of each level including the layout of all rooms together with the location of sanitary ware, cooking facilities, power outlets, lighting points and switches
- All documents must be legible, accurate and measurable
- The number of guests occupying each bedroom

Part 6: Declaration

You are required to complete a declaration to confirm you have read and understood the mandatory conditions that apply to all short-term lets in Scotland and any additional conditions that are required by your licensing authority.

As noted within the declaration it is an offence to provide false or misleading information on your application form which could lead to prosecution, and you are therefore required to indicate that the information provide on your application form is correct to the best of your knowledge.

Licence Fees

Fees will be updated annually and can be found at www.eastlothian.gov.uk

Additional Documents:

Site Notice – Applicants have a statutory obligation to advertise display a notice of application stating that an application for a short-term let licence has been made.

A template site notice is provided. This notice should be completed clearly and legibly. The notice must be displayed suitably protected from the elements on or near to the property in a position where it can be easily read by members of the public for a period of 21 days starting on the date on which your application is lodged with the Council.

You must take reasonable steps to protect the notice and if it is removed, obscured or defaced, within the 21 day period, it should be replaced. At the end of the 21 day period the compliance notice must be completed and the entire notice must then be returned to East Lothian Council, Licensing, John Muir House, HADDINGTON, EH41 3HA or licensing@eastlothian.gov.uk

If the notice has been removed or defaced then you must provide the Council with written confirmation that you displayed the notice for 21 days as required and took steps to protect and replace the notice if appropriate.

Note – Where an applicant believes that compliance with the requirement to display a Site Notice is likely to jeopardise the safety or welfare of any persons, or the security of any premises, they may apply to the local authority to be exempt from this requirement.

Submitting your application

Before submitting your application, please ensure the following:

- The checklist at part 1 has been fully completed.
- The correct application fee is attached.
- All required certificates and supporting documentation are attached.
- The premises is ready for a property inspection to be carried out – (irrespective of whether or not the local authority chooses to inspect your premises).

Further information and links:

- Scottish Government Short-Term Lets webpage:
Short-term lets: regulation information – www.gov.scot
- Scottish Government Licensing Guidance for Hosts and Operators:
Short term lets – licensing scheme part 1: guidance for hosts and operators
www.gov.scot
- Scottish Government Planning Guidance for Hosts and Operators:
2. Guidance for Hosts and Operators – Short term lets: planning guidance for hosts and operators
www.gov.scot



Licensing Policy Statement

Short-term Lets

2022

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Section 1: Introduction

1.1 Links to local Plans and Strategies:

The Short-Term Lets Policy becomes effective from 1 October 2022 and links to:

- East Lothian Plan 2017-2027, Outcome 1.2 – Local businesses are thriving and the business base is expanding
- Economic Development Strategy, 2017-2022, Tourism
- Local Housing Strategy 2018-2023 (forthcoming LHS 2023-2028)
- Local Development Plan

1.2 Policy focus

The Council's Short-Term Lets Policy focuses on ensuring that an efficient, effective and proportionate licensing scheme is in place, which is customised to the needs and circumstances of the Council's local area and supports applicants who wish to obtain a short-term let licence. The policy outlines how the Council will administer applications, collect fees and monitor short term lets.

1.3 Procedure

Detailed Procedures will guide officers through the processes involved.

Section 2: Policy Purpose, Aims and Objectives

2.1 Purpose of the Policy

The Short-Term Lets Policy describes how the Council will manage the licensing of Short-term Lets, including setting out applicable fees, types of licence, refunds policy and complaints and enforcement procedures.

Copies of the Policy, Licence Conditions and the Council's Procedures including the Short-Term Lets Application form and Checklist are available to applicants on the Council's website, or, can be requested by emailing stl@eastlothian.gov.uk or by calling 01620 827664.

2.2. Aims of the Policy

The overall aim of the Policy is to ensure that the licensing scheme is:

- in line with the Scottish Government's overall policy aims for the licensing of Short-term Lets;
- efficient, effective and proportionate; and
- customised to the licensing authority's local policies and the needs and circumstances of the licensing authority's local area

2.3. Objectives of the Policy

The Policy will implement its aims through the following objectives:

- ensuring that the licensing scheme is effective, efficient and proportionate
- offering appropriate guidance and support to applicants using the licensing scheme
- ensuring the Council has a good knowledge and understanding of the local area with regards to short-term lets
- ensuring the safety of short-term lets through accommodation being offered, minimising the risk to guest and their families
- ensuring that those living in properties adjacent to short-term lets benefit from improved safety, especially risk of fire
- ensuring that noise, nuisance or anti-social behavior is tackled effectively
- minimising the risk of crime in the local authority area
- effectively monitoring the Policy and related procedures
- ensuring consistency with other policies and strategies

Section 3: Legal Framework

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

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

The effect of the Order is that from 1 October 2022, the use of accommodation for a Short-term Let is an activity for which a licence is required under the Civic Government (Scotland) Act 1982 (the “1982 Act”).

3.2 Short-term Lets definition

A Short-term Let means the use of residential accommodation provided by a host in the course of business to a guest, where:

- the guest does not use the accommodation as their only or principal home,
- the short-term let is entered into for commercial consideration
- the guest is not an immediate family member of the host, an owner or part-owner of the accommodation, or sharing the accommodation as part of an arrangement made, or approved by a school, college, or university
- the accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host, or to another member of the host’s household
- the accommodation is not excluded accommodation and
- the short-term let does not constitute an excluded tenancy

3.3 Short-term Lets Policy

The 2022 Order requires East Lothian Council to have a Short-term Let licensing scheme in place by 1 October 2022.

In preparing this policy, East Lothian Council has had due regard to the Supplementary Guidance for Licensing Authorities, Letting Agencies and Platforms issued by the Scottish Government. This is available at [Supplementary Guidance for Licensing Authorities, Letting Agencies and Platforms](#).

This policy should be read in conjunction with the 2022 Order and all relevant legislation, including but not limited to the 1982 Act, the Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021, the Equality Act 2010, the Data Protection Act 2018 and the Antisocial Behaviour etc. (Scotland) Act 2004.

3.4 Consultation on Short-term Lets policy

In April 2019, the Scottish Government launched a public consultation and commissioned independent research into the impact of short-term lets on people and communities. The consultation paper outlined possibilities for a regulatory approach, which included the licensing of short-term lets. The paper noted the range of approaches adopted in cities and countries around the world and asked for opinions on the types of short-term lets which should be regulated and the controls which should be applied. In parallel with the consultation, the Planning (Scotland) Act 2019 completed its passage through the Scottish Parliament and includes provision for the establishment of short-term let control areas.

In May 2019, the Scottish Government commissioned research to address gaps in the available evidence on the impact of short-term lets on housing and communities. The research combined both secondary data analysis of information published by Airbnb and surveys of residents and hosts, and in-depth interviews involving residents, hosts, community actors and local businesses.

In addition, East Lothian Council has consulted with relevant internal departments on the draft policy and conditions documents.

Section 4: Temporary Exemptions & Temporary Licences

4.1 Temporary Exemptions

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

East Lothian Council does not intend to have a policy on temporary exemptions and would not be supportive of such applications.

4.2 Temporary Licences

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

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

Section 5: Licence Duration and Renewal

5.1 Type of 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.

5.2 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.

5.3 Renewal

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.

Section 6: Application Process

6.1 Application Form and Checklist

The applicant must complete and return a copy of the Short-term Let application form along with the appropriate fee and checklist, providing copies of all relevant evidence as well as documents to stl@eastlothian.gov.uk. Alternatively, applications can be submitted by post to:

Licensing
John Muir House
HADDINGTON
EH41 3HA

Application forms can be found www.eastlothian.gov.uk

6.2 Notifying residents and neighbours

Applicants are responsible for notifying residents and neighbours of their application for a new Short-term Lets Licence, or 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.

A Notice must state:

- that an application has been made for a licence
- the main facts of the application:
 - Where the applicant is a natural person:
 - type of licence applied for;
 - name and address;
 - and where applicable, the name and address of anyone carrying on the day-to-day management of the activity
 - Where the applicant is other than a natural person:
 - Name and address of the registered or principal office
 - Names and addresses of directors, partners or other persons responsible for its management;
 - and where applicable, the name and address of anyone carrying on the day-to-day management of the activity
- the address of the premises from where the activity is to be carried on
- 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 the 1982 Act 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.

A template Site Notice and Certificate of Compliance can be found www.eastlothian.gov.uk

6.3 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. This may include a visit to the premises, where required. The statutory consultees for this licensing scheme are Police Scotland and the Scottish Fire and Rescue Service.

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

The Council may also ask for plans to show the location of any steps, stairs, or lifts in the premises, as well as the extent and boundary of the building where relevant.

6.4 Timescale

The Council aim to make a decision within 21 days from the end of the consultation period (28 days).

6.5 Public Register

When a Licence has been granted, this will be recorded in the public register, which is available upon request.

The public register will include:

- licence number
- licence type
- number of bedrooms in the premises
- contact details for the applicant and/or agent of the premises

- the Energy Performance rating

The Council will maintain the public register of licensed short-term lets and update as often as possible, with reviews being carried out on a quarterly basis.

6.6 Objections

Anyone can make an objection or representation to the Council, about an application for a Short-term Let licence. The objection or representation should be made during the 21 day consideration period following the application being submitted. Late objections may be considered in some circumstances where reasons are provided.

An objection or representation should be submitted in writing to stl@eastlothian.gov.uk. Alternatively objections can be sent to:

Licensing
John Muir House
HADDINGTON
EH41 3HA

The objection and representation should set out the objector's name and address, specify the nature of the objection or representation and state the address or reference number of the Short-term Let licence application.

An objection may be related to, but is not limited to, the following areas:

- whether the applicant is a fit and proper person;
- the location, character, condition or type of accommodation;
- whether the accommodation has relevant planning permission;
- the possibility of undue public nuisance, public order or public safety;
- whether there is a risk of affecting the privacy and security of neighbours; or
- whether there is other good reason for refusing the application.

The objection or representation cannot be treated confidentially. The Council will acknowledge the objection or representation and a copy will be sent to the applicant or their representative.

Once the application has been allocated to a meeting of the Licensing Sub-committee, the Council will send the objector a letter inviting them to attend the meeting to speak to the objection or representation. At the hearing, the objector will be provided with an opportunity to speak to their objection or representation and the applicant will be provided with an opportunity to respond.

Frivolous or vexatious objections or representations will not be considered.

6.7 Fees

A flat rate fee has been set by East Lothian Council, regardless of the type of licence applied for or the size of the let property. This policy will be reviewed as required. Details of fees can be found www.eastlothian.gov.uk

6.8 Refusal of a Licence

The Council will refuse an application for a Short-term Let licence where it is not satisfied that the applicant is a fit and proper person. The Council may refuse an application for a Short-term Let licence if the property is shown to be unsafe, or, there are significant risks to safety and security.

6.9 Refunds

The Council will **not refund** any fees charged for processing the application or renewal if the application is refused.

Where a licence is refused because the host or operator needs to obtain planning permission, the Council will not charge an additional fee in respect of a resubmitted application made within 28 days of planning permission being granted provided that the application for planning permission is submitted without undue delay.

6.10 Appeals Process

Applicants can appeal against a refusal of their Short-Term Let licence application. The appeal should be made within 28 days of being notified of the refusal and should be made to the Sheriff.

Section 7: Licence Conditions:

7.1 Mandatory Conditions

The 2022 Order requires all short-term let licenses across Scotland to apply the mandatory licence conditions. A list of the mandatory licence conditions is contained in Appendix 1.

7.2 Maximum Occupancy Condition

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 (under 2 years of age))
- 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 Council may also wish to ask for plans to show 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.

7.3 Additional Licence Conditions

In addition to the mandatory licensing conditions, the Council will impose additional licence conditions to a short-term let licence. The Council will review its list of additional licence conditions on a regular basis. A list of the additional licence conditions can be found in Appendix 2.

Where the Council opts to impose a supplementary licence condition, it will set out the issue that is being addressed by the supplementary condition, the reasoning for the supplementary condition, the action required of the licence holder and the deadline for this action to be completed by.

The Council will review its list of additional licence conditions on a regular basis. A list of the proposed additional licence conditions can be found in Appendix 2. This list is not exhaustive.

Section 8: Licence numbers

8.1 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.

8.2 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

8.3 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: **A₁A₂DDDDDA₃**

The leading two characters (A₁A₂) will identify the Council; East Lothian Council will use **EL**. 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: **EL00001T**

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

Section 9: Planning considerations

9.1 Short-Term Let control area

The Council may refuse to consider an application for a short-term let if the host or operator of a dwelling house within a short-term let control area needs planning permission but does not have it.

The high-level policy purpose behind control areas is as follows:

“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”.

It is a mandatory condition that a host or operator has planning permission, or, has made an application for planning permission, where all of the following conditions apply:

- they are using it for secondary letting; and
- it is a dwelling house.

In these circumstances, the host or operator must have made an application for planning permission or already have planning permission before they apply for a licence. In most cases, planning applications are determined within two months of being registered. Planning enquiries should be directed to environment@eastlothian.gov.uk

East Lothian Council currently has no control areas designated and this will regularly reviewed.

9.2 Licence refusals

The power to refuse a licensing application is designed to assist the Council in handling applications for secondary letting but Councils can use it in other circumstances too, such as letting rooms in your own home. Further details can be found in planning guidance for hosts and operators.

The Council has 21 days from receipt of a valid application to decide to refuse to consider the application. Where an application is refused, the applicant can request a review within 21 days of the Council’s decision. Appeals should be sent to stl@eastlothian.gov.uk

Alternatively, appeals can be sent by post to:
Licensing
East Lothian Council
John Muir House
HADDINGTON
EH41 3HA

If the Council refuses to consider an application for secondary letting, they will inform the host or operator within seven days of that decision and explain why they are refusing to consider the application.

Before 1 October 2023, the Council cannot determine a licence application on the basis it breaches planning control unless existing hosts have been given a chance to submit an application for planning permission or, for a Certificate of Lawful Use or Development ("CLUD"). The Council may determine a licensing application before this date where planning permission or, a CLUD has already been refused.

The applicant has three months from the date their application for a short-term let was submitted to lodge an application for planning permission or for a CLUD.

Where the Council has not received an application for planning permission during this time, the application is finally determined and the applicant can no longer provide short-term lets.

9.3 Links with control areas

Where a control area is designated, the Council will publish details of this on their website. This will assist hosts in determining whether, or not, to apply for a licence, in the knowledge that planning permission or a CLUD will be required.

The Council will give licenced hosts and operators a reasonable opportunity to comply with this mandatory condition by submitting a planning application. The host or operator should do this as soon as possible after the control area is designated.

The Council will ensure that licenced hosts or operators who may be affected by the designation of a control area are alerted as part of the planning authority's consultation process.

9.4 Where planning permission is refused

Where the Council refuse planning permission for short-term lets, the application or licence contingent on the planning permission will be refused, varied or revoked, as appropriate.

It will not always be necessary for an application to be refused, or licence to be revoked. For example, a host or operator may have a licence to let out one bedroom in their own home but have submitted an application to vary the licence, and an accompanying planning application, in order to let out three bedrooms. In this case, the applications might be declined but the existing licenced activity can continue.

Section 10: Compliance and Enforcement Action

10.1 Complaints

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 stl@eastlothian.gov.uk for investigation. Alternatively complaints can be sent by post to:

Licensing
East Lothian Council
John Muir House
HADDINGTON
EH41 3HA

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

Complaints will be acknowledged within ten working days and complainants will be appropriately kept up to date with the progress of their complaint. The Council will aim to respond to complaints within 21 working days. The Council will keep a record of all complaints made under this Policy.

Some complaints may require enforcement action from the Council, see section 10.4 of this Policy. A complaint against a short-term let licensed 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.

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.

10.2 Grounds for Complaints

A complaint may be related to the following areas:

- whether the host or operator is a fit and proper person;
- the condition of accommodation;
- concerns regarding planning permission;
- undue public nuisance, public order or public safety;
- privacy and security of neighbours; or
- any other good reason.

Frivolous or vexatious complaints will not be considered.

10.3 Identifying unlicensed short-term lets

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

The Council, letting agencies and platforms all have a role to play in identifying and eliminating unlicensed short-term lets. The Council will use a number of methods to check and monitor whether there are hosts or operators in the East Lothian area, that are trading without a valid short-term lets licence.

10.4 Enforcement Action

The options for enforcement action for the Council provided through the 2022 Order and 1982 Act are:

- additional licence conditions on application (or through variation)
- enforcement notices
- variation, suspension or revocation of the licence
- pursuance of prosecution in respect of offences under the 1982 Act

10.5 Enforcement Notices

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.

10.6 Variation, suspension and revocation

The Council may vary, suspend or revoke a licence in certain circumstances. The Council may do this without serving an Enforcement Notice if the seriousness of the breach justifies urgent action.

10.7 Variation

The Council may vary the terms of a licence on any grounds it thinks fit. The Council can do this at any time, including following an application made to it by the licence holder or of its own initiative.

10.8 Suspension or revocation

The Council may order the suspension or revocation of a licence, if in its opinion:

- the licence holder is no longer a fit and proper person to hold the licence;
- the licence holder is managing the property on behalf of someone who would have been refused the grant or renewal of the licence;
- the short-term let is causing or is likely to cause undue public nuisance, or, a threat to public order or public safety; or
- a condition of the licence has been contravened.

Where the Council revokes a licence, no further application can be made by that host or operator, in respect of that premises, within one year of the date of revocation.

10.9 Appeals

Applicants can appeal against a refusal of their Short-Term Let licence application.

Hosts and operators can appeal against the decision to vary, suspend or revoke a licence. The appeal should be made within 28 days of being notified of the refusal and should be made to the Sheriff.

Hosts and operators can take bookings and provide accommodation whilst they appeal a revocation or suspension and they have 28 days in which to lodge an appeal.

Section 11: Policy Monitoring and Review

11.1 Monitoring timescale

The Team Leader – Licensing and Landlord Registration, will monitor the number of applications to the Short-Term Lets licensing scheme on a quarterly and annual basis.

11.2 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 12: Appendices

12.1 Policy Appendices

Appendix 1 – What is a short-term let

Appendix 2 - Mandatory Licence Conditions

Appendix 3 – Additional Licence Conditions

Appendix 4 – Sample Short-term Lets licence

Appendix 5 – Public Notice of application for Short-term lets licence

Appendix 6 – Certificate of compliance

Appendix 7 – Application for short-term let licence

Appendix 8 – Application checklist

This document can be provided in large print, Braille or in an electronic format and can be translated into other community languages. Please contact the Council’s Communications Team at East Lothian Council, John Muir House, HADDINGTON, EH41 3HA, 01620 827827.

Short-term Lets Additional licence conditions

1. If there is a material change of circumstance affecting the Licensee or the operation of the Short-term Let, the Licensee must inform the licensing authority as soon as possible. No alteration must be made to the property without the prior written consent of the authority.
2. The licence holder must take steps to ensure that the property, fittings and furniture, including fire precautions, plumbing, gas and electrical installations, are maintained throughout the period of the licence to the standard required. The licence holder should hold all necessary certificates.
3. To ensure an adequate electricity supply is maintained to the installed Fire Detection system, where credit card meters are in use, the Licensee will be responsible for ensuring that the meters remain in credit when the premises are unoccupied for any period exceeding 48 consecutive hours.
4. The Licensee shall allow access to the premises at any reasonable time to the following officials for licensing purposes:
 - Any officer of East Lothian Council
 - Any officer of the Scottish Fire & Rescue Service
 - Any officer of Police Scotland
5. The Licensee will be responsible for the day to day running of the premises, and for ensuring that guests comply with the terms of their Lease and in particular to deal effectively with any anti-social behaviour by guests to anyone else in the locality of the Short-term Let.
6. Liquefied Petroleum Gas (LPG) shall not be used or stored on the premises.
7. The licence holder shall comply with the current regulations regarding maximum re-sale prices of gas and electricity supplied, as appropriate.
8. The licence holder should ensure that let rooms are fitted with a lever latch and secured with a suitable lock and thumb turn mechanism or other appropriate locking mechanism.
9. The building should be maintained in a reasonable state of repair, having regard to its age, type and location. Garden and environmental areas should also be adequately maintained.
10. Where a Short-term Let is in a shared building the licence holder must co-operate and participate in the general repair and maintenance of the building and the cleaning of common parts. Where the guests fail to participate in the cleaning of common areas or environmental areas, the licence holder will be expected to carry out the work.
11. Adequate and suitable facilities must be provided for the storage and disposal of refuse. Where bins are provided to terraced and tenemental property they must be clearly identified by flat or property address. The licensee must ensure that the guests utilise the bins provided and ensure that refuse or bins are placed out on collection day and that bins are returned to the bin storage area following collection (where applicable).