



# COMHAIRLE NAN EILEAN SIAR

## Consumer and Environmental Services Short Term Let Licensing Policy Statement

### PURPOSE

- 1.1 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.

### BACKGROUND

- 2.1 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”).
- 2.2 The Order introduced a new mandatory licensing system for short term lets which local authorities were required to establish by 1 October 2022.
- 2.3 The licensing scheme was brought in by the Scottish Government with the primary aim of ensuring short-term lets are safe and to facilitate local authorities in knowing and understanding what is happening in their area and handling complaints effectively. It also enables local authorities to ensure the people providing short term lets are suitable.
- 1.1 The Comhairle considered the following Scottish Government guidance including subsequent revisions whilst preparing this policy:
- [Scottish Government Guidance for Hosts and Operators](#)
  - [Scottish Government Guidance for Licensing Authorities](#)

### SHORT TERM LETS

- 2.4 A short term let is defined in the [Order](#) and the [Scottish Government website](#) provides further guidance on what is a short term let.
- 2.5 There are four types of licences for short term let accommodation. Any licence granted must be for either:
- a) **Secondary Letting** - accommodation which is not or is not part of the licence holder’s only or principal home;
  - b) **Home letting** -where the host rents out the whole or part of their only or principal home and is not present);
  - c) **Home sharing** -where the host rents out the whole or part of their only or principal home and is present; and
  - d) **Home letting and home sharing** (a combination of b) and c)).
- 2.6 A separate licence is required for each premises, usually having its own unique property reference number (UPRN). However, a single licence may be issued in respect of unconventional accommodation (not a dwellinghouse) where there is more than one separately bookable property on the site. Dwellinghouse means for these purposes, an independent dwelling (with its own front door, kitchen and bathroom) such as a house, flat, cottage etc.

## **APPLICATION AND NOTIFICATION**

- 2.7 The online application form is currently unavailable. Once it is available it will be the preferred method for making an application. All applicants must complete either an online or paper short-term let licence application form. The application should either be submitted online or paper applications should be emailed to [stl@cne-siar.gov.uk](mailto:stl@cne-siar.gov.uk) or, alternatively, posted to: Short-term Let Licensing, Comhairle Nan Eilean Siar, Sandwick Road, Stornoway, Isle of Lewis, HS1 2BW.
- 2.8 Applicants should aim to pay the application fee online at:  
[https://eileansiar-self.achieveservice.com/service/miscellaneous\\_payment?category=short\\_term\\_lets](https://eileansiar-self.achieveservice.com/service/miscellaneous_payment?category=short_term_lets).  
Alternative methods include making a payment to Comhairle Nan Eilean Siar by cheque or by contacting 01851 600501.
- 2.9 An application will not be considered submitted unless the Comhairle's application form is fully completed and any additional information requested, as specified in the application form is submitted, along with the appropriate fee. Additional information will only be accepted if it meets the criteria detailed in the application form and accompanying guidance notes.
- 2.10 Under the terms of the Act, all applicants who apply for a short-term let licence must display a notice for a period of 21 days beginning with the date on which the application was submitted to the licensing authority at or near the premises so that it can be conveniently read by the public.
- 2.11 The notice shall state that an application has been made for a licence, the main facts of the application, that objections and representations in relation to the application may be made to the licensing authority and how to make objections or representations. A template will be provided as part of the application form/online application process.
- 2.12 Applicants are required to certify compliance that they have displayed the site notice as soon as possible after the 21 days has expired. A template will be provided as part of the application form/online application process. Applications may also be published on the Comhairle Website.
- 2.13 A copy of the application must be sent to Police Scotland and the Scottish Fire and Rescue Service by the local authority. A copy will also be sent to:
- a) The Comhairle's Planning Service
  - b) The Comhairle's Building Standards Service
- 2.14 All personal data will be processed in line with the [Comhairle's privacy notice](#).

## **OBJECTIONS AND REPRESENTATIONS**

- 3.1 It is open to any member of the public to submit an objection or representation in relation to a short-term let licence application.
- 3.2 To enable the Comhairle, as licensing authority ("the Comhairle") to entertain an objection or representation, it must be:
- in writing (email is sufficient);
  - specify the grounds of the objection or the nature of the representation;
  - specify the name and address of the person making it;
  - be signed off by them or on their behalf; and
  - be received by the Comhairle within 28 days from when the notice of application is displayed
- 3.3 Anonymous objections or representations will not be considered.
- 3.4 Late objections or representations may be considered if the Comhairle is satisfied that there is sufficient reason as to why it was not made in the time required.
- 3.5 The objection should be relevant to the statutory grounds that can be taken into consideration when refusing an application. These are set out in the Act:
- The applicant or anyone else detailed in the application form is not a fit and proper person to be the holder of a licence;
  - The activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused;
  - The premises is not suitable for the conduct of the activity, having regard to:
    - The location, character or condition of the premises;
    - The nature and extent of the proposed activity;
    - The kind of persons likely to be in the premises;
    - The possibility of undue public nuisance, public order; or public safety; or

- Where there is other good reason
- 3.6 It should clearly detail the reasons for the objection/representation and why the applicant and/or the premises are not suitable.
- 3.7 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 [Comhairle's privacy notice](#).

#### **DETERMINATION OF APPLICATION**

- 4.1 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.
- 4.2 Licensing authorities are responsible for determining whether the applicant is 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 an HMO licence and providing false or misleading information in an application form.
- 4.3 If there are no objections or adverse representations to a short-term let licence application, the application will normally be determined under delegated powers by the Depute Chief Executive (who may delegate the function to other officers).
- 4.4 If a valid 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 Comhairle's Civic Government Licensing Panel.
- 4.5 The person submitting the objection or representation will be invited to attend the meeting of the Comhairle's Civic Government Licensing Panel and speak to their objection/representation. The objector will be given at least 14 days' notice of the hearing date.
- 4.6 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.
- 4.7 The Panel 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 paragraph 4.5.
- 4.8 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.
- 4.9 A copy of the Comhairle's hearing procedure can be found at Appendix 1.
- 4.10 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 Consumer & Environmental Services Manager within 10 days of that request.
- 4.11 If an application for a licence is refused, the applicant cannot reapply for a licence within 1 year of that decision, unless there has been a material change in circumstances since then.

#### **FORMAT OF LICENCE**

- 5.1 Once a licence is granted a signed copy of the licence and a certified copy of the licence (to be included in the premises information pack) will be posted to the licensee. Electronic copies will also be provided where licensees have provided an email address.

#### **RIGHT OF APPEAL**

- 6.1 The applicant and the person(s) making an objection/representation have a right of appeal to the Sheriff Court; however, they only have this right if they have taken every opportunity to state their case to the Panel as has been made available.
- 6.2 The Sheriff can uphold an appeal only if the Sheriff considers that the licensing authority erred in law, based their determination on any incorrect material fact, acted contrary to natural justice or exercised their discretion in an unreasonable manner.
- 6.3 Any appeal must be lodged by way of a summary application with the relevant Sheriff Clerk's office within 28 days of the date of the decision appealed against.
- 6.4 Parties should seek their own independent legal advice in relation to an appeal.

#### **LICENCE DURATION AND RENEWAL**

- 7.1 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.
- 7.2 The duration of an initial licence will normally be three years from the date of issue.

- 7.3 The duration of a Renewal licence will be three years from the date of expiry of the previous licence, NOT three years from the date of issue.
- 7.4 When a competent application is made to renew a licence prior to the expiry of the existing licence, the existing licence will continue in effect until such time as a decision is made on the renewal application. If the renewal licence is not granted prior to the original licence expiry date, the licensee, on request, will be given a certificate to include in their information pack.
- 7.5 Where an application for a licence renewal is submitted after the expiry of an existing licence, the licence will be treated as an initial licence and the operator will therefore be unlicensed until a new licence is issued. The Comhairle has discretion, on good cause, to allow an application to count as a renewal up to 28 days after the expiry of a licence
- 7.6 The approach for the duration of renewals has been taken to prevent operators losing or gaining time on their licence and to remove the incentive to make a late application.
- 7.7 The renewal fee structure will also encourage applicants to make an early renewal application to ensure that they can be determined timeously, prior to the expiry of the existing licence.
- 7.8 Where a renewal fee has been paid and the applicant only submits all the relevant information after the expiry period, the fee will have to be made up to the initial fee level for the application to be considered competent.
- 7.9 There may be exceptional circumstances where a licence period shorter than the three years, as detailed above, will be considered. Reasons for considering a shorter duration licence would include:
- a) Previously upheld complaints about a let;
  - b) New “non- traditional” lets which require specific additional conditions (i.e. tree houses);
  - c) Concerns that the host will comply with the conditions for three years (i.e. poor history of compliance of providing evidence that conditions are being met); or
  - d) feedback from Police Scotland and the Scottish Fire and Rescue Service

#### **MAXIMUM OCCUPANCY**

- 8.1 Applicants are expected to set their own maximum occupancy for their premises based on the number of cooking and sanitary facilities, beds, bedrooms, size of the premises and means of escape. They should also take into account the number that can be accommodated within tolerable noise and nuisance standards for neighbours.
- 8.2 The Scottish government guidance says that licensing authorities may choose to specify on a licence that guests may bring a certain number of small children, and these would not count towards the occupancy of the premises. The guidance suggests an age limit of under 10 years, which is in line with the reference to children in the context of housing within the Housing Act (Scotland) 1987.
- 8.3 “Should children under the age of 10 count towards the occupancy of a premises?” was asked as part of the local consultation and the response was mixed with over 52% saying they should, with reasons including that they take up a bed space. The decision was taken to revise the age from 10 to 2 years.
- 8.4 As children under 2 normally occupy a cot and do not normally need their own bed, they will not be included for occupancy levels (including in the application form numbers and numbers used for fee calculation)).
- 8.5 Applicants are expected to submit a floor/layout plan of the premises of a standard that reflects the complexity of the premises, the number of floors and number of requested guests. Drawings/plans should at least have details of:
- room sizes,
  - any steps, stairs, elevators or lifts,
  - sanitary and cooking facilities,
  - any beds, including type (i.e. double, bunk beds). Where rollaway/folding/sofa beds are used their location and footprint should be clearly detailed in the floor plan,
  - location of any heat/smoke/ CO detectors or other fire systems,
  - any fires/wood burners/stoves & oil/gas boilers.

Simple drawings/sketches are acceptable for simple short-term lets but the Comhairle may ask for more detailed drawings, particularly for larger properties and those with guests on multiple floors or with a high guest to floor area ratio. It is expected that a single sized bed sleeps one person and a small double bed (or bigger) sleeps two.

- 8.6 The Comhairle will consider the maximum occupancy requested by the applicant; the maximum number that it considers that can be accommodated safely and the maximum number that can be accommodated within tolerable noise and nuisance standards for neighbours and may licence a smaller number than that applied for.
- 8.7 Most properties are expected to be approved with the applicants number without much scrutiny, however, the Comhairle are more likely to review occupancies if they are well outwith the overcrowding standards detailed in the [Housing \(Scotland\) Act 1987](#) for dwellings or have high numbers related to unconventional accommodation.

**MANDATORY CONDITIONS**

- 9.1 The Act sets out a number of mandatory licence conditions which apply to all short-term let across Scotland. A list of these conditions can be found in [Schedule 3 of the Order](#).

**ADDITIONAL CONDITIONS**

- 10.1 In addition to the mandatory licence conditions which apply to all short-term lets, licensing authorities may impose additional conditions. These enable the licensing authority to respond to local challenges and concerns relative to specific types of short-term letting.
- 10.2 The Comhairle considered applying some additional specific conditions and documentation relating to equipment and items some short-term lets provide (i.e hot tubs/spa pools/water sport equipment) but operators already have obligations under health and safety legislation. The Comhairle will ask for information about specific items in the application process and may revisit the need for specific additional conditions in the future if needed, but will have an addition general condition for equipment provided provide and will health and safety information for short-term let operators on the short-term let section of the [Comhairle website](#) to remind them of their obligations.
- 10.3 The Comhairle have added four additional conditions which will apply to all short-term let properties. These are detailed below.

Condition	Detail
Solid or liquid fuel fires or boilers	Where premises have any solid or liquid fuel fires or boilers the licence holder must <ul style="list-style-type: none"> <li>a) ensure that they are in -               <ul style="list-style-type: none"> <li>i) a reasonable state of repair; and</li> <li>ii) proper and safe working order;</li> </ul> </li> <li>b) arrange for a competent person to -               <ul style="list-style-type: none"> <li>i) carry out an annual inspection (and service if necessary); and</li> <li>ii) clean any chimney/flue used for solid fuel appliances annually</li> </ul> </li> </ul>
Prevention of Nuisance and Disturbance	The licence holder shall be responsible for the day-to-day running of the premises and shall ensure as far as reasonably practicable that no disturbance or nuisance arise within or from the premises.
Equipment provided for guests	The licence holder must take all reasonable steps to ensure that any equipment (including any personal protective equipment) provided as part of the let whether for on or off premises use is: <ul style="list-style-type: none"> <li>a) fit for purpose;</li> <li>b) in a reasonable state of repair;</li> <li>c) In proper and safe working order; and</li> <li>d) provided with appropriate instructions to allow the equipment’s safe use.</li> </ul>
Littering and Waste Disposal	The licence holder shall ensure that adequate facilities, to the satisfaction of the Comhairle, are provided for the storage, recycling and disposal* of all waste and shall ensure that all common areas of the premises and all common external areas within the curtilage of the premises are kept in a clean, tidy, and well-maintained condition to the satisfaction of the Comhairle. The licence holder shall be responsible for advising guests of the refuse collection day and for making arrangements for the presentation of wheeled bins for collection at the appropriate time and day. The licence holder should: <ul style="list-style-type: none"> <li>a) clearly label bins as belonging to the premises</li> <li>b) ensure guests are made aware of how to correctly use the bins provided for the premises</li> <li>c) provide bins/sacks</li> </ul>

	<p>d) ensure that guests manage their waste properly, including when they depart</p> <p>e) ensure guests are made aware as to what items should not be disposed of by flushing down the toilet</p> <p>*The Comhairle may require evidence of a commercial waste contract if premises are on non- domestic rates.</p>
--	--

10.4 There also may be some specific additional conditions which may only apply to certain types of short-term let properties or to properties following investigation of concerns. All additional conditions will be published on the short-term let section of the Comhairle website, prior to being applied.

#### **PROVISIONAL SHORT-TERM LET LICENCES**

11.1 Premises that have yet to be, or are in the course of being, constructed for use as a short-term let may apply for a Provisional Short-term Let licence. but hosts will not be able to take bookings until their licence application is confirmed by the licensing authority once the accommodation is built.

11.2 An application for a provisional short-term let licence will be subject to the same application process as for standard licences other than

- It must be accompanied by a provisional planning certificate (a certificate from the planning authority stating that planning permission in principle or outline planning permission has been obtained or that no such planning permission is required).
- It will not need to provide evidence or confirm that the premises that the premises meet the mandatory and additional licence conditions.

11.3 If granted, a provisional short-term let licence will last for three years, unless an extension is agreed with the Comhairle.

11.4 A holder of a Provisional Licence may apply to confirm the Provisional Licence if they provide

- a satisfactory planning certificate, if the provisional licence was granted on planning permission in principle or outline planning permission.
- a Building Standards Certificate
- evidence that all the mandatory and additional licence conditions will be met.

11.5 If a Provisional Licence is confirmed then it will not be extended and the timeframe left to run will be that from the Provisional Licence, prior to confirmation.

#### **TEMPORARY LICENCES**

12.1 Due to the 21 day display notice requirements and the 28 day period for objections and representations for standard licence applications, the minimum time period the Comhairle determine a licence is 28 days from the date of submission of a competent application, and while every effort is made to determine applications as soon as possible applicants should expect up to 6 weeks for determination.

12.2 The Comhairle will only grant temporary licences as part of initial licence application. The criteria and conditions for temporary licences are the same as a normal licence (as are the Comhairle processing and administrative costs).

12.3 The reason this process is being adopted is to allow the option of competent applications being determined within 28 days, subject to getting satisfactory responses from statutory consultees. By applying for an initial and temporary licence, there is no guarantee that an application for initial and temporary licence will be determined with 28 days. Due to the added administrative cost of processing a temporary and initial licence there will be an added variation licence fee added to the licence application cost.

#### **TEMPORARY EXEMPTIONS**

13.1 The Comhairle may, on application made to it, grant temporary exemptions from the requirement to hold a short-term let licence in relation to a specified property or properties and during a specified period, which must not exceed 6 weeks in any 12 month period.

13.2 A fee will be payable for a temporary exemption (see fee pages).

13.3 The Comhairle will aim to determine temporary exemption applications from the requirement to hold a short-term let licence within 28 days.

13.4 The Comhairle will only consider granting a temporary exemption from the requirement to hold a short-term let licence around specific events where it is anticipated that the licensed short-term let sector will not have capacity. These include but are not limited to the Hebcelt Festival and the EDF festival.

13.5 A temporary exemption from the requirement to hold a short-term let licence does not affect the way planning rules apply.

- 13.6 The Comhairle will also attach the mandatory conditions to a temporary exemption from the requirement to hold a short-term let licence.
- 13.7 The Chief Constable and the Scottish Fire and Rescue Service will be consulted in respect of applications for temporary exemptions from the requirement to hold a short-term let licence.
- 13.8 In the event that an application for a temporary exemption being refused appeals must be lodged with the Sheriff Court within 28 days of the date of a refusal.

#### **PUBLICITY**

- 14.1 A public register will be maintained of licensed short-term lets by the Comhairle. This will allow members of the public to check the licensing status of a premises being used as a short-term let. The Comhairle **WILL** also display a list of applications on the website.

#### **LICENSEE OBLIGATIONS**

- 15.1 Hosts and operators must ensure that any advert or listing placed on or after they are granted a licence includes their licence number.
- 15.2 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.
- 15.3 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.
- 15.4 The Comhairle may undertake premises site visits as part of the application process and throughout the duration of the licence to ensure compliance with licence conditions.

#### **COMPLAINTS ABOUT SHORT-TERM LETS**

- 16.1 Complaints about suspected unlicensed hosts/operators should be directed to Police Scotland.
- 16.2 In the first instance, guests should raise any concerns about their short-term let with their host/operator or letting agent/platform. If the issue is sufficiently severe, then the Comhairle may become involved.
- 16.3 A complaint must be relevant to the matters that the Comhairle can take into consideration. Frivolous or vexatious complaints will not be considered.
- 16.4 The Comhairle 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.
- 16.5 These issues would include a host/operator exceeding the number of people staying at the premises, serious disturbance or antisocial behaviour or concerns about the maintenance and safety of the premises. These complaints can be directed to [stl@cne-siar.gov.uk](mailto:stl@cne-siar.gov.uk).
- 16.6 Please note that the Comhairle 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.
- 16.7 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 Comhairle 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.
- 16.8 Premises site visits may be undertaken by the Comhairle as part of an investigation into a complaint.

#### **ENFORCEMENT**

- 17.1 It is possible that some complaints may require enforcement action from the Comhairle.
- 17.2 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.
- 17.3 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.
- 17.4 If the matter is not addressed satisfactorily by the licence holder, the Comhairle may then consider a variation, suspension or revocation of the licence.
- 17.5 Licensee's will not be charged a fee for a routine visit. However, may be charged if a follow up visit is necessary they have breached any licence conditions.

#### **VARIATION OF A LICENCE**

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

### **TRANSFER OF A LICENCE**

- 19.1 The Comhairle will, on application by the current licence holder, transfer the licence to another person if the following requirements are satisfied:-
- All joint licence holders provide consent to the transfer application;
  - All owners of the licensed premises consent to the transfer application;
  - The person the licence is being transferred to provides consent to the transfer application;
  - the licence holder is no longer a fit and proper person to hold the licence;
  - there are no objections to the transfer of the licence from the Chief Constable-Police Scotland.
- 19.2 The timeframe left to run on the licence will transfer to the new licence holder. For example, if a licence transfers 13 months into a three year licence, the new licence holder will renew the licence after 23 months.

### **SUSPENSION OR REVOCATION OF A LICENCE**

- 20.1 A licensing authority may, whether upon a complaint made to them or not, suspend or revoke a licence.
- 20.2 A licensing authority may order the suspension or revocation of a licence if in their opinion -
- the licence holder is no longer a fit and proper person to hold the licence;
  - the licence holder is managing the property on behalf of someone who would have been refused the grant or renewal of the licence;
  - the short-term let is causing or is likely to cause undue public nuisance or a threat to public order or public safety; or
  - a condition of the licence has been contravened.
- 20.3 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.

### **THIRD PARTY ACCREDITATION**

- 21.1 The Comhairle may consider third party evidence, accreditation or certification from certain approved bodies to demonstrate compliance with the mandatory and any additional conditions of a licence.
- 21.2 The Comhairle may 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.

### **PLANNING PERMISSION**

- 22.1 There is a separate legislative process from licensing which allows the Comhairle, as planning authority, to establish short-term let control areas, where it may be deemed necessary to control secondary letting. The purpose of control areas is to help planning authorities manage high concentrations of secondary letting (and to restrict or prevent short-term lets in places or types of buildings where it is not appropriate).
- 22.2 There are currently no short-term let control areas in the Outer Hebrides; if Comhairle nan Eilean Siar were to create a short-term let control area in the future, then the information in this section will be updated.
- 22.3 It is possible that some home sharing premises (B&Bs and guest houses) letting more than 2 rooms may not have the appropriate planning permission; however, outside of a control area, it is for the planning service to consider whether short-term lets have the appropriate permission, therefore it will not normally affect the issuing of a licence.

### **BUILDING STANDARDS**

- 23.1 It is possible that some short-term lets may not have the appropriate building class use in terms of building standards; however, it is for the building standards service to consider whether short-term lets have the appropriate usage permission, therefore it will not normally affect the issuing of a licence unless highlighted as a safety issue.

### **EQUALITY**



24.1 The Equality Act 2010 Act introduced a new public sector equality duty which requires public authorities, to try and eliminate discrimination, promote equality and good relations across a range of protected characteristics. The Scottish Government carried out the necessary assessments required in relation to its proposals for short-term let regulation, including an [Equalities Impact Assessment \(EQIA\) and an Islands Communities Impact Assessment \(ICIA\)](#). With respect to the EQIA, it was found that there are no potentially negative impacts to equality groups as a result of the introduction of the short-term lets licensing scheme (and planning control areas).

## FEES

25.1 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.

25.2 Licensing fees are non-refundable. Whether or not a licensing application is granted, as the Comhairle incurs costs in processing the application.

25.3 The Council considered the following criteria in the process of determining the fees:

- Number of applications in period 2022-2024
- The staffing and Comhairle resources needed to carry out the function, based on the period 2022-2024.
- Type of lets
- Complaints per type of let
- Number of guests who can reside at the premises
- Number of accommodation units within an application, used for secondary letting
- Incentivising operators to make timeous and competent renewal applications.
- Comhairle policy on annual increases of fees.

25.4 The fees are:

1/04/2025	Initial application		Renewal application	
Type of Letting	Base Fee	Fee per Guest	Base Fee	Fee per Guest
Home Sharing	£180	£20	£80	£20
All others: Secondary Letting Home Letting Home Sharing & Home Letting	£280	£20	£180	£20
Initial & Temporary Licence	licence fee above plus variation fee			
Variation	£50			
Transfer of a Licence	£50			
Temporary exemption	£50			
Duplicate licence	£20			
Enforcement costs	£95 per hour			
Breach of condition/complaint	£95 per hour* not frivolous or vexatious complaints -			

25.5 Where a fee is charged for a visit, a report must be provided to the host or operator within 28 days of the inspection. Otherwise, the fee must be refunded to the licence holder.

## **CIVIC GOVERNMENT LICENSING PANEL HEARING PROCEDURE FOR SHORT-TERM LETS**

### **DURING THE HEARING**

- 1.1 The Chair will welcome the applicant/licensee and any objector(s) to the Meeting 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 the Hearing Procedure.

### **LATE REPRESENTATIONS**

- 2.1 If the representation/objection (from the Police or any other party) has been received late, the Panel 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
- a) the objector is invited to provide reasons as to why the submission was late.
  - b) Members may ask any follow up questions of the objector.
  - c) the applicant must then be asked if they have any objections to the late submission being accepted.
  - d) The parties shall withdraw while the Panel considers whether to allow the objection to be heard.
  - e) The Panel must take all comments into account when deciding whether to accept the late submission.
  - f) The parties should be invited back in to the Meeting and informed whether the Panel shall accept the objection.

### **SPENT CONVICTIONS**

- 3.1 If spent convictions are to be referred to then the procedure detailed in this section should be followed. The Panel should go into private whilst considering spent convictions.
- 3.2 The following procedure should be adopted when considering whether to have regard to spent convictions.
- a) The Panel should be informed that the applicant/licensee has spent convictions - without going into detail of the convictions at that stage. The objector should outline the class of offence, the age of offence and, if they wish, (and in general terms) the apparent seriousness of the offence (as gauged by reference to the penalty imposed).
  - b) The applicant/licensee is allowed the opportunity to be heard on the admissibility of the spent convictions but must be warned that he/she is not obliged to do so if making such comments impels them to divulge more of their record than they wish to. No specific details may be put before the Panel at this stage.
  - c) The parties shall withdraw while the Panel considers the admissibility of the spent convictions. Spent convictions may be taken into account where the Panel considers that justice cannot be done without admitting in evidence to the spent convictions. The Panel may have regard to the class of the offence, the age of the offence and, in broad terms, the apparent seriousness of the offence as gauged by reference to the penalty imposed.
  - d) The parties should be invited back in to the Meeting and the Chair should announce whether or not the Panel wish to admit details of the spent convictions as evidence.
- 3.3 If spent convictions are not to be admitted, then the Hearing Procedure should be followed. If spent convictions are to be admitted then the Chair should invite the objector to provide details of the spent convictions – allowing the applicant/licensee an opportunity to comment. The Panel should then revert back to the Hearing Procedure.

### **HEARING PROCEDURE**

- 4.1 The hearing procedure below should now be followed:
- a) The Officer will present the report to the Panel.
  - 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 Panel 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 Panel 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) The Panel will retire to consider the representations/objections in private.
- m) The Panel will invite the parties to return to the meeting and the Chair will invite Members to take a decision.
- n) NOTE: If during private deliberations, the Panel receive advice on a legal submission from the Clerk which is contrary to the view of the party making the submission or the Panel believe additional information would be relevant, then these points should be raised with the parties, in public, prior to any decision being made.

## **DECISION**

- 5.1 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.
- 5.2 If the decision of the Panel 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 Panel'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.
- 5.3 Appeals against the decision of the Panel must be lodged with the Sheriff Clerk within 28 days of the date of the decision.