

South Ayrshire Council

**Report by Assistant Director - People
to Cabinet
of 30 August 2022**

Subject: Short Term Let Licensing Scheme

1. Purpose

1.1 The purpose of this report is seek approval for South Ayrshire's Short Term Licensing Scheme.

2. Recommendation

2.1 It is recommended that the Cabinet:

2.1.1 approves the draft policy on the licensing of short term lets attached as Appendix 1;

2.1.2 agrees the creation of 1 FTE Short Term Let Licensing Officer post at Level 6 for a period of 24 months and associated staffing costs of £67,830; and

2.1.3 notes the proposed additional delegations to the Council's Scheme of Delegation to be approved by the Council, to include officer authority to implement the Scheme in line with the new legislation.

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 places a duty on Councils to establish a scheme for the licensing of short terms lets operating in their area by 1 October 2022.

3.3 The aim of the scheme is to ensure that short term lets are safe, address issues and concerns faced by neighbours and allow Councils to gain knowledge and understanding of the impact these lets have on the wider housing system. It allows Councils to ensure people who take part in the business of letting properties are suitable to do so, as well as enforcement powers to ensure continued compliance with any short term let licence issued by the Council. The legislation also notes that a key aim is to provide a balance to the economic and tourist benefits short term

lets can contribute to an area against the needs, concerns and issues faced by some in local communities.

3.4 South Ayrshire is home to an average of over 400 short term lets that are available for booking at any given time. This can fluctuate above or below dependant on a number of factors, such as time of year, special events etc. The majority of these lets are of a whole dwellinghouse, or a 'secondary let' as the regulations note. Other forms of let include 'home sharing' or 'home letting'.

3.5 The regulation highlights a number of key dates, which are important for Local Authorities and for hosts of short term lets:

Requirement	Date
Local Authority scheme implemented – new hosts cannot accept booking until licence application has been determined	1 October 2022
Existing Hosts operating prior to 1 October 2022 must submit licence application but can continue to operate while application is being determined	1 April 2023
All hosts must be licensed	1 July 2024

4. Proposals

4.1 South Ayrshire's policy was developed by a short-life, multi-service working group and aims to balance the wider economic benefits of tourism with the concerns some communities have raised through our consultation. The regulations prescribe certain elements that must be included in the scheme but also gives local authorities the ability to add discretionary conditions, based on local circumstance.

4.2 The mandatory conditions include requirements such as gas, electric and fire safety checks alongside conditions relating to repairs and maintenance, maximum occupancy and insurance.

4.3 Based on feedback from residents, hosts and industry bodies, the Council's policy includes additional conditions requiring hosts or their agents to:

- Manage and prevent anti-social behaviour;
- Respect the privacy and security of neighbours;
- Manage litter and waste disposal appropriately;
- Minimise disturbance from noise; and
- Not affix key boxes without express permission from other owners.

4.4 The regulations give local authorities the ability to apply to the Scottish Government for permission to designate certain geographies as Short Term Let Control areas. This is a planning related power that would require all new and existing hosts to apply for a change of use through the planning portal. While there was strong support from residents in Harbour area of Ayr for the inclusion of this condition in the policy, the multi-service working group felt the enhanced powers included in the Council's policy would tackle many of the concerns raised and should be given an

opportunity to work. Officers agreed to keep the situation under review and present a further paper if changes are necessary.

- 4.5 Compliance with the regulations will be monitored by the Short Term Let Licensing Officer who will process applications and issue licences and, where appropriate, refer applications for consideration by the Regulatory Panel. The full policy is attached as Appendix 1.

5. Legal and Procurement Implications

- 5.1 There will be a requirement to amend the scheme of delegation to allow for the delegated authority to appointed or authorised officers to approve short term let licences. However, applications that attract 1 or more competent written objections will be reported to the Regulatory Panel for consideration and determination.

- 5.2 The Council's Regulatory Panel will determine whether to approve or refuse an application in the circumstances set out in para 5.1 and will also consider whether to revoke an existing licence following evidence of non-compliance or after investigations into breaches of licence conditions, carried out by Officers.

- 5.3 It is proposed that the following delegations be incorporated into the Council's Scheme of Delegation:

- PEO09 to determine applications for the licensing of short term lets and to issue and/ or renew licences in terms of the Civic Government (Scotland) Act 1982 (licensing of short term lets) Order 2022, except where one or more competent written objection is received; and
- PEO10 to publish and maintain a public register of short term lets and to serve enforcement notices under the Civic Government (Scotland) Act 1982 (licensing of short term lets) Order 2022

- 5.4 There are no procurement implications arising from this report.

6. Financial Implications

- 6.1 The licensing scheme will operate on a cost recovery basis with fees charged for a number of activities relating to an application as outlined in the policy. However due to the number of potential short term lets within the area, and activities surrounded with assessing suitability, processing of applications, preparing cases for panel and monitoring continued compliance a request is being made for funding to help provide the staffing requirements to manage the day to day handling of the licencing scheme.

- 6.2 Year one costs were earmarked from the 2021/22 budget following a higher than predicted recovery of income. Year two costs will be taken from projected over recovery from existing budgets with fee income taking over as the main source of funding from year 3.

7. Human Resources Implications

- 7.1 It is proposed that the following post be created:

- 1 FTE Short Term Let Compliance Officer Level 6, temporary for 24 months.

8. Risk

8.1 *Risk Implications of Adopting the Recommendations*

8.1.1 There are no risks associated with adopting the recommendations.

8.2 *Risk Implications of Rejecting the Recommendations*

8.2.1 Failure to adopt the recommendations may result in the Council not having a scheme in place for the 1 of October 2022 as outlined by Scottish Government. It will also mean that short term lets will continue to operate in the area without suitable regulation.

9. Equalities

9.1 An Equalities Impact Assessment (EQIA) (including the Fairer Scotland Duty in respect of any Strategic decision), has been carried out on the proposals contained in this report, which identifies potential positive and negative equality impacts and any required mitigating actions. The EQIA is attached as Appendix 2.

10. Sustainable Development Implications

10.1 ***Considering Strategic Environmental Assessment (SEA)*** - The Scottish Government Gateway has been contacted regarding this policy and it has been determined that a SEA is not required.

11. Options Appraisal

11.1 An options appraisal has not been carried out in relation to the subject matter of this report.

12. Link to Council Plan

12.1 The matters referred to in this report contribute to Commitments 4 and 5 of the Council Plan: South Ayrshire Works/ Make the most of the local economy; and Stand up for South Ayrshire/ Increase the profile and reputation of South Ayrshire and the Council.

13. Results of Consultation

13.1 There have been several national consultations carried out regarding the introduction of licencing for short term lets. With the order now in place, we have engaged with key players in the sector locally, through face-to-face engagement to garner views on how our scheme should operate. A working group is also in place made up of key stakeholders internal and external to the Council with their input helping create our proposed policy. This policy has been subject to wider consultation seeking views on the scheme. This report and the policy proposal takes into account comments made. Details of the consultation can be found in Appendix 3.

13.2 Consultation has taken place with Councillor Martin Kilbride, Portfolio Holder for Buildings, Housing and Environment and Councillor Bob Pollock, Portfolio Holder

for Economic Development, and the contents of this report reflect any feedback provided.

13.3 The Trade Unions have been consulted and they confirmed they support the proposal.

14. Next Steps for Decision Tracking

14.1 If the recommendations above are approved by Members, the Assistant Director – People will ensure that all necessary steps are taken to ensure full implementation of the decision within the following timescales, with the completion status reported to the Cabinet in the ‘Council and Cabinet Decision Log’ at each of its meetings until such time as the decision is fully implemented:

<i>Implementation</i>	<i>Due date</i>	<i>Managed by</i>
Launch South Ayrshire Council Short Term Let Licensing Scheme	1 October 2022	Service Lead - Policy, Performance and Community Planning.

Background Papers [The Civic Government \(Scotland\) Act 1982 \(Licensing of Short-term Lets\) Order](#)

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Date: 23 August 2022

South Ayrshire Council Short Term Let Licensing Scheme.

Draft Policy

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1. Introduction

- 1.1 In July 2018, the Scottish Government produced its report in response to the Scottish Expert Advisory Panel on a Collaborative Economy, which recommended that solutions be introduced to mitigate challenges associated with the increase of Short-Term Lets and their prominence in cities such as Edinburgh and other locations within Scotland. The report highlighted the benefits of these types of accommodation has on Local Economies and Tourism, but measures should be put in place to ensure safeguards and protections to surrounding issues associated with, such as anti-social behaviour, noise nuisance and the loss of sense of community as an example.
- 1.2 This formed the basis of a wide consultation process involving stakeholders, professionals, Local Authorities and interested parties across many sectors with an interest in Short-Term Lets resulting in legislation coming into force in March 2022 through the Civic Government (Scotland) Act 1982, (Licensing of Short-term Lets) Order 2022. This Order places an obligation on Hosts of properties that are let for short periods of time to be licensed by their Local Authority in order to operate. Local Authorities are required to oversee and administer a licensing scheme in their area as well as proper enforcement of said scheme. A public data base of all Short-Term Lets within their area should also be managed by the Local Authority.

2. Important Timescales

- 2.1 From the 1st of October 2022, any new host or operator must have a licence in place prior to operating a Short-Term Let. This means that if you were not using your property as a Short-Term prior to this date, you will not be able to accept visitors until a licence has been approved.
- 2.2 An existing host that has been utilising a property prior to the 1st of October 2022, will still be allowed to operate, however must submit a licence application by the 1st of April 2023. This means for this period, existing hosts will still be allowed to operate without a licence, unless they have had a licence application submitted and refused.
- 2.3 The final deadline date for all hosts and properties to be licensed is the 1st of July 2024.

3. Definitions

3.1 Legal definition

3.1.1 A short term let is defined in the Act 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
 - a. An immediate family member of the host
 - b. 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
 - c. 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

3.2 Excluded Accommodation

3.2.1 This relates to accommodation which is, or is part of:

- an aparthotel
- 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
- a hotel which has planning permission granted for use as a hotel
- a hostel
- residential accommodation where personal care is provided to residents
- a hospital or nursing home
- a residential school, college, or training centre
- 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)
- a refuge
- student accommodation,

- accommodation which otherwise requires a licence for use for hire for overnight stays
- accommodation, which is provided by the guest,
- accommodation, which is capable, without modification, of transporting guests to another location
- a bothy
- 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

3.3 Excluded Tenancies

3.3.1 Any of the following tenancy types will not fall into the scope of Short-Term let Licensing:

- protected tenancy (within the meaning of section 1 of the Rent (Scotland) Act 1984)
- an assured tenancy (within the meaning of section 12 of the Housing (Scotland) 1988 Act)
- a short, assured tenancy (within the meaning of section 32 of the Housing (Scotland) Act 1988)
- a tenancy of a croft (within the meaning of section 3 the Crofters (Scotland Act 1993)
- a tenancy of a holding situated out with 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
- a Scottish secure tenancy (within the meaning of section 11 of the Housing (Scotland) Act 2001)
- a short Scottish secure tenancy (within the meaning of section 34 of the Housing (Scotland) Act 2001)
- a 1991 Act tenancy (within the meaning of section 1(4) of the Agricultural Holdings (Scotland) Act 2003)
- a limited duration tenancy (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 2003)
- a modern limited duration tenancy (within the meaning of section 5A of Agricultural Holdings (Scotland) Act 2003)
- a short, limited duration tenancy (within the meaning of section 4 of the Agricultural Holdings (Scotland) Act 2003)
- 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)
- a private residential tenancy (within the meaning of section 1 of the Private Housing (Tenancies) (Scotland) Act 2016)
- a student residential tenancy

3.4 Licence Types

- 3.4.1 As part of the licensing scheme, there are 4 types of licence which can be applied for. The licence granted must relate to the following:
- (a) Secondary Letting
 - (b) Home Letting
 - (c) Home Sharing; or
 - (d) Home Letting and Home Sharing
- 3.4.2 Home sharing and home letting concern the use of the host or operator's only or principal home whereas secondary letting makes use of a separate premises
- 3.4.3 A separate licence is required for each **premises**. However, a single licence may be issued in respect of unconventional accommodation (not a **dwelling house**) where there is more than one separately bookable property on the site and would be considered on a case-by-case basis.
- 3.4.4 A dwelling house is defined as an independent dwelling (with its own front door, kitchen, bathroom, living facilities) such as a flat, house, cottage etc.
- 3.4.5 Separate licences will not be required for separate rooms let within the same dwelling house. For example, if two separate rooms are let out within the same house, only one licence is required.
- 3.4.6 It should be noted that if a property is licensed as a House of Multiple Occupancy (HMO), if the rooms within are being used as a Short-Term Let then a Licence for this purpose will also be required.
- 3.4.7 Unconventional accommodation relates to accommodation being used for residential purposes, not defined as a dwelling house, for example Glamping Pods.

4. Planning Considerations Prior to Application for STL

4.1 Planning Permission

- 4.1.1 Under provisions within the Licensing Order, a preliminary ground for refusing to consider an application for a Short Term Let is that the use of the proposed premises would constitute a breach of planning controls set out under the Town and Country Planning (Scotland) Act 1997 by virtue of section 123 (1) (a) or (b) of that Act
- 4.1.2 Hosts and operators are, therefore, encouraged to engage with the Council's planning department prior to submitting a licence application to confirm whether they require planning permission or a certificate of lawful use of development.

4.2 Short-Term Let Control Areas

- 4.2.1 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 within the designated zone to obtain planning permission. In addition, Short-term Let Control Areas would require all STL licence applications, for any of the previously mentioned types of licences to have planning permission (where required) before applying for a licence. An application would be refused at the preliminary stage if consent had either not been granted. At present there are no Short-term Let Control Areas in place in South Ayrshire.
- 4.2.2 Should a Short-Term Let Control Area be introduced in the future, there would be a requirement at that point for any existing host where planning permission was not previously required, to take steps to ensure continued compliance. This would mean, that if a Control Area were to come into force during the lifespan of an existing Licence, that host would then be required to apply to the local planning authority for consent. It would become a mandatory condition of the licence to do so, and should a host not take those steps, they would be in breach of the regulations and enforcement action would be taken.
- 4.2.3 Whilst the current position is that South Ayrshire has no Short-Term Let Control Areas, this will remain under constant review, and may change as the regulations take hold. Whilst it should be noted that powers to introduce a Short-Term Let Control Area falls under powers within the Planning Authority and Planning Legislation, a collaborative approach would be undertaken to assess any area which was felt to merit further scrutiny as to whether a STL control area is required and to work together to consult and then submit evidence to Scottish Ministers in line with the Guidance.

5. Handling Applications and Notifications

- 5.1 Applications will require to be submitted online through the Councils website at Payment of the application will also require to be made online and will only be accepted once all supporting information and fully completed application have been submitted. A checklist will be provided to any Host on what information is required as part of that process.
- 5.2 An application will be deemed to be fully submitted when all the required evidential documentation is provided for along with a fully completed application form. Supporting submissions from third party accreditation sources will be accepted as part of this process, such as bodies the host may be part of, for example, Quality in Tourism or Visit Scotland.
- 5.3 Under the terms within the Order, any host applying must display a notice for a period of 21 days beginning with the date on which the application was submitted to the Authority at or near the premises so that it can be conveniently read by the public.

5.4 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 and how to make those objections or representations. To assist with this, a template of the Notice will be made available to the applicant when an application is submitted.

5.5 As part of the application process, Hosts are also required to certify compliance that they have displayed the site notice as soon as possible after the 21 days has expired. To assist with this, a template will be provided to the applicant once an application is submitted.

5.6 As part of the application process, we will be required to engage with key stakeholders and as such, any submitted application can be forwarded to be considered by any of the following:

- Police Scotland
- Scottish Fire and Rescue Service
- Planning Service
- Environmental Health
- Building Standards
- Waste Management
- Anti-Social Behaviour Team

5.7 An intelligence risk-based approach will be used when considering the level of scrutiny on an application. For example, as part of application process, digital submission of supporting evidence will be encouraged, such as photos, videos as well as documentation. The authority will have the right to visit any location and may choose to mandate that visits be carried out where a higher number of Short Term Let are present, or that intelligence received would encourage further scrutiny on the suitability of the property.

5.8 When considering the suitability of a property, we want to ensure that the property is safe, of good quality and has sufficient access to facilities for the occupants staying. The following will be taken into account when considering:

- The location, the type and the character of the accommodation
- The condition of the accommodation, with at minimum meeting the Repairing Standard
- Available facilities within the accommodation
- Proposed occupancy levels
- The safety and security of people likely to be staying
- The possibility of undue public nuisance, public order or public safety
- Where there is a risk of affecting the privacy and safety of neighbours

5.9 Occupancy levels will be based on how many bedrooms are available within a property and numbers will not include children under the age of 10. Hosts will need to ensure accurate occupancy of a let as part of their licence conditions. The following guide can be used, however applications can be discussed on a case by case basis:

Bedroom size	Number of guests
1 bedroom (single)	1
1 bedroom (double)	2
2 bedroom (1 single + 1 double)	3 (excluding children under 10)
2 bedroom (2 double)	4 (excluding children under 10)

6. Objections and Representation

6.1 Any member of the public, neighbour or surrounding resident will be able to submit an objection or representation to any proposed Short Term Let Licence application within an area.

6.2 For an objection or representation to be considered it must be submitted to the Authority in writing (email would be preferred), it must specify the grounds of the objection or state the nature of the representation. The name and address of the person making the submission must be given as well as being signed by them, or on their behalf. Finally, it must also be received by the Authority within 28 days from when the notice of application has been displayed. Further guidance will be made available on the Councils website along with information on how to submit an objection

6.3 Any anonymous objection or representation will not be considered

6.4 If an objection or representation is received late, and outside the 28-day period required, this would be considered on a case-by-case basis as whether the submission would be allowed, depending on the circumstances of the late submission.

6.5 Competent grounds for objection to a licensing application include:

- Concerns that an application is inaccurate or misleading
- Concerns about the safety of guests, neighbours, or others
- Concerns about noise or nuisance; and
- Concerns that the application runs contrary to other legal or contractual requirements

6.6 Having poor relations with a host, or not liking Short Term Lets in general would-be examples of invalid grounds for objections, and where an objection does not meet the grounds of 6.5, they can be disregarded.

7. Determining a STL Application

7.1 Determining where no Objection or Representation

- 7.1.1 All named parties (Hosts/Managing Agents/Board) will be subject to a Fit and Proper person check carried out by Police Scotland who will carry out background checks and advise. Further statutory checks will also be carried out on the premises as is necessary.
- 7.1.2 Should there be no adverse comments, or any comments do not bring into question the ongoing fit and properness of the applicants, the application will be determined under delegated authority of the authorised officer.
- 7.1.3 Under the 1982 Act, the authority will have 9 months to determine the Short Term Let licence application from the date it is received with all the required documentation. However, for applications received prior to 1 April 2023 where the Short Term Let was in existence before 1 October 2022, the authority will have 12 months to determine the application. The authority will, where possible, attempt to prioritise new applications where hosts are not able to let until they are determined however this will be resource and demand dependant.

7.2 Determining where delegated approval cannot be made.

- 7.2.1 If the application receives adverse objections/representation or feedback which requires further scrutiny, the application will be referred to the Councils Regulatory Panel made up of Elected Members for determination.
- 7.2.2 Both the applicant and person or persons who have objected or made representation will be invited to this panel to state why their application should be approved, or why the objections or representation are valid. Both parties would be given at least 14 days' notice of the Regulatory Panel hearing. Further information will be provided on how a hearing will be conducted.
- 7.2.3 The Regulatory Panel will be able to ask questions of all parties as well as representatives from stakeholders and will come to a determination on the application. Grounds for refusing an application include:
- Anybody being named on the application being disqualified from holding a licence
 - Anybody named on the application not being a fit and proper person.
 - Some other persons would benefit from this activity who would be refused a licence if they had applied themselves
 - The premises is not suitable or convenient having regard to: -
 - The location, character, or condition of the premises.
 - The nature and extent of the proposed activity
 - The kind of person likely to be in the premises
 - The possibility of undue public nuisance; or
 - Public order or public safety; or
 - There is other good reason to refuse (cannot be applied in a blanket fashion and must be relevant to that case)
 - Unable to demonstrate, or secure compliance of mandatory licence conditions

- Unable to secure compliance of any other conditions the authority would seek to apply on a particular licence.
- 7.2.4 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.
- 7.2.5 Should an application be refused, an applicant will not be able to reapply for a licence in the area within one year of that decision, unless there has been a material change in circumstances since the application was refused. Evidence of such, may be required as part of any fresh application.

8. Right of Appeal

- 8.1 An applicant can appeal a negative decision by summary application to the sheriff. This must be done within 28 days from the date of the authority's decision, unless good reason is given for being late. The sheriff would decide on whether to consider a late application.
- 8.2 The sheriff may uphold an appeal if they consider that the authority, in arriving at a decision has erred in law, or that the decision not to approve application is based on incorrect material fact, that the authority has acted contrary to natural justice or have exercised their discretion in an unreasonable manner.
- 8.3 Where the sheriff upholds an appeal, they may ask the authority to reconsider the decision made or change the decision as part of their determination.
- 8.4 Parties should consider their own independent legal advice in relation to an appeal.

9. Licence Duration and Renewal

9.1 Licence Duration

9.1.1 A licence duration will apply from the date on which the licence comes into force. This will be noted on the licence which will also note the expiry date.

9.1.2 A licence will be effective:

- For a period of 3 years from the date the licence comes into force, or
- For a shorter period, where the authority determines otherwise when granting a licence taking into account the provisions of this policy. The authority will set out their reasons for a shorter period when issuing the licence.

9.2 Licence Renewal

9.2.1 When an application to renew a licence is made prior to the expiry of the current one, the existing licence will continue until such time a decision is made on the renewal application.

9.2.2 Scottish Government guidance promotes that unless there are good reasons to, licences should be renewed for a period of 3 years. It would also not be anticipated that renewing licences would be renewed for a period of more than 3 years.

10. Mandatory and Additional Licence Conditions

10.1 The Licensing Order outlines several mandatory conditions which will apply to all Short Term Lets within Scotland and should be noted on the licence itself. Those conditions can be found at appendix 1.

10.2 In addition to the mandatory conditions which are required to be met by all Short Term Lets, authorities can impose additional conditions to a licence. These conditions will be relevant to that Short Term Let and be used to mitigate any local challenges or concerns that may be experienced. A list of additional conditions can be found at appendix 2. It is proposed that all additional conditions will be applied where appropriate to short term lets operating in South Ayrshire

11. Temporary Licences

11.1 The authority has the power to grant temporary licences, for a short period of time of no more than 6 weeks and would be applicable where a host only intends to utilise their

property as a short term let for one of big events (such as the Open Championship) or wishes to trial a potential short term let before applying for a full licence.

11.2 Whilst a temporary licence cannot be renewed, should a host decide to then apply for a full short term let licence, any temporary licence that had been awarded will continue until a full determination is made. Costs would be applicable in that instance for both the temporary licence and the full licence.

11.3 Hosts and operators granted a temporary licence will be expected to adhere to all mandatory and additional conditions that apply to the short term let.

12. Temporary Exemptions

12.1 At this time, the authority will not embark on issuing temporary exemptions for short term lets. This will be reviewed after a period of 3 years.

13. Enforcement and Continued Compliance.

13.1 Complaints about Licensed Short Term Lets

- In the first instance, any guest or neighbour should try to resolve any complaint regarding a Short Term Let by approaching either the Host/Letting Agent or the platform used to advertise the let. Should there be no resolution forthcoming the authority would become involved. The Council accepts this may not always be possible and where a complainer has been unable to contact a host for good reason, we would not refuse to investigate the complaint.
- The authority will consider any complaint or information which may bring into question the fit and properness of the host or other, the suitability of the Short Term Let or any potential breach of licence condition. The Council will aim to respond to complaints within 5 working days and more complex complaints within 20 working days. Where required, complaints may be passed onto other services for input, such as Police Scotland, Scottish Fire and Rescue etc.

- Details of the complaint should be provided in writing to Shorttermlets@south-ayrshire.gov.uk or by post to:
 - Short Term Let Licencing, Riverside House, 21 River Terrace, Ayr, KA8 OAU
- Examples where a complaint may be valid include:
 - The number of people staying in a property;
 - Noise, disturbance or instances of anti-social behaviour;
 - Issues around maintenance, guests in common areas and accumulation of refuse; or
 - Suspected unlicensed short term lets.
- Complaints re quality of guest stay or disputes re agreements between guest and the host, would not be applicable for consideration as this is outside the scope of the licensing scheme.
- Records will be kept of any complaints regarding a host/owner/ agent or property and could be used in any re-determination of the continued suitability of the host or the property as a short term let.

13.2 Enforcement of Licensed Short Term Let

- If a complaint cannot be resolved, the authority may have grounds to take further enforcement action against a licensed Short Term Let. This may involve the inclusion of additional conditions upon a licence and/or the issuing of an enforcement notice. The authority may also consider whether there are grounds to refer a licence to Regulatory Panel for consideration on suspending or revoking the licence.
- [If complaints are extremely serious, the authority may seek pursuing of a prosecution.]
- Should an enforcement notice be served, it must clearly set out the reasons a breach has occurred, what requires to be done to resolve this breach and by which date this matter must be resolved. A failure to provide a remedy may result in further enforcement action being taken, such as seeking to have the licence suspended or revoked.
- Where a visit is carried out to the let property following a complaint and where it results in a determination that there has been a breach of licence conditions, the licence holder may be charged a fee for the visit.

13.3 Unlicensed Short Term Let

- With the introduction of regulation, it will become a criminal offence to conduct short term let activity without having a licence or without having a reasonable excuse to be unlicensed.
- As referenced in section 2, the Scottish Government have provided information on important dates that authorities, hosts, and agents acting on behalf of should give due regard to. A summary explains that.
 - From 1st October 2022, New Hosts cannot accept bookings or operate a short term let until a licence application has been determined.
 - Existing hosts must apply for a licence by the 1st of April 2023 at the latest.
 - Existing hosts operating before the 1st of October 2022 will be allowed to continue hosting whilst an application is being determined and it was submitted prior to 1st April 2023.
 - By 1st July 2024 all short term let should be licensed, and hosts should not operate if not determined by this point.
- The authority will manage and maintain a public register of all short term lets licensed in its area. This register will be made available and will be reported to the Scottish Government on a quarterly basis.

13.4 Other Compliance Considerations

- All hosts will receive a unique licence number upon approval. They will be responsible for ensuring this is provided as part of any advert relating to their short term let.
- Hosts and those managing property on their behalf will be responsible for ensuring continued compliance with all mandatory and additional conditions within a licence. Any failure to comply may result in enforcement action and may constitute a criminal offence.
- The licence holder will be responsible for ensuring the details of the licence are kept up to date. It will be a breach of such and may constitute a criminal offence not to notify the authority of a material change in circumstances.
- The authority has the power to carry out site visits as part of the application process, or during a licence as well as ask for up to date relevant paperwork at any time to ensure continued compliance.

14. Suspension or Revocation of Licence

14.1 If upon receipt of a complaint, that has been found to be true, or a breach of licence condition or other, the authority can seek to suspend or revoke the licence.

14.2 The grounds for suspension or revocation may include but are not limited to the following:

- 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.

14.3 Where the authority revokes a licence, no further application can be made by that host or operator in the area within one year of the date of revocation.

15. Variation of Licence

15.1 At any point through the duration of a short term let licence, the licence holder may make a request to the Council for a variation to the licence. There will be no requirement for this variation to be advertised, however the authority would consult with stakeholders as mentioned in 5.6. A charge will be applicable.

15.2 Examples of where a request to vary a licence would be applicable include:

- New owner/host or managing agent operating the let
- Requesting to amend the occupants within a licence
- Any changes to the structure of a property.

16. Equality

16.1 The 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.

16.2 Prior to the Cabinet making the decision to on the short term let policy an equality impact assessment will be undertaken. This can be viewed [insert once finalised]

17. Fees

- 17.1 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
- 17.2 Fees will be non-refundable due to the costs incurred to the authority in the determination of the licence application
- 17.3 Fees for a short term let licence will vary dependant on the type of licence being applied for and the maximum occupancy.
- 17.4 Fees are proposed as.

	Max Occupancy (up to 4)	Max Occupancy (5 or more)
New Licence		
Secondary Let	£250.00	£400.00
Home sharing or Home Letting (or both)	£125.00	£250.00

	Max Occupancy (up to 4)	Max Occupancy (5 or more)
Renewal Licence		
Secondary Let	£200.00	£350.00
Home Sharing or Home Letting (or both)	£75.00	£200.00

Othe Applicable Fees	Cost
Temporary licence	£100.00
Variation	£75.00
Replacement/Duplicate licence	£50.00

Appendix 1 – Mandatory 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 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.

Interpretation

18. 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,

Appendix 2 – Additional Conditions

Anti-Social Behaviour

1. 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.
2. The licence holder must take reasonable steps to:
 - ensure that no disturbance or nuisance arises within or from the premises, for example by explaining the house rules to the guests.
 - deal effectively with any disturbance or nuisance arising within or from the premises, as soon as reasonably practicable after the licence holder is made aware of it; and ensure any vehicles belonging to guests are parked lawfully, for example explaining where any designated parking spaces are to be found and highlighting any local rules.

Privacy and Security

1. The licence holder must manage the premises in such a way as to respect and protect the privacy and security of neighbours.
2. The licence holder must ensure:
 - guests know and understand any rules applying to shared areas and entrances.
 - guests understand that shared doors should be properly and securely closed after use; and the provision of access codes or keys to guests cannot be used by guests to gain access to shared areas after they have finally departed.
 - Guests are aware if private parking bays are in use and avoid using other spaces than those dedicated to the short term let.

Noise

1. The licence holder must ensure that the bedrooms, living room and hallway in the premises are carpeted. **(This condition may be imposed in instances of flatted accommodation with pre-existing laminate flooring where complaints received regarding noise)**

2. 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. **(this condition may be imposed following investigation or through representation at application stage of issues of noise from a particular property)**

3. 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.)

4. Where properties are located in blocks of accommodation, with shared access and communal areas, steps should be taken to install door closures to reduce noise from doors unduly causing a disturbance.

5. Licence holders must take steps to ensure guests to not play amplified music after the hours of 11pm within the property and any external garden areas if provided. (this condition may be imposed following investigations into noise complaints or at application stage of a particular property.)

4.

Littering and Waste Disposal

1. The licence holder must provide adequate information on, and facilities for, the storage, recycling, and disposal of waste.

2. The licence holder must advise guests of:

- their responsibilities.
- the use of the bins / sacks provided for the premises; and
- the location of the nearest recycling centre or recycling point.

3. The licence holder must:

- clearly label bins as belonging to the premises.
- ensure that guests manage their waste in compliance with (2), including when they depart; and maintain the bin storage area and the exterior of the premises in a clean and tidy condition.

Damage to Property

1. 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.

Maintenance of Property.

1. 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 can be produced, on request by the Council

2. 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 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.

South Ayrshire Council
Equality Impact Assessment including Fairer Scotland Duty

Section One: Policy Details*

Name of Policy	Short Term Let Licensing Scheme, South Ayrshire Council
Lead Officer (Name/Position)	Chris Carroll, Private Sector and Landlord Registration Officer
Support Team (Names/Positions) including Critical Friend	Geraldine McGivern, Equalities Officer Kevin Anderson, Service Lead, Policy, Performance and Community Planning

*The term Policy is used throughout the assessment to embrace the full range of policies, procedures, strategies, projects, applications for funding or financial decisions.

What are the main aims of the policy?	<p>The aims of the licensing scheme are:</p> <ul style="list-style-type: none"> • 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.
What are the intended outcomes of the policy?	<p>The intended outcomes of the scheme are:</p> <ul style="list-style-type: none"> • All short term lets within the Local Authority are licenced, that hosts/agents managing accommodation are fit and proper to do so, and that properties are safe and fit for occupation • That the Local Authority are aware of where short term lets are within their area, are satisfied they are safe for let and can respond to any issues that may arise. • That mitigations can be put in place to help alleviate any concerns or issues experienced by neighbours and local communities to short term lets being present in their area.

Section Two: What are the Likely Impacts of the Policy?

<p>Will the policy impact upon the whole population of South Ayrshire and/or particular groups within the population? (please specify)</p>	<p>This policy will have an impact primarily on hosts/agents of properties that are being utilised as short term lets, as well as the neighbours/residents who have property in the immediate vicinity of a short term let. There will also be an impact expected on guests staying in short term let property as accommodation will require to meet a safety and quality standard prior to let.</p>
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Considering the following Protected Characteristics and themes, what likely impacts or issues does the policy have for the group or community?

List any likely positive and/or negative impacts.

Protected Characteristics	Positive and/or Negative Impacts
<p>Age: Issues relating to different age groups e.g. older people or children and young people</p>	<p>No likely positive or negative impact.</p>
<p>Disability: Issues relating to disabled people</p>	<p>No likely positive or negative impact.</p>
<p>Gender Reassignment – Trans/Transgender: Issues relating to people who have proposed, started or completed a process to change his or her sex</p>	<p>No likely positive or negative impact.</p>
<p>Marriage and Civil Partnership: Issues relating to people who are married or are in a civil partnership</p>	<p>No likely positive or negative impact.</p>
<p>Pregnancy and Maternity: Issues relating to woman who are pregnant and/or on maternity leave</p>	<p>No likely positive or negative impact.</p>
<p>Race: Issues relating to people from different racial groups,(BME) ethnic minorities, including Gypsy/Travellers</p>	<p>No likely positive or negative impact.</p>

Religion or Belief: Issues relating to a person's religion or belief (including non-belief)	No likely positive or negative impact.
Sex: Issues specific to women and men/or girls and boys	No likely positive or negative impact.
Sexual Orientation: Issues relating to a person's sexual orientation i.e. LGBT+, heterosexual/straight	No likely positive or negative impact.

Equality and Diversity Themes Relevant to South Ayrshire Council	Positive and/or Negative Impacts
Health Issues and impacts affecting people's health	In some instances, a short term let can have an impact on surrounding neighbours and residents' mental health due to stress associated with Anti-Social Behaviour and malpractice of accommodation use as well as other situations. The implementation of this policy and scheme, with the enforcement tools included could help mitigate some of these issues by allowing the local authority to include additional licencing conditions aimed at reducing instances of these issues and being able to hold a host to account should conditions be breached.
Human Rights: Issues and impacts affecting people's human rights such as being treated with dignity and respect, the right to education, the right to respect for private and family life, and the right to free elections.	One aspect of this policy will be to help provide protections to neighbours, residents of properties where they feel that their right to privacy is being reduced due to consequences associated with the provision of short term let, such as the volume of tenancy turnover, the amount of other services which may visit a property (such as cleaning companies), personal spaces being used such as designated car parking spots or unknown persons trying to get access to a communal area. The policy and scheme will allow for the inclusion of additional licence conditions which may help mitigate some of these concerns.

Socio-Economic Disadvantage	Positive and/or Negative Impacts
Low Income/Income Poverty: Issues: cannot afford to maintain regular payments such as bills, food and clothing.	No likely positive or negative impact.
Low and/or no wealth: Issues: enough money to meet basic living costs and	No likely positive or negative impact.

<p>pay bills but have no savings to deal with any unexpected spends and no provision for the future</p>	
<p>Material Deprivation: Issues: being unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, leisure/hobbies</p>	<p>The policy and the wider licencing scheme places a requirement for properties being used as short term lets to meet a required safety and quality standard prior to being let. This means that properties should be brought maintained to a decent standard along with provisions in place should there be a requirement for any repairs to be carried out. Properties will require to have appropriate provision for the detection of smoke, fire and carbon monoxide, have a regular electrical safety installation condition report carried out as well as portable appliance testing. Properties will also be expected to be in a good condition of repair including communal areas such as landings, security doors etc. These provisions and requirements should have a net positive affect on the surrounding local area.</p>
<p>Area Deprivation: Issues: where you live (rural areas), where you work (accessibility of transport)</p>	<p>The policy may have a positive impact on areas as will ensure that properties being used within a location are safe, warm, and fit for purpose and that the host or agent managing the property are fit to do so. It will also allow for the support of promotion of an area as a tourist destination should we be able to claim that all short term lets within an area, regardless of location are compliant, meet the needs of the guest staying within and support the local economy, especially in more rural areas where the inclusion of short term lets may help boost local trade and economies, for example in villages in rural south which may be used as bases for hill walkers etc?</p>

Section Three: Evidence Used in Developing the Policy

<p>Involvement and Consultation In assessing the impact(s) set out above what evidence has been collected from involvement, engagement or consultation? Who did you involve, when and how?</p>	<p>There have been several involvements with the sector regarding the development of this policy which include:</p> <ul style="list-style-type: none"> • Physical meetings with agents who deliver short term lets within the area Physical meetings with concerned resident groups regarding issues experienced by short term let • Working group, local authority and at national level regarding the implementation of the scheme • Wider online consultation on the draft policy which has been advertised online and also sent to booking sites for comment such as Airbnb,
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	Vrbo and the Association of Scotland Self-Caters as well as all concerned parties mentioned above.
<p>Data and Research</p> <p>In assessing the impact set out above what evidence has been collected from research or other data. Please specify what research was carried out or data collected, when and how this was done.</p>	<p>Research has been provided by the Scottish Government as well as some focussed information relating to experiences within other cities, such as the City of Edinburgh where short term lets are more prevalent and this ties in with some first-hand accounts experienced here in South Ayrshire which has helped develop our policy approach. Our wider understanding of the impact of short term lets within our area will become more apparent as the scheme beds in and this is one of the key objectives of the implementation of the regulations across Scotland.</p>
<p>Partners data and research</p> <p>In assessing the impact(s) set out in Section 2 what evidence has been provided by partners?</p> <p>Please specify partners</p>	<p>A number of stakeholders have been involved in the development of our policy, through discussion, provision of information, first hand accounts of experiences as well as some research provided for by the Scottish Government as part of their reasoning for the implementation of the regulation. Stakeholders therefore include:</p> <ul style="list-style-type: none"> • Local Hosts/agents • Local resident groups • South Ayrshire working group made up of (ASB, Legal and Licencing, Planning, Environmental Health, Waste Management) • National working groups associated with implementation of the licencing schemes.
<p>Gaps and Uncertainties</p> <p>Have you identified any gaps or uncertainties in your understanding of the issues or impacts that need to be explored further?</p>	<p>As this is new regulations, it may be that there will be issues or concerns that have not been addressed which will come to light as the schemes bed in across the Local Authority and at a National Level. The regulations make clear that one of the objectives is for Authorities to better understand the provision of short term lets within their area and to target resources effectively to manage any issues that are associated with, this will mean reflection has to be required as the policy beds in and refreshed as appropriate.</p>

Section Four: Detailed Action Plan to address identified gaps in:

- a) evidence and
- b) to mitigate negative impacts

No.	Action	Responsible Officer(s)	Timescale
1	Understanding and licencing of all short term let within South Ayrshire.	Chris Carroll	July 2024 (final date for all to be licenced)
2			
3			
4			

Note: Please add more rows as required.

Section Five - Performance monitoring and reporting

Considering the policy as a whole, including its equality and diversity implications:

When is the policy intended to come into effect?	September 2022
When will the policy be reviewed?	Every 3 years
Which Panel will have oversight of the policy?	Cabinet

Summary Equality Impact Assessment Implications & Mitigating Actions

Name of Policy:South Ayrshire Council, Short Term Let Licencing.....

This policy will assist or inhibit the Council’s ability to eliminate discrimination; advance equality of opportunity; and foster good relations as follows:

<p>Eliminate discrimination</p> <p>The policy should help provide mitigations to support resident, neighbours and communities where short term lets are present and ensure that hosts and properties are meeting relevant standards which will allow the promotion of the sector in a positive light as well as providing protections for local groups.</p>
<p>Advance equality of opportunity</p> <p>The policy will allow the authority to promote that all short term lets are being held to a consistent standard and that any host not meeting their obligations could be subject to enforcement action.</p>
<p>Foster good relations</p> <p>The policy aims to provide a balance providing protections to neighbours, residents and local communities alongside trying to allow for the provision of good quality accommodation with protections in place to help with any concerns and issues with the aim of maintain relationships and hosts right to provide accommodation.</p>
<p>Consider Socio-Economic Disadvantage (Fairer Scotland Duty)</p> <p>The policy could provide positive impacts especially with the requirements for accommodation to be meeting relevant standards which has a knock on positive impact to the wider area as well as positive impacts to local tourism and rural economies.</p>

Summary of Key Action to Mitigate Negative Impacts	
Actions	Timescale
Understanding and licencing of all short term let within South Ayrshire.	July 2024

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Signed:Kevin Anderson.....Service Lead

Date: ..26/7/22.....

Consultation Analysis
Short Term Let Draft Policy

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1. Introduction

1.1 This consultation follows on from face-to-face sessions held with interested parties and stakeholders of Short Term Lets and has focused on the draft policy which has been drafted in line with Scottish Government guidance on the implementation of Short Term Lets in an area and with feedback considered from those face-to-face sessions.

1.2 Sessions held previously included:

- Meeting with concerned residents' groups
- Meeting with major host operator in South Ayrshire
- Professional stakeholder engagement with services including:
 - Planning
 - Legal and Licencing
 - Environmental Health
 - Waste Management
 - Anti-Social Behaviour Team
 - ICT
 - Police Scotland
 - Scottish Fire and Rescue
- National housing network sessions.
- Multi-Local Authority sessions.

1.3 From this initial consultation phase, the draft policy has been constructed and issued for local communities, involved players, stakeholders, hosts, and host booking websites the opportunity to comment on.

1.4 The consultation comprised an online survey asking respondents to provide their views and comments relating to each section of the draft policy. The consultation has been shared by our central communications team through our online social media channels, our main housing social media channel, as well as email out to all registered landlords operating in South Ayrshire who may also have other properties as well as to registered self-catering accommodation owners who have supplied email details with Non-Domestic Rates. Direct contact was also made to Airbnb, Vrbo who are the main host advertising sites, The Association of Self Caters Scotland (assc) as well as to the concerned residents' groups and local hosts.

2. Respondents

2.1 The consultation generated 40 responses from a cross-section of players with an interest in the sector. Analysing post-code level data would suggest that the responses have been received from areas where there are higher prevalence's of Short Term Let. There have also been responses received from organisations who have responded on behalf of their members.

Responder	Number
Organisation	2
Short-Term Let Host	17
Short-Term Let Business Representative	3
Individual	15
Other	3
Total	40

3. Consultation Responses

3.1 Definitions

Consultation question	Responders were asked to consider the section on definitions of Short Term Lets and to provide comments.
Responder comments	Regarding this section, most responders either left unanswered or provided "no comment", one comment from an individual has suggested that the definitions are not clear enough or easily understood as well as comments regarding the use of home sharing being included within the legislation.
Council response/action	The definitions as provided within the policy document are lifted from the Licencing Order itself as well as the Scottish Government issued guidance for Local Authorities on implementation of schemes. However, to help with understanding all parts of the process, FAQ's and other information documents will be created to help.

3.2 Planning Considerations Relating to Short Term Let

Consultation question	Responders were asked to consider the section relating to planning considerations which also includes comments on Short Term Let Control Areas.
Responder comments	This section generated conflicting views depending on the responder, for example, responses from organisations representing hosts or hosts, are satisfied that at this time the Council would not intend to introduce control areas, arguing that any introduction should be based on clear evidence and reliable data. Other responses indicate that the Council should move to introduce control areas due to negativity associated with lets in areas where perhaps more prevalent, such as South Harbour in

	Ayr as well as suggesting that properties located within blocks of flats as to be unsuitable as STL generally.. Also, more information is being sought of what consent may be required and in what scenarios.
Council response/action	<p>The licencing scheme is intended to bring accountability and regulation to the Short Term Let sector as well as allowing Local Authorities the opportunity to gain further knowledge about lets in their local area, be provided the legislative tools to hold malpractice to account and to give communities the opportunity to comment on any proposed let within their area. Whilst, at the inception of the scheme, there are no areas proposed as a Short Term Let Control Area, this will be kept under constant review through dialogue with residents and groups, as well as data gathering as the scheme beds in. Both Planning and the Housing Policy and Strategy Team will oversee this. Also, further information as part of FAQ's and application process will help mitigate some queries relating to planning considerations.</p> <ul style="list-style-type: none"> • Text at 4.2.3 amended as per responses relating to how services should be working together relating to investigating and considering control areas.

3.3 Handling of Applications and Notifications

Consultation question	Responders were asked to consider the section on handling of application and notifications.
Responder comments	Comments ranged from organisational views that any host that has accreditations with bodies should be fast-tracked through the application process to help ease the burden of the Council on processing times, other comments from individuals suggest that more information should be made available in relation to the displaying of notices, consideration of other factors and timescales to determine. Also comments from hosts surrounding the provision of information and documentation to support applications, along with templates to do so. Comments from community associations also reflected further clarity on the suitability of a property/max occupancy and notifications.
Council response/action	<p>Our aim will be to make the process of applying and determining the suitability of a property/host as simple as possible, however there are pre-determined actions that are required and stakeholder engagement that would be needed, regardless of accredited status or not, licences would also not automatically be granted without stakeholders having the ability to comment on and local community views not being heard. Hosts will also be required to display a notice of the intention to use property, to allow community the opportunity to comment on.</p> <ul style="list-style-type: none"> • Added additional comments with the inclusion of para 5.8 and 5.9 which relates to assessing suitability and proposed maximum occupancy levels.

3.4 Objections and Representation

Consultation question	Responders were asked to consider the section on objections and representation
Responder comments	A range of views received, organisations and hosts articulating that any objections require to be well reasoned and well evidenced and length of time a STL has been present should be considered as part of that process, individuals responding agree with the approach of objections and representation suggesting for example that items such as title deed conditions should be considered when determining the suitability of a property.
Council response/action	The guidance makes clear and is reference in the policy what can be dismissed as vexatious objections which can be discounted; however, our approach will be to allow the community the opportunity to be heard, and should a requirement be to refer to the Councils Regulatory Panel for decision, this will be carried out. <ul style="list-style-type: none"> 6.2 has additional wording to advise that guidance will be made available on the website outlining how objections can be made.

3.5 Determining a Short Term Let Application

Consultation question	Responders were asked to consider the section on Determining a Short Term Let Application
Responder comments	Queries raised over timescales to determine an application being excessive and the ability to continue to operate whilst a licence is being determined were raised by most responders across organisations, hosts and individuals. Also clarity being sought on what the regulatory panel is made up of as well as wordings related to grounds of refusal.
Council response/action	The timescales allowed to determine an application are set within the Licencing Order as well as the guidance supplied by the Government, however lengths will be taken to try and process as applications as timeously as possible. The order is quite clear in what scenarios a host can continue to operate in, however supporting information will be provided as part of application processes. <ul style="list-style-type: none"> 7.2.1 updated to confirm that Regulatory panel is made up of elected members. 7.2.2 updated to reflect that further information will be created to help understand what happens and the process at panel hearing.

3.6 Right of Appeal

Consultation question	Responders were asked to consider the section on Right of Appeal and provide comments
Responder comments	Many of the comments centred around the time scales provided for appeals, who the appeal is made to and from an individual responder that there is no provision within the policy for appeal of

	a licence being granted. There was also comment around the provision of when an application is refused, how will the 1-year time limit be monitored.
Council response/action	The timescales, provided within the policy and the mechanism to do so are in line with the provisions within the Licencing Order and are based on those, the Licencing order does not provide scope for appeals of a licence being granted, however there are mechanisms within the scheme, should any conditions of a licence be broken to revisit and consider further enforcement action which may lead to a request for the licence to be reviewed by the regulatory panel.

3.7 Licence Duration and Renewal

Consultation question	Responders were asked to consider the section on Licence Duration and Renewals
Responder comments	Most responders replied with a “no comment” for this section however an organisation did comment that more information should be provided on the reasons the regulatory panel may decide to grant a licence for less than the 3-year period.
Council response/action	The licencing order and the scheme suggests that licences should be issued for up to a period of 3 years and licencing authorities can determine what is appropriate. In most circumstances, should an application not require to be considered by regulatory panel, a 3-year licence will be granted, however it may be that an application that has received objections or representations and has been referred to panel, whilst trying to balance the concerns of the community, they could use their powers to grant a licence of shorter period, to be renewed at an earlier date. As part of the application process, we will endeavour to provide information to help support applications.

3.8 Mandatory and Additional Licence Conditions

Consultation question	Responders were asked to consider the section on Mandatory and Additional Licence Conditions and submit comments.
Responder comments	Comments received from hosts and organisations representing hosts more surrounded the additional conditions which can be imposed on a host/property and the need for evidence required to include these within a licence. Also comment on the introduction on conditions relating to noise and anti-social behaviour specifically was highlighted as potential hard to enforce and expensive for a host should they have to take remedial action (for example, carpeting a property).
Council response/action	The ability to include additional conditions on a licence is a much-required tool, to help provide balance of protections to residents and neighbours and their inclusion would be on a case-by-case basis, predicated by the nature of the let, where it is located, any previous history of issues etc and. Following on from the feedback from the consultation we will be seeking cabinet to mandate that all conditions be imposed at point of licence with non applicable

	ones specific to that property being removed. As the scheme progresses, we will endeavour to provide supporting information and FAQs to help with the understanding and reasons for conditions.
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3.9 Temporary Licences

Consultation question	Responders were asked to consider the section on Temporary Licences and provide comments
Responder comments	Responses for this question were only received from hosts and organisations with an interest in short term lets. Questioning why they would be required, the negative impact they may have on ability to let accommodation for short periods of time, timescales for making decisions as well as could they be abused.
Council response/action	The Council will intend to move forward with the introduction of temporary licences for short periods of times. These will be more prevalent during more major events and occasions, such as The Open in 2024 as an example. We would expect that any person looking to take advantage of this be required to meet the same minimum standards of any long-term provider, that they are suitable to host as is their property. the process will not be as intrusive and the fee will reflect this, and should a host wish to continue to then let out their property, a full licence application would require to be submitted.

3.10 Temporary Exemptions

Consultation question	Responders were asked to consider the section Temporary Exemptions and provide comments on.
Responder comments	Most answered this question with “no comment” however comments received from organisations supporting short term lets did add that they would be in favour of temporary exemptions over temporary licences, and this should not be reviewed after 3 years but left open for more immediate consideration
Council response/action	The intention will be to review after 3 years the success of temporary licences and consider again at that point once the scheme has bedded in and a near full licencing cycle has been carried out.

3.11 Enforcement and Continued Compliance

Consultation question	Responders were asked to consider the section on Enforcement and Continued Compliance and provide comments.
Responder comments	Responses were received from individuals and from organisations representing hosts regarding this section, individuals concerned that the as the policy describes, complaints should where possible be attempted to be resolved by contacting the host, or the booking site direct in the first instance and that this may actual

	<p>make it difficult for authorities to hold host to account as due to the nature of the lets, the problem may have resolved naturally when the current occupant leaves. Conversely, host representatives wouldn't be advocating for unannounced visits from Council teams relating to complaints made about their property and a more planned approach, especially if visits are required. There was further comments from community association groups suggesting the wording required to be changed and there should be more onus on the Council to become involved at an earlier stage. Further information on responding to complaints and would counts as a valid complaint were also suggested.</p>
Council response/action	<p>It is clear in the guidance provided by the Scottish Government and our policy, that where possible, resolutions should in the first instance be sought by contacting the host direct to inform them of any concerns. Where this can't be done we will become involved. Part of the enforcement process will rely on building pictures or noticing patterns of misbehaviours at properties which would help build cases where hosts are not meeting their obligations. Visits would be carried out in a planned manner and wherever possible we would link in with the host prior to visiting.</p> <ul style="list-style-type: none"> • Amended text 13.1.1 to reflect that whilst we would hope residents would attempt to contact the host in the first instance, that this would not always be possible, and the Council would become involved. • Amended text 13.1.2 to reflect timescales for responding to complaints • Amended 13.1.3 to add address for written complaints. • Added new paragraph 13.1.4 to provide examples of reasonable grounds to complain.

3.12 Suspension and Revocation of Licence

Consultation question	Responders were asked to consider the section on Suspension and Revocation of Licence and provide comments
Responder comments	Comments received here prominently from hosts or organisations on behalf of hosts and centre on the grounds included in the policy in which a licence could be suspended or revoked.
Council response/action	The grounds included within the policy are lifted from the Licencing Order and in line with Scottish Government guidance.

3.13 Variation of Licence

Consultation question	Responders were asked to consider the section on Variation of Licences and provide comments
Responder comments	Comments were sought on the clarity of what can be varied on a licence.
Council response/action	A host could request a variance to the licence, such as a change of managing agent, or wish to reduce the number of occupants

	<p>licenced for, whilst this would not require to be advertised to surrounding neighbours or residents, we would carry out stakeholder engagement regarding any proposed change.</p> <ul style="list-style-type: none"> • Reworded paragraph 15.1 to reflect comments • added paragraph 15.2 to provide examples of variance.
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3.14 Equality

Consultation question	Responders were asked to consider the section on Equality and provide comments
Responder comments	There were no comments of note in this section
Council response	Whilst no comments of note to respond to, it is worth noting that the Council has carried out a full Equalities (including the Fairer Scotland Duty) Impact Assessment which has been submitted as part of the panel report on this policy.

3.15 Fees

Consultation question	Responders were asked to consider the section on Fees and provide comments
Responder comments	Comments received in this section were from organisations representing host and hosts themselves, comments ranged from them being reasonable and proportionate, to keeping under review to ensure best value is being achieved. There is also some confusion over what fees represent which licence and are any discounts likely to be applied (for example if there was more than one property in a building).
Council response	The intention will be to keep the fees under a regular review to ensure they are proportionate but also balance the requirement to provide for the scheme. It is noted that further work may be required to make the fee scale more easily understood and we will take this forward as part of application and marketing of the scheme. The guidance is clear though that in most cases, a licence will be required per unit let.

3.16 Appendix 1 – Mandatory Conditions

Consultation question	Responders were asked to consider the section on the Appendix outlining the Mandatory Conditions and provide comments
Responder comments	Responses received from hosts suggest that further guidance will be required around the types of certifications to be provided and what requires to be displayed within the property. Also comment on the requirement to display PAT testing on appliances supplied within the let and why there will be a requirement to do so.
Council response	We will provide further information as part of the application process to aid hosts to fully understand what certification will be required and what will require to be displayed within the property. However, the mandatory conditions are specified within the Licencing Order, and they cannot be amended.

3.17 Appendix 2 – Additional Conditions

Consultation question	Responders were asked to consider the section on the Appendix relating to Additional Conditions and provide comments
Responder comments	Comments received from most responders in this section, mostly looking for further clarity on where additional conditions will be imposed, under what circumstances to be able to consider others on a case-by-case basis. Concerns from individuals about ability to properly enforce conditions relating to anti-social behaviour and noise as well as ensuring items such as common repair are accounted for, also concerns from hosts about blanket use of additional conditions.
Council response	<p>The aim is for additional conditions to be included on a case-by-case basis, for example, it may be appropriate to enact the noise condition for flatted properties where laminate flooring is present, but that clause may not be required in a fully self-contained unit. We note that clarity may be required on the conditions and as part of information and supporting documents, we will aim to provide this.</p> <ul style="list-style-type: none"> • Added new clauses to Noise conditions to relate to the inclusion of door closures, and the requirement to not play music after 11pm in the evening.

3.18 Additional Comments

Consultation question	Responders were asked if they had any further comments regarding the introduction of a licencing scheme.
Responder comments	Comments in this section were mainly received from organisations representing hosts and hosts themselves, in general, there is a negative feeling about the introduction of licencing schemes in general, with the added burdens and expectations make providing good quality accommodation more difficult and more financially challenging. From an association representing community, there is a feeling the new scheme does not go far enough to impose controls on short term lets as well as negativity around how the scheme will be managed in the long term.
Council response	The Council have tried to balance the need to provide protections for neighbours, residents, and owners of properties alongside an acknowledgement that short term lets provide a positive benefit to tourism and local economies in South Ayrshire, our policy hopes to provide that balance. The policy will remain under review during, and amendments will be referred to the Cabinet of the administration, should there be changes required.

4. Conclusion

- 4.1 Our policy draft has been refined to consider the views and comments received from this consultation exercise, it will also help in our next phase and with the provision of supporting information, for both applicants submitting applications for a Short Term Let as well as information for surrounding neighbours, residents, and owners on what they can do should they be subject to negative experiences caused by a nearby Short Term Let.