

## **ARGYLL AND BUTE COUNCIL'S SHORT TERM LET LICENSING SCHEME**

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### **1.0 EXECUTIVE SUMMARY**

- 1.1 This report seeks approval of the arrangements for the Council's Short-term Let Licensing Scheme. The licensing scheme was brought in by the Scottish Government under the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, with the aim to ensure short-term lets are safe, address issues faced by neighbours, to facilitate local authorities knowing and understanding what is happening in their area, and handling complaints effectively. It also aims to balance the economic and tourism benefits from short-term lets with the needs and concerns of local communities across Argyll and Bute. This is therefore a statutory obligation of the Council.
- 1.2 To help inform the contents of this report, a formal public consultation was carried out on initial draft proposals. There was a very healthy and positive response. The key outcomes gathered by the consultation have influenced the final scheme and licensing policy proposed within this report.
- 1.3 A new licensing system is now ready for Committee consideration, comment and approval. This meets the new statutory duty to have a scheme in place to receive and determine applications from new hosts as of the 1<sup>st</sup> October 2022. It should be noted that no additional resources have been provided by the Scottish Government to deliver the scheme. Recruitment is therefore ongoing for new posts (permanent and fixed term) and a communication strategy is in place to manage expectations until staff are in place.
- 1.4 The licensing scheme will be self-financing from fee income. The Council have assessed all relevant information and databases to identify the total number of short-term accommodation premises in Argyll and Bute that fall within this licensing scheme. The Council's Non-Domestic Rates (NDR) statistics indicate 2,650 properties although the actual numbers are likely to be significantly greater. Unfortunately, despite taking advantage of a number of different databases available to the Council, it is impossible to provide an exact total. A cautious approach has however been taken in setting fees and charges and resourcing for the licensing scheme, and

income/expenditure levels will be closely continuously monitored.

## **RECOMMENDATIONS:**

The Council is asked:-

- a) To note the considerable work undertaken to develop the new licensing regime in a challenging timescale, and without any additional funding or resourcing provided by the Scottish Government.
- b) To welcome the high level of responses to the public consultation, and recognise that many of the issues raised have been incorporated into the final licensing regime.
- c) To approve the Short-term Let licensing regime, Licensing Policy, additional conditions and fee and charges as set out in sections 5.4 and 5.6
- d) To note the initial focus on “New hosts” initially until additional staff resources are in place.
- e) To amend the Council’s Scheme of Delegation to delegate responsibility for the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 to the Executive Director with responsibility for Regulatory Services, to enable the Council’s Environmental Health Service to authorise officers to deliver the Short-term Let licensing regime.

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### **2.0 INTRODUCTION**

- 2.1 This report seeks approval of the arrangements for the Council's Short-term Let Licensing scheme. The licensing scheme was brought in by the Scottish Government under the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, with the aim to ensure short-term lets are safe, address issues faced by neighbours, to facilitate local authorities knowing and understanding what is happening in their area, and handling complaints effectively. It also aims to balance the economic and tourism benefits from short-term lets with the needs and concerns of local communities to ensure the people providing short-term lets are suitable.
- 2.2 Local authorities must introduce a new mandatory licensing system for short-term lets for 1<sup>st</sup> October 2022 to receive applications from existing and new "hosts" and thereafter determine them. The scheme will cover a wide range of residential accommodation including, but not exclusively, self-catering properties, B&B's, guesthouses, glamping pods and yurts.
- 2.3 Despite the challenging timescale, a licensing system has been developed for Committee consideration and approval. This process has involved considerable work by an Officer Steering Group, formal public consultation on draft proposals, the development of an in-house digital information management system to make and receive applications, a new licensing policy, and a fees and charges structure. The outcomes from public consultation have influenced the final licensing system.

### **3 RECOMMENDATIONS**

- 3.1 Council is asked to consider this report and the following recommendations:
- a) To note the considerable work undertaken to develop the new licensing regime in a challenging timescale, and without any additional funding or resourcing from the Scottish Government.
  - b) To welcome the high level of responses to the public consultation, and recognise that many of the issues raised have been incorporated into the final licensing regime.
  - c) To approve the Short-term Let licensing regime, Licensing Policy, additional conditions and fee and charges as set out in sections 5.4 and 5.6

- d) To note the initial focus on “New hosts” initially until resources in place.
- e) To amend the Council’s Scheme of Delegation to delegate responsibility for the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 to the Executive Director with responsibility for Regulatory Services, to enable the Council’s Environmental Health Service to authorise officers to deliver the Short-term Let licensing regime.

## **4 DETAIL**

- 4.1 The licensing scheme was brought in by the Scottish Government under the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, with the aim to ensure short-term lets are safe, address issues faced by neighbours, to facilitate local authorities knowing and understanding what is happening in their area, and handling complaints effectively. It also aims to balance the economic and tourism benefits from short-term lets with the needs and concerns of local communities to ensure the people providing short-term lets are suitable.

The Council is required to receive and determine applications of short-term lets and issue appropriate licences and conditions. Integral to this will be supporting applicants to ensure compliance and addressing any representations for communities, neighbours or statutory consultees. The Scottish Government expect local authorities to enforce these requirements and to target non-compliance. Licensing Officers will be employed to carry out proportionate regulation.

- 4.2 An Officer Steering Group has developed the new Short-term let licensing regime to meet the Council’s statutory duty. This work has been challenging and has involved a formal public consultation on draft proposals, the development of an in-house digital information management system to make and receive applications, a new licensing policy, and a fees and charging structure. Subject to approval, the Council will be in a position to receive applications initially from new hosts, until new posts have been recruited which is likely to be December 2022. The scheme is to be managed and delivered by the Council’s Environmental Health Service as there are synergies with their existing work in private landlord registration, houses in multiple occupation and caravan site licensing.

- 4.3 The public consultation on the Council’s draft policy statement for short-term let licensing ended on 5th August 2022. 552 responses were received, with a significant majority of respondents agreeing with the Council’s proposals. The recommendations arising from analysis of the consultation are detailed in Appendix I, have been agreed by the Council’s Short-term Let Steering Group and are built into the proposed scheme, namely:

- i. The consultation supports including children under the age of 10 in setting occupancy levels.
- ii. The consultation supports the adoption of all of the proposed additional conditions as set out in the draft policy statement with minor modifications.
- iii. The consultation identifies that the Council should consider providing temporary exemptions from the requirement to hold a licence. This is an important flexibility for island communities and in relation to events

such as the Tarbert series and the Cowal Games. There requires to be some protection for the security of tenure of private tenants.

- iv. The consultation identifies a role for temporary licences to be considered in limited circumstances, for example, to ensure that short-term lets can continue as going concerns when being sold from one operator to another.
- v. Fees and charges were inevitably controversial and attracted much comment. The setting of differential fees for home letting and home sharing compared with secondary lets was nevertheless generally supported, in line with Scottish Government guidance.
- vi. The proposed fee structure was more controversial, with most respondents dissatisfied that the actual fee levels could not be included in the consultation.

4.4 **Licensing Policy.** The licensing policy (Appendix II) details the key details of the scheme for Council's approval. This provides the policy against which applications will be considered and specifies arrangements for temporary exemptions, temporary licences planning control areas, conditions and a range of other critical areas.

4.5 **Licensing processes.** The processes generally mirror the Council's existing civic government licensing processes, and are being adapted to meet the short-term let licensing requirements. The draft policy was part of the recent public consultation and amended to reflect public feedback. An in-house ICT system is being developed to provide a "digital system" to receive and process applications, including payment of fees, which will go live the next working day after the 1 October 2022.

4.6 **Additional Conditions.** All licensed short-term lets will be required to comply with a set of mandatory conditions that apply across all of Scotland. The mandatory conditions are set out in the Order and Councils have a discretionary power to impose additional conditions for short-term let premises. Recognising some of the current issues relating to let accommodation, draft additional conditions covering the areas of antisocial behaviour, littering and waste disposal, noise control in flat properties, damage to properties, guest safety (hot tubs, swimming pools, barbecues and other equipment) were consulted on. These have been amended in light of consultation responses and legal advice has confirmed that they are not "ultra-vires" and can be defended if challenged. The proposed additional conditions are detailed in Appendix 2.

4.7 **Temporary Licences.** Whilst not initially intending to issue temporary licences, consultation feedback identified that there would be instances where temporary licences would be appropriate. The main area would be in the sale of a licensed property, where grant of a temporary licence would allow the property to continue to operate, as the licence is specific to the owner and not the short-term property. The Council's licensing regime includes temporary licences.

4.8 **Temporary Exemptions.** The Order provides temporary exemptions to the requirement for a licence for a single continuous period not exceeding 6 weeks in any 12-month period. This could cover major events where

accommodation is provided in homes and other properties for a short period. Initially, the Council's draft scheme did not intend to provide for this exemption, but following consultation, this has been incorporated into the licensing policy

- 4.9 **Short-term Let Control Areas.** The Order permits planning authorities to establish Short-term Let Control Areas requiring a dwellings within the designated areas used for secondary letting on a short-term basis within the designated areas, to obtain planning approval for a "material change of use". This is not a ban on short-term lets but allows planning policies to assess the use of a dwelling. **No Short Term Planning Control Areas will be in place at inception of the Councils' Short Term Let Licensing regime on the 1<sup>st</sup> October.** Careful consideration on the impact of the scheme on housing supply, tenure and availability is required and must be "data driven". This work will commence in 2023 by the Council and Loch Lomond and the Trossachs National Park Authority, as relevant planning authorities.
- 4.10 There is currently no staff capacity within the existing licensing, or environmental health teams, to take forward the short-term let licensing regime and the determination of large volume of applications in the 21 months following the 1st October. This will require a permanent core team of 1 Team Lead, 1 Enforcement Officer and 1 Licensing Assistant with another Licensing Assistant and Licensing Officer employed on a fixed term contract. Additional Temporary Licensing Assistants will be required at busy times, although recruitment of a Modern Apprentice will also assist the team and at the same time offer a job opportunity for a young person. These posts are currently being advertised and it is hoped that the team will be in place early December. Prior to recruitment, public expectations will be managed through active communication with the short-term let sector and wider general public.

## **5 Fees and charges**

- 5.1 The Scottish Government did not provide any additional funding to local authorities to develop and implement this new duty, and consequently the scheme will need to be self-financing through short-term let licensing income. Each local authority is required to set its own fees and charges having regard to Scottish Government Guidance "Short Term Lets in Scotland Licensing Scheme- Part 2 Supplementary Guidance for Licensing Authorities, Letting Agencies and Platforms". These fees must cover all expenditure associated with delivering and enforcing the short-term let licensing regime.
- 5.2 The Council have assessed all relevant information and databases to identify the total number of short-term accommodation premises in Argyll and Bute which fall within this licensing scheme. The Council's Non-Domestic Rates (NDR) statistics indicate 2,650 properties although the actual numbers are likely to be significantly greater. Unfortunately, despite taking advantage of a number of different databases available to the Council, it is impossible to provide an exact total. To project expenditure required to deliver the licensing scheme and develop a charging regime, a cautious approach has been adopted, assuming 3,500 properties. The Council's fees will be revised again once all properties have been licensed and in advance of the next 3 year

licensing regime. Fees will be being increased, or decreased accordingly, subject to income and expenditure levels.

- 5.3 The Scottish Government recommend that local authorities establish a fee structure that takes account of the **type of licence** with lower fees set for home sharing and home letting licences than for secondary letting licences; and **guest capacity** in terms of the maximum number of guests.
- 5.4 Following careful consideration and taking into account the views from the consultation, the weighting and bandings were reduced in number and fee ratios. The standard fee was based on the Council's existing civic government licence fees (£524; £452 and £271) as short term let licensing mirror these processes. The mid range fee of £452 was adopted to minimise the potential for over recovery of fees based on estimated properties requiring a short-term let licence. Applying a weighting and banding structure (see **Appendix 2**) consistent with Scottish Government guidance, the following fees are therefore proposed to cover a three year license period for each property:

Guest capacity applied for (including children under the age of 10)	Home sharing or home letting licence	Secondary letting licence
Up to 4	£226	£316
5 to 8	£316	£452
9 to 12	£497	£678
13 to 20	£633	£904
21 and over	£814	£1130

For comparison, the House in Multiple Occupation licence fee for premises with 10 or more people is £1,101. The lowest fee of £226 under this model is also less than the lowest standard band of other Civic Government license fees of £275. An example of this is a license for a window cleaner.

- 5.5 Projected costs to deliver the licensing scheme are £1.32M (million), which includes permanent, fixed term and temporary staffing over a three-year period to March 2026, including start-up costs for 22/23. Projected fee income is worst-case scenario (based on the 2,650 properties) is £1.03M with mid-range (based on 3,500 properties) of £1.37M.
- 5.6 The legislation permits the recovery of enforcement costs where an intervention is required to properties arising from ongoing complaints or whether there is a failure to comply with conditions relating to the premises. The decision to charge will be based on the principles of proportionality in accordance with Councils and Regulatory Services Enforcement Policy and the Scottish Government's Strategic Enforcement Code. This has been built into the proposed additional charges outlined below.

Additional charges	
Temporary Licence	50% of fee
Variation in Licence/change in circumstances	£77

Certified copy of licence/duplicate licence	£41
Temporary exemption application	50% of fee
Enforcement charge (Hourly rate)	£94.30

## 6 CONCLUSIONS

- 6.1 The short term licensing scheme detailed in this report meets the mandatory duty placed on the Council for short-term let accommodation. The Council carried out a public consultation on the proposed scheme and made changes to the initial proposals. Concerns from the business community have been expressed that fees are likely to be excessive and adversely impact on their ability to continue trading. The fees put forward by this report are designed to simply recover all costs incurred by the Council and in no way considered excessive. The fees proposed equate to £76 annually (licensing fees cover a 3 year period) for a small bed and breakfast with less than 4 guests; and £151 annually for a self-catering property for 6 guests.
- 6.2 This is only the first stage of the process as we need to recruit staff as detailed in this report and then deliver the licensing scheme. The Planning Authority for much of Argyll and Bute, together with the Loch Lomond and the Trossachs National Parks Authority, require to consider the necessity for any Short-term Let Planning Control Areas to be introduced.

## 7 IMPLICATIONS

- 7.1 Policy Consistent with the Council's Corporate Plan and new statutory duty
- 7.2 Financial The licensing scheme is to be self-financing from income levels. Estimates used to set fees and will be closely monitored. Fees will be reviewed regularly and for the next three year licensing period.
- 7.3 Legal Meets Councils new mandatory duty under Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022,
- 7.4 HR New posts are being recruited funded by income.
- 7.5 Fairer Scotland
- 7.5.1 Equalities No adverse impact on protected characteristics and scheme impacts on all providers
- 7.5.2 Socio-economic Ensures that let accommodation is safe, applies consistent standards across all sectors and protects communities
- 7.5.3 Islands Licensing scheme will be consistently applied across the whole of Argyll and Bute.
- 7.6 Climate change Conditions support climate change and environment standards
- 7.7 Risk
- (1) Councils legal duty will be met on approval of the scheme
  - (2) Inadequate resources are in place to deliver the full scheme as of the 1 October, as the team is unlikely to be recruited until early December. This situation will be managed to ensure we can receive and determine



		applications from “new hosts”
		(3) Income does not fully cover expenditure or over-recovery. This will be monitored
7.8	Customer Service	Consistent with customer charter

Kirsty Flanagan, Executive Director with responsibility for Development and Economic Growth  
Policy Lead: Councillor Kieron Green  
For further information: Alan Morrison, Regulatory Services and Building Standards Manager

20 September 2022

## **APPENDICES**

Appendix 1 – Report on the consultation for a short-term lets licensing policy – August 2022

Appendix 2 - Short-term Lets Licensing Draft Policy Statement

Appendix 3 - Post-consultation review of proposed fee structure for short-term lets