

REPORT TO: Licensing Sub-Committee

MEETING DATE: 12 December 2024

BY: Executive Director for Council Resources

SUBJECT: Civic Government (Scotland) Act 1982 and
Review of Short-Term Let Policy

2

1 PURPOSE

- 1.1 To review the above policy and associated appendices, originally approved 9 June 2022.

2 RECOMMENDATIONS

- 2.1 The Licensing Sub-Committee considers the amendments made to the policy in light of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) (Amendment) Order 2024, various challenges to the policies of other local authorities, and a local review.
- 2.2 The updated policy is approved and implemented with immediate effect.
- 2.3 Amended Appendices 3 and 4 (of this report) are approved and implemented with immediate effect.

3 BACKGROUND

- 3.1 The Amendment Order 2024 was introduced August 2024 and an explanatory note relating to the changes is provided at Appendix 1.
- 3.2 Planning considerations, specifically licence refusals, have been reviewed and amended following East Lothian Council's legal department's considerations of challenges to the policies of other local authorities.
- 3.3 In accordance with the original policy, a review will be carried out on a regular basis. The licensing regime was introduced October 2022.
- 3.4 The updated policy is attached at Appendix 2. The suggested amendments include:

- 3.4.1 In the absence of a Scottish Government definition of ‘only or principal’ home, a local definition has been introduced.
- 3.4.2 The nature of relevant objections and complaints has been reviewed and amended.
- 3.4.3 Following Cabinet’s approval of reviewed licensing fees, the ‘flat rate fee’ has been removed.
- 3.4.4 In accordance with the Amendment Order 2024, the definition of short-term lets has been amended (Appendix 3).
- 3.4.5 Following the local review, the additional conditions have been amended (Appendix 4).

4 POLICY IMPLICATIONS

- 4.1 Licensing of short-term lets will soon become a statutory obligation for East Lothian Council. This report is based upon legislation and Scottish Government guidance for licensing short-term lets.

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 IMPLICATION

- 6.1 There are no additional resource implications.

7 BACKGROUND PAPERS

- 7.1 None

APPENDICES

- Appendix 1 Amendment Order 2024 Explanatory Note
- Appendix 2 Amended East Lothian Council policy
- Appendix 3 Amended Definition of Short-Term Lets
- Appendix 4 Amended Additional Conditions

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EXPLANATORY NOTE

(This note is not part of the Order)

The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (“the 2022 Order”) introduced a licensing regime for the short-term let of residential accommodation. This Order amends the 2022 Order which in turn modifies the Civic Government (Scotland) Act 1982. This ensures that the short-term let licensing regime is contained wholly within the 2022 Order.

Article 2(2)(a) amends the definition of commercial consideration to remove the provision of a service as a form of commercial consideration.

Article 2(2)(b) amends the definition of “excluded tenancy” at sub-paragraph (1) to provide that a person’s foster child is treated as the person’s child. A foster child is therefore classed as an immediate family member of the host for the purposes of the definition of “short-term let” in article 3 of the 2022 Order and not a guest in a short-term let.

Article 2(3) amends article 4 of the 2022 Order to give a licensing authority a discretion, where a short-term let licence application is made in respect of multiple accommodation situated on a single premises, to grant the licence in respect of some or all of that accommodation.

Article 2(4) amends paragraph 1 of schedule 1 of the 2022 Order to ensure that guest rooms provided in residential accommodation where personal care is provided, guest rooms in hospitals, guest rooms in nursing homes and guest rooms in sheltered housing are all classed as excluded accommodation for the purposes of the short-term let licensing regime.

Article 2(5) provides definitions of sheltered housing and vulnerable adult for the purposes of the amendments made in article 2(4).

Article 2(6) amends paragraph 6 of schedule 2 of the 2022 Order (which in turn modifies schedule 1 of the 1982 Act) to clarify that a temporary exemption from the need to obtain a short-term let licence may be granted for no more than three separate periods which amount in total to no more than 6 weeks in one calendar year.

Article 2(7) inserts new provision after paragraph 9 of schedule 2 of the 2022 Order (and in turn inserts paragraphs 7A and 7B into schedule 1 of the 1982 Act). New paragraph 7A introduces a procedure whereby an application can be made to a licensing authority for a provisional short-term let licence in relation to premises which have yet to be, or are in the course of being, constructed. The provisional short-term let licence application is processed in the same manner as a short-term let licence application but where a provisional licence is granted, it is of no effect until it has been confirmed by the licensing authority. A provisional short-term let licence is revoked if it is not confirmed within 3 years of being granted, unless that period is extended by the licensing authority.

Article 2(8) inserts new provision after paragraph 10 of schedule 2 of the 2022 Order (and in turn inserts paragraph 9A into schedule 1 of the 1982 Act). New paragraph 9A introduces a procedure whereby a short-

term let licence holder can apply to the licensing authority to transfer the licence into the name of a third party (the transferee).

Article 2(9) amends paragraph 12 of schedule 3 of the 2022 Order. Schedule 3 of the 2022 Order specifies mandatory conditions for short-term let licences and paragraph 12 of schedule 13 specifies information which must be displayed in the premises. Article 2(9) provides that information about action to be taken when the carbon monoxide alarm sounds and information about the operation and movement of mobile gas cabinet heaters must be displayed in the premises.

Article 3 amends section 12(1) of the Housing (Scotland) Act 2006 to make it clearer that the repairing standard in Part 1 of that Act applies to short-term lets. The repairing standard applies to any tenancy of a house let for human habitation and a short-term let is defined as a tenancy under section 12(3) (as inserted by the 2022 Order).

Article 4 makes transitional provision in relation to article 2(3) and (6). Article 4(1) provides that the licensing authority's power to grant one licence for multiple accommodation on a single premises applies only to an application made on or after the day on which this Order comes into force. Article 4(2) provides that the new rule on temporary exemption applies only to an application for a temporary exemption made on or after the day on which this Order comes into force. Article 4(3) provides that periods of temporary exemption prior to the day on which this Order comes into force are not to be taken into account for the purposes of determining whether the temporary exemption applied for would breach the rules that there must be no more than three separate periods of exemption within one calendar year and there must be no more than 6 weeks of temporary exemption within one calendar year.



Licensing Policy Statement

Short-term Lets 2022

Approved	9 June 2022
Amended	12 October 2023
Amended	12 December 2024

Contents	Page
Section 1: Introduction	
1.1 Links to local Plans and Strategies	4
1.2 Policy focus	4
1.3 Procedure	4
Section 2: Policy Purpose, Aims and Objectives	
2.1 Purpose of the Policy	4
2.2 Aims of the Policy	4
2.3 Objectives of the Policy	5
Section 3: Legal Framework	
3.1 Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022	5
3.2 Short-term lets definition	5
3.3 Short-Term Lets Policy	6
3.4 Consultation on Short-Term Lets Policy	6
Section 4: Temporary Exemptions and Temporary Licenses	
4.1 Temporary Exemptions	6
4.2 Temporary Licenses	6
Section 5: Licence Duration and Renewal	
5.1 Types of Licence	7
5.2 Duration	7
5.3 Renewal	7
5.4 Transfer	
Section 6: Application Process	
6.1 Application Form and Checklist	7
6.2 Notifying residents and neighbours	7
6.3 Application checks	8
6.4 Timescales	8
6.5 Public Register	8
6.6 Objections	9
6.7 Fees	9
6.8 Refusal of a Licence	10
6.9 Refunds	10
6.10 Appeals Process	10
Section 7: Licence Conditions	
7.1 Mandatory Conditions	10
7.2 Maximum Occupancy Condition	10
7.3 Additional Conditions	11
Section 8: Licence Numbers	
8.1 Licence Numbers	11
8.2 Licence number specification	11

Section 9:	<u>Planning considerations</u>	
	9.1 Short-Term Lets control area	12
	9.2 Links with control areas	13
	9.3 Where planning permission is refused	13
Section 10:	<u>Compliance and Enforcement Action</u>	
	10.1 Complaints	14
	10.2 Grounds for complaints	14
	10.3 Identifying unlicensed short term lets	15
	10.4 Enforcement Action	15
	10.5 Enforcement notices	15
	10.6 Variation, suspension and revocation	15
	10.7 Variation	15
	10.8 Suspension or revocation	16
	10.9 Appeals	16
Section 11:	<u>Monitoring and Review</u>	
	11.1 Monitoring timescale	16
	11.2 Review timescales	16
Section 12:	<u>Appendices</u>	
	12.1 Policy Appendices	17

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 2024-2029
- 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, [Short-term lets | Short-term Lets licensing | East Lothian Council](#), 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 guests 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 [Short term lets - licensing scheme part 2: supplementary guidance - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/short-term-lets-licensing-scheme-part-2-supplementary-guidance/pages/1-1-introduction.aspx)

This policy should be read in conjunction with the 2022 Order (and Amendment Order 2024) 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, Renewal and Transfer

5.1 Type of Licence

There are five types of licence for short term let accommodation:

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

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.

An 'only or principal' home is recognised as being where the host or operator lives and spends most of their time. An 'only or principal' home may be where the host or operator spends less time, however, most of their possessions are there, or their immediate family lives there.

Provisional licenses are for new build short-term lets and can be applied for at the construction stage. This licence will need to be confirmed once the accommodation is complete and the host complies with the mandatory and additional conditions.

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.

5.4 Transfer

A licence may be transferred to someone else on application by the licence holder. This will support hosts/operators if they intend to sell, by allowing the premises to be marketed as a short-term let (with future bookings) or if a licence holder has died and an executor has been appointed.

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 [Short-term lets | Short-term Lets licensing | East Lothian Council](#)

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 [Short-term lets | Short-term Lets licensing | East Lothian Council](#)

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 and type of property

- licensed premise address
- 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;
- ;
- 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

Details of fees can be found [Licensing fees booklet 2024 | East Lothian Council](#)

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 or withdrawn.

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. Refer to Section 9: Planning Considerations.

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 2.

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

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 and number of guests occupying each room.

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 3.

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. This list is not exhaustive.

Section 8: Licence numbers

8.1 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

8.2 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
- **F** First (full) licence
- **R** Renewed licence
- **N** application from new host (prior to determination)

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;
- it is a dwelling house; and
- a control area has been established

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 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.

9.3 Where planning permission is refused

Where the Council refuse planning permission for short-term lets, the applicant may leave themselves open to Planning Enforcement Action if they continue to operate the business.

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;
- ;
- 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 as well as the Council.

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.

Definition of Short-term Let

Short-term let means the use of residential accommodation provided by a host in the course of business to a guest, where all of the following criteria are met:

- 1) The guest does not use the accommodation as their only or principal home;
- 2) The short-term let is entered into for commercial consideration;
- 3) The guest is not:
 - i. An immediate family member of the host
 - ii. Sharing the accommodation with the host for the principal purpose of advancing the guest's education as part of an arrangement made or approved by a school, college or further or higher educational institution, or
 - iii. An owner or part-owner of the accommodation
- 4) 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;
- 5) The accommodation is not excluded accommodation;
- 6) The short-term let does not constitute an excluded tenancy; and
- 7) The accommodation is not provided for foster arrangements.

Excluded accommodation

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(6) 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) Guest rooms in specific types of residential accommodation where personal care is provided;
- g) A hospital or nursing home;
- h) A residential school, college or training centre;
- i) 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);
- j) A refuge;
- k) Student accommodation;
- l) Accommodation which otherwise requires a licence for use for hire for overnights stays;
- m) Accommodation which is provided by the guest;
- n) Accommodation which is capable, without modifications, of transporting guests to another location;
- o) A bothy; or
- p) Accommodation owned by an employer and provided to an employee in terms of a contract of employment or for the better performance of the employee's duties.

Excluded tenancies

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

- a) A protected tenancy (within the meaning of Section 1 of the Rent (Scotland) Act 1984);
- b) An assured tenancy (within the meaning of Section 12 of the 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 of the Crofters (Scotland) Act 1993);
- e) A tenancy of a holding situated outwith the crofting counties (within the meaning of Section 61 of the 1993 Act) to which any provisions of the Small Landholders (Scotland) Act 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 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 (within the meaning of Section 3 of the Agricultural Holdings (Scotland) Act 2003);
- m) A private residential tenancy (within the meaning of Section 1 of the Housing (Scotland) Act 2016);
- n) A student residential tenancy

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. 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.
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).
12. Licence Holders registered for Business Rates must have in place a Waste Management Contract providing for the storage and disposal of refuse.

