

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 15 SEPTEMBER 2022

SHORT-TERM LETS LICENSING REGIME

REPORT BY THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

**ABSTRACT**

The purpose of this Report is to further inform members of the licensing regime to be commenced by the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets Order) 2022 and to seek approval of proposals to implement the new regime.

**1. RECOMMENDATIONS**

It is recommended that the Committee:-

- (i) note the terms of the Scottish Government Guidance in relation to Short-term Lets;
- (ii) note the terms of the draft Short-term Lets Policy Statement, public consultation responses and draft Application Form outlined in **Appendices 1 and 2** of the report;
- (iii) determine that all new grant and renewal licences should be granted for a three-year period or specify such shorter period as the Committee deems justified and appropriate in terms of the renewal of licences;
- (iv) determine whether there should or should not be a temporary exemptions policy and, if so, determine appropriate conditions to be attached to an exemption and the grounds for granting or refusing an application for an exemption, including any types of premises (or types of licence) for which an exemption would not be granted;
- (v) determine whether there should or should not be a temporary licence policy and, if so, determine any additional conditions to be attached to a licence and the licensing authority's criteria for issuing temporary licences;
- (vi) note the statutory requirement to ensure that the total amount of fees receivable by the authority is sufficient to meet the expenses of the authority;
- (vii) consider the fees and charges contained within **Appendix 3** and determine the fees and charges;
- (viii) determine whether to set additional licence conditions to be attached to all licences as standard;
- (ix) identify any amendments that require to be made to the Policy and/or Application Form and thereafter agree the final version of the Short-term Lets Policy Statement and the Application Form; and
- (x) delegate authority to the Director of Legal and Democratic Services to establish, maintain and publish a register of licences and to thereafter amend the Council's Scheme of Governance in that regard.

**2. LEGAL**

- 2.1 [Report 5/22](#) considered by the Civic Licensing Committee on 13<sup>th</sup> January 2022 provided a general overview to Members of the new Short-term Lets Licensing regime which comes into force on 1<sup>st</sup> October 2022. Members should be aware that there is currently an active Short-term Lets webpage on Angus Council's website providing information. This resource will be updated with all required documents and information from 1<sup>st</sup> October 2022. There will be a link to the Scottish

Government's Application Checklist. The webpage is intended to be the primary source of information for applicants and for complaints.

- 2.2 The Scottish Government has provided guidance to licensing authorities which can be accessed below. Members are encouraged to read the guidance in detail.

[Part 2 - Guidance for licensing authorities, letting agencies and platforms](#)

Additional guidance has been provided for Hosts and Operators.

[Part 1 - Guidance for Hosts and Operators](#)

Lastly, guidance has been provided in relation to Planning.

[Planning Guidance for Hosts and Operators](#)

- 2.3 The writer of the report has prepared a draft Short-term Lets Policy Statement and Application Form. They are attached at **APPENDIX 1** of the report. Public consultation took place between 8<sup>th</sup> August and 21<sup>st</sup> August 2022. The responses received in relation to the public consultation are attached for the consideration of Members at **APPENDIX 2** of the report. Members are asked to note that the writer has highlighted in red, for ease, some of the parts of the draft policy that have been mentioned within the responses.
- 2.4 Licensing authorities may decide to grant a licence for a period of up to 3 years initially, after which the licence requires to be renewed. Licensing authorities may grant licences for different time periods to different applicants and/or for different types of short-term let licence. Licensing authorities are expected to provide clear and transparent criteria for doing so. Officers have suggested the period of 3 years in respect of the duration for new grant applications and renewal applications. The Licensing Order allows licensing authorities to renew licences for such periods as they see fit i.e. there is no time limit. However, licensing authorities must set out the circumstances in which they would use the power to set a licence period in excess of three years. Licensing authorities are encouraged to renew licences for a period of three years, unless they have good reasons to do otherwise. Members are asked to consider what period they consider to be an appropriate duration for renewal of licences, or a specific type of licence, to ensure compliance with the aims of the new scheme which are:
- to ensure all Short-term Lets are safe;
  - to facilitate licensing authorities in knowing and understanding what is happening in their area; and
  - to assist with handling complaints and address issues faced by neighbours effectively.
- 2.5 Licensing authorities may grant temporary exemptions to the requirement to have a licence. They can do this for a specified single continuous period not exceeding 6-weeks in any period of 12 months. The 6-week limit is a maximum, and not a default. In order to obtain a temporary exemption from the requirement to have a licence, hosts and operators must apply for a temporary exemption, where this is offered by a licensing authority. Police Scotland and Scottish Fire and Rescue would be consulted with. Licensing authorities must publish a temporary exemptions policy statement on their website and keep it under review. Members are asked to consider again the aims of the new scheme, as narrated in 2.4 of the report, and decide whether to permit temporary exemptions. If considered appropriate, Members are asked to identify appropriate conditions to be attached to an exemption and the grounds for granting or refusing an application for an exemption, including any types of premises (or types of licence) for which an exemption would not be granted. Where a licensing authority does not wish to use their powers to grant any exemptions, they can comply with this duty by publishing a statement on their website to the effect that applications for exemptions will not be granted under any circumstances.
- 2.6 Licensing authorities may grant temporary licences. A temporary licence may be granted for a duration of up to six weeks, or longer if the host or operator has also made an application for a full licence. If they have applied for a licence, their temporary licence will last until their licence application is finally determined (this includes an appeal if one has been lodged within 28 days of the decision). In determining the temporary licence, Police Scotland and Scottish Fire and Rescue would be consulted with. Members are asked to consider again the aims of the new scheme, as narrated in 2.4 of the report, and decide whether to permit temporary licences. If so, Members should determine any additional conditions to be attached to a licence and the licensing authority's criteria for issuing temporary licences.

2.7 Licensing authorities are responsible for establishing and running the Short-term let licensing scheme in their area and must ensure that the total amount of fees receivable by the authority is sufficient to meet the expenses of the authority in exercising their function of running the scheme. Licensing authorities must determine their own fees and fee structures to recover establishment and running costs specific to their area. Licensing authorities can set a fee structure that is based on some premises requiring inspection (risk-based approach) but apportion the costs across all applications to charge one fee level. Alternatively, licensing authorities may decide to split the costs into component parts. Licensing authorities may charge fees for the following:

- licence applications;
- licence renewal applications;
- temporary exemption applications;
- issuing of duplicate licences;
- their consideration of a material change of circumstances or in premises and their disposal of the matter;
- issuing a certified true copy of any entry on the public register;
- visits to premises where the visit is necessary because of a failure of the host or operator; and
- varying a licence

The Licensing authority must consider the following:

- the size of the premises;
- the number of rooms at the premises;
- the number of guests who can reside at the premises;
- the type of short-term let;
- the duration of the period for which the premises are made available for use as a short-term let (but note that licensing authorities cannot set limits on nights on licences for secondary letting); and
- the extent to which the licence holder has complied with the conditions of the licence (which might affect a renewal fee).

Officers have considered the Scottish Government's guidance in relation to fee setting. **APPENDIX 3** is produced by Officers with proposed fees for consideration by Members. At this time, officers estimate between 300 and 400 applications will be received. This is a new licensing regime and it is only possible to use best estimates of what the costs of running the new licensing regime will be. The manner in which these proposed fees have been arrived at is detailed in the Financial Implications in Section 3 of this report. Actual operating costs and incomes shall be kept under review.

2.8 In addition to the mandatory licence conditions, which apply to all short-term lets across Scotland, licensing authorities may impose additional conditions. Additional conditions can help licensing authorities to respond to local challenges and concerns specific to certain models of short-term letting (for example, secondary letting in tenement flats). The Scottish Government guidance provides template additional conditions. These are replicated, with two suggested additional conditions specific to the local authority area, within the draft Policy Statement for Members consideration. The alternative is for Members not to set universal additional conditions. Additional conditions would only be added in circumstances where they are considered necessary and proportionate.

### 3. FINANCIAL IMPLICATIONS

An exercise was undertaken to derive the best estimates for total fee income generation and the necessary additional expenditure incurred to implement the new Short Term Lets licenses. Members of the Committee will appreciate the challenges of trying to exactly match projected costs and incomes from these licensing activities. It is however, on balance, considered that the proposed fees and fee structure will allow the Council to achieve a break-even position based on the mid-point of assumed application numbers of 350.

#### **4. EQUALITIES AND HUMAN RIGHTS IMPLICATIONS**

There are no Human Rights issues arising directly from this report. An Equalities Impact Assessment is attached.

**REPORT AUTHOR:** Tina Magson, Team Leader – Legal

**EMAIL DETAILS:** [LEGDEM@angus.gov.uk](mailto:LEGDEM@angus.gov.uk)

APPENDIX 1 Draft Short-term Lets Policy Statement and Draft Application Form

APPENDIX 2 Public Consultation Responses

APPENDIX 3 Proposed Fees and Charges

APPENDIX 4 EIA