

# Argyll and Bute Council

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



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## Executive summary

The Council's draft policy statement for short-term let licensing was put to public consultation through the Council's website for a period of three weeks ending 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 summarised at [Appendix 1](#).

The consultation supports including [children under the age of 10](#) in setting occupancy levels.

The consultation supports the adoption of all of the proposed [additional conditions](#) as set out in the draft policy statement with minor modifications. However, work is required to determine in what form a condition should be worded to protect residents from impact noise in flatted premises.

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. However, any temporary exemptions policy should be drafted in such a way as to protect the security of tenure of private tenants.

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.

[Fees and charges](#) are, inevitably, controversial and attracted much comment. The setting of [differential fees](#) for home letting and home sharing compared with secondary lets was generally approved, in line with Scottish Government guidance.

The [proposed fee structure](#) was more controversial, with most respondents dissatisfied that the actual fees could not be included in the consultation. More work is required to refine the [bandings](#) and the [weightings](#) to be used in setting fees.

[Other comments](#) received in the course of the consultation are reviewed.

## Introduction

The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022<sup>1</sup> establishes for the first time a mandatory licensing scheme for short-term let accommodation across Scotland. From 1st October, each licensing authority is required to be able to receive applications.

Licensing authorities must develop a policy on temporary exemption from the requirement to hold a licence. They are also expected to develop policies on: licence duration and renewal, temporary licences, additional conditions, and compliance and enforcement.

In accordance with Scottish Government guidance<sup>2</sup>, Argyll and Bute Council put a draft licensing policy statement to public consultation through its website for three weeks, with the consultation closing on 5th August. 552 responses were received. A copy of the consultation questionnaire is reproduced at [Appendix 2](#).

This report reviews the responses to the consultation and makes recommendations for the revision of the draft licensing policy.

In this report, comments from respondents are selected to show the full range of views on a topic, are reproduced *verbatim*, and are formatted as follows:

- This needs to be a fair system and proportionate to the issue. Vast majority of holiday lets are ran well with no issues.

## Type of respondent

Respondents were asked to indicate in what capacity they were answering the consultation questionnaire.

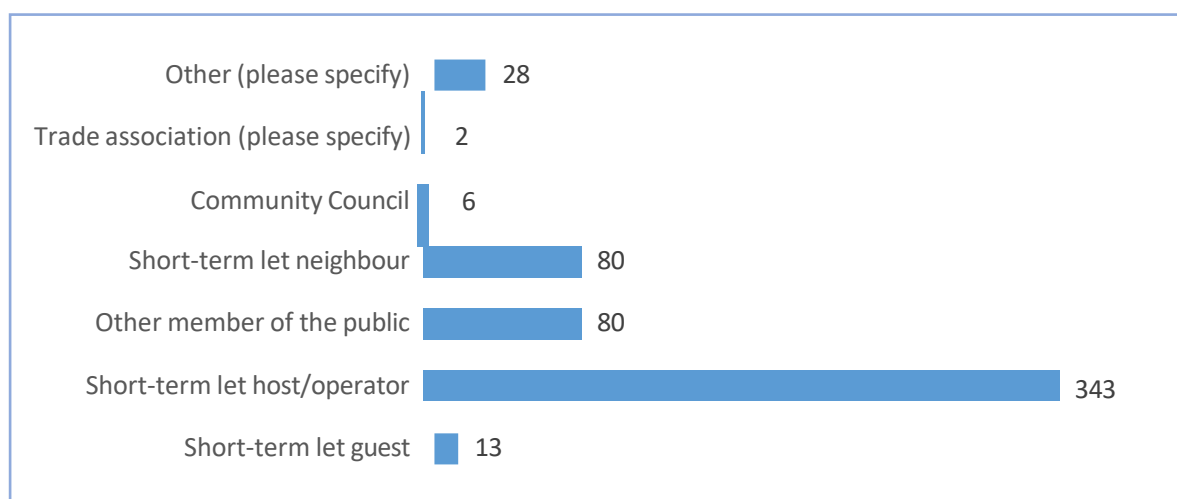


Figure 1 Type of respondent

<sup>1</sup> <https://www.legislation.gov.uk/sdsi/2022/9780111052396/contents>

<sup>2</sup> <https://www.gov.scot/publications/short-term-lets/>

343 (80%) of responses were from hosts and operators. 160 (28%) of responses were from the neighbours of short-term lets and from other members of the public. Six community councils responded, as did two trade associations: the Association of Scotland's Self-Caterers, and Isle of Mull Cottages, a letting agency. All comments have been given equal weighting in this report.

## Draft licensing policy

Respondents were asked whether they had read the draft policy. 95% indicated that they had.

Respondents were asked whether there were any other areas of the draft policy statement or the proposed additional conditions that they wished to make comments on. 214 responses were made, covering a wide range of topics. This question duplicated the final question about any other comments and these responses will be included in the analysis of that section.

## Occupancy levels and children

It is a mandatory condition of a short-term let licence that hosts and operators ensure they do not exceed the maximum number of guests for their premises. The Council may choose to specify on an individual licence that guests may bring children under a specified age and these children would not count towards the occupancy of the premises. Scottish Government guidance states that licensing authorities may wish to set the age limit as 'under 10 years'.

The Council had not taken a prior position on this question.

Respondents were asked whether children under the age of 10 should count towards the occupancy of a premises. 71.3% of respondents considered that they should; 28.7% thought they should not.

Comments in favour of including children in occupancy limits included:

- Existing insurance policies specifying occupancy and including all ages.
- Fire safety risk assessments do not differentiate occupancy on the basis of age.
- Additional noise from children in flatted premises.
- The sleeping accommodation provided should match the number of occupants.
- We have statutory rules for overcrowding for adults and children in social housing in Scotland.

Comments opposing the inclusion of children in occupancy limits included:

- Very young children often sleep with their parents and don't occupy sleeping accommodation.
- I think as a host we should be able to allow extra children if we feel our homes are not overly occupied.
- I think age 10 is too high and the age should be more like 3 or 4. I think 2 adults bringing a baby that will be sleeping in a travel cot (which we can provide) in their bedroom should be counted as 2 people.

### Recommendation:

1. That children under the age of 10 should be included in the occupancy limits for a premises.

## Additional conditions

All short-term lets which are granted a licence will be required to comply with a set of mandatory conditions which apply across all of Scotland. The mandatory conditions are set out in the Order.

The Council has a discretionary power to impose additional conditions for short-term let premises.

### Proposed additional conditions

A number of additional conditions were proposed in the draft policy covering specific areas. These are detailed at [Appendix 3](#).

Respondents were asked whether they agreed with the proposed additional conditions. The responses received were as follows:

	Agree	Disagree
Antisocial behaviour	487 (89%)	60 (11%)
Noise	474 (87%)	73 (13%)
Waste collection / disposal	453 (84%)	89 (16%)
Failure to maintain common areas	461 (86%)	74 (13%)
Guest safety (bicycles/boat safety/hot tubs/barbecue huts/outdoor play equipment etc.)	448 (83%)	95 (17%)

Figure 2 Agreement with proposed additional conditions

Respondents were 4:1 in favour of the proposed additional conditions.

Respondents were asked to provide comments if they disagreed with any of the above points.

Comments included:

Antisocial behaviour ([link to condition](#))

The following comments represent the range of responses received.

- Antisocial behaviour is NOT within the control of the owner, who is not present during the guests' stay at the premises, and may live a great distance from the premises. Making the owner responsible for the control of guests is unreasonable. Should the host 'vet' each guest to ensure they are of an acceptable standard? Whose prejudices decide what is acceptable? I don't see this as workable, and there are laws in place already to deal with antisocial behaviour.
- For noise and antisocial behaviour I think it will be vital for the council to provide clear advisory steps about what to actually do if guests are accused of this. If a host is not in the premises or in the area they would value knowing the practical steps, endorsed by the council and perhaps even the police, about how to proceed.
- I agree with them all. It is important that guests are not anti-social or noisy, whilst their safety should be paramount to the landlord.
- In principle I would agree with anti social behaviour and noise, though it may be difficult to truly control behaviour of others.
- The additional conditions should specifically include the use hot tubs and decking as they present a very real noise and antisocial behaviour issue for neighbours when used in residential areas throughout the day and night. This is about the wellbeing of neighbours and neighbourhoods as well as guest safety.

- Incidents of anti-social behaviour in self-catering premises are rare. Last year, the ASSC submitted Freedom of Information requests to all thirty-two local authorities in Scotland and the results of this show that there is a mismatch between perception and reality: the number of ASB complaints against holiday lets in Scotland over the past five years is minimal.
- The language attached to the additional conditions by Argyll and Bute Council that the licence holder must “ensure” that no disturbance or nuisance arises within or from the premises, or indeed ensure vehicles belonging to guests are parked lawfully, is unreasonable. First, many operators will not always be on site at their property. Second, while operators can reasonably ask that their guests comply with the two aforementioned examples but they cannot compel them to do so. In addition, we are very concerned at the cost implications for Argyll and Bute Council to enforce this – will the Council have officers patrolling near self-catering units to check that guest vehicles are parked in an appropriate fashion?

*Commentary:*

1. This condition is based upon the template additional condition set out in the *Part 2 Supplementary Guidance for Licensing Authorities, Letting Agencies and Platforms*<sup>3</sup> issued by the Scottish Government.
2. One of the stated policy objectives set by the Scottish Government in introducing the licensing of short-term lets is “to address issues faced by neighbours effectively”. The *Part 1 Guidance for Hosts and Operators*<sup>4</sup> includes, at Section 6 “Staying compliant”, a definition of antisocial behaviour and the measures a licence-holder might wish to take to minimise the risk of antisocial behaviour from the use of the premises as a short-term let.
3. It should be noted that, in the opinion of the Scottish Government, taking reasonable steps to minimise the risk of antisocial behaviour is the action of a person who is fit and proper to provide short-term lets.

**Recommendation:**

2. That the additional condition on antisocial behaviour be included in the Council’s short-term lets licensing scheme, subject to amendment to include specific reference to noise from amplified music in gardens and external areas.

Noise control in flatted premises ([link to condition](#))

The following comments represent the range of responses received.

- Whilst carpets do in some instances provide better sound insulation than cheap laminate flooring, wooden floors are far more effective at providing a sound proof layer. Our floors cost over £6000, they have sound proof underlay, over-boarding in ply and solid wood parquet blocks. The floor will last well over 100 years as is far more environmentally and sustainable friendly than carpet. Design decisions such as this should be consulted via design professionals and architects. Effectively you would be asking us to lower the standard of our apartment both in terms of sound protection and cleanliness. The requirement should state ‘appropriate sound proofing’ and not state ‘carpet’ as a choice of material.

<sup>3</sup> <https://www.gov.scot/publications/short-term-lets-scotland-licensing-scheme-part-2-supplementary-guidance-licensing-authorities-letting-agencies-platforms-2/>

<sup>4</sup> <https://www.gov.scot/publications/short-term-lets-scotland-licensing-scheme-part-1-guidance-hosts-operators-2/>

- Although I agree with the noise condition I think the requirement for properties above other dwellings to have carpets does not take account of modern floor coverings such as luxury vinyl tile which also reduce noise but are much easier to keep clean than carpets. From an infection control point which is essential following the pandemic I believe options for other floor coverings should be permitted.
- The flat immediately above our ground-floor flat has been let on a short-term basis. When refurbishing the flat they removed all carpeting so that noise can be a significant problem, especially when young children are running around late at night. The use of kitchen and laundry equipment at night is also magnified.
- 0700 departure is too late to connect with certain ferry sailings.
- I agree with added conditions but 23.00 hours is far too late to impose restrictions on garden noise, 22.00 at latest.
- The additional conditions should specifically include the use hot tubs and decking as they present a very real noise and antisocial behaviour issue for neighbours when used in residential areas throughout the day and night. This is about the wellbeing of neighbours and neighbourhoods as well as guest safety.
- The few flatted properties [on Mull] would find it difficult to prevent guests leaving before 7am, as many guests leave on early ferries to either return home or catch a connecting ferry to a second island destination.
- We are living in a ground floor flat and suffer badly from noise (footfall and voice) from the flat above who let it out on short term lets already. I hope that when these owners apply for a licence, somebody will check that appropriate floor coverings are in place.
- Should not be permitted in flats where poor insulation is present. Noise is ever present and occupancy is unpredictable. I personally experience a very poor quality of life when an upstairs flat is occupied. The configuration of our building means that their kitchen is above my bedroom. I get no sleep if they're not sleeping.

#### *Commentary:*

#### *Impact noise*

1. Consultation responses make it clear that impact noise in flatted premises causes considerable disturbance to residential occupiers beneath short-term lets.
2. The draft additional condition including a requirement for carpeting in flatted premises is based upon a template condition in the Part 2 Guidance. The purpose of the condition is to reduce “tapping” impact noise from people moving around on hard-surfaced floors, typically floorboards or poorly-installed laminate flooring. This is a known cause of annoyance between dwellings that have a party floor or ceiling.
3. The components of impact noise can be characterised as “thumping” and “tapping”. Thumping noises are typically from heavy impacts such as dropping items or persons running or jumping, as children in play might do. Tapping noises are generated typically by the impact of hard objects on hard floors, such as stiletto heels on tiles or floorboards.
4. Although there are performance standards for impact noise specified in the Building Standards Technical Handbook, Part 5.1, it is expensive and complex to carry out acoustic testing in accordance with BS EN ISO 140-7: 1998 and BS EN ISO 717-2: 1997, the standards for impact sound transmission. In addition, testing requires the co-operation of the occupiers of the premises below the premises in question. Note that testing to these

standards requires the removal of carpets to assess the performance of the underlying floor structures.

5. It is not generally practicable to achieve the performance standards set out in Part 5.1 of the Technical Handbook by only treating the floor in one premises; the whole party floor/ceiling structure requires to be constructed in accordance with the Part to achieve the necessary performance.
6. Some short-term let premises will have been provided by conversion into flats of pre-existing dwellinghouses or as new constructions. In these cases, compliance with the standards in Part 5.1 will have been required in order to obtain a building warrant and completion certificate. There is a case for accepting a completion certificate in respect of these premises as an alternative to requiring carpeting in specified areas of the premises.
7. A suggested exception to the requirement to carpet floors in accordance with the template additional condition is “any flatted property that can demonstrate that they have been built to or been converted to Domestic Technical Standard 5.1, may be exempt the requirement to carpet floors”.
8. The simple alternatives to excepting premises built to Domestic Technical Standard 5.1 are: (a) don’t include the additional condition and deal with complaints or objections on their own merit; or (b) include the condition and require carpets in all relevant cases.

#### Guest arrival and departure

9. The comments regarding early and late ferry travel are noted. The Council fully understands the realities of island travel and will apply a reasonable interpretation of this condition in the event of complaints being received. The Council does not consider that people leaving premises before 0700 in order to catch an early ferry for their onward travel would be in breach of this condition.

#### Antisocial noise from gardens

10. The comments on garden noise and noise from the use of hot tubs are noted. The Council considers that these issues should be addressed by the host’s house rules for the prevention of antisocial behaviour rather than a generally-applied additional condition.

#### Recommendations:

3. Give further consideration to the need for the impact noise condition and, should it be considered necessary, whether an exception should be made for constructions which are compliant with the Domestic Technical Standard 5.1.
4. Amend the antisocial behaviour condition to make specific reference to the avoidance of disturbance from the playing of amplified music in gardens or external areas.

#### Littering and waste disposal ([link to condition](#))

The following comments represent the range of responses received.

- Experience has shown varying standards by guests with regard to recycling. Our policy is to go through waste material to ensure correct segregation of items
- Waste/recycling bin presentation for collection should not be a guest responsibility, it should be managed by permanent owners/tenants in the building.



- I agree with waste disposal and recycling notices but I find the guests sometime put everything in the green bins which I then take out and put in the blue .  
I don't think it should be the guests onus to put the bins out , that's the owners .
- The Council again state the licence holder shall "ensure" – while operators can advise guests of refuse collection day, they cannot compel them to comply. On a more practical point, we are dealing with individuals in the region for a holiday and who will not wish to spend a large amount of time familiarising themselves with waste management and recycling issues.

*Commentary:*

1. The draft additional condition is taken from the template condition in the Part 2 Guidance.
2. It is noted that waste from secondary letting premises should be treated as commercial waste and have commercial waste contracts in place. Where commercial waste receptacles are provided in common areas, guests will require to know which are the correct receptacles for the premises they occupy.
3. The condition is worded to place an onus on a licence holder to provide advice and information to guests. The condition does not require guests to put waste receptacles out for collection, only that the licence holder shall make arrangements for that to happen; in some cases, it may be appropriate to ask the guest to make sure the bins are presented for collection.

**Recommendation:**

5. That the additional condition on littering and waste control be included in the Council's short-term lets licensing scheme.

Damage to property ([link to condition](#))

The following comments represent the range of responses received.

- Prohibiting the use of keyboxes or other related devices would be an arbitrary approach. First, it should be recognised that keyboxes are used for a variety of different purposes, not just to facilitate entry to a short-term let – for example, they are readily utilised by carers. We would presume that Argyll and Bute Council have no issue with keyboxes for this purpose but why should it be any different for short-term lets? It is the same device affixed to a door used to enable entry.
- Securing the agreement of all owners within a property will be near impossible to achieve. Unanimity of agreement for any change to a property (e.g., repairs) is difficult to secure in other contexts but would be especially so for keyboxes used by short-term let operators. We therefore ask the following: will this become a general policy for all keyboxes within the local authority area, or do Argyll and Bute Council intend to solely discriminate against their use by short-term let operators?
- The flat immediately above our ground-floor flat has been let on a short-term basis. the owners installed a key safe outside our secure block without permission.

*Commentary:*

1. This is a template condition taken from the Part 2 Guidance.
2. This condition does not prohibit keyboxes, nor other devices, and the sole owner of a property requires nobody else's permission to affix one.

3. No one person has the right to cause damage to public infrastructure or jointly-owned property without the consent of the owner(s).

**Recommendation:**

6. That the additional condition on damage to property be included in the Council's short-term lets licensing scheme.

### Additional conditions for guest safety

Comments were received in relation to the various proposed additional conditions for guest safety as set out below.

- A fit and proper person should be attending to these items as a matter of course, I think more compliance is unnecessary
- Additional moveable facilities are beyond what this policy should be covering. All of this kind of gear should be used at own risk and if there is an issue either parties' insurance should be the first port of call.
- Bicycles should be at the users own risk, as should boats...
- Guest safety is the concern of the guest and they would or should have insurance to cover this. This should only apply if the equipment is provided by the host.
- I absolutely agree !
- I am sure I am out of step with would prefer that our own equipment/facilities can be provided to guests at no additional cost, when done so explicitly at those guests own risk. Our property is very remote and a requirement to inspect bikes between each guests, supervise inflatable play equipment (why can't guests do this themselves?), etc. is especially burdensome when we have to pay travel costs for someone to do it. The end result will be that we do not allow guests to use such things, which is not what guests would want so it's hard to see who this benefits.
- I believe the additional conditions are unnecessary as cabin owners such as myself are already responsible and liable for health and safety issues within our properties, eg hot tubs.
- I somewhat disagree with the guest safety - boats, bbqs etc need to be safe. Some however is user responsibility.
- It is the responsibility of the person renting to make sure they are safe
- These Sports items in Guest Safety are supplied with "at your own risk" on the site.
- None of these examples are a genuine problem in this area.
- This will be difficult to monitor regarding things like bikes but appropriate for hot tubs etc
- Very well thought out

### Commentary:

1. All of the matters addressed in the additional conditions for guest safety represent topics which have required enforcement intervention from the Environmental Health service in the holiday let sector.
2. Anyone providing facilities for the use of other persons will be liable at common law if injury results from their use if they have failed to exercise reasonable care to ensure the safety and proper maintenance of those facilities.
3. Additionally, the operation of a holiday accommodation business is an undertaking for the purposes of the Health and Safety at Work etc. Act 1974, with statutory duties imposed upon the operator to conduct the undertaking in such a way as to ensure, so far as is

reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health or safety.

4. A licence holder cannot contract out of their health and safety or common law duties using unfair contract terms such as “use at your own risk”.
5. The mandatory conditions include requirements to evidence compliance with other statutory duties such as gas safety.
6. Guests are entitled to assume that short-term let accommodation and the facilities provided for them are safe. This is a policy aim of the licensing scheme.
7. Overall, 83% of respondents who indicated a preference supported the inclusion of additional conditions for guest safety.

**Recommendation:**

7. That all of the proposed additional conditions for guest safety should be included in the Council’s short-term lets licensing scheme and applied to the premises which offer the specific facilities to guests.

## Temporary exemptions

### Proposal not to grant temporary exemptions

543 responses were received to this question.

425 respondents, 78% of the total, agreed with the Council’s position not to grant temporary exemptions. 118 respondents, 22% of the total, disagreed.

The following comments represent the range of responses received.

- Why should other short term let hosts be given special dispensation when they could be just wanting to make some quick cash from a one off event and in the process not have to follow the rules of safety etc that other hosts have to abide by..? I do not agree with this.
- What about music festivals on the islands, where there is a need for short term accommodation with an influx of visitors for a few days. This attempt to 'maintain standards' will kill local flexibility and initiative.
- We live on a small island and sometimes there is simply not enough accommodation for visitors during major events. We rely heavily on tourists to support the local economy. During these events, I think temporary exemptions would be valuable for the community. However, 6 weeks could be reduced to 3 weeks as I'm sure that would be enough to cover popular events on Mull.
- we live in a remote and rural area with limited accommodation - there will be events, festivals, weddings, emergencies etc. in the community which generate extra temporary accommodation requirements that cant be met if there is no facility for temporary exemptions - need to keep the doors open and the economy functioning as well as communities flourishing so havingsome leeway with a temp exemption is a necessity.
- There may be times when temporary extensions are vital for locally run events such as Tiree Music Festival. In a region where lots of places don't have hotels the need to be able to offer flexible accommodation for short periods is vital. Prices at the moment are THROUGH THE ROOF - I know lots of people who want to visit Scotland at the moment who are put off by the costs and not coming. That hurts us all.

- The Scottish Series is TARBERT's sole nationally significant Tuscan sailing fixture. If you proceed, you will prevent it continuing. QED
- The fees charges and the red tape that goes with it could be seen to be too great , that it would discourage home owners in sharing their home. For short periods up to 6 weeks better to advertise , what is expected of home owners for 'Home sharing'. There are not many events in Argyll I can immediately think of, perhaps the Cowal games in Dunoon or any large sporting event that may come into Argyll eg 'Tour of Britain'.
- We do not agree with the Council's approach to not grant any temporary exemptions. This approach is said to be because "the licensing regime is intended to ensure that premises are safe to let, and exemptions may reduce standards". For the Council to conclude at this stage that a temporary exemption "may" reduce standards is entirely premature. In enacting the 2022 Order, the Scottish Government put in place the licensing scheme to ensure basic safety standards are in place across all short-term lets operating in Scotland. In allowing for the principle of temporary exemptions, the Scottish Government must have been satisfied that a temporary exemption would not reduce basic safety standards (since, were it otherwise, the Scottish Government would not have permitted local authorities to grant temporary exemptions). In terms of paragraph 1A(3) of Schedule 1 to the 1982 Act, it will also be open to the Council to attach conditions to any exemption granted, and which would permit the Council to attach such conditions as it felt necessary in connection with safety matters. We believe that the Council should enable temporary exemptions to cover major sporting events, major international events, festivals and first-time operators trying out short-term letting for the first time.  
Short-term lets provide additional accommodation during important times of the year, e.g. the summer festivals. Argyll and Bute Council need only look to a nearby local authority in Glasgow to see how short-term lets allow a city to tackle capacity issues and host a major event. 30,000 delegates, officials, and observers were expected at COP26 in the city; yet Glasgow's hotel capacity is only 15,000. To ease the supply of accommodation, Airbnb offered first-time hosts a £100 bonus to welcome delegates.
- I think they should have to apply for a full licence for the correct fee instead of a temporary licence for what will probably be a reduced fee. I also think this would give short-term let owners the opportunity to rent out the property in quieter seasons to locals then evict the renters from their home in order to set up a short-term let for the busier seasons which I consider immoral.

### *Commentary*

1. The responses from small island communities in particular highlight the role that local people have in taking guests into their homes during significant local events, such as the Jura Fell Race, the Tarbert Series or the Cowal Games, where the normal supply of accommodation cannot meet the demands. Many of these events are of considerable economic, social and cultural significance, not only to the individual islands or towns, but to the wider Argyll and Bute economy.
2. Temporary exemptions would meet the need for one-off home-letting or home-sharing arrangements, but could not meet the need for accommodation to be provided outwith a single specified period of six weeks in any 12 month period. This is a feature of the law and is not a matter for discretion on the part of the Council.
3. Temporary exemptions clearly have a role to play in supporting local events and local economies, particularly on the islands. However, they have structural limitations.

4. There is a risk to the stability of the residential letting market if landlords are able to evict tenants for the summer season simply to extract greater income from tourists and visitors. This is widely considered to be an economic and social vice in Edinburgh with its summer festivals and St Andrews with the annual golfing tournament.

**Recommendations:**

8. That the Council provides for temporary exemptions to be made available within Argyll and Bute.
9. That a temporary exemptions policy statement be developed and published in accordance with the Part 2 Guidance.
10. That any temporary exemptions policy shall protect private tenants from eviction, disruption and abuse.

### Should additional conditions apply to temporary exemptions

417 respondents, 82% of the total, considered that the additional local conditions should apply to any temporary exemptions. 94 respondents, 18% of the total, considered that they should not. The following comments represent the range of responses received.

- Would be totally impractical - could use a small number of common sense provisions.
- You either have a licence or you don't. Short term exemptions will be difficult to manage, and open to abuse.
- Yes if its possible to implement, but this might not be practical if the exemption is just for a short amount of time
- Why wouldn't you make them comply to the same standards etc
- Keep the licences as simple as possible.
- To ensure that premises are safe to let, standards are maintained and local residents are protected from unregulated lettings.
- If there is an exemption then it makes no sense that any licence conditions should be applied.
- Those letting such premises for whatever reason or length are still benefitting by receiving an income from their business therefore they should have to comply at all times to the regulations
- I don't think additional local conditions should apply to either exemptions, a full licence or a temporary one.

**Recommendation:**

11. That further consideration should be given to which, if any, additional local conditions are applied to temporary exemptions.

## Temporary licences

### Should the Council introduce temporary licences

329 respondents, 62% of the total, agreed that the Council should introduce temporary licences. 204 respondents, 38% of the total, disagreed.

Reasons why they should not be introduced included:

- Why would anybody need a temporary licence
- Why is there a need for a temporary licence. Just wait until you get a licence

- Temporary licences would not be subject to full scrutiny as a full licence application would, and properties may not meet the health and safety requirements that are expected of fully licenced properties. Temporary licences may be used to test the viability of commercial letting, potentially prematurely removing a property from permanent occupation.
- Temporary licences can provide a way for licensing authorities to allow new hosts and operators to both trial the concept of short-term letting for up to six weeks as well as to start taking guests whilst their licensing application is being considered. There is no risk to the Council in proceeding in this manner for temporary licences given that hosts and operators must still comply with all of the mandatory conditions.

#### *Commentary:*

1. Many respondents conflated the issues with temporary exemptions with this question about temporary licences.
2. A temporary licence cannot be used to circumvent the application process for a new host, who cannot let the premises until their full licence has been granted.
3. It has been brought to the Council's attention that the sale of letting property on an ongoing concern basis requires a transitional arrangement to ensure the continuity of the business and to protect guests' previously-booked accommodation and travel arrangements. The law provides that a licence is specific to a licence holder and a premises – it is not transferrable. Therefore, there is a role for a purchaser to apply for and hold a temporary licence to ensure the continuity of a letting business whilst the purchase of a property is completed and until a full licence application can be determined.

#### *If temporary licences are introduced, should additional local conditions apply*

Respondents who answered this question were 80% in favour of applying the additional local conditions to any temporary licence.

#### **Recommendation:**

12. That the Council develop a temporary licences policy, setting out the specific circumstances to be considered and the criteria to be applied to any temporary licence.

## Fees and charges

### *Different scales of fees for home sharing and home letting licences compared with secondary letting licences*

365 respondents, 67% of the total, agreed that there should be a lower fee for home sharing or home letting licences compared with secondary letting licences. 176 respondents, 33% of the total, disagreed.

The following comments represent the range of responses received.

- You have not detailed what the fees are going to be, so I cannot give an objective answer to say whether this banding is a fair reflection of the fees.  
The UK Government's Code of Practice on Consultation states under Citerion 3: Clarity of scope and impact Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

- While the weightings are in the right direction, A&B Council should work to mitigate the myriad negative impacts of the STL order through minimised/progressive fee structure (free for home share applicants, much higher for commercial operators of multiple secondary lets) and a ultra light handed approach to applications and compliance (approve most applications automatically with rudimentary checking to minimise administration burden on the council – there is no significant STL problem in A&B now so there is no problem to fix). The council must publish its proposed fees as part of this consultation as other authorities have and extend the consultation period accordingly
- Weighting is too lenient on secondary lets. I would suggest a secondary, short term let be weighted at least 4x more than home sharing or letting due to the impact that secondary lets have on availability of accommodation for people who wish to live and work on Mull
- Usually I let my chalet to groups of 4 people but, occasionally, a group of 5 wants to stay - this is usually families with 3 children. To keep my costs reasonable I allow the 5th guest at a nominal charge. If I'm going to pay extra for having 5 guests rather than 4, I'm going to have to pass this cost on to all my guest groups which will be unfair to the majority. I think the second category should be 3 - 5 guests.
- You have to realise that guests love to get together under one roof in a lovely area and share happy times and create happy memories. It seems to me that when considering holiday lets the happiness they create for guests is not part of the consideration. If the fees are too high then hosts will close down the property or certainly restrict the number of guests. please also understand that although a property can cater for 6 many times there are two or four people as guests. If you make the fees too high then I would just reduce my capacity to 4 and tbh probably earn the same amount of money per week.
- There are too many bandings and they do not account for the typical family size of 2 adults and 2 or 3 children (and multiples where families might holiday together). A simpler set would be 1-2, 2-5, 5-10, >10.  
Moving to more than 2x is excessive, and becomes a tax rather than an administration charge. Fees – the licence fee should be proportionate to/capped against the average weekly letting rent (as advertised) of the premises (to avoid unfairly penalising low cost locations).
- There appears to be a bit of a ramp here. I don't accept that there is more work per head for most applications. The aim of this exercise needs to be to improve standards for users and promote better neighbourliness. As it stands it looks like something the council has been forced to do and is determined to make money out of. Most, if not all of the checks required can be addressed by the provision of documentation signed by competent people - which can be checked by sample if required.
- The fees for home sharing in respect of two to four guest accommodation should be materially lower than for other types of licence as this size of business already suffers disproportionately from high running costs as a percentage of revenue. It is also unlikely that small home sharing businesses will be a cause of the issues this legislation is aimed at controlling.
- the differential between an average let of 3-4 people and 1-2 is too high - it is a reduction of only 20% when the next uplift to 5-8 is 50% - puts increased pressure on very small business in 1-2 market where there is not the same opportunity to recoup costs through a higher rental income - additional costs are being incurred not just through licence fee but also various testing certificates, and increased energy and cost of living prices. the 1-2 market is often the pensioner market and this licensing regime is going to make the costs of holidays much more expensive for a segment of the market on which Argyll is highly reliant.



- The band 5-8 covers 3 and 4 bedroom houses. 3 bed with 6 people is a totally different impact on the community than 8 people in one house. There should be a band that covers 5 - 6 at maybe 1.25 times (Secondary let) and then 7-8. You are grouping this wrongly and tarring a 3 bed with a capacity for 6 people in the same group as a large property with 8 people.
- Should be higher for secondary let license. Holiday let's should be small houses or part of a house like an annex etc. Put high fees to stop people buying a 4 bed house and letting it out to tourists.
- Someone with a property sleeping 4 on band 3-4 may have 4 adults plus two children under 10, if children are not counted it still takes the occupancy up to 6 are the children sleeping on a sofa bed? Whereas someone on band 5-8 (but with a maximum occupancy of 6) may also have 4 adults and two children. How will the council differentiate between the two bands if children are not counted?  
Properties sleeping 4-6 are the most suitable for families. Therefore I think the banding should be 1 to 3, 4 to 6, 7 to 8 then 9 to 12 and so on for fairness.
- Should be based on SAA business rates which is number of usable beds. Max occupancy has to be for usable beds in bedrooms. No sofa bed's allowed
- Secondary letting is more of an issue when it comes to availability of housing. If you live in a house that is your home and let a couple of bedrooms, you are not affecting the housing situation in any way as you're already occupying the property. Secondary letting (a) makes far more money so owners can afford a higher fee; (b) adversely affects availability and affordability of housing in rural/island areas; (c) is far more likely to cause anti-social behaviour as the owner isn't on the property (and is sometimes hundreds of miles away, relying on an agency to do the paperwork). Therefore, secondary let licences should be charged at a much higher rate.
- Noise and antisocial behaviour escalates steeply the larger the group. I would suggest the starting point for a fee structure should be 1 with the tariff increasing geometrically for each capacity grouping.
- No. I am a home-share with 3-4 guest capacity and there's no way I should be paying almost the same as a second home or 'investment property' of the same size. 1-2ppl 0.5 and 3-4ppl 0.6 is fair.
- I can understand the logic of large properties - eg 20 plus - but i dont agree that say an 8 bed property (4 bedrooms) will entail more work and enquiries than a 4 bed (2 room) property.
- home sharing/home letting should not be treated differently than secondary letting, the same rules apply to each
- home sharing, home letting and secondary letting should all be weighted in the same way, there should be no reduction for home letting and home sharing,
- Currently any B&B / Guest House which accommodates 6 or less people does not / cannot apply to be treated under the business rate regime, therefore the banding should reflect this, potentially 1 to 6 guest capacity should weighted 0.6 - 0.7 with capacity 6 - 8? weighted 1 with higher capacities weighted according to the proposed table
- - Secondary letting; I think the bands are too narrow and therefore adding to the costs of running the scheme - I would advocate multiple of 6's.

#### *Commentary:*

1. This part of the consultation attracted the most comments. Many respondents expressed concern that the actual level of fees were not indicated. Whilst this is regrettable, and the Council recognises that this information is very important to the sector, the costs of



delivering the function were not available at the time of issuing the consultation and therefore indicative fee levels could not be provided.

2. The principles of fee-setting are laid out in Section 3 of the Part 2 Guidance. These are:
  - that fees are set on a cost-recovery basis considering the overall cost of delivering the function;
  - that local authorities' areas vary considerably and that the costs of delivering the function, and therefore the fees determined, will vary from local authority to local authority; and
  - that local authorities review their fees from time-to-time to ensure that the revenue from fees remains in line with the running costs of the licensing scheme.
3. The Scottish Government expects local authorities to seek to minimise costs through economies of scale, integrated service delivery where possible, minimising visits to conduct enquiries as part of the licensing process, and taking a proportionate approach to the use of visits as part of the checking and verification process.
4. It is clear that the costs of travel to remote parts of the Council's area and the islands is greater than travel in smaller, mainland, authorities. The Part 2 Guidance permits local authorities to determine a fee structure that would charge the costs of visits for routine licensing purposes over and above the basic application fee. The Council does not propose to do this because (a) this could lead to disputes about the necessity of visits and (b) would disproportionately disadvantage hosts and operators on islands where the actual costs of visiting a site could be considerably more than the cost of the licence, particularly when travel delays would have to be costed and recovered. For these reasons, and to conform to the Council's policy of delivering the same standard of service to all parts of its area, the cost of necessary visits to check and verify licence applications is intended to be recovered across all licence applications as part of the cost of the function.
5. Some respondents raised the question of whether renewal fees could be nominal. At present, the proposed fees for renewing a licence are the same as for a new application, on the basis that the applicant requires to provide similar information as for a new licence and the processing demands are equivalent. It is open to local authorities to consider a *subscription* in place of the renewal fee, should they wish to do so. This is an option that will be considered when fees are reviewed in three years' time, ahead of the first renewal cycle.

#### Differential fees for home letting or home sharing compared with secondary letting

6. Note that The Scottish Government recommend that local authorities, at a minimum, establish a licence fee structure that takes account of the following:
  - 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, as requested by the host or operator on their application form. Note that some licences will be for premises including significant numbers of unconventional accommodation, such as pods or lodges on the same site where a caravan site licence is not otherwise required.

7. There was general agreement with this proposed approach, although concerns were raised specifically about the bandings and the weightings to be applied to fees. These points are discussed in more detail below.

### *The proposed fee structure*

#### Bandings

8. The bandings proposed were based upon the Scottish Government's example banded fee structure set out in the Part 2 Guidance, with two bands merged.
9. It is clear from the consultation responses that:
  - a. The bands are too narrow, and
  - b. The "standard" secondary let premises should be regarded as a three-bedroom property that can sleep 6 persons, including children under the age of 10 years.

#### Weightings

10. There was broad support from respondents for the weighted approach to setting fees, although there was a wide range of opinion on the actual applied weighting values.
11. Respondents challenged the Council's assertion in the draft policy statement that larger secondary letting premises would necessarily attract more objections and representations, or require more work to process their applications. The Council considers that larger premises are more likely to require physical site inspections as part of the application determination process compared with smaller, more conventional, premises and therefore an increased fee is proportionate and appropriate.
12. The assessment of larger premises, accommodating more than, say, 12 persons will probably bear comparison with the assessment of similar-sized houses in multiple occupation.

#### Recommendations:

13. That home letting and home sharing licences should generally attract a lower application fee than applications for secondary letting licences.
14. That the proposed bandings be reviewed to reduce them in number and to standardise against a three-bedroom, six-person-accommodating premises.
15. That a further review of the weightings be conducted to prepare a final banding and weighting model, based upon best evidence and reasonable assumptions.

### Other comments received in the course of the consultation

Other comments received in the course of the consultation were focussed on the following areas:

1. That the licensing scheme was unnecessary.

Comment: This is a statutory scheme which the Council is required to implement in accordance with the Order and the guidance issued by the Scottish Government.
2. That the financial circumstances of many short-term let business were fragile and that the licensing scheme would drive some operators out of business.

Comment: These are policy matters which are the responsibility of the Scottish Government, which introduced the licensing scheme in its present form after wide public consultation and in consultation with the trade and other interested parties.

3. That very small premises should be exempt from the scheme.

Comment: The scope of the scheme is defined in statute and the Council is required to implement it in full.

4. That home-share businesses, e.g. guest houses which pay non-domestic rates, should be exempt from fees.

Comment: The guidance from the Scottish Government already advises that home share and home letting businesses should be charged a lesser fee than secondary letting businesses. Additionally, premises accommodating fewer persons are expected to be charged a lesser fee than premises accommodating larger numbers of persons.

5. That the licensing scheme should be used to control the numbers of premises in use as short-term lets in specific locations due the removal of houses from the private rental sector and making housing less affordable for local people seeking to live and work in their home communities.

On this point, one respondent commented:

- I ... believe short-term lets are one of the main causes for Oban's housing crisis and they have been allowed to take advantage and have it easy for too long when there are families and local working professionals struggling to find suitable accommodation because of people (some of whom don't even live in the area) who have bought properties that should be accessible homes and converted them into business opportunities for their own personal gain.  
I haven't given a postcode because I don't have a home of my own due to the level of short-term let properties there are - it really restricts the accessibility to housing in the area, which I grew up in. While I was growing up, Oban was a community driven town and it appears to have been consumed by tourism to the point that visitors to the area are significantly prioritised more over the people who live here. There should be a fair balance between tourism and community.

#### *Commentary:*

The licensing scheme *per se* cannot be used to control the numbers of short-term lets in any particular locality. Excepting objections and representations, every application must be assessed on two grounds only: whether the applicant is a fit and proper person to hold a licence, and whether the applicant can meet the licensing conditions. The control of conversion of dwellinghouses to short-term let use is a planning matter<sup>5</sup>. Either the Council or the Loch Lomond and The Trossachs National Park may determine in the future to create one or more short-term let control areas under planning legislation. This would require any new applicant to demonstrate that planning permission had been obtained for the use as a short-term let before an application could be considered. At the present moment, neither planning authority has determined to do so within the area of Argyll and Bute Council.

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<sup>5</sup> [Planning Circular 1/2021: Establishing a Short-Term Let Control Area](#)

Other responses received in the course of the consultation raised technical issues in relation to the application of the licensing scheme, or which type of licence would be required in particular circumstances, the application to caravan sites and chalet parks, and the need for comprehensive guidance to assist applicants in getting their application right first time.

*Commentary:*

All of these points are recognised and many are actually addressed in the Part 1 Guidance for hosts and operators. The Council recognises that there are unconventional offers of short-term let accommodation and there will be a facility for applicants to make enquiries of the Regulatory Service Licensing team in advance of completing their application. Licensed caravan parks are exempt from short-term let licensing in respect of the licensed caravan units. The Council considers that the great majority of applicants will be able to identify which licence applies to their business. The Council is committed to making the application process as straightforward as possible; both in the interests of applicants and reducing the costs of dealing with invalid applications.

To conclude, in the words of one respondent:

- “(1) You can’t please everyone. (2) Try to keep it consistent and simple.”

## Appendix 1 – Summary of recommendations

1. That children under the age of 10 should be included in the occupancy limits for a premises.
2. That the additional condition on antisocial behaviour be included in the Council's short-term lets licensing scheme, subject to amendment to include specific reference to noise from amplified music in gardens and external areas.
3. Give further consideration to the need for the impact noise condition and, should it be considered necessary, whether an exception should be made for constructions which are compliant with the Domestic Technical Standard 5.1.
4. Amend the antisocial behaviour condition to make specific reference to the avoidance of disturbance from the playing of amplified music in gardens or external areas.
5. That the additional condition on littering and waste control be included in the Council's short-term lets licensing scheme.
6. That the additional condition on damage to property be included in the Council's short-term lets licensing scheme.
7. That all of the proposed additional conditions for guest safety should be included in the Council's short-term lets licensing scheme and applied to the premises which offer the specific facilities to guests.
8. That the Council provides for temporary exemptions to be made available within Argyll and Bute.
9. That a temporary exemptions policy statement be developed and published in accordance with the Part 2 Guidance.
10. That any temporary exemptions policy shall protect private tenants from eviction, disruption and abuse.
11. That further consideration should be given to which, if any, additional local conditions are applied to temporary exemptions.
12. That the Council develop a temporary licences policy, setting out the specific circumstances to be considered and the criteria to be applied to any temporary licence.
13. That home letting and home sharing licences should generally attract a lower application fee than applications for secondary letting licences.
14. That the proposed bandings be reviewed to reduce them in number and to standardise against a three-bedroom, six-person-accommodating premises.
15. That a further review of the weightings be conducted to prepare a final banding and weighting model, based upon best evidence and reasonable assumptions.

## Appendix 2 – Consultation questionnaire

Full name

Postcode

Email address

Which of the following apply to you?

- ☐ Short-term let host/operator
- ☐ Short-term let guest
- ☐ Short-term let neighbour
- ☐ Other member of the public
- ☐ Community Council
- ☐ Trade association (please specify)
- ☐ Other (please specify)

### **Draft Licensing Policy**

Have you read the draft policy?

- ☐ Yes
- ☐ No

Are there any other areas of the Draft Policy statement or the proposed additional conditions that you wish to make comments on?

- ☐ Yes
- ☐ No

### **Occupancy levels and children**

It is a mandatory condition of a short-term let licence that hosts and operators ensure they do not exceed the maximum number of guests for their premises. The Council may choose to specify on an individual licence that guests may bring children under a specified age and these children would not count towards the occupancy of the premises. Scottish Government Guidance states that Licensing Authorities may wish to set the age limit as 'under 10 years'.

Should children under the age of 10 count towards the occupancy of a premises?

- ☐ Yes
- ☐ No

Please state your reasons

### **Additional conditions**

All short-term lets which are granted a licence will be required to comply with a set of mandatory conditions which apply across all of Scotland. The Council has a discretionary power to impose additional conditions for short-term let properties.

The Council has proposed a number of the additional conditions covering a number of specific areas. These are attached in the Appendix to the consultation. Do you agree with the proposed additional conditions?

	Agree	Disagree
Antisocial behaviour	<input type="radio"/>	<input type="radio"/>
Noise	<input type="radio"/>	<input type="radio"/>
Waste collection / disposal	<input type="radio"/>	<input type="radio"/>
Failure to maintain common areas	<input type="radio"/>	<input type="radio"/>
Guest safety (bicycles/boat safety/hot tubs/barbecue huts/outdoor play equipment etc.)	<input type="radio"/>	<input type="radio"/>

If you disagree with any of the above points please state your reasons.

Should other areas/issues be covered by additional controls?

- ☐ Yes
- ☐ No

Should any of the proposed additional conditions be applicable to certain types of short-term licences (i.e. secondary letting, home letting or home sharing or certain types of properties)?

- ☐ Yes
- ☐ No

Please provide details and reasons.

### Temporary exemptions

The Council has the option to grant temporary exemptions to the requirement to have a licence for a period of up to 6 weeks which would need to be applied for. This could be to allow a large influx of visitors over a short period for a particular event.

*The Council is not proposing to consider applications for temporary exemptions because the licensing regime is intended to ensure that premises are safe to let, and exemptions may reduce standards.*

Do you agree with the approach to not grant temporary exemptions?

- ☐ Yes
- ☐ No

If temporary exemptions to a licence are introduced, should the additional local conditions apply?

- ☐ Yes
- ☐ No

Please provide reasons for your answer.

### Temporary licences

The Council has the ability to grant temporary short-term let Licences for a period of up to 6 weeks, or longer if an application has been made for a full licence. Please note that in applying for a temporary licence full compliance with mandatory conditions is necessary.

Do you think the Council should introduce temporary licences?

- ☐ Yes
- ☐ No

If temporary licences are introduced, should the additional local conditions apply?

- ☐ Yes
- ☐ No

Please provide reasons for your answer.

### Fees and charges

Licensing authorities can take account of the size of premises, number of guests and type of premises in setting a banding structure for its fees. The Council are considering the following principles.

1. That there will be a lower fee for home sharing and home letting licences (e.g. B&B etc.) rather than secondary letting (holiday homes etc.). This reflects the position that the owner lies within the properties for home lets or shares and has a greater degree of control.

Do you agree with this position?

- ☐ Yes
- ☐ No

2. A fees structure based on the following bandings, increasing with the number of occupants. The fee charged will be weighted according to the following factors, where the unit fee is the cost of dealing with a non-controversial application for a 4-person secondary let licence. Applications for premises with larger number of guests are likely to require more enquiries, or attract more representations, or objections, which require to be dealt with as part of the application.

Guest capacity (People)	Home sharing and home letting licence	Secondary let licence
1 or 2	0.6	0.8
3 or 4	0.8	1.0
5 to 8	1.0	1.5
9 to 12	1.5	2.0
12 to 20	2.0	4.0
21+	4.0	8.0

Do you agree with the bandings and weightings as presented in the table?

- ☐ Yes
- ☐ No

Please detail **any other comments** you have on the short-term let licensing regime.

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## Appendix 3 – Proposed additional conditions

### Additional conditions based on Part 2 Guidance

#### **Antisocial 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 that 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 particular 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.

#### **Noise control in flatted premises**

1. Where the premises are a flat above another dwellinghouse, the licence holder must:
  - Fit and maintain carpets (with appropriate underlay) to the floors of bedrooms, living room and any hallway.
  - Take reasonable steps to ensure that guests do not first arrive or finally depart from the property between the hours of 2300 and 0700. The licence holder must advise guests of this condition as part of their booking terms and conditions.
2. Note that “reasonable steps” allows for unavoidable circumstances, such as significantly-delayed transport.
3. The licence holder must take reasonable step to ensure that guests do not play amplified music within the garden or external areas after [23:00 hours] where it would impact neighbouring residents.

### **Littering and waste disposal**

1. The licence holder must provide adequate information on, and the facilities for, the storage, recycling and disposal of waste.
2. The licence holder shall be responsible for advising residents of the refuse collection day and for making arrangements for the presentation of bins for collection at the appropriate time and day.
- 3 The licence holder must advise guests of:
  - Their responsibilities;
  - The use of the bins etc. provided for the premises; and
  - The location of the nearest recycling area or recycling point.
4. 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 bins storage area and the exterior of the premises in a clean and tidy condition.

### **Damage to property**

The licence holder shall not affix a key box, or any other device to facilitate guest entry to the premises, to any public or jointly-owned private structure or infrastructure without the prior written permission of the relevant authority or owner(s). The licence holder must be able to produce the written permission to the licensing authority on demand.

### **Additional Conditions for Guest Safety**

#### **Legionella risk assessment – spa pools/hot tubs**

1. Where a spa pool, including any electric hot tub or wood-fired hot tub, is provided for the use of guests, the licence holder must install, maintain and operate it so it can be safely operated and used by guests.
2. The licence holder shall ensure:
  - That any such spa pool is installed and maintained in accordance with the guidance in HSE publication HSG282 *Control of legionella and other infectious agents in spa-pool systems*.
  - That there is a risk assessment and written scheme of control for *Legionella* in respect of any such spa pool.
  - That the risk assessment and written scheme of control are lodged with any application for a licence and are to the satisfaction of the licensing authority.
  - That, prior to any spa pool being brought into use for the first time during the period of the licence, at least 28 days' notice shall be given to the licensing authority and

the risk assessment and written scheme of control shall be submitted at the time of such notice.

3. The licence holder shall provide guests with information on the safe use of the spa pool in accordance with the written scheme of control.
4. The licence holder shall not provide or install any inflatable hot tub for the use of guests without the prior written approval of the licensing authority. Note that the licensing authority will not give approval in respect of inflatable hot tubs not intended for commercial use and which cannot conform to the requirements of HSG282.

### **Guest safety – swimming pools and ponds**

1. Where a swimming pool or swimming pond is installed and provided for the use of guests, the licence holder must take reasonable measures to ensure water quality and bather safety.
2. The licence holder shall ensure:
  - In the case of swimming pools, that a pool safety operating plan is prepared and lodged with any application for a licence and is to the satisfaction of the licensing authority. The licence holder shall have regard to the guidance in HSE publication HSG179 *Health and safety in swimming pools*.
  - In the case of swimming pools and swimming ponds, that a bather safety plan is prepared and lodged with any application for a licence and is to the satisfaction of the licensing authority. The bather safety plan shall include measures to minimise the risk of bathers getting into difficulty, to facilitate the rescue of bathers in difficulty and to call for the assistance of emergency services where necessary.
  - That, prior to any swimming pool or pond being brought into use for the first time during the period of the licence, at least 28 days' notice shall be given to the licensing authority and the pool safety operating plan and bather safety plan shall be submitted at the time of such notice.
3. In this condition, "swimming pond" means an outdoor body of untreated water in natural ground which has been excavated or modified to provide a facility for swimming. It does not include natural watercourses, fresh-water lochs or coastal waters.
4. This condition does not apply to swimming pools which are staffed and operated with continuous poolside supervision by trained lifeguards.

### **Risk of Carbon monoxide – barbecue huts**

1. Where a barbecue hut is installed and provided for the use of guests, the licence holder must take reasonable steps to ensure that the risk from Carbon monoxide is minimised.
2. The licence holder shall:
  - Install, maintain and operate the barbecue hut only in accordance with the manufacturer's instructions.
  - Install and maintain in proper working condition a Carbon monoxide monitor and alarm within the barbecue hut.

- Provide guests with instructions on the safe use of the barbecue hut, the symptoms of Carbon monoxide poisoning and the actions to be taken in an emergency.
- Not permit the use of the barbecue hut by persons under the age of 18 except in the presence of a person over the age of 18.
- Not permit the use of a barbecue hut as sleeping accommodation.

#### **Guest safety – provision and use of watercraft**

1. Where any watercraft are provided for the use of guests, the licence holder must take reasonable measures to ensure the suitability and safety of the watercraft and the safety of persons using them.
2. The licence holder shall ensure:
  - That any watercraft provided are suitable for the waters upon which they are intended to be used.
  - That any watercraft are operated and maintained in accordance with the manufacturer's instructions.
  - That personal flotation devices are provided which are suitable for the use intended and the user, and have regard to the categorisation of any inland waters or standards issued by the Maritime and Coastguard Agency.
  - That personal flotation devices are inspected and maintained in accordance with the manufacturer's instructions.
  - That guests are provided with proportionate safety information about the use of watercraft, including the intended areas of use, local hazards, adverse weather conditions, actions to take in an emergency, and the means of contacting the emergency services.
3. In this condition, "watercraft" means any boat, canoe, kayak, stand-up paddleboard, raft, or similar vessel capable of carrying passengers or being ridden upon, and equipped with sails, or an engine, or capable of being directed or steered using oars or paddles.
4. In complying with this condition, the licence holder shall have regard to advice and guidance issued by authoritative bodies including, where appropriate, MCA, RoSPA and the Scottish Canoe Association.
5. In the area of the Loch Lomond and The Trossachs National Park, the licence holder shall comply with any relevant byelaws issued by the National Park Authority.
6. This condition does not apply to premises where the vessels provided are done so under the terms of a current boat hire licence issued by the licensing authority and operated in compliance with the conditions of such a licence.

#### **Guest safety – provision of bicycles**

1. Where bicycles are provided for the use of guests, the licence holder must take all reasonable steps to ensure the safety of persons using them.
2. The licence holder shall ensure:

- That any bicycles provided are suitable for the use intended and for the user.
  - That, where cycle helmets are provided, they are suitable for the use intended and the user.
  - That there is a programme of inspection and maintenance in place to ensure that bicycles and cycle helmets are only made available to guests when they are in a safe condition.
3. In complying with this condition, the licence holder shall have regard to the Cycle Hire Guidelines of the Association of Cycle Traders.

**Guest safety – outdoor play equipment**

1. Where any outdoor play equipment is provided for the use of guests, the licence holder must take all reasonable steps to ensure the safety of persons using the play equipment.
2. The licence holder shall ensure:
  - That only equipment which is suitable for the use intended shall be installed and provided for the use of guests.
  - That play equipment is installed and maintained in accordance with the manufacturer's instructions.
  - That play equipment is subject to an inspection and checking regime in accordance with the manufacturer's instructions.
  - That rules are in place and communicated to guests to ensure the safe use of play equipment and to prevent its abuse.
3. In complying with this condition, the licence holder shall have regard to the RoSPA *Code of good practice for play areas* and the RoSPA guidance on the safe use of garden trampolines.
4. The provision for the use of guests of inflatable play equipment which is intended for bouncing or climbing on is prohibited. This prohibition does not apply to inflatable play equipment which, at all times when it is use, is directly supervised by the licence-holder or their agent, or an employee of the licence-holder or their agent.