

# **Short Term Lets in Scotland**

## **Licensing Scheme**

### **Part 2. Supplementary Guidance for Licensing Authorities, Letting Agencies and Platforms**

## **Contents**

### **1. Introduction**

- a. Purpose of guidance
- b. Language used in Guidance Part 2
- c. Updates

### **2. Publicising the licensing scheme**

- a. Application form and information for applicants
- b. Information for residents and neighbours

### **3. Licence types and policies**

- a. Overarching aim and design principles
- b. Two types of licence
- c. General policies
- d. Licence duration and renewal policy
- e. Overprovision policy statement
- f. Temporary exemptions policy
- g. Temporary licences policy

### **4. Setting licence fees**

- a. Balancing costs and revenues
- b. Chargeable activities
- c. Parameters for setting fees

### **5. Setting additional licence conditions**

- a. Whether to set additional conditions
- b. Scope of additional conditions
- c. How to publicise additional conditions
- d. Flexibilities in applying the maximum occupancy condition
- e. How to draft an additional condition
- f. Prohibited condition: limits on nights
- g. Template additional conditions

### **6. Handling licensing applications**

- a. Additional information from applicants
- b. Planning considerations
- c. Licence numbers
- d. Notification of residents and neighbours
- e. Third party accreditation

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- f. Licensing committees and determining applications

**7. Complaints and enforcement**

- a. Handling complaints
- b. Taking a risk-based approach to ensuring compliance
- c. Identifying unlicensed short-term lets
- d. Options for enforcement action
- e. Enforcement notices
- f. Variation, suspension and revocation
- g. Offences under the 1982 Act

**8. Licensing data**

- a. Introduction
- b. Managing the data
- c. The public register
- d. Sharing data

**9. Other relevant legislation**

**Annex A – Working group members**

**Annex B – Design principles**

**Annex C – Licence number specification**

**Annex D – Public register specification**

## 1. Introduction

- 1.1. This Guidance Part 2 is intended for Scottish licensing authorities, letting agencies and platforms facilitating short-term lets in Scotland. This guidance is to be read with Part 1 of the guidance for hosts and operators (from now on known as “**Guidance Part 1**” (**Paper 4**)). Material in Guidance Part 1 is not generally repeated in this guidance.
- 1.2. This Guidance Part 2 has been published and is freely available for hosts and operators to refer to for further information.
- 1.3. Separate guidance has been produced in respect of planning considerations for hosts and operators (**Paper 6**) and **Planning Circular 1/2021** to assist planning authorities in establishing control areas. Hosts and operators must comply with both planning and licensing law.
- 1.4. This Guidance Part 2 is non-statutory and should not be interpreted as offering definitive legal advice. If in doubt, you should seek your own legal advice.
- 1.5. The Guidance Part 1 and Part 2 has been developed in consultation with the short-term lets stakeholder working group comprising a wide range of industry, local authority and community stakeholders (listed at **Annex A**). The Scottish Government is grateful to working group members for sharing their time and expertise to help shape this guidance. Editorial control rests with the Scottish Government and working group members were not asked to agree or endorse this guidance.

### Purpose of guidance

- 1.6. This Guidance Part 2 is designed to help licensing authorities implement a licensing scheme in their area which is:
  - in line with the Scottish Government’s overall policy objectives for the licensing of short-term lets (see Guidance Part 1);
  - customised to the licensing authority’s local policies and the needs and circumstances of the licensing authority’s local area; and
  - efficient, effective and proportionate to the issues faced by residents and local communities in their area.
- 1.7. It is also aimed at letting agencies and platforms to help them understand, comply with and support the Scottish Government and licensing authorities in implementing their licensing schemes. They have an important part to play in

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

making the schemes fully effective and in assisting with compliance and enforcement.

- 1.8. This guidance will guide licensing authorities through all the considerations in establishing and operating a licensing scheme. It will help letting agencies and platforms understand their role and the steps they should take to make the licensing scheme work to best effect for guests, hosts and operators and neighbours.

## **Language used in Guidance Part 2**

- 1.9. The glossary for Guidance Part 1 has effect for this Guidance Part 2.

- 1.10. We additionally use the following terms from the 1982 Act and Licensing Order, where the circumstances require it:

**“applicant”** means the person making the application for the licence, normally the host or operator; and

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

- 1.11. In Guidance Part 2, we differentiate between the level of compulsion for licensing authorities, letting agencies and platforms loosely based on the **MoSCoW** rating:

**“must [do x]”** means that [x] is a legal requirement on the licensing authority, letting agency or platform

**“should [do x]”** means that the licensing authority, letting agency or platform is requested or strongly advised to do [x]

**“could /can [do x]”** means that the licensing authority, letting agency or platform has [x] as an acceptable option open to them

## **Updates**

- 1.12. This version of Guidance Part 2 is draft to accompany the laying of the Licensing Order in June 2021.

- 1.13. A final version of the Guidance Part 2 will be published in autumn 2021.

- 1.14. This Guidance Part 2 may need to be updated from time to time due to a range of factors, such as changes to legislation or suggestions for improvements from stakeholders. Ownership of this guidance rests with the

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

Scottish Government. The Scottish Government will invite the stakeholder working group to participate in a review of the guidance in 2022.

- 1.15. The latest version will always be available at: [Short-term lets: regulation information - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/information/short-term-lets-regulation-information/).
- 1.16. We will notify licensing authorities of any updates.

## **2. Publicising the licence scheme**

### **Application form and information for applicants**

- 2.1. Licensing authorities should take active steps to publicise their licensing schemes to raise awareness amongst current and potential short-term let hosts and operators. Hosts and operators should be encouraged to make an application for a licence in time to meet the statutory deadlines.
- 2.2. However, licensing authorities should consider ways to encourage applications to be spread over months and avoid a last-minute rush at statutory deadlines. Good publicity is an important factor but licensing authorities might also want to consider other measures, for example clarifying that an early application would not result in a licence with an earlier expiry date (see **chapter 3**).
- 2.3. Effective publicity will help to deliver high levels of compliance with the licensing scheme. Most short-term let hosts and operators will want to comply with the law, provided they know about it. But effective publicity will also make less scrupulous hosts and operators mindful that neighbours will be aware of the licensing scheme and that they might report unlicensed short-term lets to the licensing authority.
- 2.4. There are a wide range of methods and sources available to a licensing authority when publicising the licensing scheme. The most appropriate advertising techniques will depend on the licensing authority area and the types of short-term let and volume and pattern of activity. Licensing officers are encouraged to share knowledge, learning and experience with those from other authorities.
- 2.5. Licensing authorities should have a dedicated section on their website for their short-term let licensing scheme where hosts and operators can find all the information that they need to apply and comply. This includes:
  - links to Scottish Government guidance;
  - fees for applications and renewals (and any other fees);
  - additional information and guidance about relevant policies, additional conditions or measures specific to the licensing authority area; and
  - the application form.
- 2.6. Licensing authorities should work towards a digital first approach in line with Scottish Government's Digital Strategy. The Scottish Government would like hosts and operators to be able to conduct as many transactions as possible

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

with licensing authorities in an online or electronic format. This is likely to be more efficient for both hosts and operators and licensing authorities.

- 2.7. However, licensing authorities should bear in mind, in respect of both publicity and accessibility of information and application forms, that some hosts and operators (and residents and neighbours – see below) may have trouble accessing online information. This may be because they have disabilities or other issues accessing the Internet. Online information should be provided in line with [Scottish Government’s digital accessibility requirements](#) and be compatible with assistive technology. Licensing authorities should have paper copies of relevant information, and the application form, available upon request for people who cannot access them online and provide support to access online services at their offices.

### ***Application checklist***

- 2.8. The Guidance Part 1 includes an application checklist for hosts and operators. Licensing authorities may wish to augment this application checklist to cater for any additional conditions or other specific requirements and make this available on their website. The Scottish Government can make the application checklist available to licensing authorities in Word format for editing and posting in a tailored form on the licensing authority website.

### **Information for residents and neighbours**

- 2.9. Licensing authorities should ensure that residents and neighbours can easily find information on their website about their licensing scheme tailored to their needs and interests. Some of this will be the same as for hosts and operators, for example understanding the statutory deadlines by which applications must be made and licences obtained. Residents and neighbours should be able to find and search the public register (see **chapter 8**) where they can find out whether a premises is licensed.
- 2.10. Residents and neighbours are likely to be interested in:
- The definition of short-term let – should the premises have a licence?
  - The application process – will they be told, how do they get involved?
  - Grounds for objection – for what reasons can they object to an application for a licence?
  - The public register – does the premises have a licence?
  - The licence conditions – what is the host or operator required to do?



SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- 2.11. By signposting residents and neighbours to further information on the definition of a short-term let and the public register it may help reduce the number of potential complaints or queries to the licensing authority. For example, where a neighbour can check that an application for a licence has been made or granted and is lawfully carrying on, they are less likely to query this with the authority. In addition, licensing authorities may also wish to signpost residents and neighbours to relevant letting agencies or platforms in order to raise any issues or concerns directly with them, for example through Airbnb's Neighbour Tool.
- 2.12. Licensing authorities should set out clearly their process for giving notice of an application for a licence (see **chapter 6**). Licensing authorities should set out clearly how neighbours can respond should they receive such a notification.
- 2.13. Licensing authorities should include the following information on their website:
- how to make a complaint (licensing and planning authorities could consider how to join up and triage complaints, see **chapter 7**);
  - how to report suspected unlicensed short-term lets and breaches of licence conditions; and
  - how to raise an objection when notified of an application (licensing and planning authorities could consider how to join up and triage licensing and planning processes and objections, see **chapter 6**).
- 2.14. Licensing authorities should consider setting out clear information on their website to help residents and neighbours establish whether their complaint or objection is likely to be valid and how to direct it. This will help the licensing authority in processing the complaint or objection effectively.
- 2.15. Licensing authorities could consider including a general FAQ, covering common queries previously received from residents and neighbours.

### **3. Licence types and policies**

#### **Overarching aim and design principles**

- 3.1. As a general principle, the Scottish Government would like to avoid arbitrary variation across Scotland and an important aim of this Guidance Part 2 is to set out the Scottish Government's recommended approach to licensing authorities in order to avoid this.
- 3.2. Licensing authorities should develop the details of their licensing scheme informed by the design principles developed through public consultation, see **Annex B**.

#### **Two types of licence**

- 3.3. Licensing authorities should issue one of two types of licence for a premises. The licence should be for either:
  - a) home sharing and home letting; or
  - b) secondary letting.
- 3.4. The Licensing Order permits other permutations, such as a single licence for all three types of short-term let. However, 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 premises.
- 3.5. Evidence gathered during the two public consultations in 2019 and 2020 and independent research on the impact of short-term lets on communities in 2019<sup>1</sup> confirmed that secondary letting has much more of an impact in terms of loss of community, noise and anti-social behaviour and reduced availability of housing. Secondary letting is widely believed to increase the cost of housing for locals in hotspot areas.
- 3.6. There is generally less concern from neighbours around home sharing because the host is present. Indeed, many positive impacts were cited, such as: provision of extra income for owners; better use of housing stock by utilising spare bedrooms; and hosts sharing local knowledge with guests such as recommendations for local businesses.
- 3.7. Making this distinction will also help with:
  - understanding the pattern of short-term let activity;

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<sup>1</sup> Consultation reports and the research publication is available here: [Short-term lets: regulation information - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/short-term-lets-regulation-information/pages/11.aspx)

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- differentiating application fees – see **chapter 4**; and
- applying an overprovision policy to secondary letting – see paragraphs 3.23 and following below.

## **General policies**

- 3.8. Licensing authorities should develop a set of short-term lets policies specific to their area. Licensing authorities may apply different policies in different parts of their area. Policies should be as simple and straightforward to understand and apply as possible.
- 3.9. Licensing authorities should ensure that their licensing scheme delivers the Scottish Government’s policy objectives for the licensing of short-term lets and develop detailed policies that are consistent with those objectives.
- 3.10. As stated in the Guidance Part 1, the aims of the licensing scheme are:
- to ensure short-term lets are safe and address issues faced by neighbours;
  - to facilitate licensing authorities in knowing and understanding what is happening in their area; and
  - to assist with handling complaints effectively.
- 3.11. For a licensing scheme to address issues faced by neighbours will require the scheme to be shaped to address local needs and concerns through detailed policies. In some areas, there may be no particular local issues and no need for detailed policies.
- 3.12. Each licensing authority should have regard to their planning authority’s objectives and policies, including:
- the local development plan;
  - other relevant planning policies; and
  - any intended or designated control areas.
- 3.13. Licensing authorities should then develop policies on:
- **licence duration and renewal** - see paragraphs 3.16 and following below;
  - **overprovision** – see paragraphs 3.23 and following below;

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- **temporary exemptions** – see paragraphs 3.48 and following below;
- **temporary licences** – see paragraphs 3.58 and following below;
- **additional conditions** – see **chapter 5**; and
- **compliance and enforcement** – see **chapter 7**;

3.14. These policies will affect the volume of work, the costs and potential chargeable activities and should be determined before setting fees, see **chapter 4**.

3.15. More information on potential costs is set out in the draft Business and Regulatory Impact Assessment<sup>2</sup> (**Paper 3**). However, licensing authorities should bear in mind that their own particular processes and circumstances are likely to move them away from national averages.

### **Licence duration and renewal policy**

3.16. A licence can be granted for a period of up to 3 years initially, after which it needs to be renewed. Licensing authorities have flexibility as to the duration of licences they grant and may grant licences for different time periods to different applicants provided they have clear and transparent criteria for doing so. Licensing authorities should adopt the simplest approach that meets their policy aims.

3.17. The duration applies from the date on which the licence comes into force.

3.18. Licensing authorities may want to incentivise early applications by clarifying that an early application would not result in a licence with an earlier expiry date. For example, applications made in the period October 2022 to March 2023 would, if granted, be granted for such a duration that they would expire on 1 April 2025. I.e. the existing host or operator would get two years from 1 April 2023, even if they applied six months in advance of the deadline.

3.19. The Licensing Order allows licensing authorities to renew licences for such periods as they see fit (there is no time limit)<sup>3</sup>. However, licensing authorities must set out the circumstances in which they would use the power to set a licence period in excess of three years. Licensing authorities are encouraged to renew licences for a period of three years, unless they have good reasons to do otherwise.

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<sup>2</sup> See the BRIA (**Paper 3**).

<sup>3</sup> Paragraph 8 (duration of licences) of schedule 1 to the 1982 Act as modified by the Licensing Order.

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- 3.20. The Scottish Government's intention in giving licensing authorities this power is to reduce the administrative burden around renewal for those short-term lets which have demonstrated ongoing compliance with their licence conditions and do not cause issues to neighbours. Longer licence periods would provide hosts and operators with certainty for a longer period, in respect of accepting bookings. However, licensing authorities should bear in mind that longer licence periods could reduce their revenue from renewal application fees and may be more compatible with a subscription model for charging fees.
- 3.21. The principal policy intention is to ensure that all short-term lets meet basic safety standards (as set out in the mandatory conditions). Therefore, licensing authorities should consider how they will ensure compliance for the duration of the licence. This is potentially more of a challenge where a licence is granted for a longer period of time. Licensing authorities should consider whether and how often they would want to see certain documentation or make visits during the licence period.
- 3.22. Licensing authorities must specify the duration and expiry date of each licence on the licence itself.

**Example licence duration and renewal policy**

*First licence applications granted for a period of one year.*

*Renewal applications are normally granted for a period of three years.*

*However, where any licence conditions have been breached during the previous licence period, the renewal period (if renewed at all) will be for one year.*

### **Overprovision policy statement**

- 3.23. Overprovision is only relevant to secondary letting. Licensing authorities cannot consider overprovision as a factor in determining home sharing and home letting licence applications.
- 3.24. Licensing authorities have the power to refuse an application for secondary letting where they consider that there would be an overprovision of short-term letting of the same type to which the application relates in that locality<sup>4</sup>:

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<sup>4</sup> Paragraphs 5(3A) to (3C) of schedule 1 to the 1982 Act, inserted by the Licensing Order.

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

*“(3A) A licensing authority may refuse an application for a short-term let licence for secondary letting if it considers that there is (or, as a result of granting the licence, would be) overprovision of short-term lets in the locality in which the premises is situated, whether of the same type of premises or otherwise.*

*(3B) It is for the licensing authority to determine the localities within its area for the purpose of sub-paragraph (3A) and in doing so the authority may determine that the whole of the authority’s area is a locality.”*

- 3.25. The prospective test (3A) allows for circumstances in which there are few homes in the locality. For example, in a rural community comprising 12 houses, in which two are already used as short-term lets, it may be that granting a licence to a third house would be regarded as overprovision.
- 3.26. The type of short-term let here could refer to, for example, lets in a tenement. A licensing authority may take the view that there is an overprovision of lets in tenements in a locality, but grant an application for a licence for a detached home, for example.
- 3.27. The wording in (3B) makes it clear that it is for the licensing authority to determine the localities. In some cases, these will be informed by, or aligned to, control areas but they might also be informed by other natural or artificial features, such as a group of homes within easy access to a significant amenity. Licensing authorities may determine that the whole of their area is a locality.
- 3.28. In considering whether there is or would be overprovision in any locality, the licensing authority must have regard to:
  - a) the number and capacity of licensed short-term lets in the locality, and
  - b) the need for housing accommodation in the locality and the extent to which short-term let accommodation is impacting the availability of housing, and
  - c) such other matters as they consider relevant.
- 3.29. For example, the licensing authority might consider that, given the number of short-term lets operating in an area, it is more important that a particular type of property is directed towards meeting the housing need of permanent residents.
- 3.30. Decisions to refuse a licence on grounds of overprovision can be appealed.

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- 3.31. Licensing authorities must publish an overprovision policy statement and, from time to time, review it. Their overprovision policy statement must include information regarding:
- a) the localities in which the overprovision policies contained within the overprovision policy statement apply; and
  - b) the policy on overprovision which applies in each locality.
- 3.32. Licensing authorities may want to set out the matters which they have considered in determining the localities and the policies. Licensing authorities should beware of potential unintended consequences from their overprovision policy, for example causing homes to remain empty for long periods that could otherwise be productively used.
- 3.33. Licensing authorities must consult such persons as think appropriate on their overprovision policy statement; the breadth and depth of the consultation is likely to depend on the proposed overprovision policy. Licensing authorities should consider linking an overprovision consultation to any public engagement on proposals for control areas by the planning authority, where it might aid public understanding to do so.
- 3.34. Where a licensing authority does not want to use their powers to refuse any applications on the grounds of overprovision, they can comply with this duty by publishing a statement on their website to the effect that overprovision would not be grounds for refusal in their area.
- 3.35. A licensing authority can express an overprovision policy for a locality or an area or for their whole area as a formula, provided that care is taken to avoid unintended consequences.
- 3.36. The data which licensing authorities use to evidence overprovision should be drawn from reliable sources, for example using data from their licence schemes.

**Example overprovision policy statements**

**Example 1**

*Overprovision is not a ground for refusing a licence application.*

**Example 2: city formula**

*In [x] council ward, where approving the application for secondary letting would result in more than 10% of the residential dwellings in the ward being used for this purpose, the application will be refused.*

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

**Example 3: rural formula**

*In any settlement of 10 or more residential dwellings, where approving the application for secondary letting would result in more than 25% of the residential dwellings in the settlement being used for this purpose, the application will be refused.*

*(In any settlement of fewer than 10 residential dwellings, the application will be considered on its merits.)*

*(Settlement means any town, village, hamlet or other group of homes which form a recognisable community.)*

**Links with control areas**

- 3.37. Note that an overprovision policy can be applied to all secondary letting (i.e. including unconventional accommodation) whereas control areas only apply to secondary letting of dwellinghouses.
- 3.38. A rural licensing authority might not want excessive tourist numbers (more than the amenities can cope with) even when they are not displacing residents from homes. So a rural licensing authority might additionally add a limit on properties (whether dwellinghouses or unconventional accommodation, such as yurts) to their overprovision policy statement (see example 4).

**Example overprovision policy statements**

**Example 4: rural formula for unconventional accommodation**

*Applications for secondary letting in a settlement will be refused, where approving the application for secondary letting would result in more than the greater of:*

- a) 100 properties available for secondary letting; or*
- b) more properties available for secondary letting than residential dwellings in the settlement.*

- 3.39. Control areas can be used to manage secondary letting where overprovision is not the primary concern. For example, control areas might be used to prevent secondary letting of tenement flats because the building is not suitable, rather than because there is an overprovision of short-term lets in the area.



SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- 3.40. A control area requires planning permission to be sought whereas an overprovision policy would allow a licensing application to be refused. An overprovision policy in a locality potentially provides a higher level of resolution. For example, secondary letting in Area A might require planning permission (by virtue of being in a control area) but, additionally, licensing applications in respect of main door tenement flats in Locality B within Area A might be refused. A more nuanced approach might be to set a limit on the proportion of main door tenement flats that could be used for short-term lets in Locality B; but the licensing authority would need a clear, fair and transparent means for determining who was given a licence where there were more potential hosts and operators than premises that could be licensed under the policy.
- 3.41. Licensing authorities should liaise with planning authorities on how licensing and planning applications in respect of the same premises will be treated bearing in mind also that they may be made at different times or planning permission may have already been granted. The planning authority may grant a planning application in a control area because the application is acceptable on planning terms. However, the linked licensing application could be refused on the grounds of overprovision. Where planning permission is refused, the licensing authority can refuse to consider the licensing application<sup>5</sup>.

***Relevant matters***

- 3.42. In terms of the data used to establish the number and capacity of licensed short-term lets in the area and the case for overprovision, licensing authorities should first and foremost rely on the public register. However, this will be an incomplete picture in the transitional period to April 2024 and licensing authorities will need to rely on other information. Unlawful unlicensed short-term lets should not factor into any overprovision calculation as these should be pursued and closed down through enforcement activity.
- 3.43. Licensing authorities could have overprovision policies that place limits on numbers in some way, for example, concentrations (as percentages) of:
- short-term lets within their area;
  - short-term lets within individual ward areas;
  - short-term lets within individual census output areas; or
  - certain types of short-term let (for example short-term lets in flatted dwellings or properties with a communal entrance).

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<sup>5</sup> Using powers at paragraph 2A of schedule 1 to the 1982 Act.

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- 3.44. Licensing authorities could use data from their licensing scheme to introduce limits on the grounds of a concentration of short-term lets in excess of a certain percentage of qualifying residential properties in any one particular Census Output Area (COA).
- 3.45. Relevant considerations go beyond just numbers and percentages. Other considerations include, for example, the need for main door access accommodation for people with disabilities. So a licensing authority might refuse an application where a significant number of similar homes were already used for short-term lets and people with disabilities were struggling to secure appropriate accommodation.
- 3.46. However, licensing authorities should also bear in mind that there will be visitors with relevant disabilities for whom the existence of some accessible accommodation is important too. Licensing authorities should consider carefully the balance between existing residents, new residents and visitors with needs for accessible accommodation.
- 3.47. Applicants can request the reasons for their application being refused from the licensing authority<sup>6</sup>. They must do this within 21 days of the decision. Licensing authorities must provide the reasons for the decision to refuse the application within 15 days. Where the decision to refuse is on the grounds of overprovision, this should be made clear (as with any other grounds).

### **Temporary exemptions policy statement**

- 3.48. Licensing authorities can grant temporary exemptions to the requirement to have a licence<sup>7</sup>. They can do this for:
- a specified occasion; or
  - a specified single continuous period not exceeding 6 weeks in any period of 12 months.
- 3.49. They might do this to accommodate a large influx of visitors over a short period to support sports championship competitions and arts festivals, for example. Hosts and operators must apply for a temporary exemption.
- 3.50. Licensing authorities must publish a temporary exemptions policy statement and, from time to time, review it. Licensing authorities must consult with such persons as they consider appropriate in preparing and reviewing their

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<sup>6</sup> Paragraph 17 of schedule 1 to the 1982 Act.

<sup>7</sup> Paragraph 1A of schedule 1 to the 1982 Act.

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

temporary exemptions policy statement. Their temporary exemptions policy statement must include information regarding:

- a) the fees chargeable for a temporary exemption application; and
- b) the time period within which the licensing authority will finally determine the application.

3.51. Temporary exemptions policy statement should also include:

- a) the likely conditions attached to an exemption;
- b) the grounds for granting or refusing an application for an exemption, including any classes of premises for which an exemption would not be granted; and
- c) information about how a decision can be appealed.

3.52. Where a licensing authority does not want to use their powers to grant any exemptions, they can comply with this duty by publishing a statement on their website to the effect that applications for exemptions will not be granted under any circumstances.

**Example temporary exemption policy statements**

**Example 1:**

*Temporary exemptions will not be granted under any circumstances.*

**Example 2:**

*Applications for temporary exemptions will be considered for all premises used for home sharing and home letting during the period from 1 to 31 July inclusive. The purpose of this exemption is to provide additional accommodation in support of the XYZ Event.*

*You must have a [compliant] smoke alarm system and carbon monoxide detector on your premises.*

*A flat fee of £[ ] is payable on application. Applications must be made by 1 April and will be determined within 4 weeks of application. Applications will normally be granted other than in cases where there you have had compliance issues in the past (a licence suspended, revoked or application refused) or the premises has failed any mandatory conditions in the past. You can appeal a decision to refuse a temporary exemption.*

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- 3.53. Licensing authorities who wish to provide for temporary exemptions should make a dedicated shorter, simpler application form available on their website, alongside their temporary exemptions policy statement.
- 3.54. Licensing authorities can check and enforce any conditions that are attached to a temporary exemption. Licensing authorities have the right to visit premises and should develop a risk-based approach to prioritising any such visits.
- 3.55. Licensing authorities can grant or refuse an application for a temporary exemption. If they grant a temporary exemption, they should provide the host or operator with a temporary exemption number (like a licence number), see **chapter 6**.

***Interaction with planning policy***

- 3.56. Planning policies still apply, although these will not commonly affect smaller scale home sharing and home letting<sup>8</sup>. However, they are relevant for secondary letting, especially within control areas.
- 3.57. For very large, one-off events (such as the Commonwealth Games, Olympics or COP26), the Scottish Ministers can make a special development order to grant planning permission for change of use for an area and to require discontinuance of use after a certain period. In such circumstances, temporary exemptions could be granted in respect of secondary letting without any concern about breach of planning control.

**Temporary licences policy**

- 3.58. Licensing authorities can issue temporary licences<sup>9</sup> but they need not do so. A temporary licence can also last for up to six weeks, or longer if the host or operator has also made an application for a licence. If they have applied for a licence, their temporary licence will last until their licence application is finally determined.
- 3.59. Temporary licences can provide a way for licensing authorities to allow new hosts and operators to start taking guests whilst their licensing application is being considered. Licensing authorities should set out their policy on issuing temporary licences on their website. The policy should set out:
- the licensing authority's criteria for issuing temporary licences;
  - the fees payable; and

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<sup>8</sup> Whether planning policies apply to home letting and home sharing depends not least on the number of rooms being let compared with the number of rooms on the premises.

<sup>9</sup> Under paragraph 7(6) of schedule 1 to the 1982 Act.

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- any special conditions which apply.
- 3.60. Licensing authorities should provide an application form specifically for applications for temporary licences.
- 3.61. Licensing authorities should issue a temporary licence number to accompany a temporary licence, see **chapter 6**.
- 3.62. Hosts and operators must comply with all the mandatory conditions and licensing authorities should consider how to ensure compliance.
- 3.63. Licensing authorities must notify the Chief Constable and Scottish Fire and Rescue Service in respect of an application for a temporary licence, but are not required to notify neighbours.
- 3.64. Licensing authorities should be aware that the issuing of a temporary licence to a host or operator who is also making a licence application does not extend the time for the licensing authority to dispose of the licence application.

## **4. Setting licence fees**

### **Balancing costs and revenues**

- 4.1. Licensing authorities are responsible for establishing and running the licensing scheme in their area. This will be a significant undertaking for licensing teams across Scotland and will impose new costs.
- 4.2. Licensing authorities can recover the costs of establishing and running the scheme through fees<sup>10</sup>. The aggregate revenue from fees raised by a licensing authority must not exceed the authority's aggregate costs of establishing and running the licensing scheme.
- 4.3. Establishment costs include setting up the scheme and recruiting and training staff to operate it. Running costs include such matters as processing applications and renewals, issuing licences, undertaking site visits, handling complaints and other monitoring and enforcement costs, such as verifying any safety or other documentation submitted from time to time.
- 4.4. 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.
- 4.5. Licensing authorities should consider how to keep costs down through:
  - economies of scale;
  - integrating service delivery with other housing and licensing functions;
  - using online and digital verification where possible, for example through photo and video evidence instead of a visit; and
  - taking a proportionate, risk-based approach to checks and verification, for example in considering whether, when and how often visits to premises are needed, especially in more remote and rural areas where the costs of such visits could be higher.

### **Chargeable activities**

- 4.6. Licensing authorities can charge fees for the following:
  - licence applications;

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<sup>10</sup> Paragraph 15(2)(a) of schedule 1 to the 1982 Act, as inserted by the Licensing Order.

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- licence renewal applications;
  - issuing of duplicate licences;
  - their consideration of a material change of circumstances or in premises and their disposal of the matter;
  - issuing a certified true copy of any entry on the public register; and
  - visits to premises where the visit is necessary because of a failure of the host or operator (see paragraph 4.14 below).
- 4.7. Licensing authorities should consider the option of allowing hosts or operators to pay an ongoing subscription in place of the application and/or renewal fee, should they wish to do so<sup>11</sup>. This can be helpful to hosts and operators in managing cash flow and also to the licensing authority in maintaining an ongoing relationship with the host or operator. However, whether this is feasible will depend on the flexibility in the technology available to the licensing authority and any additional costs incurred by offering this.
- 4.8. Licensing authorities could choose to separate out the application processing fee (payable on application) and the fee for monitoring and enforcement (which could be payable when application is granted or as subscription). This might facilitate the payment of refunds for refused applications, see paragraph 4.18 below.
- 4.9. Licensing authorities must not charge:
- hosts or operators for visits to premises where this is a routine part of processing an application or part of the licensing authority's on-going assurance processes; or
  - neighbours or others for handling complaints or objections.
- 4.10. Licensing authorities could charge for applications to vary the terms of a licence. However, licensing authorities should consider creating the right incentives for hosts and operators to keep them informed.
- 4.11. Revenue from fines in respect of licensing offences (see **chapter 7**) do not go to the licensing authority.

### ***Changing the fees***

- 4.12. As the fees are not set out in the 1982 Act or Licensing Order, licensing authorities can increase (or reduce) fees administratively. Licensing

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<sup>11</sup> Powers at paragraph 15(3) of schedule 1 to the 1982 Act, as inserted by the Licensing Order.

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

authorities must review their fees from time to time to ensure that revenue from fees remains in line with the costs of the licensing scheme<sup>12</sup>. It is important to note that there may be increases or reductions in both revenues and costs for a number of reasons, including: inflation; changes to levels of short-term let activity; and changes to the licensing authority's processes and operations.

***Publicising the fees***

- 4.13. Licensing authorities must publish their fees in respect of their licensing scheme. Licensing authorities should give reasonable notice of any changes, not least so that applications are submitted with the right fees first time around.

***Fees for visits to premises***

- 4.14. Licensing authorities can charge a fee to a host or operator for a visit to their premises, where the visit results from their failure to comply with licence conditions or a complaint relating to the premises which is not frivolous or vexatious. (Note that the Scottish Fire and Rescue Service is the enforcement body for fire regulations more generally.)
- 4.15. Charging such a fee has the benefits of both providing an incentive to hosts to operate their short-term let compliantly, and with consideration for neighbours, and also helping to avoid the application fees for compliant hosts and operators subsidising the additional work in visiting non-compliant hosts and operators.
- 4.16. A fee may be charged for an inspection following a complaint, where it is found that there are compliance issues, whether or not those are the issues that were the subject of the complaint. However, no fee should be charged if the complaint was frivolous or vexatious. This is to prevent malicious complaints incurring unjust costs for hosts or operators.
- 4.17. Where a fee is charged for a visit, the licensing authority must produce a report of its findings to the host or operator within 28 days of the inspection<sup>13</sup>. Licensing authorities should consider using portable technology so that this report can be produced at the time of the inspection.

***Refunds and refused applications***

- 4.18. In general, fees are not refundable.

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<sup>12</sup> Paragraph 15(2)(a) of schedule 1 to the 1982 Act, as inserted by the Licensing Order.

<sup>13</sup> Required by Paragraph 15(4) of Schedule 1 to the 1982 Act, inserted by the Licensing Order.



SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- 4.19. Whether or not a licensing application is granted, the licensing authority will incur significant costs in processing the application. Licensing authorities must ensure, prior to an application being granted, the applicant is only charged the costs relating to the processing of their application. The fee charged for the processing of the application itself need not be refunded. But it should not include enforcement costs. This was determined at the Supreme Court in case *R v. Westminster City Council (2017)*<sup>5</sup>. However, the licensing authority can charge fees to cover enforcement costs once the application is granted (normally through monitoring and/or renewal fees).
- 4.20. Where a licensing authority refuses to consider an application because the host or operator needs to obtain planning permission (see **chapter 6**), the licensing authority does not need to refund the fee paid. However, the licensing authority must not charge a further fee in respect of a resubmitted licensing application made within 28 days of planning permission being granted.
- 4.21. Licensing authorities should publish their policy on refunds so that hosts and operators are clear on the position before they make an application.

### **Parameters for setting fees**

- 4.22. Licensing authorities may take account of the following criteria in determining the amount of the different fees set out at paragraph 4.6 above<sup>14</sup>:
- (i) the size of the premises,
  - (ii) the number of rooms at the premises,
  - (iii) the number of guests who can reside at the premises,
  - (iv) the type of short-term let,
  - (v) the duration of the period for which the premises are made available for use as a short-term let (but note that licensing authorities cannot set limits on nights on licences for secondary letting), and
  - (vi) the extent to which the licence holder has complied with the conditions of the licence (which might affect a renewal fee).
- 4.23. Under (i), (ii) and (iii), licensing authorities can choose to vary fees by size of premises, number of rooms or number of guests who can reside at the premises. Under (iv), they can set different fees for different types of short-term let and they should consider setting lower fees for home sharing and home letting than for secondary letting. Under (v), they can distinguish

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<sup>14</sup> Paragraph 15(2)(b) of schedule 1 to the 1982 Act, as inserted by the Licensing Order.

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

between home letting and home sharing licences which permit letting in July and August only and those that permit year-round letting, for example. These powers allow licensing authorities considerable discretion in aligning fees with proxies for host revenue, should they wish to do so, and encouraging or discouraging certain types of short-term let activity.

- 4.24. With regard to unconventional accommodation, licensing authorities can similarly take account of the number of properties on a site in determining the fee, for example charging a higher fee for a single licence for 30 yurts, rather than 15 yurts, in a field.
- 4.25. Under (vi) licensing authorities can reward compliance. For example, a monitoring or renewal fee could be reduced for a host with a strong compliance record. As well, or instead, a licensing authority might grant longer licences on renewal (which has the effect of reducing the per annum fee cost to the host) if no issues have arisen (see **chapter 3**).
- 4.26. Licensing authorities will need to ensure their fees are robust and fair, especially in respect of any changes requested or proposed by the host after a licence has been granted. There will be circumstances in which the change will mean that the host should be paying a different fee, for example because they want to accommodate more guests or operate for more of the year than qualifies for any discount. Similarly considerations apply where a host wishes to resume operation after a period without a licence; licensing authorities must avoid any perverse incentive for hosts to switch on and off a licence to minimise fees.
- 4.27. There is no legal requirement on licensing authorities to take account of any or all of the criteria at paragraph 4.22.
- 4.28. Licensing authorities should take account of the following (sometimes competing) considerations when setting fees:
  - making the fees as simple to understand as possible, so that hosts and operators can easily determine the fee that they should pay;
  - proportionality of the fee to the host or operator's likely revenue from operating short-term lets at the premises;
  - ensuring that the revenue from application fees cover only the application processing costs and not the on-going running and compliance costs, see paragraph 4.19 above; and
  - the licensing authority's policies on the short-term let activities and behaviours which they wish to encourage or discourage, see **chapter 3**.

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- 4.29. In terms of keeping the fees as simple as possible, this suggests not applying too many criteria and making sure that the criteria that are applied are readily and easily calculated.
- 4.30. In terms of the likely revenue generated by a short-term let, relevant factors include: location, the size of the property or premises, and seasonality. Large party houses can generate significantly more income than a small two-bed self-catering property. Secondary letting will typically yield greater income than home sharing (or home letting for limited periods).
- 4.31. The Scottish Government recommends that licensing authorities establish a licence fee structure based on the following:
- a) **type of licence** (see **chapter 3**) with lower fees for a home sharing and home letting licence than for a secondary letting licence; and
  - b) **guest capacity** - the intended maximum number of guests, as requested by the host or operator on their application form.
- 4.32. Note that licensing authority may specify a maximum occupancy that is lower than the number of guests requested at (b) for safety reasons. Licensing authorities should refund the difference in between the fee paid and the fee that would have been paid had the application specified the maximum occupancy figure.
- 4.33. Within this recommended fee structure, there is still latitude for licensing authorities in terms of the granularity of approach. Licensing authorities can choose to group guest numbers into bands. The choice will depend on local circumstances. An example banded fee structure is set out below:

<b>Guest capacity (people)</b>	<b>Home sharing and home letting licence</b>	<b>Secondary letting licence</b>
1 or 2	£ [ ]	£ [ ]
3 or 4	£ [ ]	£ [ ]
5 or 6	£ [ ]	£ [ ]
7 or 8	£ [ ]	£ [ ]
9 to 12	£ [ ]	£ [ ]
12 to 20	£ [ ]	£ [ ]
20+	£ [ ]	£ [ ]

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- 4.34. The Scottish Government strongly recommends against setting a uniform flat fee for licensing applications. Whilst it would be administratively more straightforward for licensing authorities, it would disproportionately benefit hosts and operators of larger premises and adversely affect home sharing and smaller self-catering operators.
- 4.35. High fees for home sharing may have unintended consequences. For example, where the cost of a licence was prohibitively expensive for a home share host who relied on short-term let income to pay their mortgage, this could push them into poverty.

## **5. Setting additional licence conditions**

### **Whether to set additional conditions**

- 5.1. In addition to the mandatory licence conditions which will apply to all short-term lets across Scotland, licensing authorities may wish to introduce additional conditions<sup>15</sup>.
- 5.2. Additional conditions can help licensing authorities to respond to local challenges and concerns and issues specific to certain models of short-term letting (for example, secondary letting in tenement flats).
- 5.3. Licensing authorities need not set any additional conditions. Some licensing authorities, for example not experiencing any significant issues from short-term lets, may wish to only require the mandatory aspects of the licensing scheme.
- 5.4. Licensing authorities should consider carefully the relevance and appropriateness of any proposed additional licence conditions, before attaching them to a licence. They should also consider the impact that such additional conditions will have on costs for hosts and operators.
- 5.5. An additional condition must not be used to tackle a breach of an existing condition (whether it is a mandatory or additional condition); enforcement notices should be used for this purpose – see **chapter 7**.
- 5.6. Licensing authorities must be mindful of the fact that failure to comply with a licence condition is a criminal offence, and can also result in the licence being revoked. They should therefore consider whether it would be reasonable and proportionate to impose a particular additional licence condition or whether there are other more appropriate means of achieving the same result.
- 5.7. A central policy objective of short-term let licensing is to ensure that the accommodation provided is safe. Where the licensing authority considers that there are significant risks to safety and security, it may be more appropriate to:
  - refuse an application;
  - delay granting an application;
  - issue an enforcement notice;

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<sup>15</sup> Section 3B of the 1982 Act gives licensing authorities the power to determine conditions to which licences are to be subject (“standard conditions”) which we are calling “additional conditions” in this guidance because they are additional to the mandatory conditions.

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- vary or suspend a licence; or
- revoke a licence.

5.8. Some of these measures are temporary and allow remedial action to be taken and the licensing authority to be content that the risk has been reduced or removed appropriately.

***The issues that might be addressed***

5.9. The mandatory conditions should ensure the basic safety of guests and neighbours. Additional conditions are most likely to be used to address other issues for neighbours.

5.10. Some of the issues raised by residents and communities in relation to short-term lets, through the public consultation and research and elsewhere, include:

- overcrowding of the property;
- noise and nuisance, including drunkenness, smoking and drug-taking;
- litter or other mess in communal areas;
- failure to maintain the property in a good state of repair;
- failure to maintain, or contribute to the cost of, communal area repairs and increased wear and tear;
- damage to property (e.g. from key boxes affixed to walls); and
- unlawful activity (e.g. using the property as a brothel).

5.11. The Scottish Government's independent research on the impact of short-term lets on communities (2019) demonstrated that 51% of short-term lets in Scotland were concentrated in 24 council ward areas (out of a total of 354 council wards in Scotland). High concentrations of short-term lets can amplify the issues but also cause systemic issues such as availability and affordability of housing.

5.12. Additional conditions allow licensing authorities to tackle many of these issues whilst still allowing the premises to be used for short-term lets.

5.13. Note that overprovision policies, see **chapter 3** and control areas can be used to address others, such as availability and affordability of housing.

## **Scope of additional conditions**

5.14. Licensing authorities have broad powers around which premises have additional conditions attached to them. Different additional conditions may be determined:

- in respect of different licences, or different types of licence; or
- otherwise for different purposes, circumstances or cases.

5.15. Additional conditions have no effect so far as they are inconsistent with any mandatory conditions. This means that licensing authorities cannot use additional conditions to contradict, modify or dilute mandatory conditions.

5.16. This chapter explains how to use these powers. The Scottish Government would like to avoid arbitrary inconsistency in the application of additional conditions, especially where they relate to guest behaviour as it is easier for industry bodies, guests and hosts operating in more than one licensing authority area if, for example, additional conditions around noise, are similar across Scotland.

5.17. The rest of this chapter sets out:

- how to publicise additional conditions;
- flexibilities in applying the maximum occupancy condition;
- how to draft an additional condition;
- prohibited condition: limits on nights; and
- template additional conditions.

## **How to publicise additional conditions**

5.18. Licensing authorities must publish their additional conditions, and failure to do so means the conditions have no effect. They can do this in such manner as they think appropriate. This will depend how widely a particular additional condition applies and who needs to be aware of the condition. Neighbours and residents must be able to refer to licence conditions.

5.19. Licensing authorities should:

- include relevant additional conditions on the licence documentation provided to the host or operator;

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- include additional conditions which will be attached automatically as a matter of policy for that circumstance or case in the notification to neighbours; and
- publish their additional conditions on their website, together with the criteria which determine to which licences they will be attached.

### **Flexibilities in applying the maximum occupancy condition**

- 5.20. 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 and listings and in booking terms and conditions. Hosts and operators will state in their application how many guests they would like to accommodate.
- 5.21. Licensing authorities should consider the facts and circumstances of each application and determine the maximum number of guests for the property. Licensing authorities should consider:
- a) the number requested on the application form;
  - b) the maximum number that can be accommodated safely; and
  - c) the maximum number that can be accommodated within tolerable noise and nuisance standards for neighbours.
- 5.22. The licence application, if granted, should include the lowest of these numbers as the maximum occupancy condition on the licence.
- 5.23. Licensing authorities should consider publishing their criteria for determining maximum occupancy so that hosts and operators can work this out for their property; ideally the number requested (a) is already the lower of (b) or (c) as the host or operator has understood these requirements.
- 5.24. Depending on the circumstances of the licensing application, licensing authorities may want to ask to see floor plans or visit premises to ensure that the licensing authority will want to consider the number of beds, bedrooms and size of the property are appropriate for the number of guests and that there is an adequate means of escape in case of fire.
- 5.25. Hosts and operators must be clear on any advert or listing, and in their booking terms and conditions, on the maximum number of guests that they can accommodate. In some circumstances, licensing authorities may wish to conduct random checks to ensure that hosts and operators are doing this.



SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- 5.26. Clearly, licensing authorities have no discretion over numbers (a) and (b), since one is provided by the host operator and the other determined from the application of fire (and any other) safety considerations.
- 5.27. However, licensing authorities can exercise judgement over (c) and set a lower number specific to the circumstances of the application. The number (c) might vary between similar premises, simply because of the location of the premises, for example.

**Children**

- 5.28. Licensing authorities can choose to specify on a licence that guests may bring a certain number of small children and these would not count towards the occupancy of the premises. Children above the age limit and any additional children of any age would count towards the occupancy. Clearly, this may be relevant in setting the overall maximum occupancy compliant with safety considerations.

**Example**

*“Premises X has a maximum occupancy of four guests and up to two additional children under five years of age.”*

*A family with four children, comprising two adults, a 16 year old, 10 year old, a four year old and a two year old would be permitted in the same stay.*

*Six adults would not be permitted.*

*Four adults and two older children would not be permitted.*

**Alternatively**, the same premises could have this condition:

*“Premises X has a maximum occupancy of five guests.”*

- 5.29. Where licensing authorities choose to offer a differentiated approach for young children, they should make this clear on their website and allow hosts and operators to request a particular combination on the application form. In the example above, one of the formulations may be preferable to the host operator, given the usual clientele for the property.

## How to draft an additional condition

### *Preliminary*

- 5.30. Licensing authorities should first consider whether an additional condition is the best way to achieve the desired outcome. The licensing authority should be satisfied that:
- the matter is not already covered by the requirements of the 1982 Act, Licensing Order or mandatory conditions;
  - the matter is not already sufficiently covered by other legislation (i.e. already unlawful and enforceable);
  - the matter is sufficiently serious to merit an additional condition, rather than a verbal warning, letter or memo;
  - the matter is not a breach of an existing condition in which case an enforcement notice should be used – see **chapter 7**; and
  - the proposed additional condition does not contradict the requirements of the 1982 Act, Licensing Order or mandatory conditions.
- 5.31. Licensing authorities should make sure that the additional condition does not have unintended consequences that are potentially as severe or worse than the issue to be addressed. For example, measures to limit noise indoors that lead to the guests making noise outdoors instead.
- 5.32. Licensing authorities should consider developing and maintaining a style bank or library of conditions to save work in and ensure consistency and fairness in the treatment of licence holders. Licensing authorities may want to publish their style bank and/or share it with other licensing authorities. (But note the requirement to publicise additional conditions in use at paragraph 5.18 above.)

### *Making it SMART*

- 5.33. An additional condition should be:
- (i) **S**pecific (unambiguous);
  - (ii) **M**easurable (enforceable);
  - (iii) **A**ction-oriented (place duty on the licence holder);
  - (iv) **R**ealistic; and

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- (v) Time-bound (where there is an action to be completed, rather than an on-going action).

**(i) Specific (unambiguous)**

- 5.34. The licence holder must be left in no doubt what is expected of them, not least to give them the best chance of complying. Remember, breaching conditions carries a criminal penalty.
- 5.35. The additional condition should be sufficiently clear that the licence holder and, for example, licensing officials and other officials, neighbours and, where relevant, a sheriff, should know exactly what is meant by the condition.

Licensing authorities should avoid referencing verbal agreements or other

**Bad example – avoid:**

*“as agreed with”*

*“as discussed with”*

*“subject to the email of”*

**(ii) Measurable (enforceable)**

- 5.37. The licence holder must be able to know when they have complied, or are complying with, the additional condition (and when they are not).
- 5.38. An additional condition may require a specific action to be completed and maintained (e.g. a physical change to premises) or it may relate to an ongoing state of affairs (e.g. guest behaviour).

**Bad example – avoid:**

*The licence holder must ensure that confirmation is supplied to the licensing authority by x date.*

- 5.39. This example looks for confirmation that an action has been completed. However, the way it is worded means that the condition is met by anyone telephoning the licensing authority with confirmation. Whether or not this had happened, could then form the subject of a dispute between the licence holder and the licensing authority which would be hard to resolve.

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- 5.40. It is helpful to imagine justifying and defending the condition in court on appeal. The drafting should be sufficiently clear to support a Procurator Fiscal to prosecute.

**Example**

*The licence holder must ensure that **written/photographic** confirmation is supplied **from a compatibly trained / suitably qualified / xyz registered person** to the licensing authority **as soon as reasonably practicable / urgently/ but by no later than** x date.*

**(iii) Action-oriented (place a duty on the licence holder)**

- 5.41. The additional condition must require the licence holder to **do** or **prevent** something. There must be a clear action which the licence holder must take.
- 5.42. Licensing authorities should consider the way the mandatory conditions place duties on the licence holder as a template. “*The licence holder must*” is a good way to ensure that the condition is focused. Do not put the duty on other specific categories of people named on the licensing application (for example any letting agent or property management company). For the purpose of the mandatory and additional conditions, these are the licence holders.

**(iv) Realistic**

- 5.43. Licensing authorities should have regard to the circumstances of the licence holder, the short-term let activity and the premises in setting additional conditions. Whilst it might be realistic to expect premises in an urban setting to address uneven ground on the forecourt of the premises, this may not be appropriate for premises in a remote rural setting.
- 5.44. Realism must also be applied to any deadlines. For example, a large scale host or operator in an urban setting may find it easier to find a contractor (or have one in-house) compared with a small scale rural host or operator.

**(v) Time-bound**

- 5.45. When licensing authorities are drafting additional conditions that a specific action to be taken (for example, works to be completed), then they must set a date by which the action is to be completed. The timescale has to be realistic (see above).

**Structure**

- 5.46. The condition should be set out in four parts:

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- (i) **Issue** – what is the issue or problem with the premises or short-term let activity?
- (ii) **Reasoning** – why is the additional condition required? There should be **general** and **specific** reasoning relating to the condition. This will help the licence holder understand that the specific action they are being asked to take is fair because it is to ensure a general outcome that applies in other similar circumstances. It will also help the licensing authority defend the condition should it be appealed and allow the Procurator Fiscal to explain the background should the matter ever proceed to the criminal courts.
- (iii) **Action** - what must the licence holder do?
- (iv) **Deadline** – when must any specific actions must be completed by?

**Example**

Issue

*Upon inspection of the guest accommodation, the paths around the property were found to have uneven slabs at various locations, namely to the front and the side of the property.*

Reasoning

*General: All parts of a short-term let, both internally and externally, shall be maintained in a reasonable state of repair to the satisfaction of X Council and be free from any defect liable to prejudice the health and safety of the occupants.*

*Specific: Uneven slabs along the footpath, are a trip hazard and may cause a guest to trip and fall over.*

Action

*The licence holder must ensure that:*

- 1. Repair work is carried out to lift and relay or renew the slabs at the uneven areas on the pathways around property, ensuring that the path is level and free of trip hazards.*
- 2. Access to the uneven areas of the pathways around the property is prohibited until the repair work (set out at 1 above) has been carried out.*

Timeframe

*The works outlined above at (1) must be completed as soon as reasonably practicable but no later than [date].*

### **Prohibited condition: limits on nights**

- 5.47. Licensing authorities are prohibited from setting a condition limiting the number of nights a property may be used for secondary letting, as it may have the unintended consequence of properties lying empty for large periods each year<sup>16</sup>.
- 5.48. In many cases, sufficient revenue can be made from secondary letting in a small part of the year and the premises would likely lie empty for the rest of the year. (In Edinburgh, such a premises could make sufficient revenue from Hogmanay and the Edinburgh Festival and a few hen party weekends in the event that, for example a 90 night annual limit was set.) This then leads to an inefficient use of housing stock.
- 5.49. This condition does not apply to home sharing and home letting.

### **Template additional conditions**

- 5.50. Licensing authorities should use the following templates for the following issues:
- antisocial behaviour;
  - privacy and security;
  - noise;
  - littering and waste disposal;
  - damage to property.

- 5.51. This is to ensure consistency across Scotland and to avoid arbitrary variation.

#### ***Antisocial behaviour***

- 5.52. There are already a range of powers available to licensing authorities to deal with antisocial behaviour through provisions in the Antisocial Behaviour etc. (Scotland) Act 2004. Incidents involving antisocial behaviour should be

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<sup>16</sup> Paragraph 5(2B) of schedule 1 to the 1982 Act, as inserted by the Licensing Order.

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

reported to the relevant licensing authority directly who will be able to investigate and take appropriate action.

- 5.53. However, there are levels of noise and disturbance which are considered unacceptable in planning terms (and licensing terms) which may fall short of those capable of being described as a statutory nuisance.
- 5.54. Licensing authorities may wish to include a condition requiring the licence holder to manage their premises in a way to prevent anti-social behaviour as far as reasonably practicable, and to effectively deal with any instances of anti-social behaviour.

**Template additional condition**

1. *The licence holder must 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.*
2. *The licence holder must take reasonable steps to:*
  - *ensure that no disturbance or nuisance arises within or from the premises, for example by explaining the house rules to the guests;*
  - *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*
  - *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.*

**Privacy and security**

- 5.55. Licensing authorities may wish to impose conditions to ensure that the privacy and security of neighbours is safeguarded. The terms will vary depending on the exact circumstances. One particular issue is in respect of a shared entrance through which both guests and residents pass. In this scenario, the following condition might be used:

**Template additional condition**

1. *The licence holder must manage the premises in such a way as to respect and protect the privacy and security of neighbours.*
2. *The licence holder must ensure:*
  - *guests know and understand any particular rules applying to shared areas and entrances;*

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- *guests understand that shared doors should be properly and securely closed after use; and*
- *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.*

### **Noise**

5.56. Licensing authorities may wish to impose conditions to minimise noise impact on neighbouring properties to short-term lets, particularly those in flatted, terraced or semidetached dwellings. Only conditions which are strictly necessary in the specific circumstances should be attached to a licence.

5.57. Noise conditions could include:

a) Physical moderations to the property in order to minimise noise impact on neighbours, such as:

- replacing wood floors with carpeted or vinyl flooring; or
- installing door closers to prevent doors being slammed.

b) Installation of noise monitoring kit within the premises to log noise, and notify the owner of any noise above a certain specified dB limit. Limits to be specified based on time of day, with lower noise limits overnight. Licensing authorities should be aware that noise monitoring kit within the premises is not useful in respect of noise occurring in external areas; and noise monitoring in external areas presents a range of challenges, including respect for the privacy of others and identifying the source of the noise.

5.58. Licensing authorities may want to set specific standards for floor coverings in certain circumstances.

5.59. Where physical alterations are required, licensing authorities may wish to physically inspect the property, or accept photographic or video evidence that the alterations have been completed to their satisfaction.

5.60. Where licensing authorities wish to require installation of noise monitoring kit, they may want to specify (subject to the capability of the kit and/or service provider):

- the appropriate specification and location for installation of the kit;
- day and night limits;



**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- any monitoring logging requirements (for example the time interval for logging noise); and
- the protocols for notification of a breach to the host, and to the licensing authority if necessary.

5.61. In considering the appropriate location for noise monitoring equipment, licensing authorities may wish to consider whether it would be both appropriate, and feasible, to request the installation of noise monitoring kit in shared areas such as tenement stairwells. On one hand, if noise monitoring kit was installed in a tenement stairwell it may be difficult to determine who was responsible for the noise (guests or neighbours). However, if it was combined with noise monitoring kit within any short-term let operating in the stairwell it may be possible to determine and attribute noise disturbances by comparing the logs of both sets of noise monitoring kits.

**Template additional conditions**

*The licence holder must ensure that the bedrooms, living room and hallway in the premises are carpeted.*

*The licence holder must ensure that noise monitoring equipment [of type x] is maintained in full working order [in location y] and that the maximum reading does not exceed [a] decibels between 7 am and 11 pm, nor [b] decibels between 11 pm and 7 am.*

5.62. Licensing authorities may wish to attach conditions relating to particularly noisy activities. For example, introducing a prohibition on guests checking in and checking out from a short-term let within a defined time period, to minimise noise impact in common areas, particularly from luggage. Where licensing authorities choose to apply this condition, the prohibition should normally be between 11 pm and 7 am to ensure consistency across Scotland.

**Template additional condition**

*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.)*

***Littering and waste disposal***

- 5.63. There are fixed penalties of £80 for littering and £200 for fly tipping. Alleged offenders are required by law to provide their name and address to enforcement officers (from 1 June 2014)<sup>17</sup>.
- 5.64. Penalties can be issued by the police, by licensing authorities, and by public bodies including Loch Lomond and the Trossachs National Park.
- 5.65. Littering could occur within common areas in properties with shared facilities, such as tenements, as well as public areas within the vicinity of a short-term let. In both instances, it would be difficult to police and attribute any instances of littering to a particular property, or guest within a property.
- 5.66. Visitors using residential waste provision can put a strain on shared facilities. For example, short-term lets within a tenement creating a larger amount of waste due to increased turnover of guests and cleaning than a typical residential flat, putting strain on communal bins. Note, however, that waste from businesses operating secondary lets should not be treated as household waste but rather as commercial or trade waste; it cannot be placed in communal bins.

**Template additional condition**

1. *The licence holder must provide adequate information on, and facilities for, the storage, recycling and disposal of waste.*
2. *The licence holder must advise guests of:*
  - *their responsibilities;*
  - *the use of the bins / sacks provided for the premises; and*
  - *the location of the nearest recycling centre or recycling point.*
3. *The licence holder must:*
  - *clearly label bins as belonging to the premises;*
  - *ensure that guests manage their waste in compliance with (2), including when they depart; and*
  - *maintain the bin storage area and the exterior of the premises in a clean and tidy condition.*

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<sup>17</sup> <https://www.gov.scot/policies/managing-waste/litter-and-flytipping/>

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

***Damage to property***

5.67. With regard to preventing damage to public and private property:

**Template additional condition**

*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.*

## 6. Handling licence applications

6.1. Licensing authorities will be familiar with the processes under the 1982 Act for determining licence applications. This chapter focuses on obligations and considerations that are specific to the short-term let licensing scheme.

### Additional information from applicants

6.2. Licensing authorities can request additional information on licence application forms<sup>18</sup>. The following information, if requested, would need to be included in the public register<sup>19</sup>:

- the number of bedrooms in the premises,
- data on availability and occupancy,
- contact details for the manager of the premises, if different from the applicant, and
- the Energy Performance Certificate rating.

6.3. For a full set of information to be included in the public register, see **chapter 8**.

6.4. Requesting data on availability and occupancy could be useful to licensing authorities in better understanding the level of short-term let activity and building an evidence base to support further targeted policy interventions, where necessary.

6.5. Licensing authorities should put in place checks to ensure that the people named on the application form is a complete and accurate list. Licensing authorities should be alert to people hiding their involvement because they are not likely to be regarded as fit and proper persons. For example, where one spouse purports to be the only person involved in the short-term let on the application form because the other has a criminal record. It may be that there is certain additional information that could assist with these checks.

### Planning considerations

6.6. A licensing authority can refuse to consider a licensing application if it considers that use of the premises for short-term lets would constitute a

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<sup>18</sup> The 1982 Act allows for applications to include “such other information as the authority may reasonably require” (paragraph 1(2)(e)) and allows the licensing authority to “make such reasonable enquiries as they think fit” (paragraph 4(1)).

<sup>19</sup> See paragraph 14(4)(m) of schedule 1 to the 1982 Act, inserted by the Licensing Order.

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

breach of planning control<sup>20</sup>. That is to say, if it looks like the host or operator needs planning permission but does not have it.

- 6.7. This power is designed to assist licensing authorities in handling applications for secondary letting of a dwellinghouse within control areas. But licensing authorities can use it in other circumstances too.
- 6.8. The licensing authority has only 21 days from receipt of a valid application to decide to refuse to consider the application on these grounds.
- 6.9. If a licensing authority refuses to consider an application for this reason, they must tell the host or operator within seven days and explain why they are refusing to consider the application.
- 6.10. A host or operator who has subsequently obtained planning permission (or a certificate of lawfulness of use or development), can resubmit their licensing application and the licensing authority must not charge any additional fee, provided the host or operator submits their application within 28 days of obtaining planning permission (or certificate).

***Links with control areas***

- 6.11. The interaction of control areas with overprovision policies is discussed in **chapter 3**.
- 6.12. 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:
  - their premises is in a control area;
  - they are using it for secondary letting; **and**
  - it is a dwellinghouse.
- 6.13. 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<sup>21</sup>.
- 6.14. Licensing authorities should be aware that planning authorities could designate control areas affecting licensed premises after they have been licenced. Licensing authorities should ensure that licensed hosts or operators

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<sup>20</sup> Paragraph 2A of schedule 1 to the 1982 Act, inserted by the Licensing Order.

<sup>21</sup> Scottish Government: [Getting Planning Permission](#).

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

who may be affected by the designation of a control area are alerted as part of the planning authority's consultation process.

- 6.15. Licensing authorities should give licensed 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.

***Where planning permission is refused***

- 6.16. Licensing authorities should be advised by planning authorities where they refuse planning permission for short-term lets (see **Planning Circular 1/2021**). The licensing authority should then ensure that any application or licence contingent on the planning permission is refused, varied or revoked as appropriate.
- 6.17. Note that 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.

**Licence numbers**

- 6.18. Licensing authorities must issue a unique licence number to a host operator as soon as reasonably practicable after an application for the grant or renewal of a licence has been made<sup>22</sup>. This is known as a provisional licence number (not to be confused with a licence number for a temporary licence).
- 6.19. Licensing authorities may wish to issue a different licence number to a host or operator on renewal than on the previous licence.
- 6.20. Licensing authorities should issue a number in the same format for:
- temporary licences; and
  - temporary exemptions.
- 6.21. This means that all hosts and operators in Scotland providing short-term lets will have such a number. For ease, we will call this the licence number throughout the rest of this chapter.
- 6.22. The licence number should be in a consistent format across Scotland. This consistency is to aid with data handling (see **chapter 8**) and to assist letting

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<sup>22</sup> Paragraph 2(1A) of schedule 1 to the 1982 Act, inserted by the Licensing Order.

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

agencies and platforms in being able to host the licence number provided by the host or operator in their listings. The format is set explained in this chapter and specified in **Annex C**.

- 6.23. The licence number should contain data to allow anybody to identify:
- a) the licensing authority who issued the licence (and therefore the area to which the licence relates);
  - b) the type of short-term let to which the licence relates; and
  - c) the type of licence (or exemption).
- 6.24. The licence number will also include a 16 digit number which is unique to licences issued by that licensing authority and should be capable of authentication (i.e. generated from an algorithm that makes it harder to produce fake numbers). The overall licence number will be unique across Scotland when combined with the header data.
- 6.25. The Scottish Government will work with licensing authorities, letting agencies and platforms to develop the numerical algorithm. The algorithm will include fraud prevention measures (i.e. not issuing sequential or predictable numbers).
- 6.26. The Scottish Government will assist letting agencies and platforms in building licence number validation into their sign-up processes. Hosts and operators are allowed to advertise and list their properties before they have a licence (and before they have applied for one), see Guidance Part 1. However, after 1 April 2024, it will be illegal for any host operator to take bookings or host guests in their property without a licence and letting agencies and platforms should have processes for removing unlawful properties from their listings, see **chapter 7**.

### **Notifying residents and neighbours**

- 6.27. Licensing authorities, rather than the host or operator, have responsibility for giving notice<sup>23</sup> of relevant applications being:
- a) an application for a licence;
  - b) a renewal application, where a material change has taken place since the original grant of licence; and

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<sup>23</sup> Paragraph 2 of schedule 1 to the 1982 Act, has been significantly modified by the Licensing Order.

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- c) an application for a material change to the circumstances or premises in respect of an existing licence.
- 6.28. The policy intention of (b) is to streamline the renewal process as much as possible.
- 6.29. To give notice, licensing authorities have the choice of:
- sending a notice to premises on neighbouring land; or
  - displaying a notice.
- 6.30. Neighbouring land has the following meaning<sup>24</sup> and aligns with the planning definition:
- “neighbouring land” means an area or plot of land (other than land forming part of a road) which, or part of which, is conterminous with or within 20 metres of the boundary of the premises.*
- 6.31. Broadly speaking the licensing authority must notify neighbours within 20 metres of the boundary of the premises. In urban areas, this is more than sufficient to include all residents on a tenement stair and neighbouring tenement stairs. In rural areas, this will at least extend to nearest neighbours.
- 6.32. Licensing authorities have the power to notify such other persons as they consider appropriate about a licensing application (and related planning notice). Licensing authorities should consider whether to give notice to any community council or development trust in whose area the premises is located; whether this is appropriate will depend on the circumstances, as community councils are unlikely to be interested in seeing all applications.
- 6.33. A notice must state—
- a) that an application has been made for a licence,
  - b) the main facts of the application<sup>25</sup>,
  - c) that objections and representations in relation to the application may be made to the licensing authority, and
  - d) how to make objections or representations.
- 6.34. Local authorities as licensing authorities are responsible for giving notice of licensing applications and as planning authorities for giving notice about

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<sup>24</sup> See paragraph 19A of schedule 1 to the 1982 Act, inserted by the Licensing Order.

<sup>25</sup> The details are specified in paragraph 2(3) of schedule 1 to the 1982 Act, inserted by the Licensing Order.



**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

planning applications. In some cases, planning permission will be required for secondary letting, either by virtue of the premises being in a control area or by virtue of the licensing authority's planning policy.

- 6.35. Licensing authorities have the power to combine licensing notices with a planning notice or to issue a planning notice only; the latter being useful where a planning application for a short-term let precedes a licence application. Licensing authorities should give serious consideration to using these powers.
- 6.36. The policy intention behind this change from the usual 1982 Act procedure to put the duty on the licensing authority to publicise the application, and the power to combine with planning notices, is:
- a) to reduce the burden on applicants, as licensing authorities are better placed to identify relevant premises;
  - b) to avoid mischief between applicants and neighbours around claims over whether notice was given;
  - c) to reduce confusion for neighbours where they might otherwise receive both a licensing notification and a planning notice in respect of an application for a licence for secondary letting; and
  - d) to give licensing authorities the possibility of streamlining the handling of objections, should they wish to do so.

### ***Objections***

- 6.37. With regard to (d) above, licensing authorities should consider preparing a standard form for objections which guides neighbours to relevant grounds for licensing and, separately, planning purposes. The grounds for objection to an application should relate to the purposes of the licensing scheme or planning rules. For example, concerns relating to: safety, noise or nuisance or previous complaints are likely to relate to licensing; and the availability of residential housing, the impact on the character of the neighbourhood or the suitability of the building relate to planning.
- 6.38. Licensing authorities should be helpful but must not be seen to be coaching or directing how members of the public make objections to a licensing application. An objection must specify the grounds, but the grounds are not limited by, or defined in, the 1982 Act<sup>26</sup>.

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<sup>26</sup> Paragraph 3(1)(b) of Schedule 1 to the 1982 Act.

### **Third party accreditation**

6.39. Licensing authorities may wish to consider accepting third party evidence, accreditation or certification from bodies such as Quality in Tourism or Visit Scotland in lieu of visiting premises in some circumstances. This may provide efficiencies for licensing authorities, whilst still ensuring that minimum standards are met. This might be particularly beneficial in the case of remote, rural premises. However, it is entirely for licensing authorities to determine what they will accept from hosts and operators to demonstrate compliance with the mandatory conditions, and any additional conditions which the licensing authority has attached.

### **Licensing committees and determining applications**

6.40. Licensing authorities should bear in mind that some hosts and operators, and some objectors, will find appearing before a licensing committee a daunting prospect. Every effort should be made to put people at their ease and ensure they understand the process and their role in it.

## **7. Complaints and enforcement**

### **Handling complaints**

- 7.1. Complaints are most likely to be received from neighbours and guests. However, anybody can make a complaint. Complaints from neighbours may be about an actual, or suspected, short-term let. Whether the complaint is from a guest or a neighbour, it may be justified or unjustified.
- 7.2. Licensing authorities, as local authorities, already have well-established complaints procedures<sup>27</sup>. This chapter is concerned with complaints about the way that hosts and operators are operating their short-term lets, rather than complaints about the way licensing authorities are running their licensing schemes. Complaints about hosts and operators can be considered under powers in the 1982 Act<sup>28</sup>.
- 7.3. As a general principle, licensing authorities should seek to try to resolve a complaint through engagement with the host or operator in the first instance. If this is not successful, then the procedures under the 1982 Act should be used.

#### ***From guests***

- 7.4. Guests might complain because they have concerns about safety which the host or operator did not remedy, for example around a faulty gas appliance. Obviously, guests should raise any concerns with their host or operator, letting agency or platform in the first instance in the hope that any issue can be speedily resolved. However, if they remain unsatisfied or the issue is sufficiently grave they may contact the relevant licensing authority. The licensing scheme makes it more likely that guests will be in contact with the licensing authority with concerns and licensing authorities should establish a clear process for handling contact from guests.

#### ***From neighbours***

- 7.5. Neighbours might complain about the following, for example:
- the number of people staying at the premises;
  - noise, disturbance or instances of antisocial behaviour;

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<sup>27</sup> The [Scottish Public Services Ombudsman's Local Authority Model Complaints Handling Procedure \(Part 3\)](#) sets out the complaints handling procedure which all local authorities must follow.

<sup>28</sup> Specifically, paragraphs 11 and 12 of Schedule 1.

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- issues around maintenance, guests in common areas and accumulation of refuse (especially in flats or tenements); or
- suspected unlicensed short-term lets.

7.6. The credibility of the licensing regime will rest to a significant extent on reassuring neighbours that their concerns can and will be addressed quickly.

***Clear information***

7.7. In order to assist guests, neighbours and others in making a complaint, licensing authorities should publish details on how complaints can be made on their webpage, including: valid grounds for a complaint, relevant contact details, and estimated timescales for acknowledging and responding to complaints.

***Single portal***

7.8. Licensing authorities should consider providing a single portal for making a complaint about matters relating to a short-term let. Licensing authorities should consider providing an interactive web form which facilitates people in working out whether they have a valid complaint and whether the matter concerns a potential breach of licence conditions.

***Triage and redirection***

7.9. Licensing authorities should consider providing a single portal to cover both licensing and planning matters and direct to the complaint to the relevant local authority department themselves, rather than expecting neighbours to understand whether their concern is a licensing or planning or other matter.

7.10. Licensing authorities should be prepared to direct some complaints to planning authorities, letting agencies, platforms, VisitScotland, the police or other bodies for further investigation. It will save time for everyone if information is speedily and effectively shared, not least because it will prevent several versions of the same complaint being submitted to different bodies.

***Case management***

7.11. Licensing authorities should keep records of complaints. Complaints should be investigated or a note made explaining why no action was taken. For example, in the case of a malicious or persistent correspondent not furnishing any new information, it may be legitimate not to take action.

7.12. Some problematic short-term lets are likely to generate a number of complaints, either at the same time about broadly the same issue or over an

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

extended period of time. Licensing authorities should have a mechanism to link complaints so that the complaints can be dealt with effectively without duplication and so that the authority has an accurate picture of the compliance or otherwise of that host or operator.

- 7.13. A series of relatively minor complaints about a particular short-term let may have an effect on the licensing authority's decision in considering a renewal application or varying the licence to attach additional conditions.
- 7.14. Licensing authorities should be aware that VisitScotland operates a fully traceable complaints procedure for businesses in their quality assurance scheme. Complaints, depending on their nature, are recorded and either dealt with immediately (a business is asked to respond to any points of concern raised) and/or made visible to their Quality & Tourism Advisor team for addressing at the time of their next grading visit. In all cases, a reassessment of accommodation standards is made at subsequent live visits (usually on a biennial basis) and the appropriate award is allocated.

***Speed of turnaround***

- 7.15. Complaints should be acknowledged within five working days. Complainants should be appropriately kept up to date with the progress of their complaint; sometimes this may simply be advising them of the outcome.

***Assessing complaints***

- 7.16. Some complaints will require enforcement action from the licensing authority. Options for enforcement action are set out in paragraphs 7.44 and following below.
- 7.17. Some complaints may not require enforcement action from the licensing authority, for example:
- where the licensing authority determines that the complaint is frivolous or vexatious;
  - the complaint relates to a matter which has already been investigated and the complaint was found to be unjustified;
  - action has already been taken or is in progress; or
  - the complaint relates to a matter which is outside the scope of the licensing scheme, for example around the quality of the stay.
- 7.18. Some complaints may be part of an orchestrated campaign, possibly where neighbours dislike the host or operator. Of course, it is the substance of the

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

complaint that is relevant, not the motivation of the complainant nor the volume of complaints.

- 7.19. Licensing authorities may also learn more about the wider issues caused by short-term lets in their area by analysing complaints by postcode and other features of the short-term let (which licensing authorities will know a lot more about as more and more are licensed). Complaints may also bring to light short-term lets of which the licensing authority was not previously aware.
- 7.20. In some cases, complaints may bring to light breaches of licence conditions. Licensing authorities might be able to use information from complaints to improve the way that additional conditions are framed.

### **Taking a risk-based approach to ensuring compliance**

- 7.21. Responding to complaints is an important, but reactive, way of ensuring compliance. Licensing authorities will also need to establish a proactive approach to ensuring compliance. The right approach is likely to vary from authority to authority, depending on local circumstances. Licensing authorities should take a risk-based approach to ensuring compliance in order to find the right balance between the costs of their compliance activities (which are passed on to hosts and operators as licence fees) and the benefits of these activities.
- 7.22. Licensing authorities should consider the appropriate balance of:
- self-declaration from hosts and operators;
  - checking relevant documentation;
  - allowing for third-party accreditation; and
  - visits to premises by licensing authority and other local authority officials.
- 7.23. Licensing authorities should also take account of any input from Police Scotland and the Scottish Fire and Rescue Service, who may have their own views, suggestions or requirements around risk assessment and prioritisation.
- 7.24. Licensing authorities should establish criteria for handling licence applications and renewal applications and ensuring compliance at other times. Licensing authorities may want to complement a criteria-based approach with random checks; this will help provide assurance that the criteria are appropriate. (For example, if random checks of what were classified as low priority short-term lets highlighted a high proportion of problems, that would suggest that the criteria need to be adjusted.)

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

7.25. As set out in **chapter 2**, the first step in ensuring compliance is to make sure that hosts and operators have every opportunity to know what they must do. Licensing authorities should take active steps to publicise their licensing scheme. Publicising the licensing scheme will be especially important in the run up to 1 October 2022 when awareness may be lower.

### **Identifying unlicensed short-term lets**

7.26. Operating without a licence, when required to have one, is an offence under the 1982 Act (see below). Note that some hosts and operators may legitimately be operating without a licence up to 31 March 2024; the transitional arrangements are set out in Guidance Part 1.

7.27. Note that there will be two types of licence for short-term let: home sharing and home letting; and secondary letting. Operating one type of short-term let whilst only having a licence for the other would be operating without a licence. For example, a host operator with a licence for home sharing and home letting who then let out their whole property as a secondary let, would be committing an offence. The licence number format (see **chapter 8**) makes it easy to distinguish between these two types of licence.

7.28. Licensing authorities are obliged to maintain a public register of licensed short-term lets and update this on a quarterly basis (see **chapter 8**). Unlicensed short-term lets will not appear on this public register.

7.29. Licensing authorities, letting agencies and platforms all have a role to play in identifying and eliminating unlicensed short-term lets.

### ***Complaints to the licensing authority***

7.30. Some unlicensed short-term lets may come to light through complaints to the licensing authority from guests or neighbours. If the subject of the complaint is that the premises is not licensed, the complainant should be directed to check this for themselves through the public register in the first instance. It is possible that the public register may be up to three months out of date so the complainant may have reason to believe that the premises is unlicensed when, in fact, a licence has recently been issued or is in the process of being determined.

### ***Proactive action by the licensing authority***

7.31. Licensing authorities should consider putting in place random checks of adverts and listings in their area. Licensing authorities should check that licensed numbers that are displayed on adverts and listings are real and have not expired.

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- 7.32. Note that accommodation that falls outside the scope of the definition of short-term let (for example hotels licensed under the 2005 Act) will appear on adverts and listings without a short-term lets licence number.
- 7.33. Licensing authorities should investigate properties that appear to be within the scope of the definition of short-term let but does not have a licence number.

***Proactive action by letting agencies and platforms***

- 7.34. Letting agencies and platforms have an important role to play in preventing unlicensed short-term lets from operating unlawfully. Hosts and operators are allowed to advertise their property without a licence. However, from 1 April 2024, letting agencies and platforms should not allow a booking to be made without a licence number first being provided by the host or operator. This is because the requirement to have a licence in order to accept bookings will apply to all hosts and operators from this date.
- 7.35. Where it appears that a host or operator is attempting to operate without a licence when one is required, or where the letting agency or platform has other concerns about breaches of licence conditions, they should report these to the relevant licensing authority.
- 7.36. As stated above, hosts and operators are permitted to advertise in advance of obtaining a licence and licensing authorities should issue a provisional licence number on receipt of a licensing application to facilitate this. Existing hosts applying before 1 April 2023 can accept bookings and accommodate guests whilst their application for a licence is being determined.
- 7.37. Hosts and operators:
- must ensure that any advert or listing placed on or after they are granted a licence includes their licence number;
  - should update any on-line listing or advert as soon as reasonably practicable after receiving a licence number; and
  - should make clear in their terms and conditions that the booking is conditional on the guests' compliance with the licensing scheme.
- 7.38. Letting agencies and platforms should take steps to help hosts and operators comply with this by providing them with suitable reminders at key stages and dates in their listing process.
- 7.39. The Scottish Government has specified a consistent licence number format for the whole of Scotland (see **chapter 8**). The 16 digit part of the licence number would allow letting agencies and platforms to do some authentication



SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

of the licence number, but there is no requirement on them to do so. Letting agencies and platforms could help prevent invalid licence numbers being submitted as part of a request from a host or operator for a listing.

- 7.40. Licence numbers will also specify whether the licence relates to: either home sharing and home letting; or secondary letting. Letting agencies and platforms should consider automated processes for picking up inconsistencies between the licence type and the listing. For example, where a host operator is using a home sharing and home letting licence number but advertising the property as being a whole property let, as evidenced by, for example, it not being their billing or contact address.

### ***Compliance with other licence conditions***

- 7.41. Licence numbers will be included on licensing authority's public registers making it easier to correlate a licence number with other data in relation to the short-term let, including some mandatory conditions. For example the public register will include information on the maximum occupancy. This means that licensing authorities, letting agencies and platforms could check that the advertised occupancy of any particular premises does not exceed the maximum occupancy as specified on the public register.

### ***Automated processes***

- 7.42. Licensing authorities should work with the Scottish Government to support technical systems that allow for the automated identification of unlicensed or non-compliant short-term lets. Letting agencies and platforms are asked to engage constructively in this work too. The Scottish Government wants to support the development of robust technical systems that use the public registers and apply automated rules to listing data to pick out problems.
- 7.43. An important step is to specify the data architecture and business messages precisely. This is discussed further in **chapter 8**.

### **Options for enforcement action**

- 7.44. The options for enforcement action for licensing authorities provided through the Licensing Order and 1982 Act are:
- additional licence conditions on application (or through variation) – see **chapter 5**;
  - enforcement notices – see paragraphs 7.45 and following below;
  - variation, suspension or revocation of the licence – see paragraphs 7.49 and following below; or

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- prosecution in respect of offences under the 1982 Act – see paragraphs 7.54 and following below.

## **Enforcement notices**

- 7.45. Licensing authorities have the power<sup>29</sup> to serve enforcement notices. Where complaints, visits to premises, or other information, suggest that any licence condition has been, or is likely to be, breached, licensing authorities can require a licence holder to take action to put it right. This will usually be done by serving an enforcement notice (“non-compliance” or “improvement” notice). Such notices must 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.
- 7.46. The reference to future breaches might seem unusual but it would be based on evidence. This is to cover, for example, a host or operator advertising property as capable of taking ten guests in breach of a licence condition specifying no more than eight. This would be evidenced in a listing or advertisement.
- 7.47. The format of an enforcement note may be similar to an additional condition (see **chapter 5**). An enforcement notice must specify—
- the matters constituting the breach or likely breach<sup>30</sup>,
  - the action to be taken by the licence holder which the licensing authority considers necessary for the purposes of rectifying or, as the case may be, preventing the breach, and
  - the date by which the action must be taken.
- 7.48. If satisfactory action is not taken by the required date(s) to address the issues set out in a notice, licensing authorities have powers to vary, revoke or suspend a licence.

## **Variation, suspension and revocation**

- 7.49. A licensing authority can vary, suspend or revoke a licence in certain circumstances, see Guidance Part 1. Licensing authorities may do this without serving an enforcement notice if the seriousness of the breach justifies urgent action.

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<sup>29</sup> Paragraph 10A of schedule 1 to the 1982 Act, as inserted by the Licensing Order.

<sup>30</sup> See the Policy Note (**Paper 2**) for more information.

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

7.50. The procedures to follow for variation, suspension and revocation are set out in schedule 1 to the 1982 Act.

7.51. Hosts and operators can appeal against being served with a notice of variation, suspension or revocation. 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.

***Variation***

7.52. A licensing authority may vary the terms of a licence on any grounds they think fit<sup>31</sup>. They can do this at any time. They can do this following an application made to them by the licence holder or of their own initiative.

***Suspension or revocation***

7.53. Licensing authorities may order the suspension or revocation of a licence<sup>32</sup> if in their 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.

**Offences under the 1982 Act**

7.54. Section 7 of the 1982 Act<sup>33</sup> sets out four offences, as set out below. These currently attract fines on the standard scale<sup>34</sup>:

<b>Level on the scale</b>	<b>Maximum fine</b>
1	£ 200
2	£ 500
3	£1,000
4	£2,500

<sup>31</sup> Paragraph 10 of schedule 1 to the 1982 Act.

<sup>32</sup> Paragraph 11 of schedule 1 to the 1982 Act.

<sup>33</sup> Section 7 of the 1982 Act.

<sup>34</sup> As set out at section 225 of the Criminal Procedure (Scotland) Act 1995.

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

5	£5,000
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***Operating without a licence***

- 7.55. 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.
- 7.56. 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. We know that secondary letting of a normal home can yield much more revenue than letting under the 2016 Act. With so-called “party mansions”, the revenue may be significantly higher.
- 7.57. Only imprisonment may be a sufficient deterrent in rare and extreme cases. The Scottish Government intends to make provision for imprisonment as a last resort for hosts who continue to operate without a licence. Imprisonment could be useful where the potential revenue for the host or operator from continuing to operate without a licence exceeded the maximum fine and the host or operator was continuing to operate in flagrant disregard of the law.

***Failing to comply with a licence condition***

- 7.58. 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.
- 7.59. 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.
- 7.60. 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.
- 7.61. 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

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

certificate, where required to have one under building standards legislation, can be fined as follows as a minimum<sup>35</sup>:

- £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.***

7.62. 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***

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

7.64. 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.

7.65. 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 overprovision or planning controls.

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<sup>35</sup> [Energy Performance Certificates: introduction - gov.scot \(www.gov.scot\)](https://www.gov.scot/energy-performance-certificates-introduction)

## **8. Licensing data**

### **Introduction**

- 8.1. As all short-term lets will by 1 April 2024 require to be licenced in order to continue operating, the licensing scheme will provide accurate up-to-date data on the number of short-term lets operating in Scotland, and their exact location (as well as other relevant data).
- 8.2. The licensing scheme will help licensing authorities to understand what is happening in their area, improving the effective handling of complaints. At present, the data available on short-term lets are limited to Airbnb's activity and self-catering properties registered on the Non-Domestic Valuation Roll. Information on Airbnb's activity includes data published by Airbnb (in the form of reports, and not datasets) and those published by Inside Airbnb (free of charge) and Air DNA (with fee), which are scraped from the Airbnb website.
- 8.3. Licensing authorities are required to maintain a public register of short-term let licences, and share data with Scottish Government on an ongoing regular basis. The Scottish Government will use the data to monitor trends and form an evidence base for any future interventions by Scottish Government, if any changes to the licensing scheme or other measures are needed.
- 8.4. Licensing authorities are responsible for the storage, handling and disposal of all data related to licence applications they receive. Licensing authorities are responsible for ensuring compliance with UK General Data Protection Regulations, as data controllers.
- 8.5. Licensing authorities can share personal data, for specific purposes, as follows:
  - 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.
  - Publication in the public register of licences, see paragraphs 8.15 and following below.
  - 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.
  - With letting agencies and platforms, see paragraphs 8.24 and following below.

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- 8.6. Further details on data processing can be found in the Data Protection Impact Assessment (DPIA) in the [2020 consultation report](#). Information about the processing of personal data is set out section C of the DPIA.
- 8.7. Licensing authorities must not keep personal data for longer than needed. Licensing authorities 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.

### **Managing the data**

- 8.8. The objectives, with regard to collecting and processing the data are set out in the Data Protection and Impact Assessment (DPIA). They are as follows:
- a) Require licensing authorities to 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**). Operational data should be shared using the same format and data field specifications as in the public register, with any additional fields appended.
  - b) Require licensing authorities to share data, including the number, type and location of short-term lets, with Scottish Government on an ongoing regular basis (**analytical data**). The Scottish Government needs consistent data from all licensing authorities so that it can be combined into a national database for subsequent analysis. Licensing authorities should submit the data using the same format and data field specifications as in the public register.
  - c) Require licensing authorities to publish a register of short-term let licences and their status (granted, refused, being determined, revoked, lapsed etc.) which can be accessed by members of the public (**public register**). Licensing authorities must publish the register on a quarterly basis. The public register will contain a limited amount of personal information (e.g. to allow people to check whether their neighbour has a licence to operate a short-term let) but we might want licensing authorities to share further data with Scottish Government. The public register will be similar to the landlord register and licensing authorities' public HMO registers.
- 8.9. The processing of personal data is set out section C of the DPIA.
- 8.10. The following personal information will be published in the register:

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- Applicant names (title, first name, surname)
  - Names of any day-to-day managers
  - Address of premises (including postcode and URN).
- 8.11. The following personal information from applications or from Police Scotland background checks can be retained:
- The host or operator’s contact details
  - The contact details of other people named on the application form
  - Date and place of birth (for all applicants, and any agent(s))
  - Unspent convictions involving: fraud and dishonesty; violence; drugs; firearms; and sexual offences.
- 8.12. Section H of the DPIA sets out the lawful basis for data sharing and sharing data between organisations, for example between licensing authorities and Police Scotland in order to carry out background checks.
- 8.13. Section L of the DPIA sets out further detail for licensing authorities, as data controllers, on:
- data controllers and safeguards;
  - data security;
  - anonymity and pseudonymity;
  - data handling procedures;
  - storage and disposal of data; and
  - identification methods.
- 8.14. It will be for licensing authorities, as data controllers, to satisfy themselves that they process, handle and store data in a way that ensures compliance with the UK GDPR.

### **The public register**

- 8.15. Licensing authorities must maintain a register of applications for short-term lets licences<sup>36</sup> which contains the outcome of the application. The

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<sup>36</sup> Paragraph 14 of schedule 1 to the 1982 Act, as modified by the Licensing Order.



SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

specification for the register is set out at **Annex D** with the data fields.

Licensing authorities must:

- a) make the register available to the public electronically, in a searchable format - this could be done through publishing an Excel spreadsheet with suitable user instructions and protections; and
  - b) publish or update their register on quarterly basis.
- 8.16. The public register should facilitate local communities to track activity in their area and neighbours to identify short-term lets. This will be aided by the inclusion of premises' addresses in the public register. Licensing authorities should consider how they might publish their register in such a way as to facilitate such searches.
- 8.17. The requirement to identify whether the short-term let is within either of the two national parks in Scotland is to assist them in identifying short-term let activity within their boundaries (which are not necessarily contiguous with licensing authority boundaries).
- 8.18. The structure and specification of licence numbers are explained in **chapter 6** and **Annex C**.
- 8.19. Licensing authorities 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.
- 8.20. Note that, where the licensing authority 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. This necessitates retaining at least the fact of revocation for at least 12 months. Depending on the reasons for the revocation, it may be appropriate to retain the information for longer, if it is likely to be relevant in determining any new application for a licence by the host.

## **Sharing data**

### ***With Scottish Government***

- 8.21. Licensing authorities must share the register with the Scottish Government in a suitable format. The Scottish Government will amalgamate licensing authority data to produce a national report. This national report on short-term let activity in Scotland will close a significant gap in knowledge that currently exists. No personal data would feature in the Scottish Government report.

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

- 8.22. Licensing authorities might want to consider a unified process for publishing the content of their register and submitting it to the Scottish Ministers in order to save them time and effort.

***With other licensing authorities***

- 8.23. Licensing authorities have the power to share information about the reasons for suspending, varying or revoking a licence with each other<sup>37</sup>. This is important in the case that a host or operator is licensed by more than one licensing authority and there are reasons why another licensing authority might also wish to take action, for example where one licensing authority takes the view that the host is no longer a fit and proper person.

***With letting agencies and platforms***

- 8.24. Where a licence is revoked, for example, any letting agency or platform advertising or listing the property should be advised quickly. Licensing authorities have the power to advise any person involved in advertising or listing the property of the fact that 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. For example, a property with a suspended licence could continue to be advertised but with a note saying “we are unable to take bookings at this time”.
- 8.25. Where a licensing authority becomes aware of an unlawful unlicensed premises being advertised or listed, they have the power to notify any person involved in advertising or listing the property.
- 8.26. Conversely, letting agencies and platforms should notify licensing authorities where it comes to their attention that they have advertised or listed unlawful unlicensed accommodation. They should also remove such listings expeditiously. They can share such information with the relevant licensing authority as is necessary for that authority to gather relevant evidence for any prosecution and take enforcement action.

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<sup>37</sup> Paragraph 14A of Schedule 1 to the 1982 Act, as inserted by the Licensing Order.

## 9. Other relevant legislation

- 9.1. There is other legislation which is relevant to the lawful operation of short-term lets. This is also set out in Guidance Part 1 to remind hosts and operators.
- 9.2. Licensing authorities should consider asking about matters relating to **food** hygiene and food safety as part of the application process for a licence. Licensing authorities could use this to assist with registration under the Food Premises (Registration) Regulations 1991<sup>38</sup>, which applies to any business that serves any kind of food or alcohol. Licensing authorities should consider what advice may be needed from environmental health officers and whether this is a relevant matter for any visit to premises.
- 9.3. Hosts and operators must comply with the law on **fire safety** as set out in the Fire (Scotland) Act 2005 (“the 2005 Act”); for more information see chapter 4 of the Guidance Part 1.
- 9.4. Licensing authorities should be aware that some **title deeds** may restrict the use of premises for hospitality. The Scottish Government does not expect licensing authorities to check this (it is not a mandatory condition). However, where this is raised as part of an objection by neighbours, this may be a relevant consideration for the licensing committee who may wish to obtain advice as to the terms of the title deeds.
- 9.5. Guidance Part 1 reminds hosts and operators that they must make sure that they declare your income from their short-term let activity for **tax** purposes and that they have the permission of any **lender** (where relevant). Licensing authorities may be asked by HMRC or Revenue Scotland about licensing information where this might assist with their investigations.
- 9.6. Hosts and operators may be subject to **waste management** requirements, depending on the nature and scale of their operation. Businesses operating secondary lets are not generating household waste and any waste arising should be considered commercial or trade waste. This means that they are subject to the Waste (Scotland) Regulations 2012<sup>39</sup>, and are required to put in place a contract for the disposal of their waste and in addition are required to ensure that specific waste streams (food, glass, paper, card, plastics and metals) are separately collected for recycling.

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<sup>38</sup> Made under the Food Safety Act 1990.

<sup>39</sup> See [Waste \(Scotland\) Regulations | Zero Waste Scotland](#).

## **Stakeholder Working Group Membership**

The following licensing authorities and organisations were represented on the [stakeholder working group](#):

- Airbnb
- Association of Local Authority Housing Officers (ALACHO)
- Association of Scotland's Self-Caterers
- Association of Serviced Apartment Providers
- Booking.com
- City of Edinburgh Council
- Community Land Scotland (on behalf of rural residents)
- COSLA
- Electrical Safety First
- Expedia
- Federation of Small Businesses
- Gilson Gray
- Heads of Planning Scotland (Perth and Kinross Council)
- Independent Chair of the Scottish Government Regulatory Review Group
- Ketchum (for Booking.com)
- Law Society of Scotland
- Local Authority Environmental Health Officers (Aberdeen City Council)
- PLACE Edinburgh (on behalf of urban residents)
- Police Scotland
- Quality in Tourism
- Scottish Bed and Breakfast Association
- Scottish Fire and Rescue Service
- Scottish Government
- Scottish Land & Estates
- Scottish Local Authority Lawyers and Administrators (SOLAR) (Fife Council)
- Scottish Tourism Alliance
- UK Hospitality
- UK Short-Term Accommodation Association
- Visit Scotland

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

## **Design Principles**

The regulatory framework should be:

1. **Proportionate:** minimising bureaucracy and barriers to innovation or tourism and encouraging high-tech entrepreneurship, to benefit the Scottish economy
2. **Promoting safe practice:** for hosts, guests and local residents - includes health, fire safety and prevention of nuisance or crime
3. **Robust:** with no loopholes in regulation and taxation
4. **Responsive:** councils are empowered to implement the regime that responds to local needs, of both residents and businesses (e.g. new festivals starting up)
5. **Built on existing powers and solutions as much as possible,** e.g. existing noise and nuisance powers
6. **Fair across the hospitality sector,** maintaining a level playing field both between new entrants and established operators and between short-term letting and other parts of the hospitality sector
7. **Flexible and future-proofed:** not assuming that today's approaches or platforms will be the approach taken in future
8. **Easy to understand by all:** visitors, hosts and platforms, this will aid enforcement as different participants will be able to identify compliance failures
9. **Cost effective:** the approach should seek to minimise administrative costs to all participants
10. **Straightforward and effective to enforce:** making good use of existing enforcement mechanisms and data that is easy to obtain.

## **Licence number specification**

The licence number will comprise 20 characters, four of which are alphabet (capital letters) and 16 of which are digits (D):

**A<sub>1</sub>A<sub>2</sub>-DDDD-DDDD-DDDD-DDDD-A<sub>3</sub>A<sub>4</sub>**

The leading two characters (A<sub>1</sub>A<sub>2</sub>) will identify the licensing authority:

Aberdeen City	<b>AC</b>
Aberdeenshire	<b>AS</b>
Angus	<b>AN</b>
Argyll and Bute	<b>AR</b>
Clackmannanshire	<b>CL</b>
Dumfries and Galloway	<b>DG</b>
Dundee	<b>DD</b>
East Ayrshire	<b>EA</b>
East Dunbartonshire	<b>ED</b>
East Lothian	<b>EL</b>
East Renfrewshire	<b>ER</b>
Edinburgh	<b>EH</b>
Falkirk	<b>FK</b>
Fife	<b>FI</b>
Glasgow	<b>GL</b>
Highland	<b>HI</b>
Inverclyde	<b>IN</b>
Midlothian	<b>ML</b>
Moray	<b>MO</b>

**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

Na h-Eileanan Siar	<b>ES</b>
North Ayrshire	<b>NA</b>
North Lanarkshire	<b>NL</b>
Orkney	<b>OR</b>
Perth and Kinross	<b>PK</b>
Renfrewshire	<b>RN</b>
Scottish Borders	<b>SB</b>
Shetland	<b>SH</b>
South Ayrshire	<b>SA</b>
South Lanarkshire	<b>SL</b>
Stirling	<b>ST</b>
West Dunbartonshire	<b>WD</b>
West Lothian	<b>WL</b>

The 16 digits will be generated by an algorithm which will include certain validation and authentication checks.

The penultimate character ( $A_3$ ) will denote the type of short-term let to which the licence relates:

<b>H</b>	Home sharing and home letting
<b>S</b>	Secondary letting



**SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

The final character (A<sub>4</sub>) will denote the type of “licence”:

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

***Example***

<b>A</b>	<b>C</b>	<b>-</b>	<b>1</b>	<b>3</b>	<b>4</b>	<b>7</b>	<b>-</b>	<b>2</b>	<b>9</b>	<b>6</b>	<b>7</b>	<b>-</b>	<b>8</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>-</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>-</b>	<b>H</b>	<b>E</b>
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This number relates to a temporary exemption (E) for home sharing or home letting (H) in Aberdeen City (AC).

SHORT TERM LETS CONSULTATION NO. 3:  
PAPER 5 – DRAFT LICENSING GUIDANCE PART 2

Annex D

## Public register specification

**Note:** to be completed and agreed. Constrained types and formats (e.g. postcode) to be specified.

CONTENT	TYPE / FORMAT	DESCRIPTION	M/O <sup>40</sup>
<b>Applicant Name</b>	Full Name	The applicant's full name	M
Title	Title		O
Forenames	String (repeatable)		M
Surname	String		M
<b>Premises address</b>	Address	Address	M
Address Line 1	String	First line of address	M
Address Line 2	String	Second line of address	O
Address Town	String	The town component of the address	M
Address County	String	The county component of the address	M
UK Postcode	Postcode	The postal code	M
<b>Council Ward</b>	Ward	The council ward in which the premises is located	M
Ward	Ward (constrained type)		M
<b>Date of application</b>	Date	The date the application was received	M
Date of application	Date (dd-mm-yyyy)		M
<b>Status</b>	Status	Status of the application	M
Application status	Status (constrained type)	Whether the application has been granted, refused, being determined, revoked, lapsed, suspended.	M
<b>Type of premises</b>	Premises	The type of premises to which the application relates	M
Type of premises	Premises (constrained type)	e.g. detached home, semi-detached home, terraced home, flatted dwelling, unconventional dwelling	M
<b>Short-term let type</b>		The type(s) of short-term let	M
Short-term let type	STL Type (constrained type) (repeatable)	One or more of home sharing or home letting; or secondary letting	M

<sup>40</sup> Mandatory / Optional

SHORT TERM LETS CONSULTATION NO. 3:  
**PAPER 5 – DRAFT LICENSING GUIDANCE PART 2**

CONTENT	TYPE / FORMAT	DESCRIPTION	M/O <sup>40</sup>
<b>Maximum occupancy</b>	Number	The maximum occupancy as specified on the licence	M
Maximum occupancy	Number (integer)	Maximum number of guests allowed to reside in the premises	M
<b>National Park</b>	National Park		M
National Park	National Park (constrained type)	Indicates whether the short-term let is within either Loch Lomond and the Trossachs National Park or the Cairngorms National Park or neither.	M
<b>Licence number</b>			M
Licence number	Licence number	As specified in <b>Annex C</b> .	M
<b>Number of bedrooms</b>	Number	Number of bedrooms in the premises	O
Number of bedrooms	Number (integer)		O
<b>Occupancy data</b>			O
Year	Year (yyyy)	Year to which data relates	M
Nights available	Number (repeatable)	Nights available, repeatable for each property	O
Nights occupied	Number (repeatable)	Nights occupied, repeatable for each property	O
<b>Manager</b>	Name	Name	O
Title	Title		O
Forenames	String (repeatable)		M
Surname	String		M
Company name	String	Company name if management is provided by a company	O
Address Line 1	String	First line of address	M
Address Line 2	String	Second line of address	O
Address Town	String	The town component of the address	M
Address County	String	The county component of the address	M
UK Postcode	Postcode	The postal code	M
<b>EPC rating</b>	EPC		O
EPC rating	EPC (constrained type)	Rating A to G	O



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