

City of Edinburgh Council Short Term Lets Licensing Policy

Introduction

- 1.1 The City of Edinburgh Council (“the Council”) is required to regulate short term lets (STLs) through the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022 (the 2022 Order), which brings STL within the scope of licensable activities covered by the statutory provisions of the Civic Government (Scotland) Act 1982 (the 1982 Act).
 - 1.2 The Council’s Regulatory Committee agreed this policy on 29 September 2022 following two periods of public consultation.
 - 1.3 The Council must prepare a statement of its policy with respect to the exercise of its functions in relation to the licensing of STL. This policy provides information on the following areas:
 - 1.3.1 Licence Duration and Renewal
 - 1.3.2 Temporary Licences
 - 1.3.3 Temporary Exemptions
 - 1.3.4 Additional Conditions which will apply
 - 1.3.5 Compliance and Enforcement
 - 1.4 This policy provides guidance for prospective applicants, existing licence holders and those who may wish to object to an application. The Council will have regard to the terms of its policy when determining applications. This policy will be reviewed and revised when necessary.
 - 1.5 The key aims of licensing are the preservation of public safety and order and the prevention of crime. A specific licensing regime for STL allows the Council to take into account local circumstances when setting out its licensing policy and to exercise appropriate control and regulation to ensure any STL premises licensed meet the requisite safety standard.
- Key Dates
- 1.6 Owners or operators of STL accommodation should note the key dates for the implementation of the STL licensing scheme set out below:

Date	Hosts operating a STL before 1 October 2022	Never operated a STL before 1 October 2022
1 October 2022	<ul style="list-style-type: none"> • You can continue to operate your premises as a STL - must comply with existing laws and regulations; • You must apply to the Licensing Authority where your premises is situated for a STL licence before 1 April 2023; and • If your STL Licence application is refused by the Licensing Authority you must stop using your premises as a STL within 28 days of the decision 	<ul style="list-style-type: none"> • Must not operate a STL without a licence being granted by the Licensing Authority where your premises is situated; • If you wish to operate a STL you must apply to the Licensing Authority in which your premises is situated;
1 October 2023	<ul style="list-style-type: none"> • Can only operate without a licence if a STL licence application has been submitted to the Licensing Authority where your premises is situated, and it has not been refused; and • You must stop operating as a STL if your application is refused by the Licensing Authority, subject to appeal 	Same as above
1 January 2025	All hosts must have a STL licence.	Same as above

Definition of a Short Term Let as set out in the 2022 Order

- 2.1 As per the terms of the 2022 Order, “short term let” (STL) means 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 –
- 2.1.1 The guest does not use the accommodation as their only or principal home
- 2.1.2 The STL is entered into for commercial consideration
- 2.1.3 The guest is not –
- An immediate family member of the host,
 - 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 education institution, or
 - An owner or part-owner of the accommodation
- 2.1.4 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
- 2.1.5 The accommodation is not [excluded premises](#), and
- 2.1.6 The STL does not constitute an [excluded tenancy](#).
- 2.2 “Secondary letting” means a short-term let consisting of the entering into of an agreement for the use of accommodation which is not, or not part of, the licence holder’s only or principal home.
- 2.3 “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.
- 2.4 “Home sharing” means a short-term let consisting of the entering 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.
- 2.5 “Accommodation” includes the whole or any part of a premises.
- 2.6 “Host” means a person who is the owner, tenant or person who otherwise exercises control over occupation and use, of the accommodation which is the subject of a STL.
- 2.7 “Guest” means a person who occupies accommodation under a short-term let.
- 2.8 It must be noted that the above definitions are set out in legislation and the Council has no discretion in this regard.

Types of Short Term Let Licence

- 3.1 The Council will consider licence applications for the following types:
- a. Secondary Letting
 - b. Home Letting
 - c. Home Sharing or
 - d. Home Letting and Home Sharing

STL Application Process

- 4.1 Where appropriate, the Council will grant a STL licence for the following time periods:
- a. Secondary Letting – 1 year
 - b. Home Letting – 3 years
 - c. Home Sharing – 3 Years
 - d. Home Letting and Home Sharing – 3 Years
- 4.2 An application for the grant, variation or renewal of a full licence must be made to the Council together with the appropriate fee and layout plan, as well as providing copies of the following certification – *please only provide copies of documents as originals will not be returned*:
- a. Annual Gas Certificate (for accommodation with a gas supply)
 - b. Current Electrical Installation Condition Report
 - c. Annual Portable Appliance Test Certificate
 - d. For secondary letting only, Planning permission under the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) for the use of the premises as a STL; or proof that an application for planning permission has been made under the 1997 Act, which has not yet been determined; or proof that planning permission is not required (for example, a certificate of lawfulness).
- 4.3 As part of the application process, applicants will be required to confirm, by self-declaration, that the following documentation is held for the accommodation:
- a. Current Fire Safety Risk Assessment – (required for new and any

- subsequent renewal applications or where there has been a change to the number of occupants)
- b. Current Energy Performance Certificate
 - c. Current Building Insurance Certificate
 - d. Current Public Liability Insurance Certificate
 - e. Current legionella risk assessment
 - f. Annual Emergency Lighting Certificate (Secondary letting only, for accommodation with 5 occupants and above)
- 4.4 An application, whether for a new licence or the renewal of an existing licence, will only be considered as complete if it comprises of the completed application form accompanied by all copies of required certificates and layout plan. Any applications deemed to be incomplete will be returned and not processed.

Notice of Application (excluding temporary licences and temporary exemptions)

- 4.5 The applicant must display a notice of the application on or near the premises where it can be conveniently read by the public. The notice must be displayed for 21 consecutive days from the date the application is lodged with the Council. A copy of a display notice can be downloaded from the Licensing Service website. As soon as possible after the expiry of the period of 21 days, the applicant shall submit to the Council a certificate (available online) which states that a notice was duly exhibited for the required period.
- 4.6 The notice will include the following information, as required by the 1982 Act:
- a. The type of licence applied for (Secondary Letting, Home Letting, Home Sharing or Home Letting and Home Sharing);
 - b. If applying as an individual, the applicant's full name and address. If not applying as an individual, the full name of the organisation together with the registered or principal office address, names of directors or persons responsible for the management of the premises;
 - c. Person responsible for the day to day management of the premises
 - d. Address of the STL premises;
 - e. The number of bedrooms in the premises;
 - f. The maximum number of occupants for the premises;
 - g. Details of any other SLT licences that have been granted to the applicant (included on the application form);

- h. The name and address of the owner(s) where the applicant is not the owner of the premises or on the land on which the premises is located (included on the application form);
 - i. Confirmation that the owners consent to the application for the property to be used as a STL (included on the application form);
 - j. Where objections and representations in relation to the application can be made to, the 28 day timescale for submitting an objection or representation and the statutory requirements of an objection or representation (in writing, providing name and address etc).
- 4.7 The application fee table for licence applications can be found [here](#)
- 4.8 Applicants should note that the application fee is non-refundable in the event of the licence application being refused or being withdrawn prior to determination. To view the Council's policy on refunds, click [here](#).

Evidence of Operation as a STL before 1 October 2022

- 4.9 Where an applicant has been operating a STL before 1 October 2022, the applicant will be required to certify this when submitting a STL licence application. Checks to confirm this may be made by the Council.

Links With Planning

- 4.10 On 27 July 2022, Scottish Ministers approved plans to designate the City of Edinburgh Council area as a STL control area. It requires residential accommodation owners wholly letting accommodation, which is not their principal home, as a STL in the Council area, to apply for planning permission for a 'change of use' to a STL. The designation came into effect on 5 September 2022.
- 4.11 It is a mandatory condition of licence that a host or operator has planning permission or has made an application for planning permission where all of the following conditions apply
- a. The accommodation is in a STL control area;
 - b. The accommodation is being used for secondary letting; and
 - c. It is a dwelling house. *(Notwithstanding the definition of a dwelling house in the Town and Country (Use Classes) (Scotland) Order 1997, the definition of dwelling house for the purposes of this policy shall include flatted residential accommodation).*
- 4.12 In these circumstances, the host or operator must have made an application for planning permission or already have planning permission or have proof that planning permission is not required before they apply for a licence.

Temporary Licences

- 4.13 As per paragraph 7(1) of Schedule 1 of the 1982 Act, the Council can issue temporary licences for STL, which may be granted for a duration of up to 6 weeks.
- 4.14 Any temporary licence which is issued will be subject to the mandatory conditions of licence, as set out in the 1982 Act.
- 4.15 Temporary licences will also be subject to the additional conditions set out in the Council's STL Conditions Framework.
- 4.16 The fee for temporary licence applications can be found [here](#)

Temporary Exemptions

- 4.17 As per paragraph 1A of Schedule 1 of the 1982 Act, the Council can grant a temporary exemption to the requirement to have a STL licence. Under the terms of the 1982 Act, temporary exemptions can be issued for a specified single continuous period not exceeding 6 weeks in any period of 12 months. The 6 weeks limit on a licence is a maximum, and not a default.
- 4.18 The Council may grant temporary exemptions to the requirement to obtain a STL licence in certain circumstances as set out below:
- a. During Edinburgh Festival Fringe and Edinburgh International Festival
 - b. During Edinburgh's Christmas & Hogmanay Festive Period
 - c. For Major Sporting Events
 - d. For Major International Events
- 4.19 Temporary Exemptions will be issued for the following types of let:
- a. Home Letting;
 - b. Home Sharing;
 - c. Home Letting and Home Sharing; and
 - d. Secondary Letting
- 4.20 The licensing service will aim to process and determine a temporary exemption application within 3 months of the application being received.
- 4.21 Any temporary exemption which is issued will be subject to the mandatory conditions of licence, as set out in the 1982 Act.
- 4.22 Temporary exemptions will also be subject to the additional licence

conditions set out in the Council's STL Conditions Framework at appendix two.

- 4.23 The fee for a temporary exemption application can be found [here](#)

Accommodation Inspections

- 4.24 Inspections of STL accommodation, as part of the application process, will be undertaken on a risk-based approach.

Making an Objection or Representation

- 4.25 It is possible for any person to submit an objection or representation in respect of the grant of an application for a full STL licence. Objections must be made in writing (emails are accepted) and sent to the Licensing Service (licensing@edinburgh.gov.uk) within 28 days of the application being advertised. If an objection is lodged out with this period, it must explain why it has been lodged late. It would then be a matter for the Council to consider the explanation and if it is satisfied that there is sufficient reason why the objection was not made in the time required.
- 4.26 The 1982 Act does not provide for objections or representations in respect of temporary licence applications or temporary exemption applications.
- 4.27 To be considered as competent, objections or representations should include the following information:
- a. The name and address of the person or organisation making the objection or representation
 - b. The accommodation to which the objection or representation relates
 - c. The grounds of objection or representation, and
 - d. The objection or representation must be signed by the objector, or on their behalf

Determining an Application

- 4.28 Each STL application will be considered on its own merits having regard to the terms of the relevant statutory provisions, Scottish Government guidance and this policy. The process by which an application is determined will be in accordance with the Council's Committee terms of reference and the scheme of delegation.

Timescale for Determining Applications

- 4.29 Under the terms of the 1982 Act, the Council has 9 months in which to determine a STL application from the date it is received with all the required documentation.

- 4.30 For those applications which were received prior to 1 April 2023 where the STL operated prior to 1 October 2022, the Council will have 12 months to determine the application.

Renewal Applications

- 4.31 Following the outcome of a Judicial Review of the Council's policy, the Council undertook to include information on how STL renewal applications would be dealt with in its revised policy. The following sections therefore set out that position.
- 4.32 Under the 1982 Act, if an application for a STL licence renewal application has been made to the Council before the expiry date of the current licence, the licence will continue in effect until a final decision has been made by the Council on the renewal application. Where an appeal has been lodged with the sheriff clerk within 28 days of the decision, the existing licence will remain in effect until such time as the appeal has been determined by the Sheriff Court.
- 4.33 The process for applying for a renewal of a STL licence is the same as when applying for a new STL licence, as set out above. As with new applications, the Council requires to consider applications for renewal of licences taking into consideration the statutory grounds for refusal of a licence set out in the 1982 Act.
- 4.34 However, an existing STL licence is likely to be renewed unless there has been a change of circumstances since the last determination of the licence. Such circumstances could include any changes to STL regulation or the Council's STL licencing policy; enforcement action by the Council in respect of the existing licence; and any objections or representations received regarding the renewal application under the 1982 Act. Where any of these circumstances apply then the renewal application may be referred to a meeting of the Licensing Sub-Committee for determination.

Material Change in Circumstances

- 4.35 The licence holder must notify the Council in writing, as soon as is reasonable, where there is a material change in circumstances affecting the licence holder or the STL accommodation.

Compliance & Enforcement

- 4.36 The Council will seek to work with hosts, residents and other interested parties to ensure compliance with legislative requirements and to be satisfied the accommodation is safe for use.

- 4.37 General enforcement costs will be included in the fees for new and renewal STL licence applications. The Council will charge a separate fee to a licence holder for a visit to their accommodation, where the visit results from their failure to comply with licence conditions or a complaint relating to the accommodation. The Council notes the Scottish Government guidance on frivolous or vexatious complaints in this regard.
- 4.38 Where complaints are received in relation to the operation of a licensed STL accommodation, the Council will seek to resolve it through engagement with the host or operator in the first instance.
- 4.39 Information on how to make a complaint in against a STL licence holder or in respect of the operation of the licenced STL can be found on the Licensing Service website.
- 4.40 Where appropriate other enforcement options will be considered, which include:
- a. Additional licence conditions applied on determination of an application or through variation of an existing licence;
 - b. Compliance notices;
 - c. Variation, suspension or revocation of licence; or
 - d. Report to the Procurator Fiscal of any alleged offences under the 1982 Act.
- 4.41 A fee will be charged for an inspection following a complaint, where it is found that there are also compliance issues, whether or not those are the issues that were the subject of the complaint.
- 4.42 Where a fee is charged for inspections, the Council will produce a report of its findings to the host or operator within 28 days of the inspection.

Conditions

- 5.1 The Council can grant or renew a STL licence on such terms and conditions as it considers appropriate. This will typically take the form of the mandatory conditions, applicable to all STL accommodation by way of the 2022 Order, as well as the additional conditions agreed by the Council's Regulatory Committee on 29 September 2022.
- 5.2 Under the 2022 Order, there are specific conditions which the Council must attach to all types of STL licence. These are known as the "mandatory conditions" and are found at appendix one of this policy. It should be noted that the Council has no power to amend these mandatory conditions.
- 5.3 The 2022 Order affords the Council the power to set certain conditions, where necessary, which can address any local concerns or issues. These are known as "additional conditions". These conditions are found at appendix two and shall apply to every full licence granted, varied or renewed by the Council, unless they have been expressly excluded or varied. The additional conditions shall also apply to every temporary licence or temporary exemption granted or varied by the Council.
- 5.4 It is an offence to operate a STL without a licence or contravene a condition of any granted licence. Licence holders alleged to be breaching the conditions of their licence may be referred to the Licensing Sub-Committee for consideration of suspension or revocation of the STL licence.

Review

- 6.1 This policy will be reviewed every three years or more frequently, if required

Appendices

Appendix 1 – Mandatory Conditions

Agents

1. Only those named as a holder of the licence can carry out the day to day management of the short-term let of the premises.

Type of licence

2. The holder of the licence may only offer the type of short-term let for which the licence has been granted.

Fire safety

3. The holder of the licence must ensure the premises has satisfactory equipment installed for detecting, and for giving warning of— (a) fire or suspected fire, and (b) the presence of carbon monoxide in a concentration that is hazardous to health.

4. The holder of the licence must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988.

Gas safety

5. Where the premises has a gas supply—

(a) the holder of the licence must arrange for an annual gas safety inspection of all gas pipes, flues and appliances in the premises,

(b) if, after an annual inspection, any appliance does not meet the required safety standard, the holder of the licence must not allow a short-term let of the premises until the works necessary to bring the appliance to the required safety standard have been carried out.

Electrical Safety

6. Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the holder of the licence must— (a) ensure that any electrical fittings and items are in— (i) a reasonable state of repair, and (ii) proper and safe working order, (b) arrange for an electrical safety inspection to be carried out by a competent person at least every five years or more frequently if directed by the competent person, (c) ensure that, following an electrical safety inspection, the competent person produces an Electrical Installation Condition Report on any fixed installations, (d) arrange for a competent person to— (i) produce a Portable Appliance Testing Report on moveable appliances to which a guest has access, and (ii) date label and sign all moveable appliances which have been inspected.

7. In determining who is competent, the holder of the licence must have regard to guidance issued by the Scottish Ministers under section 19B(4) of the Housing (Scotland) Act 2006.

Water Safety: Private Water Supplies

8. Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.

Water Safety: Legionella

9. The holder of the licence must assess the risk from exposure to legionella within the premises, whether or not the premises are served by a private water supply.
Safety and Repair Standards

10. (1) The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.

(2) Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the holder of the licence must ensure that the premises meet the repairing standard.

Maximum Occupancy

11. The licence holder must ensure that the number of guests residing on the premises does not exceed the number specified in the licence.

Information to be Displayed

12. The holder of the licence must make the following information available within the premises in a place where it is accessible to all guests—

- (a) a certified copy of the licence and the licence conditions,
- (b) fire, gas and electrical safety information,
- (c) details of how to summon the assistance of emergency services,
- (d) a copy of the gas safety report,
- (e) a copy of the Electrical Installation Condition Report, and
- (f) a copy of the Portable Appliance Testing Report.

Planning Permission

13. Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"), the holder of the licence must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either—

- (a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or
- (b) planning permission under the 1997 Act is in force.

Listings

14. (1) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises includes—

- (a) the licence number, and
- (b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008.

(2) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises is consistent with the terms of the short-term let licence.

Insurance

15. The holder of the licence must ensure that there is in place for the premises—

- (a) valid buildings insurance for the duration of the licence, and
- (b) valid public liability insurance for the duration of each short-term let agreement.

Payment of Fees

16. The holder of the licence must pay any fees due to the licensing authority in respect of the licence on demand.

False or Misleading Information

17. The holder of the licence must not provide any false or misleading information to the licensing authority.

Interpretation for the Mandatory Conditions

In this schedule—

"Electrical Installation Condition Report" means a report containing the following information—

- (a) the date on which the inspection was carried out,
- (b) the address of the premises inspected,
- (c) the name, address and relevant qualifications of the person who carried out the inspection,
- (d) a description, and the location, of each installation, fixture, fitting and appliance inspected, any defect identified,
- (e) any action taken to remedy a defect,

"Energy Performance Certificate" means a certificate which complies with regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008,

"gas safety report" means a report containing the following information—

- (a) the date on which the appliance or flue was checked,
- (b) the address of the premises at which the appliance or flue is installed,
- (c) a description of and the location of each appliance or flue checked,
- (d) any safety defect identified,
- (e) any remedial action taken,
- (f) confirmation that the check undertaken complies with the requirements of an examination of—
 - (i) the effectiveness of any flue,
 - (ii) the supply of combustion air,
 - (iii) subject to head
 - (iv), its operating pressure or heat input or, where necessary, both,
 - (iv) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,
 - (v) its operation so as to ensure its safe functioning,
 - (g) the name and signature of the individual carrying out the check, and
 - (h) the registration number with which that individual, or that individual's employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998,

"holder of the licence" means any person to whom a short-term let licence has been granted or jointly granted,

"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,

"premises" means the accommodation which is the subject of an application for a short-term licence or the subject of a short-term licence,

"repairing standard" means the steps which the holder of the licence is required to take to comply with the obligations placed on the holder by Chapter 4 of Part 1 of the Housing (Scotland) Act 2006,

"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,

"short-term let" has the same meaning as in article 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022,

"short-term let licence" means a licence for a short-term let, and

"type of short-term let" means one of the following purposes—

- (a) secondary letting,
- (b) home letting,
- (c) home sharing, or
- (d) home letting and home sharing.

Appendix 2 – Additional Conditions

Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022 - Additional Short Term Let Licensing Conditions

STL 1	The licence holder must ensure that advice to guests on action to be taken in the event of an emergency is clearly and prominently displayed within the accommodation.
STL 2	To secure and maintain public order and safety and to prevent undue public nuisance, the licence holder must have in place, so far as is reasonably practicable, arrangements, (such as the provision of keys or other means of entry and egress) which at all times permits the quiet and orderly entry to, and egress from, the licensed property by any persons occupying the said property as a STL.
STL 3	The licence holder must make the licence, including any conditions, available to guests within the accommodation where it can be conveniently read.
STL 4	The licence holder must take reasonable steps to manage the accommodation in such a way as to prevent and deal effectively with any anti-social behaviour by guests while in the STL or any shared areas and while entering or leaving the accommodation or any shared areas.
STL 5	<p>The licence holder must take all reasonable steps to manage the premises in such a way as to prevent undue nuisance to neighbours. The licence holder must have due regard to the privacy and security of neighbours.</p> <p>The licence holder must ensure:</p> <ul style="list-style-type: none"> • Any particular rules applying to shared areas and entrances are communicated to guests; • Guests understand that shared doors should be quietly and securely closed after use.
STL 6	An emergency contact telephone number for the licence holder and/or management shall be available and notified to the Council for 24-hour contact purposes for emergencies or antisocial behaviour from the accommodation.

STL 7	The licence holder shall give a neighbour notification to every other household in the same building as the STL accommodation, and any adjoining premises within 28 days of the licence holder's receipt of the licence document, and annually thereafter while the accommodation is licensed as a STL. This will advise of the name of the licence holder or managing agent, a contact address, day-time telephone number and an emergency contact number.
STL 8	The licence holder shall ensure that adequate facilities are provided for the storage and disposal of refuse, and recycling. 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.