

Agenda

Special Meeting of Licensing Committee

Date: Tuesday, 13 September 2022

Time: 10:00

Venue: Civic Space, 16 Church Street, Dumbarton, G82 1QL

Contact: Lynn Straker, Committee Officer
Email: lynn.straker@west-dunbarton.gov.uk

Dear Member,

Please attend a meeting of **Licensing Committee** as detailed above.

The business is shown on the attached agenda.

Yours faithfully

PETER HESSETT

Chief Executive

Distribution:

Councillor Ian Dickson
Councillor Diane Docherty
Councillor June McKay
Councillor John Millar
Councillor Lawrence O'Neill (Chair)
Councillor Chris Pollock
Councillor Gurpreet Singh Johal (Vice Chair)
Councillor Hazel Sorrell

All other Councillors for information.
Chief Officer – Regulatory and Regeneration

Date issued: 31 August 2022

LICENSING COMMITTEE
TUESDAY, 13 SEPTEMBER 2022

AGENDA

1 APOLOGIES

2 DECLARATIONS OF INTEREST

Members are invited to declare if they have an interest in any of the undernoted items of business on this agenda and, if so, state the reasons for such declarations.

3 MINUTES OF PREVIOUS MEETING 5 - 7

Submit for approval, as a correct record, the Minutes of Meeting of the Licensing Committee held on 3 August 2022.

4 OPEN FORUM

The Committee is asked to note that no open forum questions have been submitted by members of the public.

5 THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 9 - 56
(LICENSING OF SHORT-TERM LETS) ORDER 2022

Submit report by the Manager of Legal Services providing the Committee with information on the new powers that have been given to local authorities to regulate short-term lets in the form of a licensing scheme and seeking approval from the Committee of the terms of the draft Short-Term Lets Policy to be effective from 1 October 2022.

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in the Council Chambers, Clydebank Town Hall, Dumbarton Road, Clydebank on Wednesday, 3 August 2022 at 2.02 p.m.

Present: Councillors Ian Dickson, Gurpreet Singh Johal, June McKay, Chris Pollock and Hazel Sorrell.

Attending: Nigel Ettles, Section Head – Litigation; Robert Mackie, Senior Officer (Licensing Services); and Lynn Straker, Committee Officer.

Also Attending: Kenny McSheaffrey, Charles Murray, Gerry McAllister (Clydebank Taxi Operators Group), Allan MacLeod (Taxi Operator/Driver) and Paul Martin (Taxi Driver).

Apologies: Apologies for absence were intimated on behalf of Councillors Diane Docherty, John Millar and Lawrence O'Neill and Sergeant David Holmes, Police Scotland.

Councillor Gurpreet Singh Johal in Chair

DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest in any of the items of business on the agenda.

MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Licensing Committee held on 8 June 2022 were submitted and approved as a correct record.

OPEN FORUM

The Committee noted that no open forum questions had been submitted by members of the public.

CLYDEBANK TAXI FARE REVIEW

A report was submitted by the Chief Officer – Regulatory and Regeneration providing details on the review of fares and charges applicable to taxis operating within the Clydebank Taxi Licensing Zone.

The Principal Solicitor summarised the contents of the report and invited Mr MacLeod to address the Committee.

It had been intimated prior to the Meeting that both Paul Martin and Charles Murray wished to make representations to the Committee although they had not submitted a representation, members agreed to allow both parties to address the Committee in addition to Mr MacLeod and Mr McSheaffrey.

Mr MacLeod requested that the order in which parties were allowed to speak be altered so that he could respond to any submission put forward by Mr McSheaffrey, Members refused this request but advised Mr MacLeod that he would be able to address any points raised by Mr McSheaffrey if required.

The Committee then heard from Mr MacLeod in relation to his representation.

The Committee then heard from Mr McSheaffrey who asked Members to consider some additional changes separate from what they had proposed at the earlier meeting in April 2022.

Mr MacLeod was then allowed to respond.

The Committee then heard from Mr Paul Martin who provided his views on the taxi fares.

Mr Murray declined the opportunity to address the Committee.

ADJOURNMENT

Councillor Singh Johal adjourned the meeting to allow a short recess to consider the various representations which had been made. The meeting reconvened at 3.27 pm with all those listed in the sederunt present.

Members agreed to conclude the review and agreed the following changes to the existing fare chart:-

- a) Increase the flagfall on all Tariffs by 30p
- b) Change the wording on Tariff One from:-

For a distance not exceeding 5/11ths OF A MILE or for waiting time not exceeding 3 minutes 45 seconds (or a combination of both)

to:-

For a distance not exceeding 5/11ths OF A MILE

- c) Increase the running mile by 20p on all Tariffs
- d) Change the wording from:-

Any hire terminating out-with the West Dunbartonshire area will be at a rate agreed at the time of hire

to:-

Any hire terminating out-with the Clydebank zone of the West Dunbartonshire area will be at a rate agreed at the time of hire

- e) Change the wording under Extra Charges from:-

A charge of £3.00 shall be payable for a taxi called by telephone or via App and not cancelled before arrival

to:-

A charge of £3.30 shall be payable for a taxi called by telephone or via App and not cancelled before arrival

- f) Increase the soiling fee from £60.00 to £100.00.

The Committee also agreed:-

- (i) that Officers notify all taxi operators by email or post in advance of any future proposed fare chart being advertised in the local paper alerting them to the period in which representations could be submitted; and
- (ii) to authorise Officers to conclude the review by notifying each taxi operator of the new scales and of their right to appeal to the Traffic Commissioner and, if there is no appeal against the scales by a taxi operator, by giving public notice that the new scales are to come in to effect.

The meeting closed at 3.48 p.m.

WEST DUNBARTONSHIRE COUNCIL

Report by Manager of Legal Services

Special Meeting of the Licensing Committee – 13 September 2022

Subject: The Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022

1. Purpose

- 1.1** To provide the Committee with information on the new powers that have been given to local authorities to regulate short-term lets in the form of a licensing scheme. This report details what powers are available to the Council in relation to mandatory and discretionary controls under the legislation. It also sets out the timeline for the implementation of those powers.
- 1.2** To set out the preparatory work that has been carried out by officers and the issues the Council will have to consider as a result of the legislation coming into force;
- 1.3** To seek approval of the terms of the draft Short-Term Lets Policy to be effective from 1 October 2022.

2. Recommendations

It is recommended that the Committee:

- 2.1** Note the commencement of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 on 1 March 2022;
- 2.2** Note that, as a result of the provisions of the legislation, local authorities must open a licensing scheme for short-term lets by 1 October 2022;
- 2.3** Note the challenges the Council faces in relation to the implementation of this licensing scheme;
- 2.4** Approve the draft Short-Term Lets Policy comprised in Appendix 1 to the report, subject to any minor amendments agreed by the Manager of Legal Services in consultation with the Convenor to accommodate any significant observations from the Loch Lomond and the Trossachs National Park Authority.

3. Background

- 3.1** On 19 January 2022, The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (“the Order”) was approved by

the Scottish Parliament. The Order came into force on 1 March 2022 and inserts new legislative provisions into the Civic Government (Scotland) Act 1982 ("the Act").

- 3.2** The Order introduces a new mandatory licensing system for short-term lets which local authorities are required to establish by 1 October 2022.
- 3.3** Prior to the introduction of the legislation, there was no requirement to licence short-term lets and, therefore, local authorities did not have the ability to regulate these types of premises.
- 3.4** The licensing scheme was brought in by the Scottish Government with the aim to ensure short-term lets are safe, address issues faced by neighbours, to facilitate local authorities in knowing and understanding what is happening with regard to short-term lets in their area and allow them to handle complaints effectively. It also enables local authorities to ensure the people providing short-term lets are suitable providers. The legislation aims to make sure that the economic and tourism benefits from short-term lets are balanced with the needs and concerns of local communities.
- 3.5** The short-term let licensing scheme will cover a wide range of residential accommodation including, but not exclusively; self-catered properties, B&B's, guest houses, glamping pods and yurts.
- 3.6** The licensing scheme includes new mandatory safety requirements that will cover every type of short-term let. These are set out in the legislation as mandatory conditions of a licence. It will also include a 'fit and proper' test to assess whether an applicant is suitable to be the holder of a licence. Every licence application will require consultation with Police Scotland and the Scottish Fire and Rescue Service. In addition, consultation may be carried out with the Council's Environmental Health Service and Planning and Building Standards Services. The Environmental Health Service will undertake any on-site compliance checks required for applications, taking a proportionate and risk-based approach.
- 3.7** The Council also has the discretion to apply further appropriate conditions to address any local concerns. The draft policy, which includes proposed additional conditions, has been drafted and is set out in Appendix 1 of this report. The additional conditions will only be applied to those licenses where it is considered necessary by the Committee.
- 3.8** The Order sets out a timetable for the implementation of the licensing scheme. This has been set out at Appendix 2 of this report.
- 3.9** In addition to the introduction of the licensing scheme for short-term lets,

new planning regulations were brought into force in April 2021. The Town and Country Planning (Short-Term Let Control Areas) (Scotland) Regulations 2021 provide a mechanism for the Council, as planning authority, to establish short-term let “control areas” which aim to help manage high numbers of short-term lets. Under these regulations, the Council, as planning authority, can establish areas where any property operating as a short-term let for more than 28 days a year have to apply for planning consent as it is considered a change of use. There are currently zero (0) control areas in West Dunbartonshire.

4. Main Issues

4.1 The proposed scheme, in Appendix 1 is considered to sufficiently address the requirement to balance the economic and tourism benefits from short-term lets with the needs and concerns of local communities referred to in Paragraph 3.4 of this report, and also with the need to ensure a safe environment for those using the facilities.

4.2 The introduction of a mandatory licensing scheme and the adoption of discretionary powers, as well as new planning regulations, will present a significant number of issues for the Council as set out below:

Timescales for the implementation of the licensing regime

4.3 The Scottish Government delayed the introduction of the legislation by a year but did not extend the timescales for local authorities to have to start accepting applications. The guidance for local authorities was only published on 25 March 2022 and the Council must be in a position to accept applications by 1 October 2022, at the latest. This has become more challenging given the vacancies in key staff, timetabling with local government elections, member training and summer recess of Committees.

Volume of Applications

4.4 Introducing a licensing scheme on the scale of the short-term let sector in West Dunbartonshire Council area will be a significant undertaking for the Council to effectively deliver. From research carried out by Council officers, figures suggest that there are approximately 150-200 properties that will require to be licensed within the West Dunbartonshire Council area. This will result in a substantial increase in workload and will place an additional pressure on staff processing applications.

Committee time

4.5 There is the potential for business of the Committee to become pressured by the volume of applications requiring Committee determination. Any application which attracts an adverse representation or objection (from a member of the public, Police Scotland, Fire Service

or Council department) will require to go to the Committee for a formal hearing. Consideration needs to be given to the capacity of Committee meetings and whether changes will need to be made to processes, including amending delegated powers and/or other business to allow for this volume.

5. People Implications

- 5.1** Staff time for developing the Policy has been met from existing resources however there is increasing pressure across all services. The Licensing and Environmental Health departments will require to monitor workload and may require to seek an increase in their administrative provision in order to process the likely number of applications.

6. Financial and Procurement Implications

- 6.1** Licensing authorities are required to charge fees in respect of processing and determining applications. The Civic Government (Scotland) Act 1982 states that licensing fees must be sufficient to cover the authority's administrative expenses. This doesn't just include staff time and ongoing associated expenses, but all the work involved in getting the licensing scheme up and running.
- 6.2** Council officers have worked to establish the costs involved in the preparation of the scheme to date and the ongoing costs of administering the scheme. This includes consideration of the level of staff and estimated time required in processing an application through to the cost of Committee time and any potential appeals.
- 6.3** Licensing Services operate a cost recovery model, utilising a band system with regular fee reviews being carried out. This banded system aims to ensure that each licensed activity is effectively cost neutral on others by recovering the portion of costs attributable to that activity. Inevitably adding such a potentially large and resource intensive activity may impact overall on the resourcing available and / or the charge for the bands but that can only be assessed over time. Based on the information available to date, the indicative fee is anticipated to be in Band E that is currently set at £766.
- 6.4** The legislation also enables enforcement costs to be recovered separately. These are for premises which require inspection after ongoing complaints or where there is a failure to comply with conditions relating to the premises.
- 6.5** Having considered the closest comparators for the nature of the licenses and the likely staff involvement it is considered that Band E represents the most likely scenario but this will be monitored over the coming 18 months (to allow for full uptake of the scheme) and a report will be brought to a future Committee advising whether the Band requires to be changed, whether to continue to review matters for more information, or whether to confirm Band

E as the most appropriate.

7. Risk Analysis

- 7.1** It is a legal requirement to implement the Short-Term Let Policy. This requires to be in place by 1 October 2022. Failure to do so would result in reputational and possible financial loss for the Council.

8. Equalities Impact Assessment (EIA)

- 8.1** No issues were identified when carrying out an Equalities Impact Assessment screening exercise.

9. Strategic Environmental Assessment

- 9.1** The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- 9.2** Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions.
- 9.3** The information contained within this report has been considered under the Act. However, no action is required as the Act does not apply to the matters presented in this report.

10. Consultation

- 10.1** Due to the time constraints, a public consultation was not carried out on the draft policy. Key trade associations, the Association of Scotland's Self-Caterers and AirBnB, were provided the opportunity to comment on the draft policy. The responses are set out in Appendix 3.
- 10.2** Loch Lomond and the Trossachs National Park, as Planning Authority for Loch Lomond, were also provided the opportunity to comment on the draft policy. It is noted that this consultation was issued late in the process and verbal update will be provided if these are received before Committee.
- 10.3** Comments from services including the Council's Planning and Environmental Health services have been reflected within the report and policy.

11. Strategic Assessment

- 11.1** In terms of the Council's Strategic Priorities, the purpose of licensing is to protect the welfare of the community, including vulnerable people.

Name: Alan Douglas
Designation: Manager of Legal Services
Date: 29 August 2022

Person to Contact: Kimberley McCallum, Solicitor, Legal Department –
Contracts & Property, 16 Church Street, Dumbarton G82
1QL.
Email - kim.mccallum@west-dunbarton.gov.uk

Appendices: Appendix 1 – Draft Short-term Lets Policy
Appendix 2 - Short Term Let implementation timeline
Appendix 3 - Consultation Response from Association of
Scotland's Self-Caterers

Background Papers: The Civic Government (Scotland) Act 1982 (Licensing of
Short Term Lets) Order 2022
The Town and Country Planning (Short Term Let Control
Areas) (Scotland) Regulations 2021
Civic Government (Scotland) Act 1982

Wards Affected: All Council Wards.



SHORT-TERM LETS POLICY

DRAFT

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Foreword

This policy statement is the first one published by the West Dunbartonshire Licensing Committee on Short-Term Lets.

The purpose of the policy is to provide guidance for applicants, licence holders and members of the public on the licensing system for short-term lets.

This policy statement will be reviewed and revised when necessary.

DRAFT

1. Background

- 1.1. On 19 January 2022, The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (**"the Order"**) was approved by the Scottish Parliament. The Order came into force on 1 March 2022 and inserts new legislative provisions into the Civic Government (Scotland) Act 1982 (**"the Act"**).
- 1.2. The Order introduces a new mandatory licensing system for short-term lets which local authorities are required to establish by 1 October 2022.
- 1.3. Prior to the introduction of the legislation, there was no requirement to license short-term lets and, therefore, local authorities did not have the ability to regulate these types of premises.
- 1.4. The licensing scheme was brought in by the Scottish Government with the aim to ensure short-term lets are safe, address issues faced by neighbours and to facilitate local authorities knowledge and understanding of what is happening in their area. It also enables local authorities to ensure the people providing short-term lets are suitable and allows them to handle complaints effectively. The legislation aims to make sure that the economic and tourism benefits from short-term lets are balanced with the needs and concerns of local communities.

2. Timescales for applying

- 2.1. From 1 October 2022, new hosts and operators will need to have a licence. This means that, if you were not using your premises to provide short-term lets before 1 October 2022, you can advertise but not take bookings or receive guests until you have obtained a licence.
- 2.2. Existing hosts or operators (those using accommodation to provide short-term lets before 1 October 2022) have until 1 April 2023 to apply for a licence. During this period you can operate without a licence (by continuing to take bookings and receive guests) unless your licence application has been determined and refused.
- 2.3. After 1 April 2023, existing hosts can only continue to operate if they have submitted an application for a licence on or before 1 April 2023 that has not yet been determined or been granted a short-term let licence.

3. Definitions

“Short-term Let” or “STL” - is defined in the Order as the use of residential accommodation provided by a host in the course of business to a guest, where all the following criteria are met-

- (a) The guest does not use the accommodation as their only or principal home,
- (b) The short-term let is entered into for commercial consideration,
- (c) The guest is not:
 - i. An immediate family member of the host,
 - ii. Sharing the accommodation with the host for the principal purpose of advancing the guest's education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or
 - iii. An owner or part owner of the accommodation,
- (d) The accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host or to another member of the host's household,
- (e) The accommodation is not excluded accommodation,
- (f) The short-term let does not constitute an excluded tenancy.

“Commercial Consideration” - this includes money and a benefit in kind (such as a provision of a service or reciprocal use of accommodation).

“Council” – means West Dunbartonshire Council, a Local Authority in terms of the Local Government (Scotland) Act 1994 having its principal place of business at 16 Church Street, Dumbarton G82 1QL,

“Dwellinghouse” - means for these purposes, an independent dwelling (with its own front door, kitchen and bathroom) such as a house, flat, cottage etc.

“Excluded Accommodation” – is defined in the Order as accommodation which is, or is part of:

- (a) an aparthotel,
- (b) premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect and where the provision of accommodation is an activity listed in the operating plan as defined in section 20(4) of the 2005 Act,
- (c) a hotel which has planning permission granted for use as a hotel,
- (d) a hostel,
- (e) residential accommodation where personal care is provided to residents,
- (f) a hospital or nursing home,
- (g) a residential school, college or training centre,
- (h) secure residential accommodation (including a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital,

- secure local authority accommodation, or accommodation used as military barracks),
- (i) a refuge,
- (j) student accommodation,
- (k) accommodation which otherwise requires a licence for use for hire for overnight stays (not including an HMO licence granted under Section 129 of the Housing (Scotland) Act 2006),
- (l) accommodation which is provided by the guest,
- (m) accommodation which is capable, without modification, of transporting guests to another location
- (n) a bothy,
- (o) accommodation owned by an employer and provided to an employee in terms of a contract of employment or for the better performance of the employee's duties.

“Excluded Tenancy” – is defined in the order as a tenancy which falls within any of the following definitions:

- (a) protected tenancy (within the meaning of section 1 of the Rent (Scotland) Act 1984,
- (b) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) 1988 Act),
- (c) a short assured tenancy (within the meaning of section 32 of the Housing (Scotland) Act 1988),
- (d) a tenancy of a croft (within the meaning of section 3 the Crofters (Scotland Act 1993),
- (e) a tenancy of a holding situated outwith the crofting counties (within the meaning of section 61 of the Crofters (Scotland Act 1993) to which any provisions of the Small Landholders (Scotland) Acts 1886 to 1931(8)) applies,
- (f) a Scottish secure tenancy (within the meaning of section 11 of the Housing (Scotland) Act 2001),
- (g) a short Scottish secure tenancy (within the meaning of section 34 of the Housing (Scotland) Act 2001),
- (h) a 1991 Act tenancy (within the meaning of section 1(4) of the Agricultural Holdings (Scotland) Act 2003),
- (i) a limited duration tenancy (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 2003),
- (j) a modern limited duration tenancy (within the meaning of section 5A of Agricultural Holdings (Scotland) Act 2003),
- (k) a short limited duration tenancy (within the meaning of section 4 of the Agricultural Holdings (Scotland) Act 2003),
- (l) a tenancy under a lease under which agricultural land is let for the purpose of its being used only for grazing or mowing during some specified period of the year (as described in section 3 of the Agricultural Holdings (Scotland) Act 2003),
- (m) a private residential tenancy (within the meaning of section 1 of the Private Housing (Tenancies) (Scotland) Act 2016),
- (n) a student residential tenancy.

“Guest” – this means a person who occupies accommodation under a short-

term let,

“Home Letting” - using all or part of your own home for short-term lets whilst you are absent,

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

“Host” – this means a person who is the owner, tenant or person otherwise in control over occupation and use of the accommodation,

“Immediate family member” – the Order provides that a person (“A”) is an immediate family member of another person (“B”) if A is—:

- (a) in a qualifying relationship with B,
- (b) a qualifying relative of B,
- (c) a qualifying relative of a person who is in a qualifying relationship with B, or
- (d) in a qualifying relationship with a qualifying relative of B.

For the purposes of (a) to (d) above –

- (1) Two people are in a qualifying relationship with one another if they are –
 - i. Married to each other,
 - ii. In a civil partnership with each other, or
 - iii. Living together as though they are married,
- (2) A *“qualifying relative”* means a parent, grandparent, child, grandchild or sibling,
- (3) two people are to be regarded as siblings if they have at least one parent in common,
- (4) a person's stepchild is to be regarded as the person's child,
- (5) a person (“C”) is to be regarded as the child of another person (“D”), if C is being or has been treated by D as D's child.

“Licensing Authority” - means the licensing authority responsible for the processing of STL licences under the 1982 Act,

“Police Scotland” - means the police service of Scotland having its headquarters at Tulliallan Castle, Kincardine,

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

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

“Short-term Let Licence” or “STL licence” - means a licence for a short-term let,

“Unconventional Accommodation” – this means residential accommodation

that is not defined as a dwellinghouse and would include residential accommodation such as glamping pods and yurts.

West Dunbartonshire Council is the Licensing Authority for West Dunbartonshire in relation to a wide range of activities. The responsibility of licensing certain activities, including Short-Term Lets (“STL”) is delegated to the Licensing Committee (“**the Committee**”).

Please note that if you have an HMO licence for your property, you would still need a short-term let licence if it is also to be used for short-term lets. This is the case whether or not you live at the premises covered by your HMO licence.

There are four types of licences for short-term let accommodation. Any licence granted must be for either:

1. Secondary letting;
2. Home letting;
3. Home sharing; or
4. Home letting and home sharing

A separate licence is required for each of your premises. However, a single licence may be issued in respect of unconventional accommodation where there is more than one separately bookable property on the site.

You do not need a separate licence for short-term lets within the same dwellinghouse. For example, if you are letting out two rooms in your home, that would be covered by one licence.

4. Application and notification

- 4.1.** All applicants for the grant, variation and renewal of a STL Licence, irrespective of the type of STL Licence being applied for (Secondary Letting, Home Letting, Home Sharing; or Home Letting and Home Sharing) must complete the STL Licence application form available online at *[insert once finalised]* together with the appropriate documentation and fee. Please see section 4.7 in relation to the appropriate documentation and section 19 in relation to the appropriate fee.
- 4.2.** An application for a STL Licence, under the legislation, can be made by a person other than the owner of the premises. Where this is the case the applicant must ensure they provide the relevant consents from the owner(s) as detailed in section 4.7(d).
- 4.3.** Part of the application form will require the applicant to provide a declaration to the Licensing Authority that they can comply with the mandatory conditions attached to a STL Licence, including all the documentation detailed within these conditions. Further information on the mandatory conditions can be found at Appendix 3.
- 4.4.** Applicants should be mindful that the Licensing Authority can request any documentation referred to in the mandatory conditions at any time during the consideration of an application or the period of the licence, if granted. Applicants should also note that a breach of a condition is a criminal offence under the Act.
- 4.5.** If an applicant has had a STL Licence application refused by the Licensing Authority then the applicant cannot apply for a STL Licence within one year of the date of the refusal unless there has been a material change of circumstances. An applicant who has been refused must contact the Licensing Section by email at licensing@west-dunbarton.gov.uk if they wish to apply within the year of the date of refusal. The Licensing Authority determines if the change is material, not the applicant.
- 4.6.** Applicants who operated a STL prior to 1 October 2022 will be given a provisional STL Licence Number if their STL Licence application is submitted to the Licensing Authority, with all the required documentation as detailed in section 12.2 below, before 1 April 2023. This is to enable those operators to continue to operate a STL while their application is being considered. It should also be noted that this provisional STL Licence Number will cease when the application is determined.
- 4.7.** Applicants should be aware that an application will not be accepted and processed without the following documentation (where applicable):
- a) Planning Permission or a Certificate of Lawfulness – where the

Council establishes a short-term let control area, as explained in section 17, a host or operator must make an application for planning permission or already have planning permission before they apply for a STL Licence.

- b) Floor/Layout Plan - All applicants for the grant of a STL licence will be required to submit a floor plan of the premises, scale 1: 50 showing at least the following:
 - i. Rooms – living area/bedrooms/bedrooms available for guests;
 - ii. Room sizes, including bedrooms;
 - iii. Fire escapes;
 - iv. Location of heat/smoke alarms;
 - v. Location of fire doors; and
 - vi. Location of stairs/elevators/lifts;

For renewal applications, where there has been no change to the layout of the premises a floor plan would not be required with the application.

For variation applications, where the variation relates to a change to the layout of the premises, a floor plan would be required with the application.

- c) Evidence of Operation as a STL before 1 October 2022 – where an applicant has been operating a STL before 1 October 2022, the applicant will be required to certify this when submitting a STL licence application. Checks to establish this may be made by the Licensing Authority.
- d) Consent from Owner(s) – where the applicant is not the owner, the applicant must provide consent from the owner ,or if the title to the premises is held by more than one owner, all owners or a person authorised to act on behalf of the owner(s). Where the premises is owned by more than one person (shared ownership) all owners will have to declare that they consent to the application, if one owner is submitting the application. These declarations would be required to be submitted with the application.

4.8. Under the terms of the Act, all applicants who apply for a short-term let licence must display a notice at or near the premises, in a place where it can conveniently be read by the public, for a period of 21 consecutive days beginning with the date on which the application was submitted to the Licensing Authority.

4.9. The notice will include the following information, as required by the Act:

- a) The type of licence applied for (Secondary Letting, Home Letting, Home Sharing or Home Letting and Home Sharing);
- b) Applicant's full name and address if an individual. If not an individual then the full name of the organisation together with the registered or principal office address, names of directors or

- persons responsible for the management of the premises;
- c) Person responsible for day to day activity (a mandatory condition is that this can only be the licence holder);
- d) Address of the premises relating to the STL Licence application;
- e) The number of rooms providing sleeping accommodation within the premises;
- f) Details of any other STL Licence that has been granted to the applicant;
- g) The name and address of the owner(s) where the applicant is not the owner of the premises or the land on which the premises is located;
- h) Confirmation that the owners consent to the application (this would be included in the application form); and
- i) Where objections and representations in relation to the application can be made to, the 28 day timescale for submitting an objection or representation and the statutory requirements of an objection or representation (in writing, providing name and address etc). Further information in relation to objections and representations can be found at section 5.

4.10. In terms of the consultees, the Licensing Authority will send a copy of all applications received to the following consultees:

- a) Police Scotland (statutory consultee); and
- b) Scottish Fire and Rescue Service (statutory consultee).
- c) Elected Members for the area; and
- d) West Dunbartonshire Council's Planning Department (or Loch Lomond & The Trossachs National Park Planning Authority if appropriate)
- e) West Dunbartonshire Council's Building Standards Department
- f) West Dunbartonshire Council's Environmental Health Service

Police Scotland and Scottish Fire and Rescue are statutory consultees to every application.

Any response received from a consultee will be considered by the Committee as detailed in 5.

4.11. All personal data will be processed in line with the Council's privacy notices, found here: <https://www.west-dunbarton.gov.uk/privacy/>

5. Objections and representations

5.1. The Act permits any member of the public to submit an objection or representation to the grant or renewal of a STL licence application (excluding temporary licences).

5.2. Objections and representations must be in writing (email is acceptable), specify the grounds for objection, the name and address of the person making the objection, be signed and be provided to the Local Authority no later than 28 days after the later

of:

- a) The date the application was made to the Local Authority;
- b) The date of the public notice; or
- c) If the date detailed in any notice which has to be re-advertised on request of the Local Authority.

5.3. Anonymous objections or representations will not be considered.

5.4. Objections and representations will be taken into account by the Committee when considering a STL licence application.

5.5. Although the Licensing Authority is under a duty to consider any objections or representations made within 28 days of the application, it does have discretion to hear late objections and representations provided it is satisfied with the reasons for lateness. Where a late objection or representation has been received it will be passed to the applicant to enable them to consider it in case the Committee determine to hear the late objection/representation.

5.6. The objection should be relevant to the statutory grounds that can be taken into consideration when refusing an application. These are set out in Paragraph 5(3) of Schedule 1 of the Act and are:

- a) The applicant or, where the applicant is not a natural person, any director of it or partner in it or any other person responsible for its management, is either –
 - i. for the time being disqualified under section 7(6) of this Act, or
 - ii. not a fit and proper person to be the holder of the licence;
- b) the activity to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;
- c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to –
 - i. the location, character or condition of the premises or the character or condition of the vehicle or vessel;
 - ii. the nature and extent of the proposed activity;
 - iii. the kind of persons likely to be in the premises, vehicle or vessel;
 - iv. the possibility of undue public nuisance; or
 - v. public order or public safety; or
- (ca) the applicant would not be able to secure compliance with-
 - i. the mandatory licence conditions, and
 - ii. the standard conditions and any further conditions

- under sub-paragraph (1A)(b) to which the licence is to be subject,
- (cb) the application does not contain the information required under 1(2)(da) or (db) (the consent of the owners of the premises); or
 - d) there is other good reason for refusing the application;
- 5.7.** It should detail clearly the reasons for the objection/representation and why the applicant and/or the premises are not suitable.
- 5.8.** A copy of the objection or representation will be provided to the applicant and will include your name and address. All personal data will be processed in line with the following privacy notice: <https://www.west-dunbarton.gov.uk/privacy/>

6. Determination of application

- 6.1.** Everybody named on the application form will be subject to the fit and proper test. Every application form will require consultation with Police Scotland who will carry out background checks.
- 6.2.** Licensing authorities are responsible for determining whether you are a fit and proper person to be the holder of a licence for short-term lets. Consideration will be given to a wide range of information including relevant criminal convictions, other relevant information provided by Police Scotland, any previous disqualifications from being a private landlord, previous revocations of a HMO licence and providing false or misleading information in your application form.
- 6.3.** If there are no objections or adverse representations to a short-term let licence application, the application will be determined under delegated powers by the Chief Officer – Regulatory & Regeneration.
- 6.4.** If an objection or adverse representation is submitted in relation to the short-term let licence application, the application will be subject to a hearing at a meeting of the West Dunbartonshire Council Licensing Committee.
- 6.5.** The person submitting the objection or representation will be invited to attend the meeting of the West Dunbartonshire Licensing Committee and speak to their objection/representation. You will be given at least 14 days' notice of the hearing date.
- 6.6.** The applicant or their representative will also be invited to attend the meeting and given the opportunity to state why the application should be granted.
- 6.7.** The Committee will be able to ask questions of both parties and, thereafter, decide whether to grant or refuse the application. The

grounds for refusing an application are set out at section 5.6 above.

- 6.8. Applications will be heard in public unless required to be taken privately on the grounds of disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973
- 6.9. A copy of the Council's hearing procedure can be found at **Appendix 2**.
- 6.10. Both the applicant and the person(s) making an objection/representation can request a statement of reasons for the decision within 21 days of the date of the decision. The statement of reasons will be produced by the West Dunbartonshire Council Section Head Licensing within 10 days of that request.
- 6.11. If your application for a licence is refused, you cannot reapply for a licence within 1 year of that decision, unless there has been a material change in your circumstances since then.

7. Right of appeal

- 7.1. Applicants should note that where their STL Licence application has been refused by the Licensing Authority they do have a right of appeal under the Act. An appeal should be made to the Sheriff Court within 28 days from the date of the refusal. Where an appeal has been lodged the STL Licence will continue in effect until such time as the appeal has been determined.
- 7.2. Applicants should note that the Licensing Authority is unable to give any legal advice in relation to appealing a decision and as such it is recommended that they seek independent legal advice on the matter.
- 7.3. The Licensing Authority will determine each application on its own merits.

8. Licence duration and renewal

- 8.1. The duration of the licence applies from the date on which the licence comes into force. This will be specified on the licence together with the expiry date of the licence.
- 8.2. When an application is made to renew a licence timeously, the existing licence will continue in effect until such time as a decision is made on the renewal application.
- 8.3. A licence shall have effect-

- for a period of 3 years from the date when it comes into force; or
- for such shorter period as the licensing authority may decide at that time when they grant; or
- for such longer period as the licensing authority may decide at the time when they renew a short-term let licence

8.4. The Scottish Government's guidance for licensing authorities on short-term lets has made it clear that licensing authorities are encouraged to renew licences for a period of 3 years, unless they have good reasons to do otherwise.

8.5. Whilst, each application will be decided on its own merits, it is not anticipated that licences will be renewed for a period of longer than 3 years.

9. Licence conditions

9.1. The Act sets out a number of mandatory licence conditions that apply to all short-term let across Scotland. A list of these conditions can be found at **Appendix 3**. It should be noted that the Licensing Authority has no power to amend these mandatory conditions.

9.2. In addition to the mandatory licence conditions that apply to all short-term lets, the Licensing Authority may impose additional conditions. These enable the Licensing Authority to respond to local challenges and concerns relative to specific types of short-term letting.

9.3. There are a number of additional conditions that may apply to all short-term let properties. There also some specific additional condition that may only apply to certain types of short-term let properties or to properties following investigation of concerns. A list of some style additional licence conditions which may apply to your short-term let licence can be found at **Appendix 4**.

9.4. One of the mandatory conditions that is attached to all STL Licences is that the licence holder must ensure that the number of guests residing on the premises does not exceed the number specified in the licence.

9.5. All grant applications will ask the applicant to confirm the number of guests they would like to accommodate in the premises. The Licensing Authority do however have to provide a maximum number of guests who can stay on the premises at any one time on the STL Licence when it is issued. This is known as the "maximum capacity". The Licensing Authority, taking into account the information provided on the application form and layout plan, will calculate the maximum capacity in the following way:

The maximum number of persons in relation to a premises is whichever is the less of:

- (a) The number specified in Table 1 below in relation to the number of rooms in the house available as sleeping accommodation for guests, and
- (b) The aggregate for all such rooms in the premises of the numbers specified in column 2 of Table 2 in relation to each room of the floor area specified in column 1.

9.6. It should be noted that no account shall be taken for the purposes of either Table, of a room having a floor area of less than 50 square feet.

9.7. It should be noted that a room is available as sleeping accommodation if it is of a type normally used in the premises as a living room or as a bedroom. The Licensing Authority will not include children under 2 years of age when calculating the maximum capacity.

Table 1

Number of Rooms	Number of Persons
1	2
2	3
3	5
4	7
5+	2 for each room

Table 2

Column 1 – Floor Area of Each Bedroom	Column 2 – Number of Persons
90 sq. ft. (8.36 sq. m.) or more	2
50 sq. ft. (4.65 sq. m.) or more but less than 90 sq. ft. (8.36 sq. m.)	1

10. Temporary Exemptions

10.1. Given one of the reasons behind STL legislation being introduced is to ensure basic safety standards are in place across all STL, the Committee may agree that on this basis, no temporary exemptions will be granted. This would mean that where a person is using their premises as a STL, at any time throughout the year, a STL licence would be required.

10.2. The Licensing Authority may however, grant temporary exemptions for national events within West Dunbartonshire.

- 10.3.** The Licensing Authority is aware of the statutory requirement to keep its temporary exemption policy under review and to publish it every three years.

11. Temporary Licences

- 11.1.** The Committee is aware that under the Act, temporary STL Licences could be applied for however, it is further aware that with temporary licences there is a limited consultation process when compared to a full licence. With a temporary licence application there would be no requirement to display a site notice, no opportunity for objections or representations to be received other than from the statutory consultees.
- 11.2.** In addition the only bodies the Licensing Authority would consult with under the legislation is Police Scotland and Scottish Fire and Rescue Service. Given a full consultation would not be undertaken, the Committee may agree not to accept any Temporary STL Licence applications and instead require a full STL Licence to be applied for as detailed at section 4. This would mean that all STL licence applications would be subject to the full consultation process as detailed in section 4.

12. Unlicensed Short-Term Lets

- 12.1.** It is a criminal offence under the Act to operate a STL without a STL Licence. The Licensing Authority has no power to take any action against unlicensed STL.
- 12.2.** Complaints about suspected unlicensed hosts/operators should be directed to Police Scotland.

13. Complaints and Enforcement

- 13.1.** The Scottish Government has set out the following timescales for hosts and operators. Please note the rules are different depending on whether you are a new host/operator or an existing host/operator:
- a) New Hosts/Operators:
 - i. From 1 October 2022 you **cannot** accept bookings until you have obtained a short-term let licence
 - ii. From 1 October 2022, you **cannot** operate while your short-term let application is being determined
 - b) Existing Hosts/Operators:
 - i. Existing hosts/operators must apply for a short-term let licence by 1 April 2023, at the latest.
 - ii. If you have been trading on or before 30 September

2022, you may continue to accept bookings from 1 October 2022 but only if you have made a licence application by 1 April 2023.

- iii. You can continue to operate for the time it takes for your licence application to be finally determined.
 - iv. A provisional licence number will be provided to you on receipt of a licence application,
 - v. By 1 July 2024 you should not be trading unless you have been granted a full licence
- c) A public register will be maintained of licensed short-term lets by the Council. This will allow members of the public to check the licensing status of a premises being used as a short-term let.

13.2. Licensed short-term lets

- a) Hosts and operators must ensure that any advert or listing placed on or after they are granted a licence includes their licence number.
- b) Hosts and operators must ensure that they comply with all the mandatory and any additional conditions on their licence. It is a criminal offence to fail to comply with a licence condition if a licence holder has not used all due diligence to prevent the offence.
- c) It is also a criminal offence for a licence holder, without reasonable cause, to fail to notify the licensing authority of a material change of circumstances.
- d) The Council may undertake premises site visits as part of the application process and throughout the duration of the licence to ensure compliance with licence conditions.

13.3. Complaints about licensed short-term lets

- a) It is essential that licensed STL are operated in accordance with the Act and the licence conditions. The complaints procedure under the Act represent a key protection for the community where problems relating to the operation of a STL cannot be resolved amicably by the licence holder and the complainer.
- b) A complaint must be relevant to the matters that the Council can take into consideration. Frivolous or vexatious complaints will not be considered.
- c) The Council can consider matters relating to the suitability of the licence holder, threats to public safety or public order or whether a condition of the licence has been contravened.

- d) These issues would include a host/operator exceeding the number of people staying at the premises, serious disturbance or antisocial behavior or concerns about the maintenance and safety of the premises.
- e) Please note that the Council cannot consider complaints in relation to the quality of a guest's stay or specific contractual matters between the guest and the host/operator as this is outside the scope of the licensing scheme.
- f) Complaints will aim to be acknowledged within 5 working days. A full response advising you of the outcome may take some time if the complaint requires further investigation. The complaint may also need to be directed to other departments within the Council such as Planning, Environmental Health or other services such as Police Scotland or Scottish Fire and Rescue Service for input. Complainants will be kept up to date with progress if there is a delay in a full response being provided.
- g) Premises site visits may be undertaken by the Council as part of an investigation into a complaint.
- h) Information on how to make a complaint can be found at [www.
https://www.west-dunbarton.gov.uk/business/environmental-health](https://www.west-dunbarton.gov.uk/business/environmental-health)

13.4. Enforcement

- a) It is possible that some complaints may require enforcement action from the Council.
- b) The Act provides for several options for enforcement action if justified. This includes additional licence conditions being attached, enforcement notices or variation, suspension or revocation of the licence or in more serious circumstance pursuing a prosecution.
- c) An enforcement notice must set out the matters constituting a breach or likely breach, the action required to rectify or prevent the breach and the date by which the action must be taken.
- d) If the matter is not addressed satisfactorily by the licence holder, the Council may then consider a variation, suspension or revocation of the licence.
- e) You will not be charged a fee for a routine visit. However, you may be charged if a follow up visit is necessary because you have breached one of your licence conditions.

14. Variation of a licence

- 14.1.** A licensing authority may, at any time, whether or not upon an application made to them by the holder of the licence, vary the terms on any grounds they think fit.
- 14.2.** A variation application cannot, however, be used to substitute a new holder of the licence for the existing one i.e. effectively to transfer a licence.

15. Suspension or revocation of a licence

- 15.1.** A licensing authority may, whether upon a complaint made to them or not, suspend or revoke a licence.
- 15.2.** Before immediately suspending, the Licensing Authority will consult with Police Scotland and Scottish Fire and Rescue Service.
- 15.3.** The grounds for further suspending or revoking a STL licence are detailed under Paragraph 11 of Schedule 1 of the 1982 Act. These are:
 - a) the holder of the licence or, where the holder is not a natural person, any director of it or partner in it or any other person responsible for its management, is not or is no longer a fit and proper person to hold the licence;
 - b) the activity to which the licence relates is being managed by or carried on for the benefit of a person, other than the licence holder, who would have been refused the grant or renewal of the licence under paragraph 5(3);
 - c) the carrying on of the activity to which the licence relates has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety;
 - d) a condition of the licence has been contravened.
- 15.4.** After an immediate suspension has taken place the licence holder will be given an opportunity to attend a hearing before Committee in relation to the matter which triggered the suspension. The Committee, after hearing from the licence holder and/or a representative of Police Scotland/Scottish Fire and Rescue Service, would determine whether to suspend for a further period, revoke the licence or take no further action. This hearing would be within 6 weeks of the immediate suspension.
- 15.5.** The period of suspension can be the unexpired portion of the duration of the licence, or such shorter period as the licensing authority may fix. The effect of the suspension shall be that the licence shall cease to have effect during the period of suspension.

16. Third party accreditation

- 16.1.** The Council will consider third party evidence, accreditation or certification from certain approved bodies to demonstrate compliance with the mandatory and any additional conditions of a licence.
- 16.2.** The Council will also consider the provision of supporting documentation being provided through suitable third-party platforms. Applicants will be expected to provide a link to the database with the supporting documentation in lieu of uploading the documents as part of the application process.

17. Planning permission

- 17.1.** Under The Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 the Planning Authority can introduce Short-term Let Control Zones which would require any change of use for a premises to obtain planning permission. In addition, Short-term Let Control Areas would require all STL Licence applications, for any of the four types of licences to have planning permission (where required) before applying for a licence. The Loch Lomond and the Trossachs National Park Planning Authority will be responsible for introducing any Short Term Control Areas in the part of West Dunbartonshire falling within the National Park (i.e. the Balloch and Gartocharn areas); and the WDC Planning Authority will be the responsible Planning Authority for the remainder of West Dunbartonshire.
- 17.2.** At present there are no Short-term Let Control Areas in place in West Dunbartonshire.
- 17.3.** If any Short-term Let Control Areas are introduced in West Dunbartonshire in the future then applicants and licence holders should note that where planning permission may not be required at present for a STL Licence, this position could change.
- 17.4.** These licence holders should note that it is a mandatory condition of a STL licence that if the premises falls within a Short-Term Let Control Area, the licence holder must ensure that an application for planning permission under the Town and Country Planning (Scotland) Act 1997 has been made or is in force.
- 17.5.** This means that if a Short-Term Let Control Area is introduced during the period of your STL Licence, where planning permission was not initially required at the time of applying and being granted a STL Licence, you would have to apply for planning permission. If you did not apply for planning permission or a certificate of lawfulness as applicable, or if you continued operating your STL once planning permission or a certificate had been refused you would be in breach of a licence condition and enforcement action may be taken.

- 17.6.** The purpose of control areas is to help planning authorities manage high concentrations of secondary letting (where it affects the availability of residential housing or the character of a neighbourhood) and to restrict or prevent short-term lets in places or types of buildings where it is not appropriate.
- 17.7.** Outside of a control area, it is for the planning authority to consider whether any change of use of a dwelling house is material and, therefore, requires planning permission. This is determined on a case by case basis.
- 17.8.** Hosts and operators must comply with both planning and licensing law.
- 17.9.** The Council, as licensing authority, may refuse to consider a licensing application if the host or operator within a designated short-term let control area needs planning permission but does not have it. The Council, as licensing authority, has 21 days from receipt of a valid application to decide to refuse to consider the application on these grounds. If an application is refused to be considered on these grounds, the host or operator must be notified within 7 days together with an explanation.
- 17.10.** A host or operator who then subsequently obtains planning permission or a certificate of lawfulness of use or development can resubmit their licensing application (with no additional fee) provided the host or operator submits the licence application within 28 days of obtaining planning permission or a certificate.
- 17.11.** Before 1 April 2023, the Council, as licensing authority, cannot determine a licence application on the basis that it breaches planning control unless they have given existing hosts a chance to submit an application for planning permission or for a certificate of lawful use or development. However, the Council, as licensing authority, can determine a licensing application before this date where planning permission or a certificate of lawful use or development has already been refused.
- 17.12.** The applicant has 3 months to submit a planning application. If the applicant does not do so within 3 months, the licence application can be determined for these purposes and the applicant must cease providing short-term lets.
- 17.13.** Please note that planning authorities could designate control areas after a premises has already obtained a short-term let licence. Licence holders would be given a reasonable opportunity to comply with the mandatory condition by submitting a planning application as soon as possible after the control area is designated. If planning permission is refused, this may result in the licence being refused, varied or revoked as appropriate.

17.14. Hosts and operators are, therefore, encouraged to engage with the Council's planning department ((or Loch Lomond and the Trossachs National Park's planning department, for applications within the National Park area) **prior** to submitting a licence application to confirm whether they require planning permission or a certificate of lawful use of development.

17.15. The Committee recognises the current position in West Dunbartonshire regarding Short-Term Let Control Areas could change and will ensure this Policy is reviewed to take account of any Short-Term Control Areas that may be introduced in West Dunbartonshire in the future.

17.16. It should be noted that the introduction of any Short-Term Let Control Area would fall under the Planning Authority to implement, not the Licensing Authority.

18. Equality

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

18.2. Prior to the Committee implementing this policy an equality impact assessment was undertaken. This can be viewed using the following link *[to be inserted once the decision is made]*.

19. Fees

19.1. Licensing authorities are required to charge fees in respect of processing and determining, the consideration of applications, the issue of duplicate licences and other matters. They must ensure that the fees are sufficient to cover their administrative expenses and are reviewed periodically.

19.2. Licensing fees are non-refundable. Whether or not a licensing application is granted, the Council incurs significant costs in processing the application.

19.3. The Council has determined the fees, as follows:

	Short-term Lets Licence
Application & Renewal Full Licence	£766.00
Minor Variation	£55.00
Major Variation	£154.50
Environmental Health Inspection	£60.00

Appendix 1 – Contact details

For Application Queries:

Contact: West Dunbartonshire Licensing Department
Telephone: 01389 738741
Email: licensing@west-dunbarton.gov.uk
Address: Licensing Department, West Dunbartonshire Council, 16 Church Street, Dumbarton G82 1QL

For Enforcement and Complaint Queries:

Contact: West Dunbartonshire Environmental Health Department
Telephone: 01389 737957
Email: environmental.health@west-dunbarton.gov.uk
Address: Environmental Health Department, West Dunbartonshire Council, 16 Church Street, Dumbarton G82 1QL

Appendix 2 – Hearing procedure

DURING THE HEARING

1. The Chair will introduce the Members and Officials present. If the representations/objection(s) were submitted timeously and there are no spent convictions to be considered, then proceed directly to number 4.
2. If the representation/objection (from the Police or any other party) has been received late the Committee must hear details as to why the representation/objection was late and be satisfied that there is sufficient reason why it was not made in the time required. If they agree that then the representation/objection can be heard otherwise it should be disregarded. The process to be followed should be that the objector is invited to provide reasons as to why the submission was late. Members may ask any follow up questions of the objector. The applicant must then be asked if they have any objections to the late submission being accepted. The Committee must take all comments into account when deciding whether to accept the late submission.
3. If spent convictions are to be referred to then the guidance notes for spent convictions should be followed for each conviction. The Committee should resolve to go into private whilst considering spent convictions.
4. The hearing procedure below should now be followed:

a	The Licensing Support Officer will present the report to the Committee
b	The applicant or the party who has initiated the hearing will present their case first
c	The presenting party shall be entitled to provide information in support of their application, representation or objection (as applicable).
d	Any other interested party will have the opportunity to ask the presenting party relevant questions.
e	The Committee Members will have the opportunity to ask the presenting party relevant questions.
f	Any other interested parties will then present their case in turn and be entitled to provide information in support of their application, representation or objection (as applicable)

g	Any other interested party will have the opportunity to ask the presenting party relevant questions.
h	The Committee Members will have the opportunity to ask the presenting party relevant questions
i	The Chair will invite the applicant, or the party who has initiated the hearing, to briefly summarise their points if they wish.
j	The Chair will invite the other interested parties to briefly summarise their points if they wish.
k	The Chair will ask the applicant, or the party who has initiated the hearing, and all parties making representations, that they are satisfied that they have said all they wish to.
l	At the sole discretion of the Members, the Committee may decide to retire to consider the representations/objections in private.
m	<p>The Committee will invite the parties to return to the meeting and the Chair will invite Members to take a decision.</p> <p>NOTE: If during private deliberations, the Committee receive advice on a legal submission from the Clerk which is contrary to the view of the party making the submission or the Committee believe additional information would be relevant, then these points should be raised with the parties, in public, prior to any decision being made.</p>

DECISION

A determination of the case will be made at the conclusion of the hearing and all parties will be notified of the decision in writing within 7 days of the hearing and shall be advised of his/her right to seek written reasons and appeal to the Sheriff Court.

If the decision of the Committee is to suspend, refuse or refuse to suspend a licence, a relevant person has a right to request within 28 days of the meeting, the Committee's reasons for arriving at their decision. Unless the circumstances of the case justify immediate suspension, the suspension shall not take effect for 28 days from the date of the decision.

Appeals against the decision of the Committee must be lodged with the Sheriff Clerk within 28 days of the date of the decision.

Appendix 3 – Mandatory licence conditions

Agents

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

Type of licence

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

Fire safety

3. The holder of the licence must ensure the premises has satisfactory equipment installed for detecting, and for giving warning of—
 - (a) fire or suspected fire, and
 - (b) the presence of carbon monoxide in a concentration that is hazardous to health.
4. The holder of the licence must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988

Gas safety

5. Where the premises has a gas supply—
 - (a) the holder of the licence must arrange for an annual gas safety inspection of all gas pipes, flues and appliances in the premises,
 - (b) if, after an annual inspection, any appliance does not meet the required safety standard, the holder of the licence must not allow a short-term let of the premises until the works necessary to bring the appliance to the required safety standard have been carried out.

Electrical safety

6. Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the holder of the licence must—
 - (a) ensure that any electrical fittings and items are in—
 - (i) a reasonable state of repair, and
 - (ii) proper and safe working order,
 - (b) arrange for an electrical safety inspection to be carried out by a competent person at least every five years or more frequently if directed by the competent person,
 - (c) ensure that, following an electrical safety inspection, the competent person produces an Electrical Installation Condition Report on any fixed installations,
 - (d) arrange for a competent person to—
 - (i) produce a Portable Appliance Testing Report on moveable appliances to which a guest has access, and
 - (ii) date label and sign all moveable appliances which have

been inspected.

7. In determining who is competent, the holder of the licence must have regard to guidance issued by the Scottish Ministers under section 19B(4) of the Housing (Scotland) Act 2006(2).

Water safety: private water supplies

8. Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.

Water safety: legionella

9. The holder of the licence must assess the risk from exposure to legionella within the premises, whether or not the premises are served by a private water supply.

Safety & repair standards

10. (1) The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.
(2) Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the holder of the licence must ensure that the premises meet the repairing standard.

Maximum Occupancy

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

Information to be displayed

12. The holder of the licence must make the following information available within the premises in a place where it is accessible to all guests—
 - (a) a certified copy of the licence and the licence conditions, (b) fire, gas and electrical safety information,
 - (c) details of how to summon the assistance of emergency services,
 - (d) a copy of the gas safety report,
 - (e) a copy of the Electrical Installation Condition Report, and
 - (f) a copy of the Portable Appliance Testing Report.

Planning Permission

13. Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”), the holder of the licence must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either—
 - (a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or
 - (b) planning permission under the 1997 Act is in force.

Listings

14. (1) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises

includes—

- (a) the licence number, and
 - (b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008
- (2) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises is consistent with the terms of the short-term let licence.

Insurance

- 15.** The holder of the licence must ensure that there is in place for the premises—
- (a) valid buildings insurance for the duration of the licence, and
 - (b) valid public liability insurance for the duration of each short-term let agreement.

Payment of fees

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

False or misleading information

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

18. Interpretation

In this schedule –

"Electrical Installation Condition Report" means a report containing the following information—

- (a) the date on which the inspection was carried out,
- (b) the address of the premises inspected,
- (c) the name, address and relevant qualifications of the person who carried out the inspection,
- (d) a description, and the location, of each installation, fixture, fitting and appliance inspected,
- (e) any defect identified,
- (f) any action taken to remedy a defect,

"Energy Performance Certificate" means a certificate which complies with regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008 ,

"gas safety report" means a report containing the following information—

- (a) the date on which the appliance or flue was checked,
- (b) the address of the premises at which the appliance or flue is installed,
- (c) a description of and the location of each appliance or flue checked,
- (d) any safety defect identified,
- (e) any remedial action taken,
- (f) confirmation that the check undertaken complies with the

requirements of an examination of—

- (i) the effectiveness of any flue,
- (ii) the supply of combustion air,
- (iii) subject to head
- (iv), its operating pressure or heat input or, where necessary, both,
- (iv) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,
- (v) its operation so as to ensure its safe functioning,
- (g) the name and signature of the individual carrying out the check, and
- (h) the registration number with which that individual, or that individual's employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998,

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

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

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

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

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

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

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

"short-term let licence" means a licence for a short-term let, and

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

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

Appendix 4 – Additional licence conditions

1. Material Changes

- (a) The licence holder shall notify the Council immediately of any material change of circumstances affecting the licensed premises or the licence holder (or any agent appointed by them to manage part or all of the licensed activity), including details of any criminal convictions incurred by such persons since the granting or renewal of the licence

2. Reporting of Certain Incidents

- (a) The licence holder shall notify the Council, as soon as is reasonably practicable, of the details of any incident affecting, or within, the licensed premises which (a) has resulted in structural damage to, or structural collapse within, the premises, or (b) which has involved a gas leak, fire, or explosion necessitating the call-out of the Emergency Services.

3. Anti-Social Behaviour

- (a) The licence holder must take reasonable steps to manage the premises in such a way as to seek to prevent and deal effectively with any antisocial behaviour by guests to anyone else in the short-term let and in the locality of the short-term let.
- (b) The licence holder must take reasonable steps to:
 - i. ensure that no disturbance or nuisance arises within or from the premises, for example by explaining the house rules to the guests;
 - ii. deal effectively with any disturbance or nuisance arising within or from the premises, as soon as reasonably practicable after the licence holder is made aware of it; and
 - iii. ensure any vehicles belonging to guests are parked lawfully, for example explaining where any designated parking spaces are to be found and highlighting any local rules.
- (c) The licence holder shall notify the Council, as soon as is reasonably practicable, of the details of any incident of anti-social behaviour affecting or emanating from the premises which has necessitated police involvement.

4. Privacy and Security

- (a) The licence holder must manage the premises in such a way as to respect and protect the privacy and security of neighbours.
- (b) The licence holder must take all reasonable steps to ensure:
 - i. guests know and understand any particular rules applying to shared areas and entrances;
 - ii. guests understand that shared doors should be properly and securely closed after use; and

- iii. the provision of access codes or keys to guests cannot be used by guests to gain access to shared areas after they have finally departed.

5. Noise

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

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

- (b) 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.

(Condition may be applied following investigations of concerns regarding noise.)

- (c) The licence holder must take reasonable steps to ensure that guests do not first arrive or finally depart from the property between the hours of 11 pm to 7 am. The licence holder must advise guests of this as part of their booking terms and conditions. (Note: "reasonable steps" allows for exceptions, such as significantly delayed transport.)

(Condition would only be applied to those properties located at 1st floor and/or above where a residential property is located below, in close proximity to a neighbouring property or whether there is a shared entrance/communal areas.)

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

(Condition may be applied following investigation of concerns regarding noise associated with hot tubs and where a hot tub is positioned in close proximity or overlooked by neighbouring property.)

- (e) The licence holder must take reasonable step to ensure that guests do not play amplified music within the garden or external areas after [23:00 hours] where it would impact neighbouring residents.

(Condition may be applied following investigation of concerns regarding noise associated with playing music in outdoor areas.)

6. Littering & Waste Disposal

- (a) The licence holder shall ensure that adequate facilities, to the satisfaction of the Council, are provided for the storage, recycling

and disposal of all waste and shall take all reasonable steps to ensure that all common areas of the premises and all common external areas within the curtilage of the premises are kept in a clean, tidy, and well-maintained condition to the satisfaction of the Council.

- (b) The licence holder shall be responsible for advising residents of the refuse collection day and for making arrangements for the presentation of wheeled bins for collection at the appropriate time and day.
- (c) The licence holder should:
 - i. clearly label bins as belonging to the premises
 - ii. ensure guests are made aware of how to correctly use the bins provided for the premises
 - iii. provide bins/sacks
 - iv. take all reasonable steps to ensure that guests manage their waste properly, including when they depart
 - v. take all reasonable steps to ensure guests are made aware as to what items should not be disposed of by flushing down the toilet.

7. Preventing damage to property

- (a) 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.

(Condition may be applied following investigations of concerns regarding use of affixed devices causing damage or nuisance.)

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

- (a) The licence holder shall not permit the use or storage on the premises of LPG room-heaters or, unless in an external store designed and approved for such storage, the storage of any liquified petroleum gas (LPG) or any highly inflammable liquid, gas, or substance. This condition shall not apply to small amounts of liquids or gas sold in small non- refillable retail packs (e.g. lighter fuel or cosmetic appliance cartridges) kept by guests for their own use. Nor shall it apply to the external storage of LPG in cylinders or tanks which are provided by the licence holder for the provision of gas for cooking or for water or space heating or other domestic use, provided the storage complies fully with LPGA Codes of Practice and Building Regulation Technical Standards and that any installation connected to such cylinders or tanks complies with The Gas Safety (Installation and Use) Regulations 1998 or any amendment thereto,

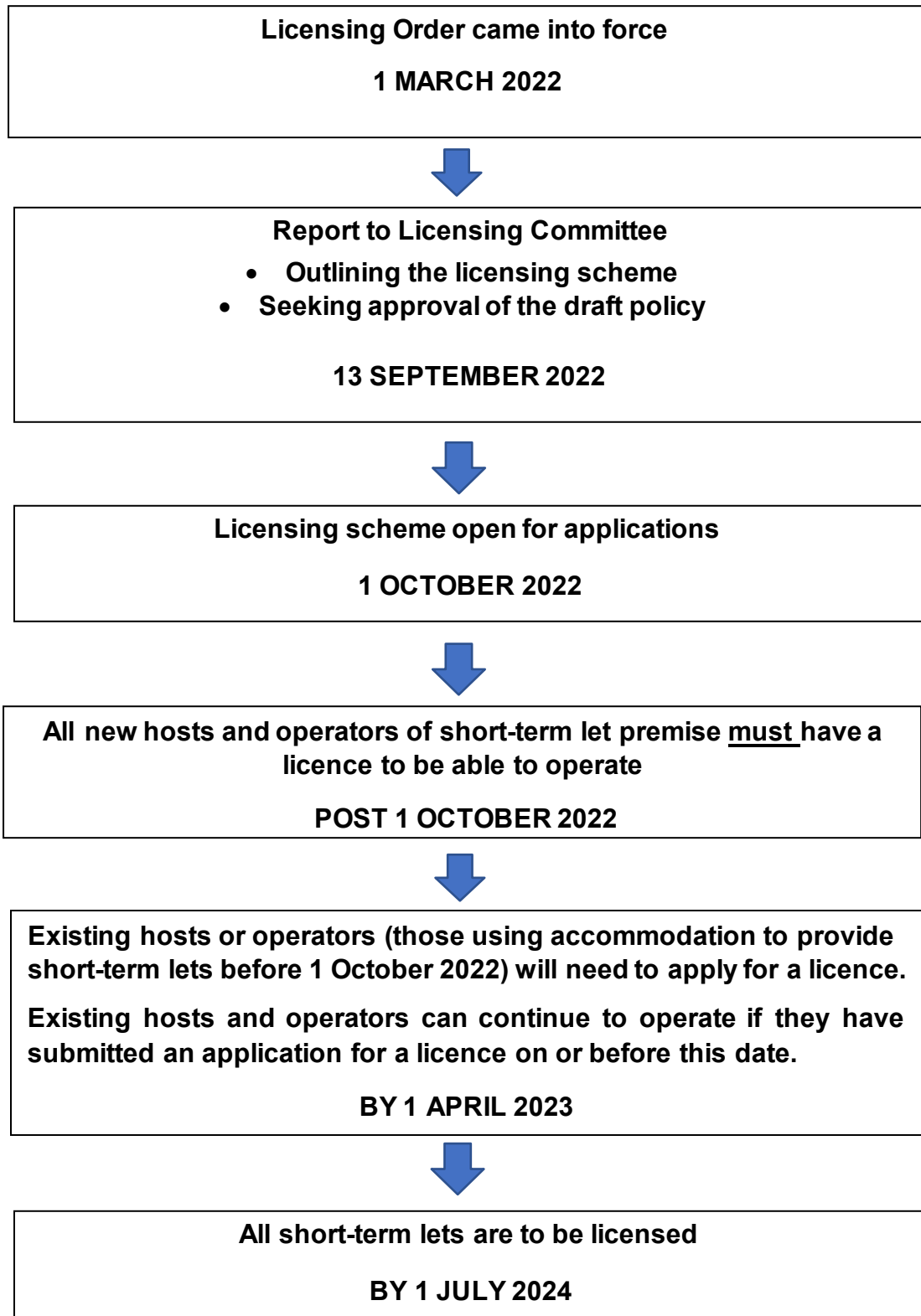
9. Maintenance of property

- (a) Where there is a solid fuel appliance within the premises (i.e. wood burning stove), the holder of the licence shall ensure: -
 - i. the chimney/flue associated with the appliance is inspected and cleaned annually by a suitably competent person.
 - ii. a record of the annual inspection and cleaning of the flue is able to be produced, on request by the Council
- (b) Where there is a hot tub provided at the premises, the holder of the licence shall ensure: -
 - i. that it is suitably located and maintained so as to ensure it can be safely operated and used by guests;
 - ii. that suitable and sufficient cleaning and disinfection procedures are in place;
 - iii. that guests are provided with clear instructions on its safe use and any restrictions on its use;
 - iv. that it is kept securely covered when not in use.

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

- (a) The licence holder shall require to produce on demand to any authorised person any policy, certificate, document, record, certificate of inspection or safety, licence or plan required by or issued in terms pursuant to any condition of this licence.

**Short Term Lets
Timeline**



ASSC Response to West Dunbartonshire Council Short-Term Lets Policy

Founded in 1978, the ASSC are the leading source of knowledge on short-term letting and holiday homes in Scotland and are the only trade body representing the interests of the traditional self-catering sector. We represent over 1,400 members, operating tens of thousands of self-catering properties throughout Scotland, from city centre apartments to rural cottages, to lodges and chalets, to castles. The ASSC commits its members to maintaining the principles of “quality, integrity, cleanliness, comfort, courtesy and efficiency” and to offering visitors to Scotland consistently high standards within their self-catering properties.

Introduction

While we regret the fact that there is not a full public consultation on the issue, we appreciate the opportunity of being invited to comment on West Dunbartonshire Council’s draft Short-Term Let Policy. As the main trade association for the self-catering sector in Scotland, the ASSC hopes that our expertise and insight can help inform the approach taken by West Dunbartonshire Council. We have always strived to work collaboratively and proactively with both local and national government stakeholders to ensure a balanced and proportionate outcome for all. We wish to make clear that the ASSC is not averse to regulation; but we do challenge policies that are pursued while lacking a firm evidence base which will damage the livelihoods of our members.

Self-catering properties have been a longstanding presence in communities for generations, especially in rural communities, and provide an economic boost for local areas and enhance Scotland’s tourist accommodation offering. Such self-catering properties are legitimate, bona fide businesses whose owners depend on the money generated for their livelihood – it is not a hobby or a way to supplement their income. This is entirely separate from the ‘homesharing’ concept, or those amateur operators who utilise online marketing platforms but are not subject to the same levels of existing regulation.

With the competition to maintain standards, holiday let owners often spend money more frequently on additional property maintenance than they would on their own property. Their guests spend money in local food shops, cafes, gift shops, restaurants, tourist attractions etc – many of which would simply be unviable without visitor spending. Self-catering currently boosts the Scottish economy by more than £867m per annum according to Frontline Consultants. Given the importance of ensuring a sustainable recovery, and the significance of this measure for the livelihoods of our members in this region, we would respectfully encourage West Dunbartonshire Council to work as closely as possible with the sector and to minimise the regulatory burden on small business.

ASSC Comments on Draft Short-Term Let Policy

In regard to West Dunbartonshire Council’s draft *Short-Term Lets Policy*, the ASSC wish to make comments on the following areas:

- 4.7 b Floor/Layout Plan
- 4.10 Consultees
- 8 Licence duration and renewal
- 19 Fees
- Appendix 4 – Additional Licence Conditions

4.7 (b) Floor/Layout Plan

A technical layout plan will necessitate an expensive piece of work by a contractor which will be another cost on legitimate small businesses operating without issue for decades. This will be in addition to the cost of a licence fee (currently unknown), compliance with existing regulations, the mandatory and additional conditions, not to mention other factors such as rising energy costs. Unless pertaining to maximum occupancy, there is absolutely no need for a floor plan.

4.10 Consultees

We do not believe it is necessary to include an additional layer to community objections through the involvement of community councils. Licensing deals with the safety of an activity, hence why it is important for the police and fire service to be statutory consultees.

8. Licence duration and renewal

We would highlight that Glasgow City Council and North Ayrshire Councils are proposing ten-year and five-year renewals respectively, and that such timeframes may be more appropriate for businesses in West Dunbartonshire.

9.7 Licence Conditions

The Licensing Authority will not include children under 2 years of age when calculating the maximum occupancy. Common with other local councils, we would suggest this should be set at 10 and under. Scottish Government guidance states that licensing authorities may wish to set the age limit as under 10 years.

19. Fees

We note the omission of any estimated fees for short-term let operators in the draft document. The ASSC would argue that such figures, as well as an explanation behind the criteria used, are absolutely integral to this exercise. Our industry cannot be expected to have any confidence in the new system in their absence.

Furthermore, in terms of the process in determining the fees, the Council proposes to differentiate between homesharing/letting and secondary letting. We would like to ascertain the reason for this differentiation given that the same checks will be undertaken on the properties and how this relates to cost recovery. We would also be keen to understand what figures the Council hold on the number of secondary lets and homesharing properties there are within the area.

Overall, the fees attached to short-term let licencing are meant to be based on the principle of cost recovery – therefore, the ASSC believes that fees should not be set at a level greater than the amount necessary to recover establishment and running costs. If a fee structure with costly, disproportionately high fees was introduced, this will reduce accommodation capacity in the region and will damage the industry at a time when we need to work towards a sustainable recovery.

We would refer West Dunbartonshire Council to Scottish Government guidance which highlights ways to keep costs down, including: (a) economies of scale; (b) integrating service delivery with other housing and licencing functions; (c) using online and digital verification where possible, for example through photo and video evidence instead of a visit; and (d) 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.

It is imperative that any fees are kept as low as possible given the environment many small businesses find themselves in. In this regard, we wish to highlight our proposal which we believe

could assist with an efficient and cost-effective way of securing compliance with the Licencing Order. The ASSC have worked in partnership with Quality in Tourism to promote a self-declaration model with risk-based inspections by the licencing authority.

Overall, this approach has four main advantages:

- It minimises the work required by the licencing authority to set the system up and renew licences;
- Allows the licencing authority to focus its inspection resources on a risk-based basis;
- Requires responsible behaviour and compliance by the operators; and
- Minimises the additional costs to operators (which will have to be absorbed as an additional business cost and/or passed on to the very visitors we want to visit your area to boost our economic recovery).

We understand that local authorities across the country are facing severe pressure on their resources and we believe this system can go some way to help with the administrative challenges associated with the licencing regulations. We would be delighted to meet with officials to discuss this in further detail to see whether it would be appropriate for West Dunbartonshire Council.

Appendix 4 – Additional Licence Conditions

The ASSC believe many of the additional conditions set out by West Dunbartonshire Council are wholly unnecessary. This is either due to a replication of mandatory conditions; that they do not relate to the provision of accommodation through short-term letting; or are not within the control of the individual operator.

Throughout the draft policy and additional conditions, there is a presumption of bad practice against the short-term let industry, from issues such as anti-social behaviour to waste management, which we find incredibly disheartening and disappointing given the immense economic opportunities the sector provides to the region as well as the fact that many businesses in the area have been a welcome part of the community for decades.

We have set out our concerns below with the following sections of Appendix 4 – Additional licence conditions:

2. Reporting of Certain Incidents

We would like to ascertain why the West Dunbartonshire Council believes this is a matter pertaining to licencing. Any incidents involving a gas leak or fire, for instance, relate to safety and the operator would engage the emergency services as they are directly relevant, not a council licencing official.

3. Anti-social behaviour

Incidents of anti-social behaviour in self-catering premises are rare. Last year, the ASSC submitted Freedom of Information requests to all thirty-two local authorities in Scotland and the results of this show that there is a mismatch between perception and reality: the number of ASB complaints against holiday lets in Scotland over the past five years is minimal.

Operators want harmonious relationships with neighbours and the local community – it is not in their interest to allow any anti-social behaviour in their business. This is part of the basic management of their property and there already is existing anti-social behaviour legislation that can be utilised by councils to respond when complaints arise. For instance, the Antisocial Behaviour

Notices (Houses Used for Holiday Purposes) (Scotland) Order 2011 granted local authorities the power to deal specifically with the problem of antisocial behaviour in properties let for holiday use. However, this needs to be enforced, as the Cabinet Secretary for Housing Shona Robison MSP stated: “We expect all relevant authorities to use the powers available to them to deal with antisocial behaviour” (Shona Robison MSP, in answer to Parliamentary Question S6W-03022, 01/10/21. Url:

<https://archive2021.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S6W-03022&ResultsPerPage=10>).

Regarding item 3a and 3b, the language attached to the additional conditions by West Dunbartonshire Council that the licence holder must “ensure” that no disturbance or nuisance arises within or from the premises, or indeed ensure vehicles belonging to guests are parked lawfully, is unreasonable. First, many operators will not always be on site at their property. Second, while operators can reasonably *ask* that their guests comply with the two aforementioned examples but they cannot *compel* them to do so. In addition, we are very concerned at the cost implications for the Council to enforce this – will the Council have officers patrolling near self-catering units to check that guest vehicles are parked in an appropriate fashion?

On 3 c, that “the licence holder shall notify the Council...of the details of any incident of anti-social behaviour...”, this should be dealt with by existing anti-social behaviour legislation. Why are West Dunbartonshire Council duplicating regulatory regimes?

4. Privacy and security

Similarly, the Council repeat the same language on 4 b that licence holders “must ensure” that guests know rules applying to shared doors and how to securely close them. Again, operators should *ask* their guests to comply with this request but cannot *compel* them to do so.

5. Noise

The ASSC believe that West Dunbartonshire Council should adopt additional conditions in relation to: (i) noise monitoring; and (ii) community accreditation and mediation. However, on any additional conditions applying to noise, there has to be a causal link to issues from those premises. One example where such conditions have been shown to work is Barcelona, where this was introduced by local government, and further information is available in the ASSC’s Forward Together paper (see ASSC, Forward Together: A Collaborative Approach to Short-Term Letting, Url: <https://www.assc.co.uk/policy/forward-together-a-collaborative-approach-to-short-term-letting/>).

Licensing authorities cannot be allowed to set restrictions on premises where there is a perception there may be an issue. Restrictions should not be put in place where there is potential or existing issues in the vicinity of the premises unless it can be shown the issues occurring in the vicinity originated specifically from the short term let premises.

5 a. Applying a condition that the licence holder must ensure that bedrooms, living room and hallway have suitable floor coverings is disproportionate and is yet another cost levied on businesses. This would not be asked of a private landlord renting out a property where noise complaints had been levelled by neighbours, so short-term lets operators should not be discriminated against in this manner. Furthermore, from both a commercial and equalities perspective, operators need to make their premises as accessible and inclusive for all of their guests. For instance, carpeting can trigger conditions such as asthma and other adverse effects.

5 b. We would welcome the use of noise monitoring equipment in short-term lets in tenemental properties and those that directly adjoin another property, where a causal link has been evidenced regarding noise from that premises. Noise monitoring devices can be a useful tool in evidencing any repeat offences and can underpin existing anti-social behaviour legislation.

5 c. While we note that the Council state that reasonable exceptions would apply to ensuring that guests arrive or leave during specific hours, it is again unfair to place the onus on operators on factors that are completely outwith their control, such as delayed transportation. At the present time, due to difficulties faced by airport operators, as well as industrial action on the railway network, many guests will arrive at their destination late due to no fault of their own. Why are the Council again using the language of “ensure” on factors that are not the preserve of operators?

5 d. Operators can ask guests not to use hot tubs after a certain timeframe but cannot compel them to do so. What evidence does West Dunbartonshire Council possess to suggest that this is a problem facing the short-term letting industry? Furthermore, if the hot tub is located within a self-contained self-catering unit, why do the Council consider it necessary to apply what amounts to a hot tub curfew? Moreover, this raises the matter of enforceability: will the Council employ someone to ensure that guests are using hot tubs at appropriate hours? This appears to be another instance of short-term let businesses being discriminated against compared to other accommodation providers or types of property.

5 e. On amplified music, West Dunbartonshire Council need to define what amplified music means as what is ‘loud’ to one individual compared to another is relative, as well as how this will be assessed. We again raise the issue of enforceability of this and would also like to see what evidence the Council holds that this is a problem within self-catering units in of itself and compared to other types of property.

6. Littering and Waste Disposal

The Council again state the licence holder “shall ensure” in respect of 6a and 6b – while operators can advise guests of refuse collection day, they cannot compel them to comply. On a more practical point, we are dealing with individuals in the region for a holiday and who will not wish to spend a large amount of time familiarising themselves with waste management and recycling issues.

Similarly, with 6iii, operators should of course provide the necessary materials and advice in regard to waste disposal but expecting every holidaymaker to follow this to the letter, especially when many may reside in areas with different policies for recycling etc, is unreasonable.

Once again, there is a presumption of bad practice by short-term let operators implicit in this document. There is no business incentive for self-caterers to rent out properties sprawling with rubbish. Self-caterers have provided well-maintained and clean environments for guests for decades and we would like to see what evidence the Council holds to show that littering and waste disposal is a specific problem of the self-catering industry compared to any other type of property. Finally, this additional condition also raises the question of enforceability: how will the Council monitor compliance?

7. Preventing damage to property

Prohibiting the use of keyboxes or other related devices is arbitrary. First, it should be recognised that keyboxes are used for a variety of different purposes, not just to facilitate entry to a short-term let – for example, they are readily utilised by carers. We would presume that the Council have no

issue with keyboxes for this purpose but why should it be any different for short-term lets? It is the same device affixed to a door used to enable entry.

Securing the agreement of all owners within a property will be near impossible to achieve. Unanimity of agreement for any change to a property (e.g., repairs) is difficult to secure in other contexts but would be especially so for keyboxes used by short-term let operators. We therefore ask the following: will this become a general policy for all keyboxes within the local authority area, or do the Council intend to solely discriminate against their use by short-term let operators?

Furthermore, West Dunbartonshire Council need to take cognisance of how the pandemic has changed the way operators interact with guests. There has been shift in consumer behaviour away from traditional meet and greets between operator/guest towards information being shared electronically and via apps. Indeed, due to specific Covid-19 legislation, it wasn't always possible for the two parties from different households to meet in-person – this is why many therefore chose to use keyboxes to ensure guests could gain access to properties. Generally, the ASSC would encourage its members to affix any keybox in a manner that is aesthetically appropriate as possible.

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

This section replicates the mandatory conditions in relation to gas safety. We would also ask why the West Dunbartonshire Council think that self-caterers would be storing liquified petroleum gas in their premises and what evidence they hold that they do.

9. Maintenance of property

On 9a and b, this is already covered by the mandatory conditions and existing legislation and guidance so the Council are unnecessarily replicating regulatory regimes.

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

This is already part of compliance so does not need to be an additional condition imposed by the Council.

Overall, many of the possible additional conditions are unenforceable and will merely burden the licencing authority. If West Dunbartonshire Council cannot enforce these, it is incompetent and leaves the Council open to judicial review. Many of the additional conditions are part of the basic management of a property and could instead be delivered by a clear and robust Code of Conduct, such as that devised by the ASSC.

Fiona Campbell

Chief Executive of the Association of Scotland's Self-Caterers

e: fiona@assc.co.uk