

## SERVICE UPDATE

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| <b><u>Name of Service:</u></b> | Early Intervention & Community Empowerment |
| <b><u>Date:</u></b>            | 16 June 2022                               |
| <b><u>Title of Update:</u></b> | Short Term Lets – New Licensing Powers     |
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### **UPDATE:**

#### 1.0 BACKGROUND

- 1.1 On 1 March 2022, the ‘Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022’ (the 2022 Order) was enacted to introduce new powers for local authorities to regulate short term lets through the introduction of a licensing scheme.

On 18 March 2022, the Scottish Government published the following guidance documents:

- Short term lets - licensing scheme part 1: guidance for hosts and operators **Error! Hyperlink reference not valid.**
- Short term lets – licensing scheme part 2: supplementary guidance for licensing authorities, letting agencies and platforms [Short term lets - licensing scheme part 2: supplementary guidance for licensing authorities, letting agencies and platforms - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/short-term-lets-licensing-scheme-part-2-supplementary-guidance-for-licensing-authorities-letting-agencies-and-platforms/pages/2-introduction.aspx)

- 1.2 It is unknown exactly how many short term lets are currently operating in Aberdeen city but from the limited evidence available the figures may be in the region of 700 – 1,000. Colleagues in the Council Tax team advise that there are currently 784 properties which are deemed as ‘second homes’.

- 1.3 The 2022 Order defines a ‘short term let’ as the use of residential accommodation provided by a host in the course of business to a guest, where all of the following criteria are met—
- (a) the guest does not use the accommodation as their only or principal home,
  - (b) the short-term let is entered into for commercial consideration,
  - (c) the guest is not—

- (i) an immediate family member of the host,
- (ii) sharing the accommodation with the host for the principal purpose of advancing the guest's education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or
- (iii) an owner or part-owner of the accommodation,
- (d) the accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host or to another member of the host's household,
- (e) the accommodation is not excluded accommodation (see schedule 1), and
- (f) the short-term let does not constitute an excluded tenancy (see schedule 1),

1.4 There are 4 types of short term lets defined in the 2022 Order, all of which require a licence. These are:

**'Secondary letting'** means a short-term let consisting of the entering into of an agreement for the use of accommodation which is not, or is not part of, the licence holder's only or principal home.

**'Home letting'** means a short-term let consisting of the entering into of an agreement for the use, while the host is absent, of accommodation which is, or is part of, the host's only or principal home.

**'Home sharing'** means a short-term let consisting of the entering into of an agreement for the use, while the host is present, of accommodation which is, or is part of, the host's only or principal home.

**'Home letting and home sharing'** means a combination of the 2 definitions above.

In light of the amount of 'second homes' mentioned in para 1.2, it is like that 'Secondary Letting licences will form the majority of the workload.

- 1.5 The 2022 Order sets out a timetable for the implementation of the licensing scheme as follows
- 1 October 2022 – The deadline for local authorities to have a licensing scheme in place and ready to accept applications.

- After 1 October 2022 – New hosts and operators cannot operate until they have obtained a licence. Existing hosts and operators may continue to operate without a licence.
  - 1 April 2023 – The deadline for existing hosts and operators to apply for a licence.
  - 1 July 2024 – All hosts and operators will need to be licensed by this date.
- 1.6 Short Term Lets is similar to HMO licensing inasmuch as hosts and operators are subject to a 'fit & proper' test and the property to be licensed must be found suitable for occupation as a short term let. Consequently, the Short Term Lets licensing scheme will be operated by the Private Sector Housing Unit, Early Intervention & Community Empowerment.
- 1.7 The 2022 Order includes a provision for refusal to consider a short term let application where the licensing authority considers that use of the premises for a short-term let would constitute a breach of planning control. Preliminary discussions with the Council's Planning team indicate that in most cases, Planning Permission is not required. Further, there are no intentions to declare Aberdeen city or any part of it as a 'Short Term Lets Control Area'.
- 1.8 When submitting an application for a short term lets licence, the applicant must display a Notice in a public place outside the property to be licensed, alerting neighbours to the application and how they can submit written representations. Similar to HMO Licensing, it is envisaged that licensing staff will be given delegated powers to grant short term lets licences where there are no concerns about the applicants and the property to be licenced. Any application that causes concern or objections are received will be referred to the Licensing Committee for consideration and determination. It is perhaps likely that a large number of objections will be submitted by neighbours which will bring pressure to the business of the Committee.
- 1.9 The 2022 order makes provision for a fee to be charged for the submission of an application. Similar to HMO licensing, the fee must be designed to cover the Council's costs. Consequently, it is likely that the short term lets licensing fee structure will be similar to the HMO fee structure.
- 1.10 The 2022 Order gives local authorities the discretion to grant exemptions from the requirement to have a short term lets licence. Local authorities must carry out a public consultation on this and publish a policy statement before 1 October 2022.

The Scottish Government also expects local authorities to develop policies on:

- Licence duration and renewal
- Temporary licences
- Additional licence conditions
- Compliance and enforcement

## 2.0 NEXT STEPS

- 2.1 As mentioned in para 1.10 above, a public consultation is mandatory and we intend to launch such a consultation on 1 July 2022 and close it on 31 July 2022. The results will be analysed thereafter with a view to preparing a draft short term lets policy for consideration by the Licensing Committee at its meeting on 6 September 2022.